

(H.B. 1919)  
(Conference)

(No. 77-2014)

(Approved July 1, 2014)

## AN ACT

To create the “Tax System Adjustment Act”; amend subsection (i) of Section 2, subsection (c) of Section 5, and subsection (e) of Section 6 of Act No. 73 of May 28[sic], 2008, as amended, known as the “Economic Incentives Act for the Development of Puerto Rico”; amend subsection (a) of Section 2.2 of Act No. 83 of July 19, 2010, known as the “Green Energy Incentives Act of Puerto Rico”; amend subsection (a) of Section 1021.02; amend subsection (a) of Section 1021.05; amend subsection (a) of Section 1023.02; amend subsection (a) of Section 1023.03; amend subsection (b) of Section 1023.06; amend subsections (a) and (g) of Section 1023.10; add a new Section 1023.10A; add a new Section 1023.20; add a new Section 1023.21; add a new Section 1023.22; add a new Section 1023.23; amend Section 1031.01; amend subsections (a), (c), and (d) of Section 1034.01; amend subsection (d) of Section 1040.06; amend subsections (a) and (c) of Section 1051.02; amend subsection (a) of Section 1051.12; repeal paragraphs 4, 5, and 6 of subsection (a) of Section 1052.01; amend subsection (a), add a new subsection (b), and renumber the previous subsection (b) as subsection (c) of Section 1052.02; amend subsections (a) and (b) of Section 1062.03; add a new Section 1062.13; amend subsection (d) of Section 1081.02; amend subsection (c) of Section 1092.02; amend subsection (a) of Section 3050.02; amend subsection (a) of Section 5001.01; amend subsections (a), (b), and (c) of Section 5021.03; eliminate subsection (g) of Section 6042.14; amend subsection (c) of Section 6051.02 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” in order to initiate the process of adjustment and recalibration of the tax system prior to the Tax Reform Project entrusted to the Department of the Treasury, continue responsibly addressing the fiscal crisis faced by the Government of the Commonwealth of Puerto Rico, uphold the commitment of this Administration to close the budget gap in compliance with the constitutional mandate and provide the General Fund with the funds necessary to enable it to become a catalytic agent for economic development; amend Section 3A, Section 4, and Section 5A of Act No. 11 of August 22, 1933, as amended, in

order to confer new powers to the Puerto Rico Tourism Company, improve the oversight thereof and maximize revenues; and for other related purposes.

### **STATEMENT OF MOTIVES**

Since the beginning of 2013, this Administration has taken decisive and unprecedented steps in an effort to achieve a balanced budget and improve government finances, all the while providing the General Fund with the funds necessary to finance public services and works.

This process has required a never-before-seen fiscal discipline from our Government as evidenced by the strict yet responsible spending cuts, the minimization and subsequent elimination of the funding mechanism used to balance the budget, and the elimination of the dangerous fiscal practice of excessive debt refinancing. Likewise, a government transformation and restructuring effort is being carried out geared toward achieving greater efficiency and cutting back on government spending without affecting the services offered to the people. The development of a government structure that takes into account the actual needs and resources of Puerto Rico is hereby promoted by a group of legislative measures on government reorganization. This group of measures allow the strategic appropriation of resources, thus contributing to improve the quality of life of our people as well as the quality of the services provided to the people.

Consistent with this policy, this Administration is currently evaluating and analyzing a broad Tax Reform aimed at creating a fair and equitable system that serves as an agent of change to achieve economic development and do justice to both the employee and the entrepreneur in Puerto Rico. This initial evaluation process has served, among other things, to identify areas that require immediate attention, and to prepare the foundation for more in-depth changes.

The measures provided herein are geared to five core areas: rationalization of certain tax credits available to individuals and businesses; adjustments to

minimum tax mechanisms applicable to individuals and corporations in order to reduce the impact of the resulting tax credits in years to come, among other things; revision of preferential rates applicable to interests, dividends, and capital gains in order to adjust them to the reality of our economy; clarification of type of products that shall be subject to the payment of the Sales and Use Tax; and establishing a tax mechanism on the repatriation of profit for certain types of businesses.

In addition to the foregoing, and in an effort to attract new capital and increase revenues, this measure adopts a procedure to temporarily allow the payment in advance of a ten percent (10%)-tax on certain accumulated and non-distributed amounts derived from a life insurance, endowment, or annuity contract that is exchanged for or transferred to an Eligible Variable Annuity Contract. This measure shall attract new capital to Puerto Rico's economy, increase the revenues of the General Fund through the collection of the special ten percent (10%)-tax, and provide local insurance companies with an additional period to increase their variable annuity contract portfolio. Moreover, some technical corrections are made to subsection (b) of Section 1031.01 and some provisions are included to allow for the prepayment of preferential rates on IRAs, qualified retirement plans, nonqualified retirement plans, and deferred compensation plans.

Furthermore, this measure includes provisions to maximize revenues on account of existing adult entertainment machines thus creating an oversight structure led by the Puerto Rico Tourism Company and the municipalities. Technical amendments are also made to Act No. 10 of May 24, 1989, better known as the "Act to Authorize the Additional Lottery System," for the purpose of allowing the modernization thereof.

This measure furthers the public policy of this Administration which is geared to overseeing current taxation in order to promote the optimum use of the available resources to improve the rendering of government services. In doing so,

we shall continue with our efforts of revising the tax system to achieve a fair and equitable distribution of the tax burden, to the extent possible, and to pave the way for a true and thorough Tax Reform.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Title

This Act shall be known as the “Tax System Adjustment Act.”

Section 2.- Subsection (i) of Section 2 of Act No. 73 of May 28, 2008, as amended, is hereby amended to read as follows:

“Section 2.- Definitions

For the purposes of this Act, the following terms, phrases, and words shall have the meaning and scope stated hereinbelow:

(a) ...

(i) Small or Medium-sized Business.

Any tax-exempt business that holds a decree under this Act, which generates an average gross income, including the gross income of members within their controlled group, of less than ten million dollars (\$10,000,000) during the three (3) preceding taxable years. In order to determine the annual average gross income, the computation shall include all kinds of income, whether covered or not by an industrial tax exemption decree. For these purposes, gross income shall be the total generated from the sale of goods, products, and services, including any type of income, but without deducting the cost of the goods and products sold.

(j) ...”

Section 3.- Paragraph (1) is hereby amended and a paragraph (8) is hereby added to subsection (c) of Section 5 of Act No. 73 of May 28, 2008, as amended, to read as follows:

“Section 5.- Credits.-

(a) ...

(c) Credit for Investment in Research and Development, Clinical Tests, Toxicological Tests, Infrastructure, Renewable Energy, or Intangible Property.

(1) Any tax-exempt business that holds a decree under this Act or under preceding tax incentives laws may claim a credit for investment equal to fifty percent (50%) of the special eligible investment made in Puerto Rico after the date of approval of this Act by said tax-exempt business or by any entity affiliated thereto. Any special eligible investment made before the date for filing the income tax return, as provided for in the Puerto Rico Internal Revenue Code, including any time extension granted by the Secretary of the Treasury for the filing thereof, shall qualify for the tax credit under this paragraph in the taxable year for which the aforementioned return is filed. Said credit may be applied, at the option of the tax-exempt business, against the tax on industrial development income as provided for in subsection (a) of Section 3 of this Act or against the tax on income applicable under the preceding tax incentives law under which the tax-exempt business was granted the decree, and/or against the operating costs of the tax-exempt business relative to electric power, water, and sewer systems.

Any tax-exempt business claiming a credit under the provisions of this subsection shall request a certificate issued annually by the Puerto Rico Industrial Development Company, which certifies that the activities of a research and development project carried out in Puerto Rico are eligible to request the tax credit provided in Section 5(c) of this Act. Said certificate shall be requested on or before the due date for filing the income tax return for the corresponding taxable year in which the eligible investment was made, as provided in the Puerto Rico Internal Revenue Code, including any extension granted by the Secretary of the Treasury for the filing thereof. Said certification shall be attached to the return as requirement to be awarded the requested credit.

(2) ...

...

(8) Credit Limit.- the maximum amount of credit to be granted shall be an aggregate amount of three hundred million dollars (\$300,000,000) per fiscal year. However, if deemed necessary the Executive Director may, in consultation with the Secretary of the Treasury, certify credits that exceed the amount of three hundred million dollars (\$300,000,000).

(d) ...

...”

Section 4.- Paragraph (2) of subsection (e) of Section 6 of Act 73 of May 28, 2008, as amended, is hereby amended to read as follows:

“Section 6.- Credit for Industrial Investment

(a) ...

...

(e) Adjustment of the Base and Recovery of the Credit for Industrial Investment.

(1) ...

(2) If any tax-exempt business, which originates the credit for industrial investment to generate a credit under subsection (a)(2)(A) and (B) of this Section, ceases operations as such before the lapsing of a term of ten (10) years counted as of the date of the eligible investment, the investor shall owe, as income taxes, an amount equal to the credit for industrial investment claimed by such investor, multiplied by a fraction whose denominator shall be ten (10) and whose numerator shall be the balance of the ten (10)-year period as required under this subsection. The amount thus owed as income taxes shall be paid in two (2) installments, starting in the first taxable year after the date the industrial activity ceases.

(f) ...”

Section 5.- Subsection (a) of Section 2.2 of Act No. 83 of July 19, 2010, is hereby amended to read as follows:

“Section 2.2.- Green Energy Fund Creation; Special Deposit.-

(a) A special fund is hereby created and established to be denominated the Green Energy Fund of Puerto Rico, separate from the General Fund of the Government of Puerto Rico. The Department of the Treasury shall establish said fund as a special fund, separate from other government funds, as provided hereinbelow:

(1) Starting on Fiscal Year 2011-2012, the first collections from excise taxes on account of motor vehicles and motorcycles collected pursuant to the Puerto Rico Internal Revenue Code of 1994 or the Puerto Rico Internal Revenue Code of 2011 shall be covered, when the Department of the Treasury receives them, into a special fund to be maintained by and in favor of the Green Energy Fund, designated as the ‘Green Energy Fund of Puerto Rico’ and shall be used by the Green Energy Fund for the purposes set forth in this Act, up to the maximum amount of:

| Fiscal Year | Amount       |
|-------------|--------------|
| 2011-2012   | \$20,000,000 |
| 2012-2013   | \$20,000,000 |
| 2013-2014   | \$25,000,000 |
| 2014-2020   | \$20,000,000 |

(2) ...

