

(H. B. 1427)

**(No. 117-2013)**

(Approved October 14, 2013)

**AN ACT**

To amend subsections (a) and (b) and eliminate subsection (d) of Section 7.022 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico”; amend subsection (a) of Section 3 of Act No. 74-2010, as amended, known as the “Puerto Rico Tourism Development Act of 2010”; amend subsection (a) of Section 1021.02, amend subsection (b) of Section 1021.04, amend subsection (a) of Section 1021.05, amend subsections (b) and (d) of Section 1022.03, amend subsection (c) of Section 1022.06, amend subsections (a) and (b), add new subsections (c) and (d), renumber and amend current subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively, of Section 1023.10, amend subsection (a) of Section 1033.17, reserve Section 1051.10; renumber and amend current Section 1051.10 as Section 1051.11, renumber and amend Section 1051.11 as Section 1051.12, renumber and amend Section 1051.12 as Section 1051.13, amend Section 1053.06, add a new subsection (e) to Section 1061.21, add a new subsection (e) to Section 1061.23, amend subsection (a) of Section 1062.04, amend subsection (a) of Section 1062.05, amend subsection (a) of Section 1062.07, amend subsection (a) of Section 1071.02, amend subsection (a) of Section 1114.06, amend subsection (b) of Section 1115.04, add a new subsection (d) to Section 3020.10, amend subsections (a), (h), (nn), and (rr), and add new subsections (vv) and (ww) to Section 4010.01, amend subsections (a) and (b) of Section 4020.05, amend subsections (a), (b), and (c) of Section 4020.07, amend subsections (a), (d), and (f) of Section 4030.02, add a new Section 4030.18, add a new Section 4030.21, amend subsections (b) and (g), and add a new subsection (i) to Section 4041.02, amend subsections (a), (c), and (d) of Section 4042.03, amend subsection (b) of Section 4042.04, add a new subsection (c) and renumber current subsection (c) as subsection (d) of Section 4050.01, amend Section 4050.02, amend subsections (a) and (c), and add a new subsection (f) to Section 4050.04, amend subsection (a) of Section 6041.09, amend subsection (a) of Section 6041.10, add a new Section 6043.08, amend subsection (a) of Section 6054.02 and amend subsection (a), and add a subsection (f) to Section 6080.14 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto

Rico”; and amend Section 1 of Act No. 48-2013; in order to incorporate technical amendments and make specific interpretive clarifications; and for other purposes.

### **STATEMENT OF MOTIVES**

There comes a time in the development of nations where individual aspirations must be abandoned to attain common goals. When that time finally arrives, society must start evolving and begin to define collective needs that are critical to improve the quality of life of its members. It is then that we understand, as a community, how trivial our apparent irreconcilable differences are and begin to forge a strong and solidary path towards our future.

The mission of the State in modern society is to guarantee its constituents the highest quality of life possible. Issues such as housing, health, security, education, and employment, among others, are essential elements to achieve such goal, since they have an impact on all of aspects of the citizen’s individual, family, and professional lives. Our people deserve and demand a strong government entity with financial resources to provide its people with tools, and with the vision and strength to face the challenges of the 21<sup>st</sup> century.

Act No. 140-2013, known as the “Tax Burden Redistribution and Adjustment Act,” and Act No. 48-2013, were approved recently to amend Act No. 1-2011 and other tax provisions in order to address the Island’s fiscal situation responsibly and equitably for our people. This Administration is committed to revising the tax provisions in effect ensuring that they are consistent with the legislative intent and that are not subject to inconsistent interpretations or have an adverse effect on our people. For such reason, this Legislative Assembly deems it pertinent to introduce the following technical amendments to Act No. 77 of June 19, 1957, Act No. 73-2008, better known as the “Economic Incentives Act for the Development of Puerto Rico,” Act No. 74-2010, better known as the “Puerto Rico

Tourism Development Act of 2010,” Act No. 1-2011, better known as the “Internal Revenue Code for a New Puerto Rico,” and Act No. 48-2013, in order to clarify their scope and content.

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

Section 1- Subsections (a) and (b) are hereby amended and subsection (d) is hereby repealed from Section 7.022 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” to read as follows:

“Section 7.022.- Special Tax on Premiums.-

(a) For taxable years beginning after December 31, 2012, there shall be imposed, collected, and paid a special one percent (1%)-tax on the premiums of every insurer, in addition to the tax on premiums imposed under Section 7.020 of this Act, and in addition to any other tax imposed under this Code or under Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico.” This provision shall only apply to earned premiums after June 30, 2013. The rules set forth in Section 7.020 shall apply to this special tax on premiums; however, the exemption provided in Section 7.021 shall not apply. The Secretary in conjunction with the Commissioner of Insurance shall prescribe by regulations the meaning and the scope of the term ‘earned premiums.’

(b) The special tax described in subsection (a) shall not apply to Medicare Advantage, Medicaid earned premiums, or the *Mi Salud Program* earned premiums, or annuities.

(c) ...”

Section 2- Subparagraph (A) of paragraph (4) of subsection (a) of Section 3 of Act No. 74-2010, as amended, is hereby amended to read as follows:

“Section 3.- Exemptions

(a) Types of Exemptions.— All exempt businesses are hereby exempt from the payment of taxes and levies mentioned in paragraphs (1) through (5) of this subsection:

(1) ...

(2) ...

(3) ...

(4) Exemption related to taxes on use and consumption items.

(A) In General.— Exempt businesses shall enjoy up to a one hundred percent (100%) exemption from the payment of the taxes imposed under Subtitles C and D of the Code with respect to those items acquired and used by an exempt business in connection with a tourist activity. The exemption shall be in effect for a period of ten (10) years and shall begin on the date specified in subsection (b) of this Section. The Secretary in conjunction with the Director of the Tourism Company shall prescribe by regulations the meaning and the scope of the phrase ‘items acquired and used by an exempt business in connection with a tourist activity.’

In cases of personal property consisting of equipment and furniture to be used in a lodging facility, except for any commercial unit as said terms are defined in Act No. 252 of December 26, 1995, as amended, of a timeshare or vacation club duly licensed by the Company under the provisions of said Act. Personal property shall enjoy the exemption provided in this subparagraph, notwithstanding the owner of the equipment or furniture. Said exemption shall be effective while the exemption decree for the timeshare or vacation club plan is in effect. The Director shall determine by regulations the procedure to claim the aforesaid exemption.

(B) ...

(C) ...

- (D) ...
- (5) ...
- (6) ...
- (7) ...
- (8) ...
- (b) ...”

Section 3.- Subparagraph (B) of paragraph (1) and paragraph (4) of subsection (a) of Section 1021.02 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1021.02.- Alternate Basic Tax on Individuals

(a) Imposition of Alternate Basic Tax on Individuals.-

(1) General Rule.- There shall be imposed, collected, and paid by every individual for each taxable year, in lieu of any other tax imposed under this part, a tax on the net income subject to alternate basic tax, determined according to the following table:

(A) ...

(B) Years beginning after December 31, 2012

If the net income subject	The tax shall be:
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to alternate basic tax is:	
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From \$150,000 but not over \$250,000	10%
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In excess of \$250,000 but not over \$500,000	15%
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In excess of \$500,000	24%
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plus the amount resulting from the application of the rates established in paragraph (1) of subsection (a) of Section 1023.10 of this Code, on the aggregate of the distributive share of gross income determined in accordance with Sections 1071.02, 1114.06, and 1115.04, as amended, if any, and minus the credit for alternate basic tax paid abroad (whenever the same is greater than the regular tax.)

(2) ...

(3) ...

(4) In the case of married individuals living with their spouses and filing separately, and in the case of married individuals living with their spouses and filing jointly who elect the optional tax computation as provided in Section 1021.03, the levels of net income subject to alternate basic tax provided in paragraph (1) for purposes of the alternate basic tax shall be determine separately for each spouse as if he were a single taxpayer. Likewise, it is hereby established that, in these cases, the distributive share of the gross income mentioned in paragraph (1) of this subsection shall be attributed to the spouse to whom the distributive share of partnerships, special partnerships, and corporations of individuals income has been attributed, as provided in Section 1021.03(a)(3)(A) of this Code.

(5) ...”

Section 4.- Subsection (b) of Section 1021.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1021.04.- Option to File the Income Tax Return Under the Provisions of the Internal Revenue Code of 1994, as amended

(a) ...

