

(H. B. 2041)
(Conference)

(No. 80-2014)

(Approved July 1, 2014)

AN ACT

To amend subsections (a) and (b) of Section 3020.08; amend subsection (a) and repeal subsection (d) of Section 3020.10; amend subsections (a), (b), (c), and (e) of Section 3020.11; amend subsections (a) and (b) of Section 3020.12; amend subsections (gg), (rr), and (ww) and add subsections (xx), (yy), (zz), and (aaa) to Section 4010.01; amend subsection (b), add subsections (f) and (g), and renumber former subsection (f) as (h) of Section 4020.03; amend paragraphs (2), (3), and (4) of subsection (a) and subsection (b) of Section 4020.05; amend subsection (c) of Section 4020.09; amend subsections (a), (d), and (f) of Section 4030.02; add subsections (b) and (c) and renumber former subsection (b) as subsection (d) of Section 4030.04; amend Section 4030.05; amend subsection (a) of Section 4030.21; add Sections 4030.22, 4030.23, and 4030.24; amend subsections (a), (b), (c), (d), and (e) and repeal subsections (g), (h), and (i) of Section 4041.02; amend subsections (a), (c) and (d), repeal subsection (b), and renumber former subsections (c) and (d) as (b) and (c), respectively, of Section 4042.03; amend subsections (b) and (e) of Section 4042.04; amend paragraph (2) of subsection (a) of Section 4050.02; amend paragraphs (1) and (2), add a new paragraph (2), and renumber former paragraphs (2), (3), and (4) as paragraphs (3), (4) and (5), amend new paragraphs (3), (4) and (5), and repeal former paragraph (5) of subsection (a) of Section 4050.04; repeal paragraph (1), amend paragraph (3), and renumber former paragraphs (2) and (3) as paragraphs (1) and (2) of subsection (c) of Section 4050.07; amend subsection (b) of Section 4050.08; add a new subsection (e) to Section 6043.01; amend subsection (d) of Section 6043.02; amend subsections (a) and (b) of Section 6043.05; add Section 6043.09; amend subsection (a) and amend paragraph (2), add paragraph (3) and renumber former paragraphs (3) and (4) as paragraphs (4) and (5) of subsection (a) of Section 6080.14 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011”; and for other related purposes.

STATEMENT OF MOTIVES

Every tax system requires continuous revisions to improve its efficiency and efficacy. This is the case of several system components that have been created recently and require monitoring and updating, such as the Sales and Use Tax (SUT), implemented in 2006.

Since the creation of the SUT, the Department of the Treasury (the “Department”) has been engaged in an ongoing process to improve the collection thereof. The changes implemented include the elimination of the certificate of exemption for resellers, the imposition of the SUT on sales for resale subject to certain exemptions, and the collection of the use tax on items not for resale prior to its release from port.

The next step in the logical evolution of the SUT into a consumption tax to be gradually imposed on profit margins, is the collection of the use tax on merchandise for resale prior to its release from port. This change was incorporated into the Internal Revenue Code of 2011 (the “Code”) through Act No. 46-2013, to become effective on July 1, 2014. Since its incorporation, the Department has been working on identifying the operational mechanisms required for its implementation as well as the necessary amendments to the Code to enable said mechanisms.

These changes shall streamline the oversight of the SUT payment on every type of merchandise, whether or not for resale, because the tax shall be imposed at the port of entry on a reduced number of importers rather than on retailers. In this manner, the Department secures a substantial portion of the SUT’s revenues at the port of entry and reduces the fiscal impact of a merchant collecting the total SUT on a sale and failing to remit it, because the only thing that would be at risk is the SUT on the profit margin of each merchant. Similarly, granting a credit for the tax paid on purchases to importers and every subsequent reseller reduces the fiscal impact of the payment of the tax on purchases in comparison with the full payment of the tax

at the port, as was the case of the former excise tax system in effect until 2006 on general merchandise.

The objective of these amendments is to establish the operating rules regarding the declaration of merchandise prior to release, the in-bond process, and reseller credit control, among others. In addition, the effective date for collecting the SUT on imported goods for resale is postponed from July 1 to August 1, 2014.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsections (a) and (b) of Section 3020.08 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 3020.08.- Vehicles.

(a) There shall be imposed, collected, and paid on every vehicle introduced from abroad or manufactured in Puerto Rico, the excise tax established next to the description of the vehicle, as provided below:

(1) ...

(8) Manual or Light-duty Trailers: six-point six (6.6) percent over the taxable price in Puerto Rico;

(9) Transitory Provisions.-

(A) ...

(10) In no case shall the automobiles, trailer trucks, buses, trucks, manual or light-duty trailers shall pay a tax lower than seven hundred fifty dollars (\$750);

(11) Category III ambulances are excluded from the tax provided in this Section, in which case, no amount on account of excise tax shall be levied or collected thereon. For the purposes of this Act, ‘Category III Ambulance’ shall refer to every ambulance devoted to transporting sick, injured, wounded, handicapped, disabled, or invalid, pursuant to the regulations adopted by the Public Service Commission for said category. Moreover, ambulances under this category shall be

especially designed, built, and equipped as a mobile emergency room. Said ambulances shall be operated by emergency medical technicians authorized by the Secretary of Health.

(b) Definitions. - For the purposes of this Section and any other applicable provisions of this Subtitle, the following terms shall have the meaning stated below:

(1) ...

(4) 'Trucks' shall mean and include:

(A) ...

(D) The term 'trucks' shall also include the trailers designed to be hauled by truck trailers or trucks, excluding Manual or Light-duty Trailers. This term shall also include the containers for storing or transporting merchandise.

(5) ...

(7) 'Manual or Light-duty Trailer' shall mean and include trailers that may be pulled by any type of motor vehicle, excluding trailer trucks or trucks.

(c) ...”

Section 2.- Subsection (a) of Section 3020.10 of Act No. 1-2011, as amended, is hereby amended and subsection (d) is hereby repealed, to read as follows:

“Section 3020.10.- Excise Tax Declaration and Monthly Excise Tax Return.

(a) Every importer shall file a detailed excise tax declaration on all goods introduced from abroad. The declaration shall be filed by the due date for the payment of the appropriate excise tax. The declaration shall contain information on the goods subject to taxation under this Code prescribed by regulations and shall be filed in the form and manner prescribed by the Secretary.

(1) Exceptions.-

(A) bonded dealers introducing vehicles, vessels, and heavy equipment shall file the declaration stated in subsection (a) not later than ten (10)

days from the date on which they take possession of the vehicles, vessels, and heavy equipment; and

(B) in the case of merchandise imported by mail and air carrier, the declaration on goods subject to taxation under this Subtitle shall be filed not later than the fifth (5th) business day following the date on which possession of the merchandise is taken.

(b) ...

...

(d) ...”