...”

Section 6.- Subsection (a) of Section 1021.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1021.02.- Alternative Base Tax on Individuals

(a) Imposition of Alternative Base Tax on Individuals.

(1) General Rule. There shall be imposed, collected, and paid by every individual for each taxable year indicated below, in lieu of any other tax imposed under this part, a tax on the net income subject to alternative base tax, determined according to the following tables and reduced by the alternative base credit for taxes paid abroad (when greater than the regular tax):

(A) ...

(B) Taxable years beginning after December 31<sup>st</sup>, 2012 and before January 1<sup>st</sup>, 2014:

| If the net income subject to alternative base tax is: | The tax shall be: |
|---|-------------------|
| From \$150,000 but not over \$250,000                 | 10%               |
| In excess of \$250,000 but not over \$500,000         | 15%               |
| In excess of \$500,000                                | 24%               |

(C) Taxable years beginning after December 31<sup>st</sup>, 2013:

| If the net income subject to alternative base tax is: | The tax shall be: |
|---|-------------------|
| From \$150,000 but not over \$200,000                 | 10%               |
| In excess of \$200,000 but not over \$300,000         | 15%               |
| In excess of \$300,000                                | 24%               |

(2) ...

...

(6) Credit for Alternative Base Tax of Previous Taxable Years.

(A) Granting of Credit. An amount equal to the credit for alternative base tax of previous years shall be allowed as a credit against the tax imposed by Section 1021.01, until said credit is exhausted.



(B) Credit for Alternative Base Tax of Previous Taxable Years. For purposes of subparagraph (A) of this paragraph (6), the credit for the alternative base tax of previous years is the excess, if any, of:

(i) the sum of the net alternative base tax determined for all previous taxable years beginning after December 31<sup>st</sup>, 2008 and ending before January 1<sup>st</sup>, 2014, over

(ii) the sum of the net regular tax determined for all such previous taxable years beginning after December 31<sup>st</sup>, 2008 and ending before January 1<sup>st</sup>, 2014.

(C) Limitation. The credit allowed under this paragraph (6) of this subsection for any taxable year shall not exceed twenty-five percent (25%) of the excess, if any, of:

(i) ...

(ii) ...

(D) ...”

Section 7.- Subsection (a) of Section 1021.05 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1021.05.- Special Tax on Self-employed Individuals Engaged in Trade or Business.-

(a) In addition to any other tax imposed under this Code, a special two percent (2%) tax shall be imposed, collected, and paid for any taxable year, on the gross income derived by an individual from service rendering except those services rendered by an employee to his/her employer, or from a trade or business, (excluding a rental business, the gross income derived from agriculture as defined in clause (i) of subparagraph (F) of paragraph (1) of subsection (g) of Section 1023.10 of this Code, and any trade or business that is attributable to a partnership covered under the provisions of Chapter 7, of subchapter D and subchapter E of

Chapter 11 of this Subtitle), when the gross income of such individual exceeds two hundred thousand dollars (\$200,000), determined as provided in subsection (c) of this Section. Once the taxpayer determines that he/she is subject to the tax imposed in this Section, the same shall apply to the total gross income derived by such individual during the taxable year from such service rendering or from a trade or business.

(b) ...”

Section 8.- Subsection (a) of Section 1023.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1023.02.- Special Tax for Individuals, Estates, and Trusts on Net Long-term Capital Gains.-

(a) Tax Rate.- Any individual, estate, or trust shall pay, in lieu of any other taxes imposed by this Subtitle, a ten percent (10%) tax on the excess amount of any net long-term capital gain on any net short-term capital loss, as said terms are defined in Section 1034.01, generated in any sale or exchange carried out before July 1<sup>st</sup>, 2014; provided, that a fifteen percent (15%) tax shall be paid on the excess amount of any net long-term capital gain on any net short-term capital loss generated in any sale or exchange carried out after June 30<sup>th</sup>, 2014, or may opt to pay the tax in accordance with the normal tax rates, whichever is more beneficial for the taxpayer.

(b) ...”

Section 9.- Subsection (a) of Section 1023.03 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1023.03.- Alternative Tax to Corporations on Net Long-term Capital Gains.-

(a) If, for any taxable year, the net long-term capital gain of any corporation exceeds the short-term capital loss, there shall be imposed, collected,

and paid, in lieu of the tax imposed by Sections 1022.01, 1022.02, and 1022.03, a tax to be determined as follows, but solely if such tax were lower than the tax imposed by said Sections:

(1) Firstly, a partial tax shall be computed on the net income without including the total amount of the excess of the net capital gain at a rate and in a manner as if this Section did not exist.

(2) Then, an amount equal to fifteen percent (15%) of such excess shall be determined for transactions carried out before July 1<sup>st</sup>, 2014, or an amount equal to twenty percent (20%) of said excess for transactions carried out after June 30<sup>th</sup>, 2014.

(3) ...”

Section 10.- Subsection (b) of Section 1023.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1023.06.- Special Tax on Distributions of Certain Corporate Dividends.-

(a) ...

(b) Special Tax.- The special tax provided in subsection (a) shall be ten percent (10%) of the total amount received by every eligible person from any eligible distribution made by a corporation before July 1<sup>st</sup>, 2014; whereas, said special tax shall be fifteen percent (15%) of the total amount received by every eligible person from any eligible distribution made by a corporation after June 30<sup>th</sup>, 2014.

(c) ...”

Section 11.- Subsections (a) and (g) of Section 1023.10 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1023.10.- Imposition of Surtax on Gross Income.-

(a) Applicable Tax.-

(1) General Rule.-

(A) For taxable years beginning before January 1<sup>st</sup>, 2014, in the case of an individual, on his distributive share of gross income determined in accordance with Sections 1071.02, 1114.06, and 1115.04, and in the case of a corporation (or any entity filing as a corporation) engaged in trade or business in Puerto Rico, except for a finance business as defined in this Section and entities subject to Section 1123(f) of the Puerto Rico Internal Revenue Code of 1994, for purposes of determining the alternative base tax provided in subsection (a) of Section 1021.02 and the tax imposed under subsection (a) of Section 1022.03, respectively, there shall be imposed, collected, and paid, for any taxable year, an additional tax on its Gross Income, as defined in subsection (g) of this Section, which shall be determined by applying the rates established below:

| If the gross income is:                                  | The rate shall be: |
|--|--------------------|
| From \$1,000,000, but not over \$3,000,000               | .20%               |
| In excess of \$3,000,000, but not over \$300,000,000     | .50%               |
| In excess of \$300,000,000, but not over \$600,000,000   | .70%               |
| In excess of \$600,000,000, but not over \$1,500,000,000 | .80%               |
| In excess of \$1,500,000,000                             | .85%               |

...

(g) Definitions.- For purposes of the tax imposed under this Section, the following terms shall have the meaning stated below:

(1) Gross Income.-

(A) ...

...

(E) Other Taxpayers.- In the case of any other taxpayer other than an insurance company, gas station, broker, dealer, representative agent, advertising agency, and contractor, the gross income shall be that established in Section 1031.01 of this Code, minus the gross income exceptions provided in Section 1031.02 of this Code. Provided, that in the case of earnings or income derived from the production or sale of property in the ordinary course of business, whether personal or real property, gross income shall be that generated from the sale of property or goods without deducting the cost of the property or goods sold. The Secretary of the Treasury is hereby authorized to modify the computation of the gross income of a finance business for purposes of this Section.

(F) All Taxpayers.- Gross income shall exclude the following items, including when these are part of the distributive share in the gross income determined in accordance with Sections 1071.02, 1114.06, and 1115.04, as the case may be:

(i) ...

...

(ix) the payment or cash flow received from members through duly certified voluntary chains, as such term is defined in Act No. 77 of June 25<sup>th</sup>, 1964, as amended, as a result of the transfer of inventory or goods under a common negotiation program.”

Section 12.- A new Section 1023.10A is hereby added to Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” to read as follows:

“Section 1023.10A.- Imposition of Surtax on Gross Income for Taxable Years Beginning after December 31<sup>st</sup>, 2013.-

(a) Applicable Tax.-

(1) General Rule.-

In the case of any corporation (or any entity filing as a corporation), partnership (or any entity filing as a partnership), special partnership, and corporation of individuals engaged in trade or business in Puerto Rico, except for a finance business, as defined in this Section, and the entities that are subject to Section 1123(f) of the Puerto Rico Internal Revenue Code of 1994, there shall be imposed, collected, and paid, for any taxable year, a surtax on its Gross Income, as defined in subsection (g) of this Section, which shall be determined by applying the rates established below:

| If the gross income is:                                  | The rate shall be: |
|--|--------------------|
| From \$3,000,000, but not over \$100,000,000             | .35%               |
| From \$100,000,000, but not over \$300,000,000           | .50%               |
| In excess of \$300,000,000, but not over \$600,000,000   | .70%               |
| In excess of \$600,000,000, but not over \$1,500,000,000 | .80%               |
| In excess of \$1,500,000,000                             | 1.0%               |

(A) Rates Applicable to Taxpayers Engaged in the Retail Sale of Food.- For taxpayers principally engaged in the retail sale of unprepared food and provisions whose gross income is less than \$400,000,000 during the taxable year, the additional tax on gross income shall be determined according to the following rates:

| If the gross income is:                                | The rate shall be: |
|--|--------------------|
| From \$3,000,000, but not over \$300,000,000           | .20%               |
| In excess of \$300,000,000, but not over \$400,000,000 | .28%               |

(i) Definitions.- For purposes of this subparagraph:

I. the term ‘principally’ means that during the three (3)-taxable-year period immediately preceding the determination year, an average of seventy percent (70%) or more of retail sales constitute retail sales of unprepared food and provisions;

II. the term taxpayers engaged in retail sales includes businesses commonly known as ‘Cash & Carry’;

III. the term ‘provisions’ excludes the sale of furniture, appliances, toys, beauty, school, office, and hardware supplies, shoes, apparel, and alcoholic beverages; and

IV. the term ‘Gross Income’ shall be determined taking into consideration the total sum of the gross income of each member of the controlled group or group of related entities, as these terms are defined in Sections 1010.04 and 1010.05, respectively, including the gross income of any member that has elected to determine his tax pursuant to Section 1022.06 of this Code.