(b) The taxpayer shall elect the option provided in this Section by filing the income tax return for the first taxable year beginning after December 31, 2010, and before January 1, 2012. Once such option is elected, the same shall be final and binding for the taxable year in which he made such election and for each one of the following four (4) taxable years. Notwithstanding the foregoing, a taxpayer who has made an election under subsection (a) above may, upon filing the income tax return for the first taxable year beginning after December 31, 2012, elect to determine his tax liability under the provisions of this Code for said year. Once the

election herein allowed is made, it shall be final and binding for such taxable year and for all taxable years thereafter.

(c) ...

(d) ...”

Section 5.- 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-employment Income of Individuals Engaged in Trade or Business.-

(a) In addition to any other tax imposed under this Code, there shall be imposed, collected, and paid for any taxable year a special two percent (2%)-tax on the gross income derived by an individual from service rendering, except those services rendered by an employee to his employer, or trade or business, (excluding a rental business and any trade or business that is attributable to a partnership covered under the provisions of Chapter 7 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 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 6.- Paragraphs (1) and (2) of subsection (b) and paragraph (4) of subsection (d) of Section 1022.03 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1022.03.- Alternative Minimum Tax Applicable to Corporations.-

(a) ...

(b) Tentative Minimum Tax.- For purposes of this Section, the term ‘tentative minimum tax’ for the taxable year shall be the greater of:

(1) The sum of the following:

(A) ...

(B) Except in the case of a finance business, as defined in Section 1023.10(e), the surtax on gross income set forth in Section 1023.10 of this Code; or

(2) The sum of the following:

(A) Twenty percent (20%) of:

(i) The amount of expenses incurred or paid to a related party (as such term is defined in Section 1010.05(b) of this Subtitle) if such expenses are attributable to the operation of a trade or business in Puerto Rico and are not subject to income tax or withholding at the source under this Code in the taxable year during which such expenses were incurred or paid; and/or

(ii) ...

(iii) ...

(B) The amount determined in applying the percentage provided below to the value of any personal property acquired by a related party and/or the amount determined in applying the percentage provided below to the transfer of personal property from a home office located outside of Puerto Rico to a branch engaged in trade or business in Puerto Rico:

(i) ...

(ii) Exceptions:

(I) ...

(II) Point five percent (.5%) of the purchase or transfer of property that is subject to the provisions of Sections 3020.06 and 3020.07 of Subtitle C of this Code; and

(III) ...

(C) Except in the case of a finance business, as defined in Section 1023.10(e), the surtax on gross income provided in Section 1023.10 of this Code.

(c) ...

(d) ...

(1) ...

(4) When the Secretary determines that the value of the personal property purchased by the taxpayer from the related party or transferred by a home office located outside of Puerto Rico to a branch engaged in trade or business in Puerto Rico, is equal or substantially similar to or lower than the value for which such related party sells such property to an unrelated party. Provided, that when the foregoing is established to the satisfaction of the Secretary, he may fix a tax rate lower than the rate provided in subparagraph (B) of paragraph (2) of subsection (b) of this Section, which shall never be less than point two percent (.2%), except for property subject to the provisions of Sections 3020.06 and 3020.07 of Subtitle C of this Code, in which case the Secretary may fix an income tax rate lower than point two percent (.2%).

The Secretary shall prescribe by regulations the documents and conditions to be met, including an agreement between the seller and the purchaser that allows the Secretary to audit the price of the items acquired from the third unrelated party, which shall be filed by the taxpayer to qualify under this exception. However, it shall be necessary to submit a transfer pricing study.

(5) ...

(6) ...

(e) ...”

Section 7.- Subsection (c) of Section 1022.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1022.06. – Election to File Under the Provisions of the Internal Revenue Code of 1994, as amended. –

(a) ...

(b) ...

(c) The taxpayer shall elect the option provided in this Section by filing the income tax return for the first taxable year beginning after December 31, 2010, and before January 1, 2012. Once such option is elected, the same shall be final and binding for the taxable year in which he made such election and for each one of the following four (4) taxable years. Notwithstanding the foregoing, a taxpayer who has made an election under subsection (a) above may, upon filing the income tax return for the first taxable year beginning after December 31, 2012, elect to determine his tax liability under the provisions of this Code for said year. Once the election herein allowed is made, it shall be final and binding for such taxable year and for all taxable years thereafter.

(d) ...

(e) ...”

Section 8.– Subsections (a) and (b) are hereby amended, new subsections (c) and (d) are hereby added, and current subsections (c), (d), and (e) are hereby amended and renumbered as subsections (e), (f), and (g), respectively, of Section 1023.10 of Act No. 1-2011, as amended, to read as follows:

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

(a) Applicable Tax.-

(1) General Rule.-

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 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 alternate basic tax provided in subsection (a) of Section 1021.02 and the tax imposed in subsection (a) of Section 1022.03, respectively, 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:

...

(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 the gross income thereof. In the case of finance businesses filing as partnerships, the surtax on gross income provided in this subsection shall be imposed on the finance business filing as a partnership and fifty percent (50%) of said surtax shall constitute a credit item, which shall be reported separately to the partners in accordance with the provisions of Section 1071.02(a)(11) so that partners may claim the credit provided in Sections 1023.10(a)(2)(B) and 1023.10(d), subject to the limitations provided therein.

(B) Credit for Special Tax on Gross Income Paid.- Any finance business engaged in trade or business in Puerto Rico may credit against the income tax or alternative minimum tax payable for the corresponding taxable year, if any, determined for the corresponding taxable year (including the 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 point five percent (0.5%) of its gross income for the corresponding taxable year. Provided, further, that any partner of a finance business filing as a partnership, may credit against the income tax or alternative minimum tax payable for the corresponding taxable year, if any, determined for the

corresponding taxable year (including the 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 his distributive share of the surtax on gross income provided in subparagraph (A) above paid by the finance business filing as a partnership, which fifty percent (50%) sum shall constitute a credit item to be reported separately to partners in accordance with the provisions of Section 1071.02(a)(11).

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 refunded and shall only be available to be used in future taxable years subject to the provisions of this paragraph.

(3) Waiver.-

(A) The Secretary may reduce, under the rules and regulations promulgated by him, the applicable tax rate, but never below point five percent (.5%), to any taxpayer to whom the tax imposed under this Section applies, except for finance businesses (as defined herein). The taxpayer shall establish to the satisfaction of the Secretary, or as determined by the Secretary himself, that the tax imposed under this Section would result in an undue financial hardship or be prejudicial to the taxpayer, given that such tax represents a significant amount if compared to the its gross margin, as such term is defined herein. In order to provide to taxpayers engaged in the same trade with the same treatment, the Secretary may take into account, in order to issue a waiver, the financial particularities of the taxpayer's trade, including the regular gross margin of the businesses engaged in said trade and the challenges it faces within the general economic context. In order for the taxpayer's request to be evaluated, he must file the Agreed-upon Procedures prepared by a Certified Public Accountant who holds

a license in effect in Puerto Rico and is enrolled in a peer review program. The Secretary shall not impose filing fees to any request for waiver filed by taxpayers whose annual volume of sales is less than three million dollars (\$3,000,000).

(B) Waivers under this paragraph shall be requested:

(i) on or before November 30, 2013, to be applied to taxable years beginning during calendar year 2013; or

(ii) on any date of the taxable year, for any other taxable year beginning after December 31, 2013.

(C) The Department shall evaluate and accept or deny the request filed pursuant to this subparagraph:

(i) on or before February 28, 2014 for requests filed on or before November 30, 2013, or

(ii) within ninety (90) days after the filing of the request, for any other requests.

(D) The term established in subparagraph (C) above shall apply solely to requests for waiver that include all the information required by the Secretary by regulations or any other official document and that were filed within the corresponding term. The Secretary may require the taxpayer to furnish any such information he deems necessary to clarify any piece of information or fact included in the request, within a term that shall not exceed sixty (60) days from the filing of the request for waiver with the Department.

(E) In the event that the Secretary requests any clarifying information within the term established in subparagraph (C) above shall be deemed to be suspended until the clarifying information is received. Once it is received, the corresponding term shall begin to count beginning on the business day following the date of receipt.

(F) Requests for waiver filed in accordance with this paragraph for which a notice of determination has not been received within the term established to issue the same shall be considered automatically approved and the rate of the surtax on gross income applicable to the taxpayer who filed the request for waiver shall be reduced to point one (0.1) percent for the corresponding taxable year.