Section 3.- Subsections (a), (b), (c), and (e) of Section 3020.11 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 3020.11.- Goods Imported in Freight Containers.

(a) Any person who imports goods subject to taxation into Puerto Rico using freight containers to transfer them from the port to their warehouses, stores, or final destination shall file with the Secretary an excise tax declaration on all dutiable goods contained in the freight containers and the bill of lading corresponding to the taxable goods contained therein prior to removing the container from the custody of the carrier.

(b) The excise tax declaration and the bill of lading shall include all the information required by the Secretary through regulations. Said documentation may be filed electronically in accordance with the mechanisms provided by the Secretary.

(c) If the taxpayer does not have the bill of lading available at that time, he shall submit the corresponding commercial invoices to the Secretary. If the taxpayer does not have said invoices available or refuses to submit them, he shall be prevented from taking possession of the taxable goods.

(d) ...

(e) In the case of imported perishable goods transported in freight containers, the Secretary shall establish adequate administrative mechanisms to allow the importer to promptly take possession thereof.

(f) ...”

Section 4.- Subsections (a) and (b) of Section 3020.12 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 3020.12.- Duties of Port Owners, Lessees, and Administrators.

(a) No owner, lessee, or administrator of any port who has goods and freight containers subject to excise tax in his custody shall deliver them to the consignee, nor to the person that properly claims them, unless they furnish a certification issued by the Secretary authorizing such delivery.

(b) When, pursuant to Act No. 15 of May 9, 1941, as amended, and the regulations thereunder, the owner, lessee, or administrator of any port transfers the cargo to any depot or warehouse, the owner of the warehouse depot shall not deliver the taxable goods or freight containers unless the appropriate certification issued therefor by the Secretary has been previously obtained. If such owner, lessee, or administrator sells the goods because they have not been claimed, he shall pay the Secretary the excise tax plus the surcharges and interest encumbering said goods up to the time of payment.”

Section 5.- Subsections (gg), (rr), and (ww) are hereby amended and subsections (xx), (yy), (zz), and (aaa) are hereby added to Section 4010.01 of Act No. 1-2011, as amended, to read as follows:

“Section 4010.01.- General Definitions.

(a) ...

...

(gg) Tangible Personal Property.

(1) ...

(2) The term ‘tangible personal property’ excludes:

(A) ...

(B) automobiles, trailer trucks, all-terrain vehicles (ATVs), motorcycles, vessels, heavy equipment, buses, trucks, and manual or light-duty trailers;

(C) ...

(rr) Use. - Includes the exercise of any right or authority over a taxable item incidental to the ownership thereof, or interest thereon. The term shall also include the storage or consumption of any tangible advertising material imported into Puerto Rico. Provided, that in the case of taxable items imported into Puerto Rico, it shall be understood that a person has exercised his right or authority over said taxable item, incidental to the ownership thereof or interest thereon from its date of entry or arrival in Puerto Rico. The term ‘use’ shall not include:

(1) When the taxable item is subsequently subject to commerce in the ordinary course of business in Puerto Rico and whose date of entry to Puerto Rico was prior to August 1, 2014.

(2) ...

(ss) ...

(vv) ...

(ww) Reseller.- includes any merchant who acquires taxable items for resale, provided, that during the three (3) taxable year period immediately preceding the year in which a determination of whether or not a merchant is a reseller is to be made, an average of eighty percent (80%) or more of his inventory has been withdrawn to make such sales (without including the sale of services or the sale of exempt items). Provided, that the Secretary shall be authorized to treat as eligible resellers duly registered merchants who, despite having a level of inventory for sale lower than the eighty percent (80%) provided herein, taking into account all their

particular facts and circumstances, it can be determined that they are engaged in the resale of taxable items.

(xx) Eligible Reseller.

(1) General Rule. A duly registered merchant that acquires taxable items principally for purposes of selling such items to persons that may acquire them exempt from the sales and use tax, as provided in Chapter 3 of Subtitle D of the Code, to be sold as nontaxable items as provided in Chapter 1 of Subtitle D of the Code or for export. For these purposes, the term ‘principally’ means that during the three (3) taxable years immediately preceding the determination year, it is established, to the satisfaction of the Secretary, that the merchant has withdrawn an average of eighty percent (80%) or more of his inventory to be sold to persons that may acquire the taxable item exempt from the sales and use tax, as provided in Chapter 3 of Subtitle D of the Code, or for export.

(2) Exceptions. Provided, that the following merchants shall be considered eligible resellers; therefore, need not meet the requirements of paragraph (1) to qualify as eligible resellers:

(A) Merchants engaged as part of their business in the sale at retail or wholesale of textbooks, as such term is defined in Section 4030.20 of this Code, to whom the Secretary may issue a Certificate of Eligible Reseller to cover solely purchases and imports of textbooks; and

(B) Merchants authorized to sell at retail under the Nutrition Assistance Program (NAP) and the Special Supplemental Nutrition Program for Pregnant, Breastfeeding, Postpartum Women, Infants, and Children up to age 5 (WIC) to whom the Secretary may issue a Certificate of Eligible Reseller to cover solely purchases and imports of food and food ingredients, including items excluded from the term food (excluding alcoholic beverages and tobacco and tobacco

products) and prepared food as these terms are defined in subsections (a) and (b) of Section 4010.01.

(yy) Exempt Purchase Certificate - An Exempt Purchase Certificate is a form presented by a person entitled to make a tax-exempt purchase of items that are subject to the sales and use tax, to the seller of the items, certifying the latter holds said right.

(zz) Date of Entry or Arrival into Puerto Rico - the day on which the merchant, directly or through a carrier, obtains release and takes possession of tangible personal property entered into Puerto Rico. Provided, that when by reason of the applicable customs, military or sanitary regulations, or port strike or other worker demonstration, or when due to an event of force majeure, the carrier or the person liable for the payment of the use tax is unable to take possession of imported tangible personal property within a period of thirty (30) days from the date of entry into Puerto Rico; the date of entry shall be considered that on which customs or the appropriate authority allows the carrier or the person liable for the payment of the use tax to take possession thereof, or the date on which the Secretary of Labor and Human Resources officially announces the end of the strike, or that on which, in the judgment of the Secretary, the event of force majeure has ended and the tangible personal property is released

Provided, further, that tangible personal property the release of which has been authorized by the Secretary before August 1, 2014, shall be deemed released by the merchant or carrier on the date on which the authorization is received, even if it arrives in Puerto Rico or is released after July 31, 2014.

(aaa) Entry – means the arrival in Puerto Rico of tangible personal property by any means, including ports (as this term is defined in Section 3010.01(a)(12) of this Code) airports, or delivery at a commercial establishment or a residence, through the Internet or electronic means.

Provided, that for the purposes of this Section, any tangible personal property destined to a Foreign Trade Zone, as this term is defined in Section 3010.01(a)(16) of this Code, shall be deemed to have entered or arrived in Puerto Rico.”

