



LEGISLATURE OF PUERTO RICO

Office of Legislative Services

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 119 (H.B. 3604) of the 5th Session of the 14th Legislature of Puerto Rico:

AN ACT to establish an incentives plan for the payment of tax debt; to create a special fund; and to authorize the Secretary of the Treasury to issue the necessary regulation for the implementation of this Act,

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

In San Juan, Puerto Rico, today 15th of April of 2004.


Elba Rosa Rodríguez Fuentes
Director

(H.B. 3604)

(No. 119)

(Approved May 5, 2003)

AN ACT

To establish an incentives plan for the payment of tax debt; to create a special fund; and to authorize the Secretary of the Treasury to issue the necessary regulation for the implementation of this Act.

STATEMENT OF MOTIVES

The Department of the Treasury is the agency responsible for implementing and controlling the provisions of Act No. 120 of October 31, 1994, as amended, known as the "Internal Revenue Code of Puerto Rico of 1994." As part of this responsibility, it has to levy and collect, among other taxes, the following: Income Tax; Estate and Gift Tax; General Excise Taxes; Licenses and Other Duties.

The fiscal health of the Commonwealth of Puerto Rico is closely related to the amount of taxes it can raise and the collection of those taxes. On the other hand, it is important to point out that these collections endow the General Fund of the Commonwealth of Puerto Rico, as well as other Special Funds. In this sense, we must point out that public works and services rendered to our citizenry depend on the stability and the amount of collections coming into the funds of the State Treasury. It is public knowledge that, during the past two years, the economy in Puerto Rico, as well as in the United States, has gone through a period of deceleration that

affected every level of our daily life, but especially our citizens' consumer spending habits.

The Department of the Treasury of the Commonwealth of Puerto Rico understands that presently there are many taxpayers who, for reasons of an economic nature, have not been able to comply with their fiscal responsibility, although they have complied with their obligation of filing their income tax returns, and others. To such end, this Legislature consider that the present measure's incentives plan for tax debt payment is a prudent and necessary alternative that offers these taxpayers a viable option to help them discharge their fiscal responsibility, taking into consideration the particular economic situation of each taxpayer. Unlike a tax amnesty, this incentives plan does not seek to reward the evader, since the plan is not applicable to those taxpayers who have not complied with the obligation of submitting and providing information about their income.

Finally, we must point out that the majority of the funds collected under the proposed incentives plan would be deposited in the General Fund of the Commonwealth of Puerto Rico, and in that way, they would be available to deal with the needs of our people and to be assigned to those areas that require greater attention.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Granting of the Incentive

Every taxpayer, or any person acting in the latter's name, who pays taxes owed to the Department of the Treasury within the term established in this Act shall have the right to a discount in the total amount owed as established in Section 2. For purposes of this discount, the total amount owed, includes the principal as well as interest, surcharges and penalties imposed in reference to the same computed up to May 1, 2003.

Section 2.- Discount Amounts

The amount to be discounted from the tax owed shall be according to the percentage of the debt that the taxpayer pays, choosing any of the following alternatives:

Alternative	Percent of payment required on the total balance of debt	Percent of discount to grant on total balance of debt	Interest Rate applicable on the total balance of the debt to be included in payment plan
1	70	30	-
2	50	15	6
3	30	5	8
4	25	5	4

Alternative 4 shall apply only with regard to those taxpayers who, by December 31, 2002, avail themselves of ongoing payment plan through a discount on the amount or through direct payment, and the same being current at the time of requesting the incentive granted by this Act. However, these taxpayers may opt for any of the other alternatives provided in this Section. Those taxpayers who availed themselves of payment plans in effect by December 31, 2002, but who are not current at the time of requesting the incentive granted by this Act, can only apply for Alternatives 1 - 3.

In no event can the payment to be made be less than the principal of the total tax owed. Payment plans and authorizations to apply for the indicated discounts shall be made at the time of applying for the incentive. In the case of those taxpayers where the total added does not exceed the amount of one thousand (1,000) dollars, the discount to be granted shall be the totality of interests, surcharges and penalties imposed over the principal of the debt.

These taxpayers shall only pay the principal of the total owed and the alternatives enumerated in Section 2 of this Act shall not apply. Taxpayers can benefit from this alternative only if they do not object to the tax owed.

Section 3.- Term for Applying for the Incentive

Except as provided in Section 4, the incentive for payment of tax debt granted in this Act shall be effective during the period between May 1 and July 31, 2003.