(G) Waivers granted under this paragraph shall be effective for two (2) taxable years.

(b) The tax imposed under this Section shall be part of the income tax corresponding to the taxable year, including the tax determined in accordance with Sections 1021.04 and 1022.06 of this Code.

(c) In the event that the income tax for the taxable year is determined in accordance with Sections 1021.04 and 1022.06 of this Code, the tax imposed herein shall be determined separately and in addition to the regular tax applicable to individuals, the normal tax and the surtax applicable to corporations, the alternate basic tax applicable to individuals, and the alternative minimum tax applicable to corporations imposed under Sections 1011(a), 1015, 1016, 1011(b), and 1017 of the Internal Revenue Code of 1994, as amended, respectively.

(d) The tax imposed under this Section shall also include:

(1) the required payment of the estimated income tax established in Sections 1061.20, 1061.21, and 1061.23 of this Code, or under the corresponding provisions of the Internal Revenue Code of 1994, as amended, to the extent it applies to any person who elected to pay taxes under Sections 1021.04 and 1022.06 of this Code, or

(2) the required payment of the estimated income tax attributable to the distributive share of a partner in a special partnership as required in Section 1062.04, of a partner in a partnership as required in Section 1062.07, or the

distributive share of a corporation of individuals' income as required in Section 1062.05, or under such applicable provisions of the Internal Code of 1994, as amended, and it shall be reported and paid in its entirety not later than the deadline for filing income tax returns for the taxable year.

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

(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 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 required to pay the tax, even if they would not be subject to said tax individually.

(2) ...

(f) Credit for Special Tax on Gross Income Paid.- Any finance business engaged in trade or business in Puerto Rico may credit against the income tax or alternative minimum tax payable for the corresponding taxable year, if any, determined for the corresponding taxable year (including the tax determined under the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Sections 1021.04 and 1022.06 of this Code), subject to the limitations set forth below, an amount equal to point five percent (0.5%) of its gross income for the corresponding taxable year. Provided, further, that any partner 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, determined for the corresponding taxable year (including the tax determined under

the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Sections 1022.06 of this Code), subject to the limitations set forth below, an amount equal to fifty percent (50%) of its distributive share of the surtax on gross income provided under subparagraph (A) above paid by the finance business filing as a partnership, such fifty percent (50%) shall constitute a credit item to be reported separately to the partners pursuant to the provisions of Section 1071.02(a)(11).

(1) ...

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

(1) Gross Income.-

(A) ...

(B) ...

(C) ...

(D) Distributors and Dealers of New Automobiles, Buses, Truck Trailers, and Trucks for Sale.- In the case of distributors and dealers engaged in the sale of automobiles, buses, truck trailers, and trucks (as such term is 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 exemptions provided in Section 1031.02 of this Code. Provided, however, that the total amount generated from the sale of such new automobiles, buses, truck trailers, and trucks for sale shall be determine without deducting the cost thereof, but deducting from the gross amount the excise taxes paid for new automobiles, buses, truck trailers, and trucks sold during the taxable year.

(E) ...

(F) All Taxpayers.- The gross income shall exclude the following items including when said items are part of the distributive

share of 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, generated by persons operating under the provisions of Act No. 73 of May 28, 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 of July 10, 2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010’; Act No. 83 of July 19, 2010, Act No. 20 of January 17, 2012, or any previous or subsequent similar law granting a tax exemption with respect to net income;

(ii) the gross income derived from agriculture 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 of December 1, 1996[sic], known as the ‘Agricultural Tax Incentives Act of Puerto Rico’ when the person operates a *bona fide* agricultural business;

(iii) the gross income generated by tax-exempt nonprofit entities under Section 1101.01, to the extent the gross income is not subject to taxation under this Code;

(iv) the gross income derived from the premiums earned from Medicare Advantage, Medicaid, *Mi Salud, Inc.*, and 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 Puerto Rico;

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

(viii) the distributive share of gross income of a finance business filing as a partnership pursuant to Section 1071.02.

(2) ...

(3) ...

(4) ...

(5) Entities subject to Section 1123(f) of the Internal Revenue Code of 1994- The phrase ‘entities subject to Section 1123(f) of the Internal Revenue Code of 1994’ as it appears in subparagraph (A) of paragraph (1) of subsection (a) of this Section means a person (as said term is defined in Section 1010.01(a)(1) of this Code) that:

(A) pursuant to Section 1123(f)(4) of the Puerto Rico Internal Revenue Code of 1994, as amended, is subject to income taxes in Puerto Rico with respect to the profits, benefits, and income thereof treated as 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) pursuant to paragraph (4)(B)(iii) of Section 1023(f)(4) of the Puerto Rico Internal Revenue Code of 1994, as amended, is subject to the excise taxes imposed by Section 3070.01 of this Code.”

Section 9.– Subparagraph (C) of paragraph (16) and subparagraph (A) of paragraph (17) of subsection (a) of Section 1033.17 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1033.17.- Non-deductible Items.-

(a) General Rule.- In computing the net income, in no case shall deductions be allowed with respect to:

(1) ...

(16) In the case of entities filing under Chapter 7 or Subchapters D or E of Chapter 11 of Subtitle A, for purposes of determining the item specified in:

(A) ...

(B) ...

(C) paragraph (10) of subsection (b) of Section 1115.04, no deduction of fifty-one percent (51%) shall be allowed with respect to expenses incurred by an entity and paid or to be paid to a partner, stockholder or member who owns fifty percent (50%) or more of partnership interest, corporate stock, or membership units in a limited liability company, if such expenses are attributable to the operation of a trade or business in Puerto Rico and are not subject to income taxes or withholding at the source under this Code during the taxable year in which they are incurred or paid;

(D) ...

(E) ...

(17) Fifty-one percent (51%) of the expenses incurred by a taxpayer and paid or to be paid to:

(A) A related party (as such term is defined in Section 1010.05(b) of this Subtitle) that does not conduct business in Puerto Rico, if such expenses are attributable to the operation of a trade or business in Puerto Rico and are not subject to income taxes or withholding at the source under this Code during the taxable year in which they were incurred or paid, or

(B) ...

(C) ...

(D) ...

(18) ...

(b) ...”

Section 10.- Section 1051.10 of Act No. 1-2011, as amended, is hereby reserved to read as follows:

“Section 1051.10.- Reserved

Section 11.- Section 1051.10 is hereby amended and renumbered as Section 1051.11 of Act No. 1-2011, as amended, to read as follows:

“Section 1051.11.- Reissue of Tax Credit Moratorium.-

(a) **Granted or Purchased Credits.-** Notwithstanding the provisions of this Subtitle and of any other special laws, any natural or juridical person that, before June 30, 2013, has purchased or has been granted any credit subject to moratorium listed in subsection (b) of this Section may use the same against the income taxes imposed under this Subtitle for each one of the taxable years beginning after December 31, 2012 and before January 1, 2016, only up to the amount provided in Section 1051.13 of this Subtitle. Provided, that during the moratorium period established herein, any person that has been granted a credit subject to the moratorium provided herein may sell or assign the same and the purchaser or assignee shall be subject to the rules established in Section 1051.13 of this Code. When such credits are purchased, attesting evidence of the date of acquisition of such credit shall be filed along with the income tax return corresponding to the taxable year in which the credit is claimed. Such evidence may consist of a copy of the sworn statement filed with the Department of the Treasury at the time of purchase of the corresponding credit.

(b) **Credits Subject to Moratorium.-** Credits subject to moratorium shall be those granted under the following provisions:

(1) ...

(4) Subsection (a) of Section 17 of Act No. 183-2001, as amended, known as the ‘Puerto Rico Conservation Easement Act’; however, in the case of credits granted under paragraph (4) of subsection (a) of Section 1051.12 of this Subtitle, the rules established in subsection (a) of Section 1051.13 of this Code shall apply.

(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’; however, in the case of credits granted under subparagraph (A) of paragraph (5) of subsection (a) of Section 1051.12 of this Subtitle, the moratorium shall apply in the following manner:

(A) ...

(c) ...

(d) ...”

Section 12.- Section 1051.11 is hereby amended and renumbered as Section 1051.12 of Act No. 1-2011, as amended, to read as follows:

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

(a) ...

(b) ...

(c) Credits that have been granted, awarded or otherwise recognized under the exception provided in subsection (b) of this Section may be sold or assigned and the purchaser or assignee shall be subject to the rules established in Section 1051.13 of this Code.