Section 6.- Subsection (b) is hereby amended, subsections (f) and (g) are hereby added, and former subsection (f) is hereby renumbered as subsection (h) of Section 4020.03 of Act No. 1-2011, as amended, to read as follows:

“Section 4020.03.- Rules for Determining the Source of Revenues Generated by the Sale of Taxable Items.

(a) ...

(b) The source of the sale of taxable services, except for telecommunications, cable, or satellite television services, and the leasing of tangible personal property, and bank charges, shall be the location at which the services are rendered.

(c) ...

(f) In the case of the sale of taxable services consisting of bank charges as described in clause (i) of subparagraph (A) of paragraph (2) of subsection (nn) of Section 4010.01 of the Code, the source where the charges occur shall be determined using the address of the branch of the financial institution where the bank account is registered (that is, where it is domiciled). If a bank account cannot be attributed to a specific branch, the source of the charges shall be the principal office of the financial institution.

(g) For the purposes of determining the municipality where the sale occurs in the case of telecommunications, and cable, or satellite television services, the address of the customer to whom the services are billed shall be used.

(h) The rules provided in this Section shall apply solely to the imposition of the sales or use tax and shall not apply nor be used in a supplemental manner for income tax purposes.”

Section 7.- Paragraphs (2), (3), and (4) of subsection (a), and subsection (b) of Section 4020.05 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4020.05.- Collection of the Tax.

(a) General Rule. - Any merchant engaged in any business where taxable items subject to taxation under this Subtitle are sold shall be required to collect the sales tax as withholding agent, except for:

(1) ...

(2) A person engaged in the manufacture of any taxable item may apply for and, subject to the Secretary’s approval, obtain a waiver whereby he shall be relieved from the requirement of collecting, withholding, and depositing the tax imposed under this Subtitle on sales of taxable items to a wholesaler or a retailer (as both terms are defined in this Subtitle) made prior to August 1, 2014; or

(3) A duly registered wholesaler who:

(A) ...

(B) has sold, at least eighty percent (80%) of his tangible personal property to resellers or eligible resellers that hold the appropriate certificates issued under Sections 4050.04 or 4030.02 of the Code, respectively, may apply for and, subject to the Secretary’s approval, obtain a waiver whereby he shall be relieved from the requirement of collecting, withholding, and depositing the tax imposed under this Subtitle on sales of taxable items to a reseller or eligible reseller made prior to August 1, 2014.

(4) A duly registered wholesaler may apply for and, subject to the Secretary’s approval, obtain a waiver whereby he shall be relieved from the

requirement of collecting, withholding, and depositing the tax imposed under this Subtitle on sales of taxable items to a reseller or eligible reseller made prior to August 1, 2014; provided, that:

(A) ...

(D) furnishes an Agreed Upon Procedures report prepared by a Certified Public Accountant who holds a valid license to practice in Puerto Rico and is a member of a peer-review program, stating that for the three (3)-year period immediately preceding the date of application, or applicable period:

(i) ...

(iv) the merchant has withheld and paid all the tax he is required to withhold and pay on wages, in accordance with Section 1062.01 of this Code.

(b) Any merchant required to collect the sales tax provided in this Subtitle shall record it separately in any receipt, invoice, ticket, or other evidence of sale, except as provided in Section 4020.06. In case of the sale of admission tickets, every merchant shall prominently display in the ticket booth, or other place where admission tickets are sold, a notice indicating the admission price and the sales tax which shall be computed and collected on the basis of the admission fee charged by the merchant.

Provided, that in the case of sales made to the end consumer beginning August 1, 2014, the Secretary shall determine if it would be feasible not to require that the sales tax be shown separately in the receipts, invoices, tickets, or other evidence of sale of the goods sold.

(c) ...”

Section 8.- Subsection (c) of Section 4020.09 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4020.09.- Necessary Evidence and Presumption of Correctness.

(a) ...

(b) ...

(c) **Presumption of Exemption.** - It shall be presumed that any person who acquires taxable items from a merchant for delivery in Puerto Rico by submitting a valid Certificate of Exemption or Certificate of Eligible Reseller and an Exempt Purchase Certificate or its equivalent is entitled to enjoy the exemption therein granted. A merchant who relies on said certificate shall not require additional documentation to validate said presumption. However, merchants shall exercise a reasonable degree of care to prevent any person from acquiring taxable items using the Certificate of Exemption, Certificate of Eligible Reseller, or Exempt Purchase Certificate or its equivalent that, according to the information of the purchaser's trade or business, it would be unreasonable to believe that such items could be acquired free from the sales and use tax."

Section 9.- Subsections (a), (d), and (f) of Section 4030.02 of Act No. 1-2011, as amended, are hereby amended to read as follows:

"Section 4030.02.- Certificate of Exemption and Certificate of Eligible Reseller.

(a) Any manufacturing plant or eligible reseller, as defined in this Section 4010.01(xx), may, subject to meeting the requirements established by the Secretary, apply for a certificate of exemption from the sales and use tax or a Certificate of Eligible Reseller, respectively, that exempts him from the payment of the sales and use tax on the purchase of taxable items to be sold to persons that may acquire the taxable item exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code, to be sold as non-taxable items as provided in Chapter 1 of Subtitle D of this Code or for export, as appropriate.

(b) ...

(c) When applying for a certificate of exemption or a certificate of eligible reseller, merchants shall submit to the Secretary, to the extent applicable, the following:

(1) ...

(8) in the case of a manufacturing plant, proof of validity of the manufacturer identification number issued by the Secretary.

(e) ...

(f) **New Business.**- for the purposes of this Section, it shall mean any business that has been operating for a period of less than one (1) year.”

Section 10.- Subsections (b) and (c) are hereby added and former subsection (b) is hereby renumbered as subsection (d) of Section 4030.04 of Act No. 1-2011, as amended, to read as follows:

“Section 4030.04.- Exemptions for Taxable Items in Transit and Alcoholic Beverages Stored in Bonded Warehouses.

(a) Any ‘taxable item’ temporarily imported into Puerto Rico that is directly related to a film production, specialized construction equipment not available in Puerto Rico, trade shows, conventions, seminars, or for other purposes, and that is re-exported from Puerto Rico, shall be exempt from the payment of the use tax.

(b) A merchant who imports alcoholic beverages into Puerto Rico and deposits them in a bonded warehouse, as this term is defined in Section 3010.01(a)(15) of this Code, shall not be subject to the use tax:

(1) exported alcoholic beverages – if the alcoholic beverages are exported within a period of three hundred sixty (360) days from the date of entry;

(2) alcoholic beverages in transit – if the alcoholic beverages are in transit in Puerto Rico for being consigned to persons abroad, are exported from

Puerto Rico within a period of one hundred and twenty (120) days from the date of entry; or

(3) alcoholic beverages imported for consumption in Puerto Rico – if alcoholic beverages are held in a bonded warehouse for a period not greater than three hundred sixty (360) days from the date of entry, or until the date of the sale thereof, if such sale is made at any time during said three hundred sixty (360) day-period.