Section 4.- Applicable Term in Certain Cases

In the following cases; the people, may only apply for the incentive established in Alternative 1 included in Section 2 of this Act.

(1) Taxpayers who are under intervention, fiscal audit or tax investigation, or who have requested an administrative hearing or judicial review concerning their tax liability, as determined and granted by the Secretary; and

(2) Employers or government withholding agents, including agencies, instrumentalities, public corporations and municipalities, with regard to debts for taxes withheld at the source.

Section 5.- Conditions and Limitations

The granting of the incentive awarded in this Act is subject to the following conditions and limitations:

(1) The taxpayer must be current with the payment for any tax corresponding to the 2002 fiscal year (current tax).

(2) To be able to request the incentive, the taxpayer must include in the chosen alternative the total amount owed for taxes under Act No. 120 of October 31, 1994, as amended, known as the "Internal Revenue Code of Puerto Rico of 1994" (Code) or any law preceding the Code.

(3) In the cases described in Alternatives 2 through 4, the payment plan or payroll tax withholding must be approved and accepted at the time of requesting the corresponding alternative.

(4) After having received notice concerning the tax owed, the taxpayer shall have the right to object to the same, provided he makes the claim no later than May 30, 2003. In those cases in which the Department of the Treasury determines that the challenged tax is payable, it shall be understood that the provisions of this Act are applicable to the taxpayer who objected to the same.

(5) Employers or withholding agents who are not government employers or withholding agents, can only apply for the incentive provided in Alternative 1 set forth in Section 2 of this Act.

(6) This incentive shall not apply to taxpayers against whom a criminal procedure for a tax related crime has been initiated and is pending. Neither shall it be applicable to those taxpayers who have been convicted for tax fraud.

(7) No person may apply for the incentive granted by this Act concerning taxes for fiscal year 2001 or previous years, determined in any tax return filed with the Department of Treasury after December 31, 2002.

(8) Tax debts corresponding to any fiscal year after January 1, 2002, shall not be subject to the incentive granted by this Act.

(9) Taxpayers with tax debts concerning excise tax may only apply for the incentive provided in Alternative 1 of Section 2 of this Act.

Section 6.- Officials elected by popular vote or appointed by the government with confirmation from the Senate or the Legislature, according to the laws and the Constitution of the Commonwealth of Puerto Rico shall not be eligible to apply for the benefits set forth in this Act.

Section 7.- Definitions

For the purposes of this Act, these terms shall have the following meaning:

(1) Taxpayer or person.- Shall have the same meaning established in the Code, and shall include the withholding agent in the case of taxes, the withholding of which is required by said Code.

(2) Taxes.- Includes income tax, excise taxes, estate taxes, gifts and any other tax withheld at the source according to the provisions of the Code or any previous law, including Tax Incentives Acts.

Section 8.- Authorization

The Secretary of the Treasury or his authorized representatives, are hereby authorized to establish contracts with any person or entity for assistance in the procedures that must be filed for purposes of complying with the provisions set forth in this Act.

Section 9.- Creation and Distribution of a Special Fund

A Special Fund is hereby created where the funds raised pursuant to the provisions of this Act shall be covered into, except those originating in payments corresponding to the cases described in Section 4. The income covered into this Special Fund shall be distributed as follows:

(1) Up to five (5) percent of the income raised shall be appropriated to the Department of the Treasury to be used for the implementation of the provisions set forth in this Act, and to strengthen tax levying, tax collection and control of tax evasion.

(2) The first three hundred and seventy-five million (375,000,000) dollars in excess of the five (5) percent consigned in the previous paragraph shall be deposited in the General Fund corresponding to fiscal year 2003-

2004. Any amount in excess of the one indicated herein, shall require legislative action for its use and distribution.

Section 10.- Collections Excluded From the Special Fund

The funds raised due to the provisions of this Act originating from payments made in the cases described in Section 4, shall be deposited in the General Fund of the current fiscal year.

Section 11.- Rules and Regulations

The Secretary of the Treasury shall adopt and enact the rules and regulations necessary for the administration of this Act set forth in Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico." The Secretary may also issue any administrative ruling or determination necessary to establish the guidelines or procedures applicable to the granting of incentives set forth in this Act.

Section 12.- This Act shall take effect immediately after its approval, but its provisions shall take effect from May 1, 2003 until July 31, 2003.