(d) The Secretary of the Treasury is hereby directed to:

(1) Establish a Register of Tax Credits which shall include all the information gathered in accordance with subsection (c) of Section 1051.11 of this Subtitle, before December 1, 2013; and

(2) Conduct a thorough analysis of any tax credit granting laws so as to evaluate the impact thereof on the revenues of the treasury and their effectiveness in generating economic activity and development, and submit to the Legislative Assembly a report on this matter with his recommendations on or before December 1, 2013. The analysis on the effectiveness of generating economic activity and development shall be made in coordination with the appropriate agencies to ensure a thorough and all-encompassing analysis on the effectiveness of tax credits.”

Section 13.- Section 1051.12 is hereby amended and renumbered as Section 1051.13 of Act No. 1-2011, as amended, to read as follows:

“Section 1051.13.- Rules for the Use of Tax Credits Subject to Moratorium under Sections 1051.11 and 1051.12.-

(a) Any natural or juridical person that has purchased or has been granted any of the credits subject to moratorium before June 30, 2013, or under subsection (b) of Section 1051.12 of this Subtitle, may claim the same against the taxes imposed under this Subtitle during the moratorium period only up to the amount set forth in the provisions under which the credit was granted but shall never reduce the taxes imposed under this Subtitle by more than fifty percent (50%).”

Section 14.- Section 1053.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1053.06.- Credit for Taxes Withheld on the Distributive Share in a Partnership or Limited Liability Company.-

(a) The amount of tax withheld at source under Sections 1062.07 with respect to the distributive share in a partnership or limited liability company subject to the provisions of Chapter 7 of this Subtitle, shall be allowed as a credit against the tax imposed by this Subtitle to the partners of a partnership or members of a limited liability company.

Provided, that in the case of finance businesses, the amount allowed as credit under this Section shall be the sum of the items stated in Sections 1062.07(a)(1) and 1071.02(a)(1)(11)(iii) of this Code.”

Section 15.- Subsection (e) is hereby added to Section 1061.21 of Act No. 1-2011, as amended, to read as follows:

“Section 1061.21.- Payment of estimated tax by individuals

(a) ...

(e) Temporary Provisions.- Notwithstanding the foregoing, for the first taxable year beginning after December 31, 2012, any individual that is required to pay estimated income tax shall:

(1) On or before the twenty-fifth (25<sup>th</sup>) day of the tenth (10<sup>th</sup>) month of said taxable year, shall pay the estimated income tax for said taxable year in an amount equal to fifty percent (50%) of the difference between:

(A) the estimated income tax for said taxable year determined as provided in Section 6041.09(a)(2) of this Code, and

(B) the sum of the estimated income tax paid, if any, in each one of the first three installments for said taxable year, and

(2) On or before the fifteenth (15<sup>th</sup>) day of the first (1<sup>st</sup>) month of the taxable year following said taxable year, shall make an estimated income tax payment equal to the amount required to be paid under paragraph 1 of this subsection.”

Section 16.- Subsection (e) is hereby added to Section 1061.23 of Act No. 1-2011, as amended, to hereby read as follows:

“Section 1061.23.- Estimated Income Tax Payment by Corporations

(a) ...

(e) Temporary Provisions.- Notwithstanding the foregoing, for the first taxable year beginning after December 31, 2012, any corporation that determines

its income tax based on a natural year and is required to pay an estimated income tax shall:

(1) On or before the twenty-fifth (25<sup>th</sup>) day of the tenth (10<sup>th</sup>) month of said taxable year, shall pay the estimated income tax for said taxable year in an amount equal to fifty percent (50%) of the difference between:

(A) the estimated income tax for said taxable year determined as provided in Section 6041.10(a)(2) of this Code, and

(B) the sum of the estimated income tax paid, if any, in each one of the first three installments for said taxable year, and

(2) On or before the fifteenth (15<sup>th</sup>) day of the twelfth (12<sup>th</sup>) month of the taxable year, shall make an estimated income tax payment equal to the amount required to be paid under paragraph 1 of this subsection.”

Section 17.- Subsection (a) of Section 1062.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1062.04.— Requirement of Estimated Income Tax Payment Attributable to Distributive Share of a Resident Partner or a Nonresident U.S. Citizen Partner in a Special Partnership. —

(a) Requirement to Withhold.- The partner to whom the administration of the special partnership has been delegated, or any other persons to whom the obligation to furnish the report described in subsection (b) of Section 1061.06 to the partners has been delegated, shall determine and remit the amount resulting from paragraph (1) or (2) of this subsection, minus the amount withheld, pursuant to Sections 1062.02 and 1062.03, whichever is greater:

(1) thirty percent (30%) of the estimated amount of a partner’s distributive share of special partnership income, which partner is a resident individual, nonresident United States citizen, or a Puerto Rico resident estate or trust, and in the case of a domestic or resident foreign corporation, an amount

equal to thirty percent (30%) of the item described in Section 1114.06(a)(10) plus the tax rate applicable to earnings or profits of the special partnership that are subject to taxation at a preferential rate, in accordance with the provisions of Subchapter C of Chapter 2 of Subtitle A or any applicable special law; or

(2) the amount resulting from the computation provided in Section 1023.10 by the partner's distributive share of gross income for the periods specified in subsection (b) of this Section.

(b) ...”

Section 18.-Subsection (a) of Section 1062.05 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1062.05. – Requirement of Estimated Income Tax Payment on Distributive Share of a Corporation of Individuals’ Income. –

(a) Requirement to Withhold.- The corporation, or any other persons to whom the obligation to furnish the report described in subsection (b) of Section 1061.07 to shareholders has been delegated, shall determine and remit the amount resulting from paragraph (1) or (2) of this subsection, minus the amount withheld, pursuant to Sections 1062.02 and 1062.03, whichever is greater:

(1) thirty percent (30%) of the estimated amount of a shareholder's distributive share of a corporation of individuals' income described in Section 1115.04(b)(10) plus the tax applicable to the earnings or profits of the corporation of individuals that are subject to taxation at a preferential rate, in accordance with the provisions of Subchapter C of Chapter 2 of Subtitle A or any applicable special law; or

(2) the amount resulting from the computation provided in Section 1023.10, by the shareholder's distributive share of gross income for the periods specified in subsection (b) of this Section.

(b) ...”

Section 19.- Subsection (a) of Section 1062.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1062.07.- Required Estimated Income Tax Payment Attributable to the Distributive Share of a Partner in a Partnership or of a Member of a Limited Liability Company subject to the Provisions of Chapter 7 of Subtitle A of this Code.-

(a) Requirement to Withhold. – The partner or member to whom has been delegated the administration of a partnership or limited liability company subject to the provisions of Chapter 7 of this Subtitle, or any other persons whom have been delegated the duty to deliver the report to the partners as described in subsection (b) of Section 1061.03 or to deliver the report to the direct members of a limited liability company subject to the provisions of Chapter 7 of this Subtitle, the report described in subsection (b) of Section 1061.04, shall determine and remit the amount resulting from paragraph (1) or (2) of this subsection, minus the amount withheld in accordance with Sections 1062.02 and 1062.03, whichever is greater:

(1) thirty percent (30%) of the estimated amount of a partner or member’s distributive share of the items described in paragraphs (1) through (3), (10), and (11), as applicable, of subsection (a) of Section 1071.02; plus the applicable tax rate on the income or profits of the partnership or limited liability company subject to the provisions of Chapter 7 of this Subtitle, that are subject to taxation at a preferential rate, in accordance with the provisions of Subchapter C of Chapter 2 of Subtitle A or any applicable special law; or

(2) the amount resulting from the computation provided in Section 1023.10 by the partner’s distributive share of gross income for the periods specified in subsection (b) of this Section.

Provided, that in the case of a finance businesses, the amount to be remitted shall be the sum of items indicated in paragraphs (1) and (2) of this subsection.

(b) ...”

Section 20.-Paragraph (11) of subsection (a) of Section 1071.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1071.02.- Income and credits of partners

(a) General Rule. — ...

(1) ...