(d)[sic.] Alcoholic beverages deposited in a Foreign-Trade Zone – The exemptions listed in subsection (b) above shall not apply to alcoholic beverages deposited in a Foreign-Trade Zone, as this term is defined in Section 3010.01(a)(16) of this Code.

(d) Any person who claims the exemption established in subsection (a) of this Section must apply for said exemption to the Secretary by presenting the information provided by regulations.”

Section 11.- Section 4030.05 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4030.05.- Promotional Giveaways Exemption.

(a) Any tangible personal property considered promotional giveaways imported into Puerto Rico shall be exempt from the use tax. Provided, that to enjoy this exemption, the entity shall present an Import Certificate for Promotional Giveaways Exempt from the Use Tax issued by the Puerto Rico Tourism Company.

(b) The term promotional giveaways is defined as any tangible personal property distributed free of charge for promotional purposes by a promoter, exhibitor, as such term is defined in Section 4060.04, or by a meeting or conference planner to a participant at conventions, trade shows, forums, meetings, incentive trips, and conferences.

(c) The prizes, gifts, emoluments, or awards granted as part of incentive trips or recognitions shall be covered under the provisions of this Section.

(d) The Import Certificate for Promotional Giveaways Exempt from the Use Tax is a document issued by the Puerto Rico Tourism Company certifying that the promotional giveaways imported into Puerto Rico shall be used in a convention, trade show, forum, meeting, incentive trip, or conference. Said Certificate shall be provided by the importer in order to withdraw the promotional giveaways free from the use tax. Before issuing the certificate, the Puerto Rico Tourism Company shall request the appropriate documentation to verify that the imported promotional giveaways shall be used as part of one of the activities listed in this subsection.”

Section 12.- Subsection (a) of Section 4030.21 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4030.21.- Waiver for Merchants that are Members of a Voluntary Chain Program or a Program with a Similar Structure on Sales of Tangible Personal Property Acquired for Resale by its Members or Partners prior to August 1, 2014.

(a) Any merchant that is a member of a program of voluntary chains of retailers of goods and services organized pursuant to the provisions of Act No. 77 of June 25, 1964, as amended, or a program with a similar structure created under Act No. 239-2004, as amended, is hereby exempt from the requirement of collecting, withholding, and depositing the tax provided in this Subtitle on the sale of tangible personal property acquired for resale by a member or partner of such programs prior to August 1, 2014.

(b) ...”

Section 13.- Section 4030.22 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 4030.22.- Exemption for Bona fide Farmers.

(a) Bona fide Farmers duly certified by the Department of Agriculture shall be exempt from the sales and use tax on the following items when they are acquired to be used solely in such activities:

(1) Incubators and breeding places for poultry and other animals; items for the breeding and raising of bees or cattle;

(2) Milkers, including electric milkers, fillers for silos, and tanks used by livestock farmers to preserve milk in farms or livestock farms;

(3) Electric generators;

(4) Equipment, devices, or objects that operate solely on solar, wind, hydraulic, or any other type of power, excluding power generated from crude oil and petroleum products;

(5) Equipment used by coffee producers to process the beans from the moment they are harvested until they are suitable for roasting; equipment and devices used in the production, processing, pasteurization, or production of milk or dairy products;

(6) Equipment used to mix feed at farms and the feed distribution systems for animals or bees at farms; treated posts and wire for fencing the farms;

(7) Equipment and devices used for raising poultry and in the production of eggs, and semen for the breeding of livestock;

(8) Equipment, devices, or objects used by bona fide farmers in the business of producing and cultivating vegetables, seeds, coffee, mango, legumes, sugar cane, ornamental flowers and plants, grass or hay for livestock fodder, farinaceous products, fruit, pigeon peas and pineapples, for livestock, horticulture, cuniculture, pig farming, aviculture, apiculture, aquaculture, and fishing; for cattle or goat breeding for meat or milk; for the production, processing, pasteurization or sterilization of milk or dairy products, for the breeding of native thoroughbred

horses, and Puerto Rican purebred *paso fino* horses, and any other activity determined by the Secretary of Agriculture;

(9) Honey or molasses as fodder for cattle; any other livestock, rabbits, goats, or sheep feed;

(10) Spare parts including, but not limited to, tires for aircraft;

(11) Plows, rakes, mowing machines, planters, and any other accessory equipment for tractors, including the parts thereof;

(12) Herbicides, insecticides, pesticides, and fertilizers, including the equipment for the application thereof;

(13) Drip irrigation systems, sprinklers, including but not limited to pumps, pipes, valves, timers, filters; injectors, chemigation equipment; shading structures for steel, aluminum, or wood bales; materials for shipping, materials for propagation beds; planting stock, planters, baskets and trays; plant support materials (wood or bamboo stakes); plastic mulch or ground cover; steel, aluminum and treated wood nurseries, saran shade cloth and fiberglass roofing nurseries;

(14) Equipment, machinery, and materials used in the hot water treatment process for mangos to be exported;

(15) Systems, equipment, and materials used for environmental control as required by the regulatory agencies to operate their business;

(16) Tents and other equipment used for growing vegetables with hydroponic methods; and

(17) Spare parts, accessories, and replacements for any of the items described in paragraphs (1) through (16) of this subsection.

(b) To acquire the above items exempt from the sales and use tax, bona fide farmers shall show the Exempt Purchase Certificate to the seller in every sales transaction.”

Section 14.- Section 4030.23 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 4030.23.- Sales and Use Tax Exemption for Licensees under the Tourist Development Laws of Puerto Rico.-

(a) Any business that has been granted a Tax Exemption and Credit under Act No. 74 of July 10, 2010, known as the ‘Tourism Development Act of 2010,’ as amended, or under any law that replaces it, or any prior similar law shall enjoy a full sales and use tax exemption on items used by the licensee in connection with a tourist activity, as such term is defined in Act No. 74-2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010’ or any other law that substitutes it.

(b) The exemption shall not apply to items or other property of such a nature that they are part of the licensee’s inventory, and which represent property held primarily for sale during the regular course of a trade or business.

(c) To claim the exemption provided in this Section, Licensees shall present an Exempt Purchase Certificate to the seller in every purchase transaction, without having to obtain an endorsement from the Puerto Rico Tourism Company or any other special certification.”

Section 15.- Section 4030.24 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 4030.24.- Exempt Purchase Certificate.

a) Any person entitled to purchase taxable items free from the sales and use tax shall present an Exempt Purchase Certificate to the seller from whom said items are acquired in the time, form, and manner prescribed by the Secretary through Regulations.

b) The seller shall exercise a reasonable degree of care to prevent any purchaser from using a Certificate of Exemption to acquire taxable items that, according to the information of the purchaser’s trade or business, it would be

unreasonable to believe that such items could be acquired free from the sales and use tax.”