(ii) The applicable rate as determined in subparagraph (A) of paragraph (1) of subsection (a) of this Section shall not affect an exemption request timely filed by the taxpayer for a taxable year beginning prior to January 1<sup>st</sup>, 2014, including any review process of a denied exemption request.

(B) Coordination with Income Tax.- The tax imposed in this paragraph shall not be part of the income tax corresponding to the taxable year for which the same is computed. In addition, the amount of the tax imposed in this paragraph shall be allowed as a deduction in the computation of the taxpayer’s net income; provided, that the same has been paid on or before the deadline for filing the income tax return for said taxable year, as required under Subchapter A of Chapter 6 of Subtitle A of this Code.

(C) Coordination in Cases where the Taxpayer Received an Exemption.- In such cases where the taxpayer who is subject to the surtax imposed under this Section received an exemption under Section 1023.10(a)(3) of this Code, the applicable rate to compute the surtax imposed herein shall be the one established in the Exemption or the one resulting from the applicable table provided in this Section, at the option of the taxpayer. Provided, that under no circumstance may the taxpayer apply the reduction granted in the Exemption to the applicable rate set forth in the corresponding table provided in this Section.

(2) Finance Business.-

(A) Tax.- In the case of any finance business, as defined in this Section, there shall be imposed, collected, and paid, for any taxable year, a one percent (1%)-surtax on its gross income. In the case of finance businesses that pay taxes as a partnership, the surtax on gross income provided in this subparagraph shall be imposed to the finance business that pays taxes as a partnership and fifty percent (50%) of said surtax shall constitute an item of credit that shall be separately notified to members in accordance with the provisions of Section 1071.02(a)(11) in order for said members to be able to claim the credit provided by Sections 1023.10(a)(2)(B) and 1023.10(d), subject to the limitations provided therein.

(B) Credit for Surtax on Gross Income Paid.-

(i) Granting of the Credit.- Any finance business engaged in trade or business in Puerto Rico may credit against the income tax or alternative minimum tax, if any, payable for the corresponding taxable year (including said tax determined under the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Section 1022.06 of this Code), subject to the limitations set forth below, an amount equal to zero point five (0.5) percent of the gross income for the corresponding taxable year. Provided, further that any



member of a finance business filing as a partnership, may credit against the income tax or the alternative minimum tax payable for the corresponding taxable year, if any, (including said tax determined under the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Section 1022.06 of this Code) subject to the limitations set forth below, an amount equal to fifty percent (50%) of the distributive share of the surtax on gross income provided by the previous subparagraph (A) paid by the finance business that files as a partnership, to which the amount of fifty percent (50%) shall constitute a credit item which shall be separately notified to the members thereof pursuant to the provisions of Section 1071.02(a)(11).

(ii) Limitations.- The credit determined as previously provided may be used by:

(I) Entities filing as a corporation.- Against the income tax or alternative minimum tax payable for the corresponding taxable year, if any;

(II) Individuals.- Against the income tax or the alternative basic tax payable, if any.

(iii) Carryover.- Any amount of the credit available under this Section, for any taxable year, that has not been used due to the limitations set forth herein, shall not be reimbursed and shall only be available to be used in future taxable years subject to the provisions of this paragraph.

(b) Allowable Credits Against the Tax Imposed by this Section.- Credits granted in subchapter C of Chapter 5 of this Subtitle shall be allowable as credits against the tax imposed under this Section, when the amounts available have not been used as credit against any other tax imposed by Subtitle A of this Code.

No tax credit generated or acquired by the taxpayer at any date shall be allowable as credit against the tax imposed by this Section.

(c) In the case that the income tax for the taxable year is determined pursuant to Section 1022.06 of this Code, the tax imposed herein shall be determined separately and in addition to the regular applicable tax of individuals, the normal tax and the applicable surtax of corporations, the alternative basic tax applicable to individuals, and the alternative minimum tax applicable to corporations that are imposed in Sections 1011(a), 1015, 1016, 1011(b), and 1017 of the Internal Revenue Code of 1994, as amended, respectively.

(d) Taxpayers subject to the tax imposed by this Section shall pay the tax imposed herein which they estimate will be due for the corresponding taxable year and on the dates and in the amounts established in Section 1061.23 of this Code or under the corresponding provisions of the Internal Revenue Code of 1994, as amended, to the extent applicable to individuals who elected to file the return under Section 1022.06 of this Code.

(e) Rules Applicable to Controlled Groups or Affiliated Groups.-

(1) General Rule.- In the case of a controlled group of corporations under Section 1010.04 or affiliated group under Section 1010.05, for purposes of determining the rate of the surtax on the gross income applicable to each one of the corporations members of such group, the total amount of the gross income of each one of the persons member of a controlled group of corporations or affiliated group that is required to pay the tax imposed under this Section shall be taken into account. Once it is determined that the total gross income of the controlled group or affiliated group is subject to the tax imposed under this Section, all members of the controlled group or affiliated group shall be liable to pay the tax, although individually they would not be subject to taxation.

(2) Exception.- In the event that a controlled group or affiliated group includes one or more financial institutions, such institutions shall be

excluded for the aforementioned purposes and the tax imposed under this Section shall be determined separately for each one of them.

(f) Definitions.- For purposes of the tax imposed under this Section, the following terms shall have the meaning stated below:

(1) Gross Income.-

(A) Insurance Companies.- Gross income in the case of insurance companies shall be the following:

(i) Life Insurance Companies.- Gross income in the case of life insurance companies shall be that determined as provided in Section 1111.02 of this Code,

(ii) Insurance Companies other than Life or Mutual Insurance Companies.- Gross income in the case of insurance companies other than life or mutual insurance companies shall be that determined as provided in Sections 1111.07(c)(1), 1111.07(c)(3), 1111.07(c)(4), and 1111.10 of this Code, and

(iii) Mutual Insurance Companies other than Life Insurance Companies.- Gross income in the case of mutual insurance companies other than life insurance companies shall be that determined as provided in Section 1111.11 of this Code.

(B) Gas Stations.- In the case of persons engaged in the operations of gas stations, gross income shall be the number of gallons of gasoline (including diesel) sold, multiplied by the maximum gross profit allowed by law, plus the volume of sale of other products and services.

(C) Brokers, Dealers, Representative Agents, Advertising Agencies, and Contractors.- In the case of brokers, dealers, representative agents, and advertising agencies, gross income shall be understood as the gross commissions amount, without deducting any cost item. In the case of contractors,

even though they have a cost plus contract, gross income shall be the gross contract amount without deducting any cost item, except the cost of machinery and equipment that the contractor is required to acquire to be permanently incorporated into the project that does not constitute a volume of business factor for the contractor, without including in this exception materials, home appliances, or equipment that generally is part of the construction project.

(D) Distributors and Dealers of New Automobiles, Buses, Truck Tractors, and Trucks for Sale.- In the case of distributors and dealers engaged in the sale of automobiles, buses, truck tractors, and trucks (as such term is[sic] defined in Section 3020.08(b) of this Code), gross income shall be understood as that established in Section 1031.01 of this Code, minus the gross income exceptions provided in Section 1031.02 of this Code. Provided, however, that the total amount generated from the sale of such new automobiles, buses, truck tractors, and trucks for sale shall be determined without deducting the cost thereof, but deducting from the gross amount the excise taxes paid for new automobiles, buses, truck tractors, and trucks sold during the taxable year.

(E) Other Taxpayers.- In the case of any other taxpayer other than an insurance company, gas station, broker, dealer, representative agent, advertising agency, and contractor, gross income shall be that established in Section 1031.01 of this Code, minus the gross income exemptions provided in Section 1031.02 of this Code.

Provided, that in the case of earnings or income derived from the production or sale of property in the ordinary course of business, whether personal or real property, gross income shall be that generated from the sale of property or goods without deducting the cost of the property or goods sold. The Secretary of the Treasury is hereby authorized to modify the computation of the gross income of a finance business for purposes of this Section.

(F) All Taxpayers.- Gross income shall not include the following items, including when such items are part of the distributive share in the gross income determined pursuant to Sections 1071.02, 1114.06, and 1115.04, as the case may be:

(i) the gross income derived from operations, covered under a tax exemption decree, resolution, or grant conferred under said laws created by persons doing business under the provisions of Act No. 73-2008, as amended, known as the ‘Economic Incentives Act for the Development of Puerto Rico’ or any previous or subsequent similar law, or under the provisions of Act No. 74-2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010,’ Act No. 83-2010, Act No. 20-2012, or any previous or subsequent similar law or under any other special law that grants tax exemptions regarding net income;

(ii) the gross income derived from agriculture insofar the income derived from said activity be admissible as a deduction under the provisions of Section 1033.12 or that is covered under the provisions of Act No. 225-1996[sic], known as the ‘Puerto Rico Agricultural Tax Incentives Act,’ when a person operates a bona fide agricultural business;

(iii) the gross income generated by non-profit entities exempt from filing under Section 1101.01, wherein the gross income is not subject to a tax under this Code;

(iv) the gross income earned from Medicare Advantage, Medicaid, ‘Mi Salud, Inc.’ premiums, and from annuities;

(v) the dividends received from a controlled domestic corporation up to the amount of the deduction granted under Section 1033.19(a)(1)(D) of the Code;

(vi) the gross income attributable to the operation of a trade or business outside of Puerto Rico;

(vii) the gross income of International Insurers or International Insurers Holding Companies under the provisions of Chapter 61 of the Puerto Rico Insurance Code; to the extent the gross income is not subject to a taxation under this Code

(viii) the distributive share in gross income, pursuant to Section 1071.02, of a finance business filing as a partnership; and

(ix) the payment or cash flow received by duly certified voluntary chains from the members thereof, as said term is defined in Act No. 77 of June 25<sup>th</sup>, 1964, as amended, as a result of the transfer of inventory or goods under a common negotiation program.