(11) other items of income, gain, loss, deduction, or credit, to the extent provided by the Secretary through regulations, including:

(i) in order to determine the alternative minimum tax of each partner pursuant to Section 1022.03 of this Code, each partner’s distributive share of: the amount of expenses incurred or paid to a related party or a home office located outside of Puerto Rico; the value of personal property purchased from such parties, as provided in Section 1022.03 of this Code; the gross income of the partnership, as defined in paragraph (1) of subsection (g) of Section 1023.10, excluding the gross income of the partnership derived from the operation of a finance business, as defined in paragraph (3) of subsection (g) of Section 1023.10;

(ii) in order to determine the alternate basic tax for each partner in accordance with Section 1021.02 of this Code, each partner’s distributive share of the partnership gross income as defined in paragraph (1) of subsection (g) of Section 1023.10, excluding the partnership gross income derived from the operation of a finance business, as defined in paragraph (3) of subsection (g) of Section 1023.10; and

(iii) the fifty percent (50%) surtax on gross income imposed under Section 1023.10(a)(2)(A) in the event that a partnership is a finance business, as determined in accordance with the provisions of said Section 1023.10.

(b) ...”

Section 21.- Paragraph (11) of subsection (a) of Section 1114.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1114.06.-Inclusion of special partnership income

(a) General Rule.

(1) ...

(11) other items of income, gain, loss, deductions, or credit, as prescribed by the Secretary through regulations, including:

(i) in order to determine the alternative minimum tax for each partner in accordance with Section 1022.03 of this Code, each partner’s distributive share of: the amount of expenses incurred or paid to a related person or a home office located outside of Puerto Rico; the value of personal property purchased from such persons, as provided in Section 1022.03 of this Code; the gross income, as defined in subsection (g) of Section 1023.10, of the Special Partnership; and

(ii) in order to determine the alternate basic tax in accordance with Section 1021.02 of this Code, each partner’s the distributive share of partnership gross income, as defined in subsection (e) of Section 1023.10.

The provisions of this subsection shall not apply to a partner that is subject to the tax imposed under Sections 1091.01(a) or 1092.01(a). For purposes of Sections 1091.01(a) and 1092.01(a), the partner’s distributive share of the special partnership’s net income shall be the total taxable amount of paragraphs (1) through (5) and (9) through (11) of subsection (a).

(b) ...”

Section 22.- Paragraph (11) of subsection (b) of Section 1115.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1115.04.- Pass-through of items to shareholders

(a) General Rule.- In determining...

(b) Income, loss, Deductions or Credit items. — Each shareholder...

(1) ...

(11) other income, gains, losses, deductions, or credit items, as the Secretary may prescribe by regulations, including each partner’s distributive share of: the gross income of the corporation of individuals, as defined in subsection (g) of Section 1023.10.

The provisions of this subsection shall not apply to a shareholder subject to the tax imposed by Section 1091.01(a), in accordance with subsection (i) of this Section. For purposes of Section 1091.01(a), the shareholder’s distributive share of the net income of the corporation of individuals shall be the total amount of paragraphs (1) through (5) and (9) through (11) of subsection (a).

(c) ...”

Section 23.- A new subsection (d) is hereby added to Section 3020.10 of Act No. 1-2011, as amended, to read as follows:

“Section 3020.10.- Excise tax Statement and Monthly Excise Tax Return

(a) ...

(b) ...

(c) ...

(d) The requirement to post bond and submit a detailed use tax declaration required under subsection (a) of this Section, shall become effective thirty (30) days after the regulations prescribed by the Secretary establishing the form and manner in which the bond required herein shall be posted take effect.”

Section 24.- Subsections (a), (h), (nn), and (rr) are hereby amended and new subsections (vv) and (ww) are hereby added to Section 4010.01 of Act No. 1-2011, as 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 expressed below, except when the context clearly indicates another meaning:

(a) Food and Food Ingredients. — Substances, whether they are liquid, concentrated, solid, frozen, dry, or dehydrated, that are sold for human consumption because of their flavor or nutritional value. Food and food ingredients exclude the following:

(1) ...

(2) ...

(3) ...

(4) ...

(5) Bakery products; provided, that this term does not include:

(i) bread,

(ii) crackers, and

(ii) any other bakery product considered as food by the Federal Nutrition Assistance Program (FNAP) and exempt from the SUT as provided in subsection (aa) of this Section;

(6) ...

(7) ...

(b) ...

(h) Merchant. – Any person engaged in the business of selling taxable items in Puerto Rico, including any wholesaler. For purposes of this Section, a

person shall be deemed to be engaged in the business of selling taxable items in Puerto Rico when:

(1) ...

(i) ...

(nn) Taxable Services.-

(1) Means any service rendered to any person, including:

(A) ...

(B) Lease; including operating leases that constitute a daily rental, as such term is defined by the Secretary; leases of motor vehicles that are essentially equivalent to a purchase, as provided in Section 1033.07(a)(3)(D), shall not be considered taxable services;

(C) ...

(D) ...

(E) ...

(2) Taxable services shall exclude the following:

(A) Services rendered to a person engaged in an income-producing trade or business activity, except the following:

(i) ...

(ii) ...

(iii) ...

(iv) Cleaning services, except for cleaning services provided to homeowner's or co-owners' associations,

(v) ...

(vi) Real property and tangible personal property repair and maintenance services (non-capitalizable), except for services provided to homeowner's or tenant's associations,

(vii) Telecommunications services, as defined in subsection (kk) of this section, ...

(viii) Waste collection services, except for waste collection services provided to homeowner's or tenant's associations, and

(ix) Operating leases that constitute a daily rental, as such term is defined by the Secretary; except for motor vehicle leases that are essentially equivalent to a purchase, as provided in Section 1033.07(a)(3)(D).

Notwithstanding the foregoing, if the above stated services are provided by a person who is a member of a controlled group of corporations or a controlled group of related entities, as defined in Section 1010.04 and 1010.05, or is a partnership that, should the rules for a group of related entities were applied, for purposes of this subsection, would be considered a component member of said group, or by another person that is part of one of said groups, the same shall be subject to the exception herein provided.

(B) ...

(E) Interest and other charges for the use of money and service fees imposed by financial institutions, as defined in Section 1033.17(f)(4), excluding bank fees subject to the provisions of clause (i) of subparagraph (A) of this paragraph;

(F) ...

(oo) ...

(rr) Use. — Includes the exercise of any right or power over a taxable item incidental to its ownership thereof, or interest on said item, including the use, storage, or consumption of any tangible promotional goods imported into Puerto Rico. Provided, that in the case of taxable items imported to 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 import or entry to Puerto Rico. The term ‘use’ shall not include:

(1) When the taxable item is subsequently the object of commerce in the ordinary course of business in Puerto Rico and whose date of import to Puerto Rico was prior to July 1, 2014. For purposes of this subsection, the terms import and date of import shall have the meaning provided in Section 3010.01(a) of this Code;

(2) ...

(3) ...

(4) the use of taxable items temporarily introduced into Puerto Rico that are directly related to film production, construction, trade shows, seminars, conventions, and other purposes, and which will be re-exported from Puerto Rico.

(ss) ...

(vv) Retail Seller or Retailer.- means any merchant who sells exclusively for individual use and consumption, without intermediary.

(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).”

Section 25.- Paragraphs (1) and (2) are hereby amended, new paragraphs (3) and (4) are hereby added to subsection (a), and subsection (b) is hereby amended of Section 4020.05 of Act No. 1-2011, as 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 part are sold shall be required to collect the sales tax as withholding agent, except for:

(1) A merchant engaged in a repair business, including services rendered under warranty, shall not be required to collect the sales tax if such service is provided after June 30, 2013, and before November 1, 2013, to a registered merchant and the service is related to the business of the merchant acquiring the service; in this case, the merchant acquiring the service shall be liable for the sales and use tax in accordance with Section 4020.04(a) of this Code

(2) A person engaged in the manufacture of any taxable item may request, subject to the Secretary's approval, and 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 to a retailer (as both terms are defined in this Subtitle) made prior to July 1, 2014; or

(3) A duly registered wholesaler who:

(A) has acquired from a local manufacturer or has imported, as the importer of record at least ninety percent (90%) of the tangible personal property he has available for resale; and

(B) has sold, at least eighty percent (80%) of his tangible personal property to resellers or eligible resellers that hold a certificate issued under Section 4050.04 or Section 4030.02 of the Code, respectively, may request, subject to the Secretary's approval, and 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 July 1, 2014.