Section 16.- Subsections (a), (b), (c), (d), and (e) are hereby amended and subsections (g), (h), and (i) of Section 4041.02 of Act No. 1-2011, as amended are hereby repealed, to read as follows:

“Section 4041.02.- Declaration of Use Tax for Release of Personal Property and Use Tax Returns on Imports and Sales and Use Tax Returns.-

(a) Declaration of Use Tax for Release of Personal Property - Any person that imports into Puerto Rico tangible personal property shall file a detailed declaration of use tax for any imported tangible personal property in the time, form, and manner, and with the information prescribed by the Secretary, as a prerequisite to obtain the release of imported tangible personal property. Provided, that this provision shall not apply for purposes of the Municipal Sales and Use Tax.

(b) Use Tax Return on Imports - Any person that imports tangible personal property by any medium, including a postal service system or air carrier, subject to use tax shall file a Tax Return on Imports not later than the tenth (10th) day of the month following the month of the transaction subject to the tax, either electronically or in the forms prepared and provided by the Secretary, as the latter may determine, including such information as prescribed by the Secretary. The filing of a Tax Return on Imports shall not be a prerequisite for the release of imported tangible personal property. Provided, that this provision shall not apply for purposes of the Municipal Sales and Use Tax.

(c) Monthly Sales and Use Tax Return.- In order to determine the amount of the sales and use tax to be paid under this Subtitle, (in the case of the use tax, the items not reported in the Use Tax Return on Imports) and to claim a credit to which a merchant may be entitled as provided in Section 4050.04 of this Subtitle, all merchants must file a Monthly Sales and Use Tax Return not later than the twentieth

(20th) day of the month following the month on which said taxes were collected, either electronically or using the forms prepared and provided by the Secretary, as latter may determine. Said return shall show the value of all items subject to the sales and use tax, sales tax deposits, any credits to which the merchant is entitled to claim in the return, and any other information the Secretary may require.

(d) The Secretary shall accept all returns as timely filed if postmarked no later than the corresponding payment due date of the month following the month in which said taxes are collected or the month following the month in which the transaction subject to taxation was carried out, as the case may be. If the corresponding payment deadline falls on a Saturday, Sunday, or a federal or state holiday, the returns shall be accepted if postmarked by the following business day. Returns required to be filed electronically as prescribed by the Secretary through regulations must be received not later than the due dates stated in subsections (b) and (c) of this Section, as the case may be.

(e) Merchants required by the Secretary through regulations, circular letter, or general administrative determination to file a Use Tax Return on Imports and a Monthly Sales and Use Tax Return electronically. The Secretary shall prescribe through regulations, circular letter, or general administrative determination the acceptable transfer methods regarding the form and content of the electronic information exchange, the circumstances under which an electronic information exchange shall serve as substitute for the filing of the tax form, as well as the means, if any, through which taxpayers shall receive confirmation. The Secretary shall accept said returns as timely filed if said transmission is initiated and accepted no later than the appropriate due date, as the case may be, pursuant to the above stated.

(f) The Secretary may relieve the merchant from the requirement to make an electronic information exchange because of problems with the merchant's or the

Department' computer systems. To obtain said waiver, the merchant must prove in writing to the Secretary that said circumstances exist.”

Section 17.- Subsections (a), (c), and (d) are hereby amended, subsection (b) is hereby repealed, and former subsections (c) and (d) are hereby renumbered as (b) and (c), respectively, in Section 4042.03 of Act No. 1-2011, as amended, to read as follows:

“Section 4042.03.- Time to Remit the Sales and Use Tax.

(a) The taxes imposed under this Subtitle shall be payable to the Secretary by the person liable for the payment of tax on the dates established in this Section.

(1) Use Tax.-

(A) General Rule - As a general rule, effective August 1, 2014, the use tax applicable to taxable items imported into Puerto Rico by any person, except for items imports by a postal service system or air carrier shall be paid before the taxpayer takes possession of the item. Provided, that this provision shall not apply for purposes of the Municipal Sales and Use Tax.

(B) Exceptions - As an exception to the general rule above, a person, including a merchant, shall pay the appropriate use tax on the days and under the circumstances stated below:

(i) payment of use tax on or before the tenth (10th) day of the month following the month in which the merchandise subject to taxation is entered – in the following cases, the use tax shall be paid on or before the tenth (10th) day of the month following the month in which the merchandise subject to taxation is entered:

(I) when the person is a bonded merchant, as such term is defined in Section 4042.03 of this Subtitle, and the use tax corresponding to the imported tangible personal property is covered by the bond;

(II) when due to a correction in the amount reported on the Declaration of Use Tax for Release of Personal Property, the payment made by a person, including a merchant, before the release of any property imported into Puerto Rico, as provided in subparagraph (A), above, does not fully satisfy the amount of use tax to be paid as provided in this Subtitle, after correcting the information, the person shall pay any difference no later than the tenth (10th) day of the month following the month in which the transaction subject to the tax occurred or upon the filing of the Use Tax Return on Imports;

(III) when a person, including a merchant, imports tangible personal property subject to payment of use tax through a postal service system or air carrier; and

(IV) when a person, including a merchant, acquires tangible personal property subject to payment of use tax by means of electronic downloads or copied from a website;

(ii) payment of use tax on or before the twentieth (20th) day of the month following the month in which an event subject to imposition and payment of use tax occurs – in the following cases, the use tax shall be paid on or before the twentieth (20th) day of the month following the month in which the described event occurs:

(I) when a merchant imports tangible personal property consisting of inventory and has withdrawn it for:

- (aa) personal use,
- (bb) business use,
- (cc) distribution as samples or as promotional material, or
- (dd) distribution as a gift,

(II) when a merchant imports tangible personal property consisting of inventory lost due to wear and tear, fire, hurricane, earthquake, or other fortuitous event;

(2) Sales Tax.- The sales tax established in this Subtitle shall be payable to the Secretary by the person liable for the payment of tax, not later than the twentieth (20th) day on the month following the month in which the tax was collected or on any other date or form, as prescribed by the Secretary regarding the form, time, and conditions that shall govern the payment or deposit of taxes withheld.

(3) Financial institutions required to collect sales tax on bank fees, pursuant to clause (i) of subparagraph (A) of paragraph (2) of subsection (nn) of Section 4010.01 of the Code, shall remit the payment on another date or form, as provided in the regulations prescribed by the Secretary regarding the form, time, and conditions that shall govern the payment or deposit of taxes withheld.

(b) Extension for the Payment of Use Tax on Items Imported by Merchants after July 31, 2014.-

(1) The Secretary may grant an extension to the due date established in this Subtitle for the payment of use tax on taxable items imported into Puerto Rico by a bonded merchant and authorize said importer to take possession of said items, before paying the tax, taking into consideration the volume or the frequency of the importer's imports, as well as the history and projection of sales and use tax payments.