(2) Gross Margin.- means the net sales minus the sale costs.

(3) Finance Business.- means any trade or business consisting of services rendered or transactions carried out by commercial banks, savings and loans associations, mutual or savings banks, financing companies, investment companies, brokerage firms, collection agencies, and any other activity similar to the aforementioned, carried out by any trade or business. The term 'finance business' shall not include activities related to the investment made by persons of their own funds, if such investment does not constitute the principal business activity.

(4) Non Finance Business.- means any trade or business other than a finance business, as defined above.

(5) Entities subject to Section 1123(f) of the Puerto Rico Internal Revenue Code of 1994.- The phrase 'entities subject to Section 1123(f) of the Puerto Rico Internal Revenue Code of 1994' that appears in subparagraph (A) of

paragraph (1) of subsection (a) of this Section means such person (according to the definition of said term in Section 1010.01(a)(1) of this Code) who:

(A) Because of Section 1123(f)(4) of the Puerto Rico Internal Revenue Code of 1994, as amended, is subject to the payment of income taxes in Puerto Rico with respect to the gains, benefits, and income treated as derived from sources within Puerto Rico and which amount has been computed pursuant to paragraph (4)(B)(v), (4)(B)(vi), or (4)(B)(vii) of said Section, as the case may be, or

(B) Because of paragraph (4)(B)(iii) of Section 1123(f)(4) of the Puerto Rico Internal Revenue Code of 1994, as amended, subject to the payment of excise taxes imposed by Section 3070.01 of this Code.

(g) The tax imposed in this Section shall be redesigned as part of the Tax Reform project, which shall enter into effect for years beginning after December 31<sup>st</sup>, 2014.”

Section 13.- A new Section 1023.20 is hereby added to Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” to read as follows:

“Section 1023.20.- Option to Prepay Taxes on Accumulated and Non-Distributed Amounts under a Variable Annuity Contract.

(a) Any individual who is the owner or beneficiary of a life insurance, endowment, or annuity contract and exchanges, on or before December 31<sup>st</sup>, 2014 such contract for an Eligible Variable Annuity Contract or makes an indirect transfer in exchange for an Eligible Variable Annuity Contract in accordance with Section 1034.04(b)(9) of this Code, may elect to prepay, in lieu of any other tax, a ten percent (10%) tax on the total accumulated and non-distributed amount under a assigned or canceled contract that, if distributed or paid out, would be subject to income taxes. The payment of the tax provided in this subsection shall be remitted

no later than December 31<sup>st</sup>, 2014, by completing the form provided by the Secretary for such purposes.

(b) For purposes of this Section an Eligible Variable Annuity Contract shall constitute any variable annuity contract issued on or before December 31<sup>st</sup>, 2014 by an insurance company organized under the laws of the Commonwealth of Puerto Rico and whose contractual terms establish that no additional contributions may be made after December 31<sup>st</sup>, 2014.”

Section 14.- A new Section 1023.21 is hereby added to Act No. 1 of January 31<sup>st</sup>, 2011, as amended, to read as follows:

“Section 1023.21.- Special Tax for Individuals, Estates, and Trusts upon the Sale or Tax Prepayment on the Appreciation of Certain Assets.

(a) Election to pay a special tax on the sale or to prepay tax on the appreciation of certain assets.- Any individual, estate, or trust may elect to pay the special tax established in this Section on the sale of capital assets during the period between July 1<sup>st</sup>, 2014 and October 31<sup>st</sup>, 2014. Furthermore, the taxpayer may elect to pay said special tax on all or part of the appreciation of capital assets held by any such person, without taking into account or requiring the sale or disposition of such assets to recognize and realize such gains. Said special tax shall only apply in the case of assets held long-term. The special tax, whether upon sale or prepayment provided in this Section, shall apply to the shareholders, members, or partners of an entity filing as a special partnership under Chapter 7 of the Code, special partnership under Subchapter D of Chapter 11 of the Code, or an election as a corporation of individuals under Subchapter E of Chapter 11 of the Code who are individuals, estates, or trusts with respect to the capital assets covered by this Section that are held by said partnership, special partnership, or corporation of individuals.



(b) Special Tax.- The special tax established in this Section shall be eight percent (8%) in the case of capital assets or fifteen percent (15%) in the case of Included Assets which income is taxed as ordinary income in accordance with this Code, of the appreciation at the time of the sale or the appreciation determined by said persons on the capital gains at the time of the prepayment. For the purpose of making the payment of this Special Tax, none of the penalties imposed by this Code for the withdrawal of said amount shall apply.

(c) Included Assets.- The election provided in this Section regarding the following assets may be made:

(i) Stocks in corporations or ownership interest in limited liability companies or partnership interests, domestic and foreign, including the option to acquire stocks or interests;

(ii) Real property located within or outside Puerto Rico, including property that is owned by any individual, estate, or trust that is subject to the concession for depreciation whose assets in the sale would be subject to taxation as a capital gain pursuant to the provisions of Section 1034.01(h), or in the case of prepayment for appreciation, which if sold, would have qualified as a capital gain pursuant to the provisions of Section 1034.01(h). Notwithstanding the foregoing, the appreciation or base of this recognized modality shall only be used by said taxpayer for purposes of the future sale of said property, and not to calculate the depreciation of the property prior to the future sale thereof;

(iii) A fixed annuity contract;

(iv) Shares in an employer program, whether or not qualified pursuant to Section 1081.01;

(d) Base increase in the case of prepayment.- For all purposes under the Code, the base of the individual, estate, or trust on capital assets object of the foregoing election and on which he chose to prepay shall include the appreciation

over which any of said persons chose to pay tax pursuant to the provisions of this Section. The base thus determined shall be taken into account at the time or date on which said persons sell or dispose of the capital assets. Notwithstanding the foregoing, any amount or increase in value in such capital assets generated after the election or special treatment provided in this Section shall pay taxes in accordance with the provisions of the laws in effect at the time in which the sale or disposition of said capital assets is finally carried out. The amount of gain taxable due to the base increase provided in this Section shall neither be part of the net income subject to alternate basic tax, nor be subject to the provisions of Section 1021.02.

(e) Recognition of Loss.- The amount of losses generated by the subsequent sale or disposition of the capital assets object of this Section on which the election to prepay was made shall be adjusted in accordance with the tax rate in effect applicable to that type of transaction at the time of the sale or disposition of said assets, prior to their use or carry-over by the individual, estate, or trust. In accordance to which, said loss shall be adjusted by formula or fraction, whose numerator shall be an eight percent (8%) or fifteen percent (15%) rate, as applicable, and the denominator shall be the tax rate in effect on the date of the sale or disposition of the asset in question.

(f) Election and Payment.- The election to pay the tax upon the sale or prepay tax on the appreciation of capital assets covered by this Section shall be made within the period provided in this Section by completing the forms provided by the Secretary of the Treasury for such purposes. The tax shall be paid at the Internal Revenue Collection Offices of the Department of the Treasury of Puerto Rico.

(g) Taxpayers Subject to Section 1021.04.- Taxpayers subject to Section 1021.04 of the Code may avail themselves of these provisions.

(h) No retirement plan qualified under Section 1081.01 shall be deemed to meet the requirements of said Section for the mere use or distribution of accumulated funds in such plan in order to pay the tax imposed by this Section.”

Section 15.- A new Section 1023.22 is hereby added to Act No. 1 of January 31, 2011, as amended, to read as follows:

“Section 1023.22.- Special Tax for Corporations upon the Sale or Tax Prepayment on the Appreciation of Capital Assets.

(a) Election to pay a special tax upon the sale or to prepay tax on the appreciation of capital assets.- Any corporation may elect to pay the special tax established in this Section on the sale of capital assets during the period between July 1<sup>st</sup>, 2014 and October 30<sup>th</sup>, 2015. Furthermore, the taxpayer may elect to pay said special tax on all or part of the appreciation of capital assets held by any such person, without taking into account or requiring the sale or disposition of such assets to realize such gains. Said special tax shall only apply in the case of long-term capital assets. The election or the special tax provided in this Section shall apply to the shareholders, members, or partners of an entity that holds an election as a partnership under Chapter 7 of the Code or as a special partnership under Subchapter D of Chapter 11 of this Code that are corporations with respect to qualified capital assets covered by this Section that are held by said partnership or special partnership.

(b) Special Tax.- The special tax provided in this Section shall be twelve percent (12%) of the appreciation at the time of the sale or the accumulated appreciation determined by said taxpayers on the capital assets at the time of the prepayment.

(c) Capital Assets Included.- The election provided in this Section regarding the following assets may be made insofar as they constitute capital assets:

(i) Stocks in corporations or the domestic and foreign partnerships interest; or

(ii) Real property located within or outside Puerto Rico, including property that is owned by any corporation that is subject to the concession for depreciation whose gains on the sale would be subject to taxation as a capital gain pursuant to the provisions of Section 1034.01(h), or in the case of prepayment for appreciation, which if sold, would have qualified as a capital gain pursuant to the provisions of Section 1034.01(h). Notwithstanding the foregoing, the appreciation or base of this recognized modality shall only be used by said taxpayer for purposes of the future sale of said property, and not to calculate the depreciation of the property prior to the future sale thereof.