(4) A duly registered wholesaler who:

(A) for the three (3)-year period immediately preceding the date of application, or applicable period, has acquired, at least ninety percent (90%) of tangible personal property available for resale, from a manufacturer or wholesaler described in paragraph (3) of this subsection, without taking into consideration, for purposes of the formula numerator, purchases from persons among whom the losses would not be admitted under Section 1033.17(b) of this Code;

(B) for the three (3)-year period immediately preceding the date a of the application, or applicable period, has sold, at least eighty percent (80%) of tangible personal property to resellers or eligible resellers who hold the corresponding certificates issued under Sections 4050.04 or 4030.02 of the Code, respectively, without taking into consideration, for purposes of the formula numerator, the sales to persons among whom the losses would not be admitted under Section 1033.17(b) of this Code;

(C) conducts his wholesale operations with an accounting system that separates, itemizes, and identifies the sales to eligible resellers separately from retail sales; and

(D) furnishes an Agreed Upon Procedures report issued 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) at least ninety percent (90%) of tangible personal property available for resale has been acquired from a manufacturer or wholesaler described in paragraph (3) of this subsection, without taking into consideration, for purposes of the formula numerator, the purchases from persons among whom the losses would not be admitted under Section 1033.17(b) of this Code;

(ii) at least eighty percent (80%) of the merchant's sales of tangible personal property were made to resellers or eligible resellers who hold the corresponding certificates issued under Sections 4050.04 or 4030.02 of the Code, respectively, without taking into consideration, for purposes of the formula numerator, the sales to persons among whom the losses would not be admitted under Section 1033.17(b) of this Code;

(iii) the merchant has paid or collected and remitted all sales and use tax that he is required to pay or collect and remit, under Subtitle D of this Code; and

(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, may request and, subject to the Secretary's approval, and obtain a waiver whereby he/she shall be relieved from the requirement of collecting, withholding, and depositing the tax imposed under this Subtitle on the sales of taxable items made to a reseller or eligible reseller prior to July 1, 2014.

(b) Any merchant required to collect the sales tax provided in this Subtitle shall record it separately in any receipt, invoice, stub, 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 July 1, 2014, the Secretary shall determine if it would be feasible not to require that the sales tax on articles be shown separately in receipts, bills, tickets, or other evidence of sale.

(c) ...

(d) ...

(e) ...”

Section 26.- Subsections (a), (b), and (c) of Section 4020.07 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4020.07.- Collection of Sales Tax on Sales for Resale or on Sales to an Eligible Reseller.-

(a) A duly registered merchant may be relieved from the requirement of collecting, withholding, and depositing the tax imposed under this Subtitle on the sale of taxable items acquired exclusively for resale to merchants who hold a certificate of exemption duly issued by the Secretary, carried out before August 16, 2013.

(b) Except as otherwise provided in this Subtitle, any merchant who makes, before August 16, 2013, a sale for resale to a holder of a certificate of exemption shall document the exempt nature of the transaction by keeping a copy of the certificate of exemption of the purchaser, or through any other method prescribed by the Secretary.

(c) Acquisition of Articles for Resale Delivered after August 15, 2013.-

(1) Waiver.- A taxable item acquired exclusively for resale by merchants who hold a certificate of exemption duly issued by the Secretary shall qualify for the waiver of the collection of sales tax provided in this Section, if the item is ordered and paid by the purchaser before August 16, 2013.

(2) Obligation of Seller.- Any merchant who, before August 16, 2013, makes a sale for resale that meets the requirements of paragraph (1) of this subsection, to the holder of a certificate of exemption for delivery after August 15, 2013, shall document the exempt nature of the transaction by

keeping a copy of the certificate of exemption of the purchaser, or through any other method prescribed by the Secretary.

(d) ...

(e) ...”

Section 27.- Subsection (a), paragraphs (1), (3), (4), (6), and (7) of subsection (d), and paragraph (2) of subsection (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 may, subject to meeting the requirements established by the Secretary, request a certificate of exemption from the sales and use tax or a Certificate of Eligible Reseller, that exempts him/her from the payment of the sales and use tax with respect to the purchase of taxable items for sale to persons that may acquire the taxable item exempt from 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) ...

(d) When requesting a certificate of exemption or an eligible reseller certificate, merchants, to the extent applicable, shall submit to the Secretary the following:

(1) Evidence that he is a merchant eligible for obtaining a certificate of exemption, or an eligible reseller certificate, or is the holder of some exemption as established in this part;

(2) ...

(3) In the case of an eligible reseller, he shall provide a detailed description of the tangible personal property he shall buy for resale to persons that may acquire such 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; and

(4) Evidence that he has no outstanding debt whatsoever with the Department, or that he has availed himself of a payment plan with the Department, which is in effect and current at the time of the application.

(5) ...

(6) In the case of an eligible reseller that is a new business:

(A) An estimate of the volume of sales during the first two (2) years of operations, indicating the portion of such volume that constitutes sales to persons that may acquire such taxable item exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code, of non-taxable sales as provided in Chapter 1 of Subtitle D of this Code or for export ('eligible sales'), and

(B) At the request of the Secretary, a bond for his/her approval and acceptance, in an amount resulting from multiplying the volume of eligible sales for the first year of operations by seven percent (7%), or a lower amount as determined by the Secretary after evaluating the information provided by the taxpayer.

(7) In the case of an eligible reseller that is an existing business:

(A) A report showing the volume of sales during the three (3) years immediately preceding the date of the request, or applicable period, indicating the portion of such volume that constituted eligible sales, and

(B) At the request of the Secretary, a bond for his approval and acceptance, in the amount resulting from multiplying the volume of eligible sales during the three years immediately preceding the date of the request, or

applicable period, by seven percent (7%), or a lower amount as determined by the Secretary after evaluating the information provided by the taxpayer.

(e) ...

(f) Definitions.-

(1) ...

(2) Eligible Reseller.- for purposes of this Section, an eligible reseller is a duly registered merchant that acquires taxable items principally for 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 this Code, to be sold as non-taxable items as provided in Chapter 1 of Subtitle D of this Code in establishments authorized by the Puerto Rico WIC Program or for export. For these purposes, the term ‘principally’ means that during the three (3) taxable years immediately preceding the determination year, an average of eighty percent (80%) or more of the items withdrawn from inventory by the merchant has been sold to persons that may acquire such taxable items exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code, sold as non-taxable items as provided in Chapter 1 of Subtitle D of this Code in establishments authorized by the Puerto Rico WIC Program or for export.”

Section 28.- A new Section 4030.18 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 4030.18.- Exemption on care services rendered by Elderly Care Institutions

Care services provided by elderly care institutions in accordance with Act No. 94 of June 22, 1977, as amended, known as the ‘Establishment for the Elderly Act,’ authorized by the Department of the Family, consisting of admission and monthly fees attributable to such care, shall be exempt from taxation under this Subtitle. This exemption shall not apply to payments for social, recreational,

educational, and training services or any others services that are not directly related to care services.”

Section 29.- A new Section 4030.21 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 4030.21.- Waiver for merchants that are members of a program of voluntary chains or a program with a similar structure on the sales of tangible personal property acquired for resale by its members or partners prior to July 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 of September 1, 2004, as amended, is hereby exempt from the requirement of collecting, withholding, and depositing the tax provided in this Subtitle on the sales of tangible personal property acquired for resale by a member or partner of such programs prior to July 1, 2014.

(b) In order to avail himself of said exemption, the merchant that is a member of any of the aforementioned programs shall meet the requirements provided by the Secretary through regulations or any other document he is empowered to issue by law.”

Section 30.- Subsections (b) and (g) are hereby amended and a new subsection (i) is hereby added to Section 4041.02 of Act No. 1-2011, as amended, to read as follows:

‘Section 4041.02.- Monthly Sales and Use Tax Return

(a) ...

(b) Any person who has purchased taxable items subject to the use tax, except for such items covered by subsection (c) of his Section, shall file a Sales and Use Tax Monthly Return and shall remit the tax to the Secretary not later than

the tenth (10th) day of the month following the month in which the transaction subject to taxation was carried out in the forms prepared and supplied by the Secretary.

(1) In the case of merchants that import taxable items for use to Puerto Rico and, as provided in Section 4042.03 of the Code, have paid the use tax prior to the customs release (on purchases made after July 1, 2014), shall include in the Sales and Use Tax Monthly Return for the month in which the customs release occurred, the amount of the taxable items purchased and the use tax paid in connection with such items.

(c) ...

(d) ...

(e) ...

(f) ...