Provided, that the authorization for the release of tangible personal property imported into Puerto Rico without first paying the use tax, in the case a Bonded Merchant shall depend of whether the amount of the bond available to said merchant at the time of importing such property is sufficient to secure full payment of the corresponding use tax.

(2) Bond Amount Available for Obtaining Release or Taking Possession of Tangible Personal Property Imported to Puerto Rico – Bonds posted by Bonded Merchants shall include an amount to secure payment of the corresponding use tax and another amount equivalent to twenty-five (25) percent of the previous amount, which shall be available so secure the payment of any surcharges, interests, or administrative sanctions imposed on said merchants. In no event shall Bonded Merchants use the bond amount available to secure payment of surcharges, interests, or administrative sanctions for obtaining release or taking possession of tangible personal property imported to Puerto Rico.

The portion of the bond available to obtain release or taking possession of tangible personal property imported to Puerto Rico shall increase or decrease as follows:

- (i) Increase – said portion of the bond shall increase by:
 - (A) the amount of the initial bond available to obtain release or take possession of tangible personal property imported to Puerto Rico;
 - (B) any modification to the bond to increase said portion; and
 - (C) any payment of use tax made with the Declaration of Use Tax for the Release of Personal Property and the Monthly Use Tax Return on Imports
- (ii) Decrease – said portion of the bond shall decrease by:
 - (A) the amount of the use tax corresponding to any Declaration of Use Tax for Release of Personal Property with respect to which the use tax was not paid; and
 - (B) any modification to the bond to reduce said portion.

(3) Bonded Merchant - For the purposes of this Section a bonded merchant is any registered merchant who:

(i) applies in writing in the form and in compliance with the requirements provided by the Secretary to such effect and

(ii) posts a bond to the satisfaction of the Secretary, as provided by regulations, to secure full payment of the appropriate use tax and any other surcharges, interests, or administrative sanctions that may be imposed for failure to pay such tax within the time prescribed in this Subtitle. Said bond shall be submitted to the Secretary through a cash deposit, letter of credit, or through a duly authorized surety bond company in accordance with the laws of Puerto Rico.

(c) The time to remit the tax on taxable items imported into Puerto Rico subject to use tax shall be that prescribed in Section 4041.02.”

Section 18.- Subsections (b) and (e) of Section 4042.04 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4042.04.- Payment Method.

(a) ...

(b) Every merchant required by the Secretary through regulations, circular letter, or general administrative determination, shall remit the sales and use tax by electronic transfer. The acceptable transfer method regarding the manner and contents of the electronic transfer of funds shall be established by the Secretary.

...

(e) Regarding any payment of the sales or use tax, the Secretary shall accept all payments as timely remitted if they are postmarked no later than the tenth (10th) or twentieth (20th) day of the month following the month in which said taxes are collected or the month following the month in which the transaction subject to taxation was carried out, as the case may be, in accordance with Section 4042.03 of this Code. Should the payment due date fall on a Saturday, Sunday, or Federal or Commonwealth holiday, the payments shall be accepted if they are postmarked on the following business day. Provided, that those payments that the Secretary requires

to be electronically transferred must be received not later than the payment due date established in Section 4042.03 of this Code, or on the date prescribed by the Secretary through regulations, pursuant to Section 4042.03 of this Subtitle, as applicable.”

Section 19.- Paragraph (2) of subsection (a) of Section 4050.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.02.- Credit for the Sale of Merchant’s Property.

(a) Credit Claim and Limitation:

(1) A registered merchant that has purchased a taxable item for his own use, consumption, or storage, and has paid the sales and use tax, and subsequently sells said item without having used the same, shall be entitled to a credit for the amount of the use tax paid on the taxable item in the manner prescribed by the Secretary and as provided below.

(2) The credit shall be claimed in the Monthly Sales and Use Tax Return.

(b) ...”

Section 20.- Paragraphs (1) and (2) are hereby amended; a new paragraph (2) is hereby added; former paragraphs (2), (3), and (4) are hereby renumbered as (3), (4), and (5); and former paragraph (5) of subsection (a) of Section 4050.04 of Act No. 1-2011, as amended, is hereby repealed to read as follows:

“Section 4050.04.- Credit for Taxes Paid by a Reseller. -

(a) Credit Claim and Limitation:

(1) Every registered merchant holding a Reseller Certificate, in accordance with the requirements of subsection (c) of this Section, may claim a credit for the amount of the sales tax or use tax paid on the purchase or import, respectively, of taxable items for resale.

(2) Credit Amount and Adjustment

(A) Amount of Credit – The amount of the credit that, in accordance with the previous paragraph, a registered merchant holding a Reseller Certificate is entitled to claim shall be that shown in the account denominated Reseller Credit Control Account, as described in this paragraph, corresponding to the merchant who wishes to claim the credit.

(B) Adjustments to Reseller Credit Control Account – The balance of a Reseller Credit Control Account shall increase and decrease as follows:

(i) Increases - A Reseller Credit Control Account shall increase by:

(I) the amount of the sales tax paid by a merchant-reseller on tangible personal property for resale before August 1, 2014, in the form and manner prescribed by the Secretary through Regulations;

(II) the amount of the sales tax paid by a merchant-reseller on tangible personal property acquired for resale on or after August 1, 2014; and

(III) the amount of the use tax paid by a merchant-reseller upon entry of tangible personal property imported into Puerto Rico for resale, provided, that a commercial invoice is previously submitted to the Department together with, or after having made the payment; and

(ii) Decreases - A Reseller Credit Control Account shall decrease by:

(I) the amount claimed as credit on the Monthly Sales and Use Tax Return;

(II) the amount of sales tax corresponding to property returned to merchant-seller, as provided in paragraph (3) of subsection (a) of this Section; and

(III) the amount of sales tax corresponding to property in relation to which a merchant-seller claimed the credit provided in section 4050.03 of this Code.

(C) Reseller Credit Control Account - A Reseller Credit Control Account is an account that the Secretary shall create for each registered merchant holding a Reseller Certificate, for the purpose of showing the amount available to said merchant at any time to be used as credit to offset the amount the merchant is required to remit on account of the Sales Tax collected by such merchant. The Secretary shall create a Reseller Credit Control Account for each registered merchant holding a Reseller Certificate not later than July 31, 2014, or within ten (10) days from the date of issue of the Reseller Certificate in the case of merchants who register after the effective date of this Act, as applicable. The Secretary shall prescribe by regulations or other communication the rules to determine the applicability of this requirement to the various types of merchants.

(i) Person Responsible for Making Adjustments to Reseller Account -

(I) In General – the adjustments to Reseller Account stated in subclause (III) of clause (i) and in subclause (I) of clause (ii) of the preceding subsection shall be made automatically by the Secretary.