(iii) Intangible property including, but not limited to, patents and capital gain.

(d) Base increase in the case of prepayment.- For all purposes under the Code, the base of the Corporation on the capital assets object of this Section for which it elected to prepay the tax shall include the appreciation over which the taxpayers chose to pay pursuant to the provisions of this Section. The base thus determined shall be taken into account at the time or date on which the corporation or partnership sells or disposes of said capital assets. Notwithstanding the foregoing, any amount or appreciation of said capital assets generated after the election or special treatment provided in this Section shall pay taxes pursuant to the provisions of the laws in effect at the time of the final sale or disposition of said capital assets. The amount of gain attributable to the payment for the base increase provided in this Section shall neither be part of the alternative minimum income nor be subject to the provisions of Section 1022.03.

(e) Recognition of Loss.- The amount of the losses generated as a result of the sale or disposition of the capital assets object of this Section shall be

adjusted in accordance with the tax rate in effect applicable to that type of transaction at the time of the sale or disposition of said assets, prior to their use or carry-over by the taxpayer. Accordingly, said loss shall be adjusted by a formula or fraction, wherein the numerator shall be a twelve percent (12%) rate and the denominator shall be the tax rate in effect on the date of the sale or disposition of the asset in question.

(f) Election and Payment.- The election to pay the tax on the sale or to prepay the appreciation of the capital assets covered by this Section shall be made within the period provided in this Section, by completing the forms provided by the Secretary of the Treasury for such purposes. The tax shall be paid at the Internal Revenue Collection Offices of the Department of the Treasury of Puerto Rico.

(g) Taxpayers subject to Sections 1022.06, 1061.03, and 1061.04(e).- Taxpayers subject to Sections 1022.06, 1061.03(e), and 1061.04(e) of this Code may avail themselves of the provisions in this Section.”

Section 16.- A new Section 1023.23 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1023.23.- Prepayment of Individuals Retirement Accounts.-

(a) Election to prepay the tax on amounts accrued but not distributed.-

(1) General Rule.- Any individual who is the owner or beneficiary of an individual retirement account may elect to prepay, during the period between July 1<sup>st</sup>, 2014 and October 31<sup>st</sup>, 2014, the eight percent (8%) tax imposed by this subsection on all or part of any amount accrued but not distributed in an individual retirement account that, if distributed or paid would be subject to income tax under Section 1081.02. The taxpayer’s base in such individual retirement account shall increase by the amount by which the taxpayer elected to prepay the tax.

(2) Election and Payment.- The election shall be made within the period provided in subparagraph (A) of paragraph (3) of this subsection, by completing the forms provided by the Secretary for such purposes. The tax shall be paid at the Internal Revenue Collections Office of the Department of the Treasury of Puerto Rico. It shall be the responsibility of the taxpayer to keep proof of the prepayment form of the individual retirement account and submit a copy of such proof to the financial institution where the account is held.

(3) Exceptions.- The special eight percent (8%) tax rate shall not apply to the following distributions:

(A) Distribution of funds contributed to individual retirement accounts corresponding to taxable year 2014 and thereafter.

(b) The taxpayers' basis in a prepaid individual retirement account under subsection (a) of this Section shall increase by the amount by which the taxpayer elected to prepay the tax.

(c) Penalties for distributions prior to sixty (60) years.- Any distributed amount, or understood as distributed, of an individual retirement account wherein the taxpayer was bound to the provisions of subsection (a) of this Section shall be subject to the penalty provided in subsection (g) of Section 1081.02, however, said penalty shall be an amount equal to thirty percent (30%) of the distributed amount, in lieu of ten percent (10%) established in subsection (g) of Section 1081.02. The provisions of subsection (b) of this Section shall not apply for purposes of calculating the penalty provided in this subsection. However, no penalty shall be applied to distributions made prior to sixty (60) years, as long as such distribution is used for the payment of the eight percent (8%) preferential rate provided in this Section.”

Section 17.- Clause (vi) is hereby added to subparagraph (A) of paragraph (11) and a new paragraph (13) is hereby added to subsection (b) of Section 1031.01 of Act No. 1-2011, as amended, to read as follows:

“Section 1031.01.- Gross Income.

(a) ...

(b) Exclusions from Gross Income.- The following items shall be excluded from the definition of gross income:

(1) ...

...

(11) Annuities. Except as otherwise provided in paragraph (1) of subsection (a) of Section 1031.02, the following amounts with respect to annuities shall be excluded from gross income:

(A) In General.-

(i) Amounts received, other than amounts paid due to the death of the insured and payment of interest in such amounts other than those received as annuities under a life insurance or endowment contract, but if such amounts, when added to amounts received before the taxable year under such contract, exceed the aggregate amount of premiums or consideration paid, whether or not paid during the taxable year, then the excess shall be included in gross income.

(ii) Amounts received as an annuity under an annuity or endowment contract shall be included in gross income, except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to three percent (3%) of the aggregate amount of the premiums or consideration paid for such annuity, whether or not paid during such year, until the aggregate amount excluded from gross income under this Subtitle or

previous income tax laws with respect to such annuity equals the aggregate premiums or consideration paid for such annuity.

(iii) In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration plus the amount of the premiums and other amounts subsequently paid by the transferee shall be exempt from taxation under Section 1031.01(b)(1) or under this paragraph.

(iv) Clause (iii) shall not apply in case of a transfer if said contract or interest therein is the basis for determining gain or loss in the hands of a transferee determined, in whole or in part, by reference to such basis of such contract or interest therein in the hands of the transferor.

(v) This subparagraph and paragraph (1) of this subsection shall not apply to that portion of a payment under a life insurance, endowment, or annuity contract, or any interest therein, which is includible in gross income, under paragraph (5) of subsection (a) of this Section.

(vi) For purposes of this paragraph, the total amounts accrued in an eligible variable annuity contract over which special tax provided in Section 1023.20(a) of this Act or Section 1012C of the Puerto Rico Internal Revenue Code of 1994 or any similar previous provision was prepaid shall be considered as premiums or consideration paid for such annuity.

(12) ...

(13) Any distributed amount by an Eligible Variable Annuity Contract over which an election was made and taxes were paid pursuant to Section 1023.010(a) of this Act or Section 1012C of the Puerto Rico Internal Revenue Code of 1994, as amended.”



Section 18.- Subsections (a), (c), and (d) of Section 1034.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1034.01.- Capital Gains and Losses.-

(a) Definitions. As used in this Subtitle:

(1) ...

(2) Short-term Capital Gain.- The term ‘short-term capital gain’ means gain from the sale or exchange of a capital asset held for not more than six (6) months if the sale or exchange occurred prior to July 1<sup>st</sup>, 2014 and one (1) year if the sale or exchange occurred after June 30<sup>th</sup>, 2014, and to the extent that such gain is taken into account in computing gross income;

(3) Short-term Capital Loss.- The term ‘short-term capital loss’ means loss from the sale or exchange of a capital asset held for not more than six (6) months if the sale or exchange occurred prior to July 1<sup>st</sup>, 2014 and one (1) year if the sale or exchange occurred after June 30<sup>th</sup>, 2014, and to the extent that such loss is taken into account in computing net taxable income;

(4) Long-term Capital Gain.- The term ‘long-term capital gain’ means gain from the sale or exchange of a capital asset held for more than six (6) months if the sale or exchange occurred prior to July 1<sup>st</sup>, 2014 and one (1) year if the sale or exchange occurred after June 30<sup>th</sup>, 2014, and to the extent that such gain is taken into account in computing gross income;

(5) Long-term Capital Loss.- The term ‘long-term capital loss’ means loss from the sale or exchange of a capital asset held for more than six (6) months if the sale or exchange occurred prior to July 1<sup>st</sup>, 2014 and one (1) year if the sale or exchange occurred after June 30<sup>th</sup>, 2014, and to the extent that such loss is taken into account in computing net taxable income;

(6) ...

(b) ...

(c) Limitation on Capital Losses.-

(1) Corporations.- In the case of a corporation, losses from the sale or exchange of capital assets shall be allowed only up to ninety percent (90%) from the total amount of the gains from such sale or exchange.

(2) Other Taxpayers.- In the case of a taxpayer other than a corporation, losses from the sale or exchange of capital assets shall be allowed only up to ninety percent (90%) from the total amount of the gains from such sale or exchange, plus the net income of the taxpayer or one thousand dollars (\$1,000), whichever is less.

For purposes of this subsection, net income shall be computed regardless of gains or losses from the sale or exchange of capital assets.

(d) Capital Loss Carry-over.-

(1) Taxable years beginning after June 30<sup>th</sup>, 1995.- If for any taxable year beginning after June 30<sup>th</sup>, 1995, the taxpayer has a net capital loss, the total amount thereof shall be a short-term capital loss in each of the five (5) succeeding taxable years, to the extent that such amount exceeds the total of any net capital gains for any of the taxable years between the year in which the net capital loss arose and said following taxable year. In the case of net capital losses realized in taxable years beginning after December 31<sup>st</sup>, 2005 and before December 31<sup>st</sup>, 2012, the carry-over period shall be ten (10) years.

(2) Taxable years beginning after December 31<sup>st</sup>, 2013.- If for any taxable year beginning after December 31<sup>st</sup>, 2013 the taxpayer has a net capital loss, the total amount thereof shall be a short-term capital loss in each of the seven (7) succeeding taxable years, to the extent that such amount exceeds the total of any net capital gains for any of the taxable years between the year in which the net capital loss arose and said following taxable year.

For purposes of this subsection, a net capital gain shall be computed without regard to said net capital loss or any net capital losses occurring in any such taxable years.

(e) ...”