(g) Except as provided in subsection (h) of this section, for purposes of the segregation by municipality of the information required in the return according to subsection (a) of this section, the sale of taxable items shall be deemed to have occurred in the municipality where the premises or other place of business of the merchant is located.

(h) ...

(i) In the case of the sale of services consisting of bank fees as described in subparagraph (A) of paragraph (2) of subsection (nn) of Section 4010.0[sic.] of the Code, the determination of the municipality where the sale occurred shall be made 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 related fees shall be assigned to the financial institution's main offices in order to determine the municipality where the sale occurred. The taxable sales attributed to all commercial spaces located within the same

municipality may be shown in the monthly return of only one commercial spaces located in said municipality.”

Section 31.- Subsections (a), (c) and (d) of Section 4042.03 of Act No. 1-2011, as amended, are hereby amended to read as follows:

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

(a) In General. — The taxes imposed in this Subtitle shall be payable to the Secretary by the person liable for issuing the payment, not later than the tenth (10th) day of the month following the month in which the transaction subject to taxation was carried out, or on that other date or manner, as established through regulations promulgated by the Secretary regarding the manner, time, and conditions that shall govern the payment or deposit of said withheld taxes.

(1) Effective July 1, 2014, the use tax applicable to taxable items imported into Puerto Rico by a merchant, except the items introduced by mail, shall be paid before the taxpayer takes possession of the article.

(2) Notwithstanding the provisions of paragraph (1), in the case of taxable items imported to Puerto Rico after June 30, 2014, by a bonded merchant, as said term is defined in this Section, the tax shall be paid no later than the tenth (10<sup>th</sup>) day of the month following the month in which possession of the article was taken.

(3) The financial institutions required to collect sales tax on bank fees, pursuant to 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) ...

(c) Extension for the Payment of Use Tax on Items Imported by Merchants after June 30, 2014.-

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

(2) Bonded Merchant.- for purposes of this Section a bonded merchant is any registered merchant who:

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

(ii) posts bond to the satisfaction of the Secretary, as provided by regulations, to guarantee the total payment of the appropriate use tax and any other charges, interests, or administrative fee that may be imposed for failing 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.

(d) The time to remit the tax on taxable items imported to Puerto Rico that are subject to use tax shall be that provided in subsection (b) of Section 4041.02.”

Section 32.- Subsection (b) of Section 4042.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

‘Section 4042.04.- Payment Method

(a) ...

(b) Any merchant with a volume of sales equal to or greater than fifty thousand dollars (\$50,000) annually, as reported in the Registry for Merchants Application or the Sales and Use Tax Monthly Return, 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.

- (c) ...
- (d) ...
- (e) ...”

Section 33.- A new subsection (c) is hereby added and the current subsection (c) is hereby renumbered as subsection (d) of Section 4050.01 of Act No. 1-2011, as amended, to read as follows:

‘Section 4050.01.- Deduction for Returned Taxable Items

- (a) ...
- (b) ...

(c) Taxable items returned by a merchant holding a reseller certificate.

(1) Return of Taxable Items During the Month of the Sale.- When a registered merchant-buyer holding a Reseller Certificate returns taxable items to a merchant-seller during the month of the sale, the seller shall refund the amount of the sales and use tax collected from and paid by the buyer, if any. The seller may, in turn, deduct the sales price of the returned taxable items from the total gross sales to be reported by the seller in the monthly sales and use tax return corresponding to the month in which the return was made.

(2) 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.- When a registered merchant holding a Reseller Certificate returns taxable items to a merchant after the close of the month in which the sale was made and said registered merchant has failed to pay the sales tax payment to the merchant-seller related to the returned taxable items, the merchant-seller may deduct the sales price of the taxable items returned from

the total gross sales to be reported in the monthly sales and use tax return corresponding to the month in which the return was made.

(ii) Registered merchant that paid the sales tax to the seller prior to returning the taxable items.- When a registered merchant holding a Reseller Certificate returns taxable items after the close of the month in which the sale was made and said registered merchant has paid the sales tax to the merchant-seller, said merchant-seller shall not refund the amount of the sales tax collected from the buyer. Moreover, the merchant shall not deduct the sales price of the returned taxable items from the total gross sales to be reported in the monthly sales and use tax return corresponding to the month in which the return was made.

(d) ...”

Section 34.- 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 use tax paid on the taxable item in the manner provided by the Secretary and as provided below.

(2) The credit shall be claimed in the Sales and Use Tax Monthly Return up to a maximum of seventy percent (70%) of the tax liability shown in said return. Provided, that if the merchant fully complies with the provisions of Section 6054.02 of this Code he may claim a one hundred percent (100%)-credit in lieu of a seventy percent (70%) credit.

(b) Credit Carryforward

(1) If the credit provided in this Section exceeds the sales and use tax to be paid in the corresponding Monthly Sales and Use Tax Return, such excess may be carried forward to subsequent Monthly Sales and Use Tax Returns until it has been used in its entirety.

(2) Unless the taxpayer establishes to the Secretary, through the documents required by the latter, his inability to recover, by claiming future credits, the amount accumulated and not used, the Secretary may authorize other repayment mechanisms or use thereof, including a refund.”

Section 35.- A new paragraph (2) is hereby added, paragraphs (2), (3) and (4) are hereby renumbered as paragraphs (3), (4), and (5), respectively, of subsection (a), subsection (c) is hereby amended and a new subsection (f) is hereby added to Section 4050.04 of Act No. 1-2011, as amended, to read as follows:

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

(a) Credit Claim and Limitation:

(1) ...

(2) Credit Claims in Case of Returns.

(A) Return of Taxable Items During the Month of the Sale.-

Any 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 and use tax paid and refunded by the seller, if any.

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

(i) Registered merchant failed to remit the sales tax to the seller prior to returning the taxable items.- Any registered merchant holding a Reseller Certificate in accordance with the requirements of subsection (c)

of this Section that returned taxable items after the close of the month in which said items were purchased, but failed to remit the corresponding sales and use tax to the seller, shall reduce the credit to be claimed in the Monthly Sales and Use Tax Return of the month in which the return was made, for an amount equal to the credit taken in the sales and use Monthly Sales and Use Tax Return of the month or months in which a credit was claimed for the purchase of the returned taxable items.

(ii) Registered merchant that remitted the sales tax to the seller prior to returning the taxable items.- Any registered merchant holding a Reseller Certificate in accordance with the requirements of subsection (c) of this Section that returned taxable items after the close of the month in which said items were purchased and for which the corresponding sales tax was paid, shall not need to make any adjustment to the credit he is entitled to claim in the Sales and Use Tax Return of the month in which the return was made.

(3) ...

(4) ...

(5) ...

(b) ...

(c) Reseller Certificate.- Any person duly registered as a merchant that acquires taxable items for resale and is a reseller (as defined in this Subtitle) may apply for a Reseller Certificate. This certificate shall be issued by the Secretary for the purpose of identifying whether or not the merchant-reseller may claim the credit established in this Section, and not for the reseller to present it to its suppliers. Each certificate issued shall be numbered, comply with the provisions of Section 6054.02, and be valid for one (1) year. The Secretary may, at his discretion

and by a determination to such effects, limit the validity of the certificates. In order to apply for such certificate, the merchant-reseller shall:

- (1) ...
- (2) ...
- (3) ...
- (4) ...
- (5) ...
- (d) ...
- (e) ...

(f) The Secretary is hereby empowered to establish just and appropriate procedures as are necessary for challenging debts of merchants that apply for a Reseller Certificate. Swift and efficient processes shall be established which shall not hinder the main objectives of this Act.”

Section 36.- Subsection (a) of Section 6041.09 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6041.09.- Addition to the Tax in Case of Failure by Individual to Pay Estimated Income Tax.-

(a) In case of failure to pay an installment of the estimated income tax within the period established or in the case of any underpayment of estimated tax, unless it is established, to the satisfaction of the Secretary, that such nonpayment or underpayment was due to a reasonable cause and not due to willful carelessness, there shall be added to the tax ten percent (10%) of the installment not paid. For these purposes, the estimated tax shall be:

(1) Taxable Years Beginning Before January 1, 2013.-

(A) Ninety percent (90%) of the tax for such taxable year, in the case of individuals, other than farmers, who exercise an option under Section

1061.22(a) or sixty-six and two-thirds percent (66 2/3%) of the tax so determined, in the case of farmers, or

(B) The total of the tax determined, as shown on the income tax return for the preceding taxable year, whichever is less.