(II) Exceptions -

(aa) the adjustment corresponding to the amount of the sales tax paid by merchant-reseller on the purchase of tangible personal property acquired for resale, stated in subclause (I) of the preceding subsection, shall be made by the seller of said property in the time, form, method, and manner prescribed by the Secretary through an official document, and

(bb) notwithstanding the foregoing, said adjustment shall be made by the merchant-buyer, when the seller fails to meet his

obligation under item (aa), above, in the time, form, method, and manner prescribed by the Secretary through an official document.

(ii) Duties and Obligations of Sellers. – Sellers required to adjust Reseller Credit Control Accounts, as stated above, shall comply with the following duties and obligations:

(I) To document the merchant-buyer's reseller status by obtaining a copy of his Reseller Certificate in the first sale and any subsequent sales conducted upon expiration of the previously received certificate;

(II) To document the nature of the transaction of the sale of items for resale by obtaining a copy of the Exempt Purchase and Resale Certificate duly filled out by the buyer;

(III) To exercise a reasonable degree of care to prevent adjusting the Reseller Credit Control Account due to the buyer's using a Reseller Certificate to make a purchase of tangible personal property that, according to the information of the buyer's trade or business, as shown in said Certificate, it would be unreasonable to believe that such property may be acquired for resale; and

(IV) to make the appropriate adjustment on or before the tenth (10th) day of the month following the month in which the sales tax subject to the adjustment is collected.

(3) Credit Claims in Case of Returns.

(A) Return of Taxable Items during the Month of the Sale.- Every registered merchant holding a Reseller Certificate in accordance with the requirements of subsection (c) of this Section that returned taxable items consisting of personal property during the month in which such items were purchased shall not take a credit for the amount of the sales tax paid and refunded by the seller, if any. In addition, the seller shall not make any adjustment increasing the Reseller Credit Control Account for the amount of the sales tax corresponding to the returned item.

(B) Return of Taxable Items after the Close of the Month of the Sale.-

(i) Registered merchant that failed to remit the sales tax to the seller prior to returning the taxable items.- Every seller that, after the close of the month of the sale and before receiving payment for tangible personal property sold, receives returned items from a registered merchant holding a Reseller Certificate in accordance with the requirements of subsection (c), shall adjust the Reseller Credit Control Account reducing the amount of credits available by the amount of the sales tax corresponding to the returned item.

(ii) Registered merchant that remitted the sales tax to the seller prior to returning the taxable items.- Every seller that, after the close of the month of the sale and after receiving payment for tangible personal property sold, receives returned items from a registered merchant holding a Reseller Certificate in accordance with the requirements of subsection (c), shall not be required to adjust the Reseller Credit Control Account by the amount of the sales tax corresponding to the returned item.”

(4) The credit may be claimed on the Monthly Sales and Use Tax Return for the period in which the sales tax was paid up to a maximum of seventy-five percent (75%) of the tax liability shown in the return. In order to claim such credit, the merchant shall meet the documentation requirements prescribed by the Secretary through regulations.

(5) The Secretary is hereby authorized to prescribe by regulations or any other method the allowable percentage of credits that are higher or lower than the seventy-five percent (75%) provided in paragraph (4) of this subsection, for specific industries taking into consideration the factors prescribed by the Secretary through regulation, circular letter, or other determination.

(b) ...”

Section 21.- Paragraph (1) is hereby repealed, paragraph (3) is hereby amended, and former paragraphs (2) and (3) are hereby renumbered as paragraphs (1) and (2) of subsection (c) of Section 4050.07 of Act No. 1-2011, as amended, to read as follows:

“Section 4050.07.- Creation of Municipal Development Fund.

(a) Creation of the Fund.- A ‘Municipal Development Fund’ is hereby created under the custody of the Bank:

(1) ...

(b) ...

(c) Establishment of the Formula or Criteria for the Distribution of the Monies Deposited in the ‘Municipal Development Fund’. - The Bank shall distribute the monies deposited in the Municipal Development Fund pursuant to the following criteria or formula:

(1) Seventy-five percent (75%) of the Municipal Development Fund shall be distributed to each municipality on the basis of the inverse proportion corresponding to the individual budget of the regular fund with respect to the budget of the regular fund of all municipalities. For such purposes, said proportion shall be determined taking as basis the budgets of the regular fund of the municipalities during the immediately preceding fiscal year.

(2) Twenty-five percent (25%) of the Municipal Development Fund shall be distributed to each municipality on the basis of the direct proportion corresponding to its population with respect to the population of all the municipalities. For these purposes, said proportion shall be determined taking as basis the U.S. Census, as it is revised from time to time, according to the periodicity with which it is prepared.

(d) ...”

Section 22.- Subsection (b) of Section 4050.08 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.08.- Creation of the Municipal Redemption Fund.

(a) Creation of the Fund.- A ‘Municipal Redemption Fund’ is hereby created under the custody of the Bank:

(1) ...

(b) Purpose of the Municipal Redemption Fund. - The monies deposited in the Municipal Redemption Fund shall be used by the Bank exclusively to grant loans in favor of the municipalities. Said loans shall be granted proportionately taking as basis the sums of money directly collected in each of the municipalities during the immediately preceding fiscal year and deposited in the Municipal Redemption Fund pursuant to the authorization established in Section 4(b) of the Municipal Finance Corporation Act and Section 4050.06(c)(2) of this Act. In accordance with the foregoing, the municipalities interested in obtaining said loans are hereby authorized to contribute to the Municipal Redemption Fund an amount equal to up to one hundred percent (100%) of the municipality’s share in the Municipal Development Fund, pursuant to Section 4050.07, in order to increase its borrowing capacity. Notwithstanding the foregoing, the municipalities that are not interested in obtaining or taking said loans may withdraw from the Municipal Redemption Fund the available balance corresponding to their municipality. The municipality may use said funds to obtain loans from any other financial institutions under the same conditions and limitations contained in this Section; provided, that the financing terms offered by private financial institutions are better than those offered by the Bank. The loans to be obtained in this manner from private financial institutions shall not be subject to the limitations on borrowing capacity contained as part of Act No. 64 of July 3, 1996, as amended, known as the ‘Puerto Rico Municipal Financing Act of 1996’.

(c) ...”

Section 23.- A new subsection (e) is hereby added to Section 6043.01 of Act No. 1-2011, as amended, to read as follows:

“Section 6043.01.- Civil Fines.

(a) ...

(e) Improper Release of Imported Tangible Personal Property. -

(1) The Secretary shall assess a five thousand (5,000) dollar civil fine for each infraction, on any person, including a merchant, when:

(A) the quantity of items declared is lower than the imported quantity;

(B) the value declared is lower than the value of the imported property; or

(C) the commercial invoices presented are not authenticated, or inaccurately state the quantity of items; or

(D) the credit amount for the taxes paid by a merchant-reseller, as provided in Section 4050.04 of the Code is claimed falsely or fraudulently.