Section 19.- Subsection (d) of Section 1040.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1040.06.- Long-term Contracts.

(a) ...

(b) ...

(c) ...

(d) Entities engaged in the development of lands or structures shall be treated as earning income from long-term contracts; thus, such entities may determine their income based on any of the methods described in subsection (b) of this Section, except for paragraph 1 of said subsection, or any other method authorized by the Secretary through regulations, circular letter, or administrative determination.

(e) ...”

Section 20.- Subsections (a) and (c) of Section 1051.02 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1051.02.- Credit for Prior Year Minimum Tax Liability.

(a) Credit Allowance.- There shall be allowed as a credit against the tax imposed by this Subtitle an amount equal to the minimum tax credit, until said credit is exhausted.

(b) ...

(c) Limitation.- The credit allowable under subsection (a) for any taxable year shall not exceed twenty-five percent (25%) of the excess, if any, of:

(1) ...

(2) ...

(d) ...”

Section 21.- Subparagraph (A) of paragraph (5) of subsection (a) of Section 1051.12 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1051.12.- Reissue of Moratorium on Tax Credits Granted under Certain Special Laws.-

(a) No tax credits shall be granted after the effective date of this Act, and for taxable years beginning after December 31<sup>st</sup>, 2012, and before January 1<sup>st</sup>, 2016; thus, no agency, public corporation, instrumentality, municipality, or entity of the Commonwealth of Puerto Rico may evaluate, process, grant, or extend any tax credit or authorize any project or transaction that results or may result in the generation of tax credits under the provisions stated below:

(1) ...

(5) Subsections (E) and (F) of Section 4.03 and Section 4.04 of Act No. 212-2002, as amended, known as the ‘Urban Centers Revitalization Act’; except for any construction project started as of July 1<sup>st</sup>, 2013, and any project under this Act subject to the provisions of subparagraph (A) below, or tourist activity projects, as such term is defined in Act No. 78-1993, as amended, known as the ‘Tourist Development Act of 1993’; or affordable housing development projects for sale or rental, or elderly facilities, as well as any other project subject to the following:

(A) Notwithstanding the moratorium established in this paragraph, during fiscal years 2013-14, 2014-15, and 2015-16, the tax credits covered under the provisions of this paragraph may be granted to those projects with certificate of eligibility filed with the Department of the Treasury as of the approval of this Act, up to forty million dollars (\$40,000,000) for each year. Provided, that no tax credit granted to a project shall exceed fifteen million dollars

(\$15,000,000) for fiscal year 2013-2014, and five million dollars (\$5,000,000) for fiscal years 2014-2015 and 2015-2016.

Municipalities may only evaluate and grant certificates of compliance to projects with a certificate of eligibility filed with the Department of the Treasury as of the approval of this Act, subject to the availability established in this subparagraph (A);

(6) ...

(b) ...”

Section 22.- Paragraphs 4, 5, and 6 of subsection (a) of Section 1052.01 of Act No. 1-2011, as amended, are hereby repealed to read as follows:

“Section 1052.01.- Earned Income Credit.

(a) ...

(1) ...

(2) ...

(3) ...

(b) ...”

Section 23.- Subsection (a) is hereby amended, a new subsection (b) is hereby added, and subsection (b) is hereby renumbered as subsection (c) of Section 1052.02 of Act No. 1-2011, as amended, to read as follows:

“Section 1052.02.- Credit for Low-income Individuals Older than Sixty-five (65) years of Age.-

(a) General Rule. - Any individual who has reached, on the last day of the taxable year, the age of sixty five (65) or more, shall be entitled to a refundable personal compensatory credit, but only if the gross income of such individual for the taxable year added to the items excluded from the gross income under Section 1031.01(b) for such year does not exceed fifteen thousand dollars (\$15,000). In the case of married taxpayers, each one, separately, shall be entitled to claim the credit

provided in this subsection if both individuals qualify therefor. The credit shall be in the following amount:

(1) Four hundred dollars (\$400), for taxable years beginning before January 1<sup>st</sup>, 2014; and

(2) Two hundred dollars (\$200), for taxable years beginning after December 31<sup>st</sup>, 2013.

For taxable years beginning after December 31<sup>st</sup>, 2013, the credit may be claimed using the form prescribed by the Secretary, which shall be filed after July 1<sup>st</sup> and before October 15<sup>th</sup> of the year following the taxable year for which the credit is claimed.

(b) For taxable years starting after December 31<sup>st</sup>, 2013, the credit allowed under subsection (a) shall increase from two hundred dollars (\$200) to four hundred dollars (\$400), provided, that the following General Fund's net revenue test as certified by the Department of the Treasury is complied with:

(1) General Fund's net revenue test: the projection of the General Fund's net revenues, as certified by the Secretary of the Treasury, shall exceed the revenues budgeted for each fiscal year, for a total amount of not less than one hundred million dollars (\$100,000,000).

(c) ...”

Section 24.- Subsections (a) and (b) of Section 1062.03 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1062.03.- Withholding at Source on Payments for Services Rendered.-

(a) General Rule.- The Government of Puerto Rico and every natural or juridical person that, while engaged in a trade or business or in the generation of income in Puerto Rico, makes payments to another person by reason of services rendered, and every payer who makes payments to a health service provider for

health services rendered by said provider to any person, shall deduct and withhold seven percent (7%) of said payments. However, at the election of the service provider, the payer may deduct and withhold in lieu of seven percent (7%), an amount equal to ten percent (10%) or fifteen percent (15%) of said payments. The term 'Government of Puerto Rico' includes the Government of Puerto Rico, its agencies, instrumentalities, public corporations, and political subdivisions. The term 'payer' means insurers, nonprofit associations, health insurance cooperatives, health service organizations, and any other person who makes payments in the name of the persons mentioned herein. The term services and the withholding defined herein does not include the payment of insurance premiums, the lease or sale of tangible real or personal property, printing services, sale of newspapers, magazines, and other publications (including the placement of advertisements) and contracting of radio or television time.

(b) Special Rules.- The requirement to deduct and withhold provided in subsection (a) of this Section shall not apply to:

(1) The first one thousand five hundred dollars (\$1,500) paid during the calendar year to the person who rendered the services. In the case of corporations or partnerships that operate in Puerto Rico through branches, the limit of one thousand five hundred dollars (\$1,500) provided herein shall apply to each branch individually, at the option of the withholding agent.

(2) Payments made to hospitals, clinics, hospices for terminally ill patients, homes for the elderly, and institutions for persons with disabilities. The term 'hospital or clinic' does not include the rendering of laboratory services, unless such services are rendered by laboratories that form an integral part of a hospital or clinic.

(3) Payments made to exempt organizations, as provided in Section 1101.01.

(4) Income or profit derived by a direct seller from the sale of consumer products. The term ‘direct seller’ means an individual who:

(A) Is engaged in the sale (or solicitation of sale) of consumer products to any buyer based on a purchase-sale agreement, commission for deposit, or any similar arrangements as the Secretary may determine by regulation, for resale (by the buyer or any other person) in the home or other site other than a retail sales establishment, or

(B) is engaged in the sale (or solicitation of sale) of consumer products in the home or other site other than a retail sales establishment.

The term ‘direct seller’ does not include any person that receives a commission or any other type of payment that represents, in whole or in part, the income or profit generated by a ‘direct seller’ or any other type of seller under the supervision, control, management, or is a member of the distribution network of said person.

(5) ...”

Section 25.- Section 1062.13 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1062.13.- Tax on Deemed Dividend.-

(a) Imposition of Tax. - For taxable years beginning after December 31<sup>st</sup>, 2013, a ten percent (10%) tax shall be imposed, collected, and paid without regard to any deduction or credit provided in this Subtitle on the amount of the deemed dividend (as said term is defined in subsection (b) of this Section, considered as received by a foreign owner (as said term is defined in subsection (b) of this Section) of a Corporation (as said term is defined in subsection (b) of this Section), during any taxable year.

(b) Definitions. - For purposes of this Section, the following terms shall have the meaning stated below:



(1) Foreign Assets - Any of the following assets held by a Corporation (as said term is defined in subsection (b) of this Section):

(A) Tangible property located outside of Puerto Rico;  
(B) Stocks of a corporation organized outside of Puerto Rico;  
(C) Obligations of a foreign corporation or a Puerto Rico non-resident individual;

(D) Any right to the use outside of Puerto Rico:  
(i) a patent or copyright;  
(ii) an invention, model, or design;  
(iii) a secret formula or process, and  
(iv) any other similar property right, which is acquired or developed by a Corporation (as said term is defined in subsection (b) of this Section) for use outside of Puerto Rico.

(E) Exceptions.- None of the following assets held by a Corporation (as said term is defined in subsection (b) of this Section) shall be considered Foreign Assets:

(i) Obligations of the United States, or any state or territory of the United States or political subdivision thereof, and the District of Columbia;

(ii) Money in cash or deposits with an institution engaged in the banking business or brokerage firm only in the name of the Corporation (as said term is defined in subsection (b) of this Section) and for its exclusive use;

(iii) Property acquired outside of Puerto Rico for use by the Corporation (as said term is defined in subsection (b) of this Section) in its operations in Puerto Rico, which, when determining the average value of Foreign Assets, was located outside of Puerto Rico;

(iv) An obligation of a Foreign Owner in connection with the sale of property; provided, that the amount of such obligation at no time during the taxable year exceeds the amount which would be resulting if the transaction had been made between unrelated persons;

(v) An aircraft, vessel, motor vehicle, or container used in the transportation of persons or property in foreign commerce and used predominantly in Puerto Rico; and

(vi) Obligations or stocks of a foreign corporation which is neither a Foreign Owner nor a related person of the Corporation, as said term is defined in subsection (b) of this Section.

Provided, that any of the assets described in this subparagraph, which is used as security or collateral by or for the benefit of a Foreign Owner or any related person, as said term is defined in Section 1010.05 of this Code, of the Corporation, shall be considered a Foreign Asset.