(2) Taxable Years Beginning After December 31, 2012.- The lesser of:

(A) Ninety percent (90%) of the tax for such taxable year, in the case of individuals, other than farmers, who exercise an option under Section 1061.22(a) or sixty-six and two-thirds percent (66 2/3%) of the tax so determined, in the case of farmers, or

(B) the greater of:

(i) the total of the tax determined, as shown on the income tax return for the preceding taxable year, or

(ii) an amount equal to the tax computed at the rates and under the law applicable to the taxable year using the data provided on the individual's return for the preceding taxable year.

Provided, that for the first taxable year beginning after December 31, 2012, the penalty imposed in this subsection shall not be applied so long as the estimated tax (computed as established in this paragraph) is paid pursuant to Section 1061.21(e) of this Code.

Subparagraph (B) of this paragraph shall not apply if the preceding taxable year was a taxable year of less than twelve (12) months, or the return filed by the individual for such preceding taxable year did not show a determined tax, without taking into consideration any credit to which the individual would have been entitled, including credits for taxes withheld or paid. Provided that, for the purposes of this paragraph, any credit for income taxes paid or accrued during the taxable year to the United States, any possession of the

United States, or any foreign country to which the individual is entitled shall be taken into consideration.”

Section 37.- Subsection (a) of Section 6041.10 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6041.10.- Failure by Corporation to Pay Estimated Income Tax

(a) In case of failure to pay an installment of the estimated income tax within the prescribed period or in the case of any underpayment of estimated tax, unless it is established, to the satisfaction of the Secretary, that such nonpayment or underpayment was due to a reasonable cause and not due to willful carelessness, there shall be added to the tax ten percent (10%) of the installment not paid. For these purposes, the estimated tax shall be:

(1) Taxable Years Beginning Before January 1, 2013.- The lesser of:

(A) ninety percent (90%) of the tax of such taxable year, or

(B) the total of the tax determined, as shown on the income tax return filed for the preceding taxable year, whichever is less.

(2) Taxable Years Beginning after December 31, 2012.- The lesser of:

(A) ninety percent (90%) of the tax for such taxable year, or

(B) the greater of:

(i) the total of the tax determined, as shown on the income tax return filed for the preceding taxable year, or

(ii) an amount equal to the tax computed at the rates and under the law applicable to the taxable year using the data provided on the corporation’s return for the preceding taxable year.

Provided, that for the first taxable year beginning after December 31, 2012, the penalty imposed in this subsection shall not apply:

(A) In the case of corporations that compute their net income based on a calendar year; provided that the estimated tax (calculated as provided in this paragraph) is paid as provided in Section 1061.23(i) of this Code, or

(B) In the case of corporations that compute their net income based on a fiscal year; provided, that the estimated tax (calculated as provided in this paragraph and taking into consideration any amount of estimated tax paid corresponding to any past due installments, if any) is paid in equal instalments on or before the due date for the payment of estimated tax installments that are due after September 15, 2013.

Subparagraph (B) of this paragraph shall not apply if the preceding taxable year was a taxable year of less than twelve (12) months, or if the return filed by the corporation for said preceding taxable year did not show the determined tax, without taking into consideration any credit to which it would have been entitled, including credits for taxes withheld or paid. Provided that, for purposes of this subparagraph, any credit for income taxes paid or accrued during the taxable year to the United States, any territory of the United States, or foreign country is entitled thereto shall be taken into consideration.”

Section 38.- A new Section 6043.08 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 6043.08.- Penalties for Violations of the Provisions of Chapter 2 of Subtitle D

(a) For Furnishing Incorrect Information.- If the Department determines that a merchant, after obtaining a sales and use tax exemption certificate under paragraphs (2) and (3) of subsection (a) of Section 4020.05, has furnished incorrect information in order to receive said exemption certificate, said merchant shall be subject to a five thousand-dollar (\$5,000) penalty.

(b) For Failure to Collect and Remit the Sales and Use Tax.- Any merchant whose tax exemption certificate issued under paragraphs (2) and (3) of subsection (a) of Section 4020.05 has been revoked in accordance with the provisions of subsection (a) of this Section, shall be liable for the total amount of the sales and use tax not collected plus the corresponding interest and surcharges and a penalty equal to fifty percent (50%) of said tax.”

Section 39.- Subsection (a) of Section 6054.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6054.02.- Business-related Demand Deposit Account System.-

(a) The Secretary shall require the establishment of an account in a local financial institution organized and authorized to do business in Puerto Rico by the Office of the Commissioner of Financial Institutions, the Public Corporation for the Supervision and Insurance of Cooperatives in Puerto Rico, or by any other regulatory entity from the Commonwealth of Puerto Rico for purposes of remitting the Sales and Use Tax to the Department of the Treasury. This requirement shall apply to businesses, even though they are not required to collect the Sales and Use Tax. The Secretary shall prescribe by regulations the processes related to this requirement.”

Section 40.- Paragraph (3) of Subsection (a) is hereby amended and a new Subsection (f) is hereby added to 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) ...  
 (1) ...  
 (2) ...  
 (3) Municipal Certificate of Exemption – Any duly registered merchant holding an Eligible 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 municipalities of the one and a half percent (1.5%) of the municipal sales and use tax established in this Section. Provided, that for periods beginning before December 1, 2013 (subject to any deferral of such date pursuant to subsection (e) of this Section) the credit provided in Section 4050.04 of this Code may be claimed against the point five percent (0.5%)-municipal tax collected by the Secretary of the one point five percent (1.5%)-municipal sales and use tax provided by this Section.

(4) ...

(5) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) The Secretary of the Treasury's authority under this Subtitle related to the deficiency assessments, collection and imposition of additions to tax, including interests, surcharges, and penalties is hereby delegated to the municipalities with respect to the portion of the municipal sales and use tax imposed in this Section and in Subtitle D of this Code. The Secretary shall retain authority to interpret and regulate the provisions of Subtitle D for purposes of the portion of the municipal sales and use tax."

Section 41.- Section 1 of Act No. 48-2013, is hereby amended to read as follows:

"Section 1.- Special Professional and Consulting Services Contribution.-

It is hereby provided that a special contribution equal to one point five percent (1.5%) of the total amount of every professional services, consulting,

advertising, training, or guidance contract, except for those awarded to non-profit entities, executed by any agency, instrumentality, or entity of the Commonwealth of Puerto Rico, public corporation, the Legislative Branch, the Office of the Comptroller, the Office of Ombudsman, and the Judicial Branch shall be imposed on such contract to be deposited in the General Fund. Municipalities are expressly excluded from this provision.

Provided, that professional, consulting, advertising, training, or guidance services rendered by individuals whose aggregate contract amount does not exceed fifty thousand dollars (\$50,000) annually, shall not be subject to the special contribution provided herein.

For the purposes of this Act, professional services shall mean that provided in Section 1 of Act No. 237-2004, as amended. Under no circumstances shall professional services exclude contracts related to public relations, communications, legal, and lobbying services, among others.

This Special contribution shall be withheld by the Department of the Treasury or by the government entity, as the case may be, at the time of issuing the payment for the services rendered.

At the time of the approval of this Act, every agency, entity, or instrumentality of the Commonwealth of Puerto Rico, public corporation, as well as the Legislative Branch, the Office of the Comptroller, the Office of Ombudsman, and the Judicial Branch, shall adopt administrative controls as appropriate to ensure that the rates or fees (per task or per hour) of the type of contract executed during Fiscal Year 2012-2013 remains unaltered for Fiscal Years 2013-2014 and 2014-2015. The agencies, entities, or instrumentalities of the Commonwealth of Puerto Rico, public corporations, as well as the Legislative Branch, the Office of the Comptroller, the Office of Ombudsman, and the Judicial

Branch shall establish guidelines to ensure that the established fees or rates are reasonable.

Under no circumstances shall the Special Professional and Consulting Services Contribution provided herein be taken or construed as a credit or deduction from the income subject to tax. However, it shall be considered an ordinary and necessary business expense, deductible under Section 1033.01 of Act No. 1-2011, as amended.”

#### Section 42.- Severability Clause

If any section, subsection, paragraph, subparagraph, clause, and item, or part of this Act were held to be null or unconstitutional by a court with jurisdiction, said holding shall not affect, impair or invalidate the remaining provisions and parts of this Act.

#### Section 43.- Effectiveness

This Act shall take effect immediately after its approval.