(2) Once a person, including a merchant, consignee or carrier, whether directly or through his authorized representative, is authorized to move the container from the carrier’s premises, such person shall be liable for and be subject to a ten thousand (10,000) dollar civil fine for each violation, for breaking the container’s bolt seal, lock box, lock, or seal, if it was not broken in the presence of a customs officer of the Department or by express authorization of the Secretary through an official document.”

Section 24.- Subsection (d) of Section 6043.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6043.02.- Penalties for Violations of Chapter 3 of Subtitle D.

(a) ...

(d) Failure to Require and Keep a Copy of the Certificate of Exemption or Certificate of Eligible Reseller, or Other Documentation Attesting to the Right to Exemption - Any merchant who fails to require or keep a copy of the certificate of exemption, Certificate of Eligible Reseller, Exempt Purchase Certificate, or any other document that attests to the right to exemption, as provided in Sections 4020.07, 4030.02, 4030.05, 4030.06, 4030.07, and 4030.08, shall be liable for payment of the tax and a penalty equal to fifty percent (50%) of the sales and use tax.

(e) ...”

Section 25.- Subsections (a) and (b) of Section 6043.05 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 6043.05.- Penalty for Failure to File the Monthly Sales and Use Tax Return, the Monthly Use Tax Return on Imports, or the Declaration of Use Tax for Release.

(a) Any person who fails to file the Monthly Sales and Use Tax Return and the Monthly Use Tax Return on Imports, or the Declaration of Use Tax for Release required under Section 4041.02 in the time, form, and manner prescribed therein, shall be assessed a penalty of one hundred dollars (\$100) or ten percent (10%) of the tax liability established in such tax return, whichever is greater.

(b) Any person required to electronically file the Monthly Sales and Use Tax Return and the Monthly Use Tax Return on Imports, or the Declaration of Use Tax for Release who fails to file such return or declaration by such means shall be deemed to have failed to file such return or declaration; therefore, said person shall be subject to the penalties provided in this Section.”

Section 26.- Section 6043.09 is hereby added to Act No.1-2011, as amended, to read as follows:

“Section 6043.09.- Penalties for Violations of the Provisions of Chapter 5 of Subtitle D.

(a) Penalty for Improperly Adjusting the Reseller Credit Control Account.- Any merchant that, in violation of the provisions of Section 4050.04 of the Code, improperly adjusts the reseller credit control account for sales tax not collected, sales tax collected on tangible personal property not acquired for resale, in an amount that exceeds the sales tax collected on the sale of tangible personal property acquired for resale, or without obtaining the documentation required under Section 4050.04 of the Code, shall be subject to a penalty equal to twenty-five (25) percent of the improperly adjusted amount.

(b) Penalty for Failure to Adjust the Reseller Credit Control Account.- Any merchant that fails to adjust the Reseller Credit Control Account as required by Section 4050.04, in the time, form, and manner provided therein, shall be assessed a penalty equal to one thousand (1,000) dollars for each period not adjusted. The Secretary may waive the penalty prescribed herein when it is shown that such omission or error is due to reasonable cause.

(c) Penalty for Erroneous Claim for Credit of Tax Paid By a Reseller.- Any merchant that, in violation of the provisions of Section 4050.04 of the Code, makes an erroneous claim for credit of tax paid by a reseller, even when these credits are reflected in the reseller credit account, shall be liable for full payment of the credit erroneously claimed and a penalty equal to twenty-five (25) percent of said amount.”

Section 27.- Subsection (a) and paragraph (2) are hereby amended, paragraph (3) is hereby added, former paragraphs (3) and (4) are hereby renumbered as paragraphs (4) and (5) of subsection (a) of Section 6080.14 of Act No. 1-2011, as amended, to read as follows:

“Section 6080.14.- Imposition of Sales and Use Tax by Municipalities.

(a) Authorization and Mandatory Requirement.- All municipalities shall uniformly and mandatorily impose a sales and use tax pursuant to the authorization established in Section 4020.10. Such tax shall consist of a one (1) percent flat tax rate to be imposed in accordance with the same basis, exemptions, and limitations provided in Subtitle D of the Code, except for the exceptions provided in this Section.

For periods beginning after August 1, 2014, a one percent (1) flat tax rate shall be fully collected by the municipalities or a trustee designated pursuant to this Act.

(1) ...

(2) Certificate of Municipal Exemption – Every duly registered merchant holding an Reseller Certificate issued by the Secretary under Section 4050.04(c) of this Code that acquires taxable items for resale, except for those entitled to any exemption under this Subtitle, may acquire tangible personal property for resale free from the one percent (1%) tax collected by the municipalities from the municipal sales and use tax established in this Section. Provided, that for such purposes, the term ‘tangible personal property for resale’ shall include imported property.

(3) No portion of the credit for taxes paid by a merchant-reseller as provided in Section 4050.04 of the Code may be claimed against the one percent (1%) tax collected by the municipalities by virtue of this Section.

(4) Municipalities may adopt regulations consistent with the provisions herein through a municipal ordinance to that effect. For such purposes, preemption by federal laws, regulations, and court decisions shall be taken into account, as well as any other authorized exception to such imposition.

(5) The fact that a municipality has failed to adopt the municipal ordinance does not relieve such municipality from meeting its obligations and imposing the sales and use tax established in this Act.

(b) ...”

Section 28.- Separability Clause.-

If any section, subsection, paragraph, subparagraph, clause and subclause, or part of this Act were held to be void or unconstitutional, said holding shall not affect, impair, or invalidate the remainder of this Act.

Section 29.- Effectiveness.-

This Act shall take effect immediately upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 80-2014 (H. B. 2041) (Conference)** of the **3rd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend subsections (a) and (b) of Section 3020.08; amend subsection (a) and repeal subsection (d) of Section 3020.10; amend subsections (a), (b), (c), and (e) of Section 3020.11; amend subsections (a) and (b) of Section 3020.12; amend subsections (gg), (rr), and (ww) and add subsections (xx), (yy), (zz), and (aaa) to Section 4010.01; amend subsection (b), add subsections (f) and (g), and renumber former subsection (f) as (h) of Section 4020.03; amend paragraphs (2), (3), and (4) of subsection (a) and subsection (b) of Section 4020.05; amend subsection (c) of Section 4020.09; amend subsections (a), (d), and (f) of Section 4030.02; add subsections (b) and (c) and renumber former subsection (b) as subsection (d) of Section 4030.04; amend Section 4030.05; amend subsection (a) of Section 4030.21; add Sections 4030.22, 4030.23, and 4030.24; [...].

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

In San Juan, Puerto Rico, on this 31st day of January, 2024.

Mónica Freire-Florit, Esq.
Director