(2) Corporation - Any entity filing taxes as a corporation under this Code.

(3) Deemed Dividend - An amount equal to the lesser of:

(A) The average total value of a Foreign Asset, as defined in this subsection, held by the Corporation, or

(B) The earnings and profits of the Corporation accumulated as of the close of the taxable year, as defined in this subsection.

(4) Foreign Owner - Any person who is a Puerto Rico non-resident individual or who is not engaged in business in Puerto Rico, and holds directly or indirectly fifty percent (50%) or more of the interest, stock, or shares of a Corporation.

(5) Earnings and Profits of the Corporation Accumulated as of the Close of the Taxable Year - Means the total earnings and profits of the Corporation as of the close of the taxable year, reduced by:

(A) The earnings and profits from industrial development income under the provisions of Act No. 73-2008, known as the 'Economic Incentives Act for the Development of Puerto Rico,' or any previous or subsequent similar law; the income of tourism development under the provisions of Act No. 74-2010, known as the 'Puerto Rico Tourism Development Act of 2010,' Act No. 83-2010, Act No. 20-2012, or any previous or subsequent similar law; or the income covered under any other special law granting a tax exemption with respect to its operations, covered under a tax exemption decree, resolution, or grant conferred under said laws;

(B) The earnings and profits from a *bona fide* agricultural business to the extent the income derived from such activity is allowed as a deduction under the provisions of Section 1033.12 or is covered under the provisions of Act No. 225-1996, known as the 'Agricultural Tax Incentives Act of Puerto Rico';

(C) The earnings and profits from activities allowed and generated from International Banking Entities organized under the provisions of Act No. 52 of August 11, 1989, known as the 'International Banking Center Regulatory Act'; and

(D) The amount of the deemed dividend for which the tax imposed in this Section has been paid.

(6) Average Value of a Foreign Asset - Is the result of the division of an amount equal to the sum of the adjusted basis of each Foreign Asset at the end of each quarter (or part thereof, which shall be considered a quarter) of the taxable year (or such period of less than twelve (12) months during which the

entity carried out operations) of the Corporation, by four (4) or the number of quarters or parts thereof (which shall be considered a quarter) that have elapsed during the computation period.

(7) Total Average Value of Foreign Assets - The sum of all average values of the Foreign Assets determined at the end of each taxable year, reduced by the amount of any deemed dividend for which the tax imposed in this Section in previous years has been paid.

(c) Exemptions - The tax imposed in this Section shall not apply to:

- (1) non-profit entities listed in Section 1101.01;
- (2) an International Insurer as defined in Article 61.040(4) of the Puerto Rico Insurance Code;
- (3) an International Financial Institution as defined in Act No. 273-2012; and
- (4) any foreign corporation subject to the tax imposed in Section 1092.02 of this Code.

(d) Duty to Pay or Deposit the Tax Imposed by this Section.-

(1) Duty to Submit Information and to Pay or Deposit the Tax - Any corporation required to pay the tax imposed under this Section, shall include the computation of the deemed dividend in the income tax return for the corresponding taxable year, in the form established by the Secretary. In addition, the Corporation shall pay the amount of the tax corresponding to the deemed dividend on the date prescribed for the payment of income taxes for said taxable year, in the Puerto Rico Internal Revenue Offices, the Department of the Treasury, or to deposit the same in any banking institution designated as a depository of public funds authorized by the Secretary to receive such tax.

(2) Tax Liability - Any Corporation required to pay the tax imposed by this Section shall be liable to the Secretary for the payment of said tax and not liable to any other person for the amount of any payment thereof.

(3) Penalties and Additions to the Tax - Any Corporation that fails to comply with the liability imposed by this Section shall be subject to the provisions relating to penalties and additions to the tax in accordance with Section 6030.02 of this Code.

(e) Credit for Tax Paid on Deemed Dividend - The tax imposed by this Section shall be credited against the tax to be withheld and paid in accordance with Sections 1062.08 and 1062.11 of this Code, as appropriate.

Any tax paid in accordance with this Section that cannot be used as a credit due to the limitation stated herein, may be used in future years subject to the limitation established herein.”

Section 26.- Subsection (d) of Section 1081.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1081.02.- Individual Retirement Accounts.

(a) ...

(d) Distribution of Individual Retirement Account Assets.

(1) ...

(A) ...

(B) That portion of any amount paid or distributed during taxable years beginning before July 1<sup>st</sup>, 2014, out of an individual retirement account that consists of interest described in Section 1023.04 shall be subject to the provisions of said Section 1023.04 for the taxable year in which the owner or beneficiary of an individual retirement account actually receives such interest in total or partial distribution of an individual retirement account. Any interest amount paid or credited after June 30<sup>th</sup>, 2014 on an individual retirement account

shall continue to be subject to a seventeen percent (17%) tax rate, provided that it satisfies the requirements imposed in Section 1023.04(b).

(2) ...

(e) ...”

Section 27.- Paragraph (2) of subsection (c) of Section 1092.02 of Act No. 1 of January 31<sup>st</sup>, 2011, is hereby amended to read as follows:

“Section 1092.02.- Tax on Dividend-Equivalent Amount.-

(a) ...

...

(c) Puerto Rico Net Equity. For purposes of this Section:

(1) ...

(2) Puerto Rico Assets and Puerto Rico Liabilities.

For purposes of paragraph (1):

(A) Puerto Rico Assets.- The term ‘Puerto Rico assets’ means the money plus the aggregate adjusted basis of property of the foreign corporation treated as effectively connected with the conduct of trade or business in Puerto Rico under the regulations prescribed by the Secretary. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis for purposes of computing earnings and profits. The term ‘Puerto Rico assets’ shall exclude:

(i) loans or credit transactions between offices or branches of the same entity, except in the case of banking institutions or resulting from sale or property transfer.

(ii) cash deposited with an institution engaged in the banking business or brokerage firm located in Puerto Rico other than for exclusive use thereof.

(B) Puerto Rico Liabilities.- The term ‘Puerto Rico liabilities’ means the liabilities of the foreign corporation treated as effectively connected with the conduct of trade or business in Puerto Rico under the regulations prescribed by the Secretary. The term ‘Puerto Rico Liabilities’ shall exclude:

(i) loans or credit transactions between offices or branches of the same entity, except in the case of banking institutions or resulting from sale or property transfer.

(d) ...”

Section 28.- Paragraph (3) of subsection (a) of Section 3050.02 of Act No. 1-2011, is hereby amended to read as follows:

“Section 3050.02.- License Fees for Coin Operated Machines.

(a) Any person engaged in operating amusement machines or devices operated by coins or tokens, or pool tables, shall pay an annual tax on account of license fees in the amount stated below:

(1) ...

(2) ...

(3) For each adult entertainment machine, as defined in Act No. 11 of August 22, 1933, as amended, known as ‘Games of Chance Act.’ \$2,500

With regard to the revenues exclusively obtained from the payment of the annual tax on account of adult entertainment machine license fees, as defined in Act No. 11 of August 22, 1933, as amended, known as the ‘Games of Chance Act,’ fifty percent (50%) of said tax shall be deposited into the General Fund and the remaining fifty percent (50%) shall be allocated to the Puerto Rico Tourism Company.

(b) ...

...”

Section 29.- Subsection (a) of Section 5001.01 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 5001.01.- Definitions.-

(a) ...

(1) ...

(59) Finished Product.- Distilled spirits, wines, or beer.”

Section 30.- Subsections (a), (b), and (c) of Section 5021.03 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 5021.03.- Definitions.-

(a) Distilled Spirits Manufactured in Puerto Rico.- The tax shall be imposed on distilled spirits, spirits, and alcohols as soon as they are separated in either a pure or impure state, by distillation or any other process of evaporation, from any substance, whether fermented or not, even if at any time they are transformed into any other substance, either during the original distillation or evaporation process or by any other process. However, the tax rate to be paid shall be imposed on the basis of the Finished Product.

(b) Wines and Beer Manufactured in Puerto Rico.- The tax shall be imposed on wines and beer manufactured in Puerto Rico once these products, in the process of their fermentation, have generated measurable amounts of alcohol. The tax shall be imposed on beer and unfermented malt products once alcohol has been added to such products. However, the tax rate and the tax base to be paid shall be imposed on the basis of the Finished Product.

(c) Distilled Spirits and Alcoholic Beverages Introduced or Imported Into Puerto Rico.- The tax shall be imposed on distilled spirits and alcoholic beverages brought from abroad at the time of their arrival at a port in Puerto Rico in the



aircraft or maritime vessel transporting them. However, the tax rate and the tax base to be paid shall be imposed on the basis of the Finished Product.”

Section 31.- Subsection (g) of Section 6042.14 of Act No. 1-2011, as amended, is hereby deleted to read as follows:

“Section 6042.14.- Violations.

(a) ...”

Section 32.- Subsection (c) of Section 6051.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6051.02.- Examination of Books and Witnesses.

(a) ...

(b) ...

(c) In the event that ...

(i) ...

(ii) be a Certified Public Accountant licensed to practice such profession in Puerto Rico; or

(iii) ...”

Section 33.- Section 3A of Act No. 11 of August 22, 1933, as amended, is hereby amended to read as follows:

“Section 3A.- For the purposes of this Act, the following terms shall have the meaning stated below:

(a) ‘Adult entertainment machine’.- Refers to...

(b) ‘Authorization’.- Includes the right, permit, or license issued by the Puerto Rico Tourism Company.

(c) ‘Company’.- Means the Puerto Rico Tourism Company.

(d) ‘Executive Director’.- Means the Executive Director of the Puerto Rico Tourism Company.

(e) ‘Business’.- Means the fixed and permanent site or establishment in which all commercial operations of retail sale of products or services are performed, authorized in its use permit from the Permit Management Office and through a license issued by the Puerto Rico Tourism Company, to be set up for the use of approved adult entertainment machines.

