

(H. B. 2534)

(No. 107-2015)

(Approved July 2, 2015)

AN ACT

To amend Sections 4010.01, 4110.01, and 4120.03 of Act No. 1-2011, as amended, known as the “Internal Revenue Code of 2011,” in order to add the definition of services provided to homeowners’ associations; and to exempt from the Sales and Use Tax and the Value-Added Tax the services provided to homeowners’ associations and housing cooperatives organized under Act No. 239-2004, as amended, known as the “General Cooperative Associations Act of 2004,” as well as affordable housing projects that receive federal or state rental assistance.

STATEMENT OF MOTIVES

It is estimated that approximately 900,000 individuals in Puerto Rico reside in gated condominiums or communities. This represents almost twenty-five percent (25%) of Puerto Rico residents. The impact of the raise in the Sales and Use Tax, and subsequently, in the Value-Added Tax on the services received by homeowners’ associations would result in an increase in the maintenance fee paid by residents.

Puerto Rican communities already face difficult situations. A significant number of housing units in Puerto Rico are empty or have been foreclosed by financial institutions as a result of migration and the economic crisis. Also, some groups of residents have found themselves in the need of delaying the payment of maintenance fees and others simply cannot pay them. The imposition of the Sales and Use Tax and, subsequently, the Value-Added Tax on the services provided to co-owners or homeowners’ associations shall increase maintenance fees by 15%

and 20%, which would result in higher default rates and the abandonment of properties in our communities.

Housing is as essential as health and education to the lives of human beings and should not be classified as a discretionary expense. For such reason, this measure is hereby introduced in order to exempt the services provided to homeowners' associations as defined in Act No. 1-2011, as amended, known as the "Internal Revenue Code of 2011," as well as the services provided to housing cooperatives organized under Act No. 239-2004, as amended, known as the "General Cooperative Associations Act of 2004," from the Sales and Use Tax and the Value-Added Tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 4010.01 of Act No. 1-2011, as amended, known as the "Internal Revenue Code of 2011," is hereby amended to read as follows:

"Section 4010.01.- General Definitions.-

For purposes of this Subtitle, the following terms, words, and phrases shall have the general meaning stated below, except when the context clearly indicates otherwise:

(a) ...

(nn) Taxable Services.-

(1) ...

(2) ...

(3) Taxable services shall exclude the following for taxable events occurring after September 30, 2015.

(A) ...

(B) ...

...

(J) Services provided to condominium residents' associations or councils of co-owners or homeowners' associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services provided to housing cooperatives organized under Act No. 239-2004, as amended, known as the 'General Cooperative Associations Act of 2004,' and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, as well as affordable housing projects that receive federal or state rental assistance.

(oo) ...

...

(bbb) Business to Business Services.- As of October 1, 2015, services provided to a person engaged in trade or business or income-producing activities; except for the following:

(1) ...

...

(8) Services provided to condominium residents' associations or councils of co-owners or homeowners' associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services provided to housing cooperatives organized under Act No. 239-2004, as amended, known as the 'General Cooperative Associations Act of 2004,' and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, as well as affordable housing projects that receive federal or state rental assistance.

(9) Services rendered, including the taxable services described in paragraphs (1) through (8) of this subsection, by a person engaged in trade or

business or income-producing activities in Puerto Rico to a person engaged in trade or business or income-producing activities in Puerto Rico that is part of a controlled group of corporations or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05, or is a partnership or excluded member engaged in trade or business or income-producing activities in Puerto Rico, should the rules of group of related entities be applied, for purposes of this Act, would be considered a component member of such group, by another person that is part of one of said groups.

...”

Section 2.- Section 4110.01 of Act No. 1-2011, as amended, known as the “Internal Revenue Code of 2011,” is hereby amended to read as follows:

“Section 4110.01.- General Definitions.-

(a) For purposes of this Subtitle, the following terms, words, and phrases shall have the general meaning stated below, except where the context clearly indicates otherwise.

(1) ...

(79) Services provided to condominium residents’ associations or councils of co-owners or homeowners’ associations, or housing cooperatives.- Services provided to condominium residents’ associations or councils of co-owners or homeowners’ associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services provided to housing cooperatives organized under Act No. 239-2004, as amended, known as the ‘General Cooperative Associations Act of 2004,’ and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, as well as affordable housing projects that receive federal or state rental assistance. It includes, but is not limited

to, maintenance, beautification, cleaning, and security services, in addition to professional accounting, management, and legal services.”

Section 3.- Section 4120.03 of Act No. 1-2011, as amended, known as the “Internal Revenue Code of 2011,” is hereby amended to read as follows:

“Section 4120.03.- Value-Added Tax Exempt Transactions.-

(a) The following transactions shall be exempt from the Value-Added Tax:

(1) ...

(2) Services provided to condominium residents’ associations or councils of co-owners or homeowners’ associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services provided to housing cooperatives organized under Act No. 239-2004, as amended, known as the ‘General Cooperative Associations Act of 2004,’ and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, as well as affordable housing projects that receive federal or state rental assistance.”

Section 4.- Effectiveness.-

This Act shall take effect on July 1, 2015.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 107-2015 (H. B. 2534)** of the **5th Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend Sections 4010.01, 4110.01, and 4120.03 of Act No. 1-2011, as amended, known as the “Internal Revenue Code of 2011,” in order to add the definition of services provided to homeowners’ associations; and to exempt from the Sales and Use Tax and the Value-Added Tax the services provided to homeowners’ associations and housing cooperatives organized under Act No. 239-2004, as amended, known as the “General Cooperative Associations Act of 2004,” as well as affordable housing projects that receive federal or state rental assistance.

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

In San Juan, Puerto Rico, on this 16th day of December, 2015.

Juan Luis Martínez Martínez
Director