(f) ...

(g) ...”

Section 34.- Section 4 of Act No. 11 of August 22, 1933, as amended, is hereby amended to read as follows:

“Section 4.- The introduction, distribution, acquisition, sale, lease, transportation, location, placement, functioning, maintenance, operation, use, custody, and possession of adult entertainment machines in businesses or establishments operating in the Commonwealth of Puerto Rico is hereby authorized.

The Puerto Rico Tourism Company (hereinafter, the Company) is hereby empowered to regulate and oversee all that pertains to the introduction, distribution, acquisition, sale, lease, transportation, location, placement, functioning, maintenance, operation, use, custody, and possession of adult entertainment machines in businesses or establishments operating in the Commonwealth of Puerto Rico, as provided in this Act.

The Executive Director shall be required to ensure compliance with all the provisions of the laws in effect relating to adult entertainment machines. The Executive Director shall likewise establish, through regulations, the necessary considerations to adequately oversee the management thereof. He shall likewise determine the requirements and conditions for denying, suspending, or revoking a license.

For the purposes of implementing this Act and the regulations thereunder, the Company shall abide by the following principles:

(a) It is hereby provided that any business that wishes to place an adult entertainment machine must be located within at least two hundred (200) linear feet from a public or a private school and/or a church or place of worship. In the particular case of the downtown areas of the municipalities such distance shall be one hundred (100) linear feet from any school or place of worship.

(b) A five (5)-kilometer restricted zone outside the perimeter of any casino hotel is hereby established for adult entertainment machines. The downtown areas of municipalities located within said perimeter are hereby excluded from said zone.

(c) No adult entertainment machines shall be placed outside the premises of a business.

(d) It is hereby established as an indispensable requirement to be met in order to be classified as a 'business,' that the operation of adult entertainment machines shall not represent the only or the primary source of business income of the establishment. To be considered a 'business' the establishment must engage in other commercial activities, so that the revenues generated by adult entertainment machines are a supplemental, not the primary source of income of said establishment.

(e) It shall be unlawful for the holder of a license or the owner of a business where adult entertainment machines are operated to promote, advertise, or state in any way that adult entertainment machines are located in his business.

(f) Any business that operates adult entertainment machines within the establishment shall conspicuously place a sign on said machines that reads as follows: 'Any person who operates a gambling device outside of the casinos located in hotels, airports, or ports shall be guilty of a felony and may be subject to

imprisonment. The machines in this establishment are adult entertainment machines and are in no way authorized to pay for any prize.’

(g) A maximum of eight (8) adult entertainment machines shall be allowed to be placed and operated in a ‘business.’ For purposes of this Section, each screen shall be considered as one adult entertainment machine regardless of whether a single machine has multiple screens. Inspectors and personnel authorized by the Company, internal revenue agents, and the Puerto Rico Police may forfeit expeditiously any machines in excess of eight (8) machines allowed by this Section, regardless of whether the corresponding license fees have been paid.

(h) The use of adult entertainment machines is hereby prohibited within the premises of department stores, pharmacies, bakeries, gas stations, supermarkets, megastores, store and/or restaurant chains, hospitals, professional offices, and public facilities of the Government of Puerto Rico. If an application for a permit to place adult entertainment machines in a space shared with any of the business indicated in this paragraph is submitted, such permit shall be granted only if the business where the machines are to be located has its own direct, exclusive, and independent access for its customers, the physical facilities thereof have no interior or visual access to the businesses excluded herein, and it has an independent use permit.

(i) The Executive Director shall not allow the placement, operation, installation of, or grant a license for an adult entertainment machine in establishments that fail to maintain a distance of one hundred (100) linear feet from the site where the placement of such machines was previously authorized. In the particular case of the downtown areas of the municipalities such distance shall be fifty (50) feet. In the case of duplication or error in the issuance of a license, sticker, certificate, or any other document as determined by the Executive Director for the operation of adult entertainment machines, the date and time of the license

issued by the Company, or the Department of the Treasury for licenses issued before July 1<sup>st</sup>, 2014, stating the authorized location, shall be sufficient evidence from the person to whom the license was issued in the first place. The person whose license was cancelled for the reasons indicated in this paragraph, shall be entitled to be immediately refunded the total amount paid in the case of an erroneous determination and shall not be allowed to operate said machines in the location authorized as a result of said error.

(j) It is hereby provided that, notwithstanding the provisions in this Act, the Company shall not issue new licenses for adult entertainment machines for the jurisdiction of Puerto Rico and shall be limited to issue the licenses that were in effect prior to June 30<sup>th</sup>, 2014 under the requirements of this Act. Beginning on July 1<sup>st</sup>, 2014, no new licenses shall be issued to place or operate adult entertainment machines in businesses. No operator shall hold more licenses than those issued as of July 1<sup>st</sup>, 2014 pursuant to this Section.

The Company shall be further empowered to issue licenses for each entertainment machine authorized to be used in the jurisdiction of the Commonwealth of Puerto Rico. Each license shall be effective for one (1) year and renewed thereafter in order to continue the operation of the machine. Any license issued shall cancel an internal revenue stamp in the amount provided in Section 3050.02 of Act No. 1-2011. Any owner of adult entertainment machines issued a license to operate said machines shall renew their license with the Company's Division of Games of Chance in compliance with the provisions of this Act. Each machine to be authorized as an adult entertainment machine shall be personally evaluated and certified as an adult entertainment machine by the Company's inspectors in the area of Games of Chance.

Each authorized machine shall display the license issued thereto all times and in a visible place while in operation. Furthermore, it shall have a tracking

device, authorized by the Company, which provides the exact location of the machine. Noncompliance with this provision shall be grounds for the Company or any other agency and/or municipality that issue licenses for the operations conducted in such establishments to issue civil fines and any other remedy established by regulations, including the revocation of all licenses authorized for said establishment, operator, owner, or administrator.

The provisions of this Act shall not apply to devices regulated by Act No. 221 of May 15, 1948, as amended, Act No. 83 of July 2, 1987, as amended, and Act No. 10 of May 24, 1989, as amended.”

Section 35.- Section 5A if Act No. 11 of August 22, 1933, as amended, is hereby amended to read as follows:

“Section 5A.-Violations–Fines and Penalties.-

(a) Administrative Fine.-

The Executive Director shall impose an administrative fine on the owner of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) for each violation of this Act.

(b) Penalties.-

(1) Every owner of adult entertainment machines or any other person, operator, or attendant in a business or establishment that introduces the gaming devices described in Section 3 of this Act, considered games of chance machines, in said business, or uses or tries to use them therein, shall be guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment for a term not to exceed six (6) months or by a fine of not less than five thousand dollars (\$5,000), nor greater than ten thousand dollars (\$10,000), or both penalties at the discretion of the court. Any subsequent conviction shall be punished by a fixed twenty thousand dollar (\$20,000)-fine and shall be considered a felony punishable by imprisonment for a one (1)-year term.

(2) Any person who violates any of the provisions of this Act or the regulations promulgated by the Executive Director shall be punished, upon conviction, by a fixed five thousand dollar (\$5,000)-fine or imprisonment for a term not to exceed six (6) months or both penalties at the discretion of the court.

(3) Any person who prohibits or prevents the thorough inspection of a business, establishment, or place by Company inspectors or authorized personnel, internal revenue, or law enforcement agents conducting investigations related to this Act or the regulations promulgated by the Executive Director, or who admits, advises, promotes, encourages, or induces a person under the age of eighteen (18) to operate and/or participate in the operation of adult entertainment machines shall be punished by a fixed ten thousand dollar (\$10,000)-fine and imprisonment for a term of not less than one (1) year.

Regardless of the penalties established in this Act, the Executive Director shall seize and dispose of any adult entertainment machine that is operated without a license, with an expired license, a license issued for another machine, or in violation of this Act. The Executive Director is further empowered to impose an administrative fine for violations to his orders and the regulations promulgated thereunder with a temporary suspension or permanent revocation of the rights and privileges enjoyed by the natural or juridical person who is guilty of the violation, including prompting the automatic revocation of all internal revenue licenses issued and administered by the Secretary of the Department of the Treasury. The Executive Director, jointly with the Secretary of the Department of the Treasury, shall enter into all types of agreements to implement the provisions of this Act, including the coordinated intervention of Company inspectors and internal revenue agents from the Department of the Treasury in the inspections and interventions with businesses that have adult entertainment machines. The Executive Director is

hereby empowered to enter into agreements with municipal governments in order to oversee and ensure compliance with this Act.

The income generated from the payment of fines shall be collected by the Company as provided in the Regulations and, after deducting the operating expenses, such funds shall be distributed equally; that is, fifty percent (50%) for the Company and fifty percent (50%) for the General Fund.”

Section 36.- Severability Clause.

If any section, subsection, paragraph, subparagraph, clause, subclause, or part of this Act were held to be null or unconstitutional, the holding to such effect shall not affect, impair, or invalidate the remaining provisions thereof.

Section 37.- Effectiveness.

This Act shall take effect immediately after its approval.



## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 77-2014 (H. B. 1919) (Conference)** of the **3<sup>rd</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to create the “Tax System Adjustment Act”; amend subsection (i) of Section 2, subsection (c) of Section 5, and subsection (e) of Section 6 of Act No. 73 of May 28[sic], 2008, as amended, known as the “Economic Incentives Act for the Development of Puerto Rico”; amend subsection (a) of Section 2.2 of Act No. 83 of July 19, 2010, known as the “Green Energy Incentives Act of Puerto Rico”; amend subsection (a) of Section 1021.02; amend subsection (a) of Section 1021.05; amend subsection (a) of Section 1023.02; amend subsection (a) of Section 1023.03; amend subsection (b) of Section 1023.06; amend subsections (a) and (g) of Section 1023.10; [...]

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 1<sup>st</sup> day of August , 2018.

Orlando Pagán-Ramírez  
Director