

(H. B. 1568)

(No. 138-2013)

(Approved November 27, 2013)

AN ACT

To amend subsections (a), (b), (c), and (e) of Section 6080.14 of Act No. 1-2011, in order to postpone the effective date of the reduction of the municipal sales and use tax to February 1, 2014; provide that said effective date may be postponed through a Concurrent Resolution; and for other purposes.

STATEMENT OF MOTIVES

Act No. 40-2013, as amended, known as the “Tax Burden Redistribution and Adjustment Act,” amended, in general terms, several provisions of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico.” Among the provisions incorporated, Section 6080.14 was amended in order to modify the municipal sales and use tax from the one point five percent (1.5%)-rate in effect to one percent (1%) as of December 1, 2013. The basis to modify the rate in effect was that the sales and use tax would be higher, since activities that were not taxable before had been incorporated therein.

In order to provide a reasonable term to gather and analyze data on the results of the new collection measures established by Act No. 40-2013, *supra*, it was determined that December 1, 2013 will be the effective date for the elimination of such percentage. Furthermore, said date was contingent on the data of the municipal sales and use tax collections for the period covered being sufficient to substitute the percentage eliminated. Otherwise, the Act itself provided for the postponement of the elimination date to February 1, 2014.

This legislation was prompted by the mandate of Act No. 40-2013, *supra*, and by the need to guarantee that the elimination of said municipal sales and use tax percentage would not affect municipal revenues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsections (a), (b), (c), and (e) of Section 6080.14 of Act No. 1-2011, as amended, is hereby amended to read as follows:

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

(a) ...

(1) Effective on February 1, 2014, the tax established in subsection (a) of this Section shall be a fixed one percent (1%), which shall be collected in its entirety by municipalities and no portion thereof shall be collected by the Secretary. The one percent (1%)-tax rate to be collected by municipalities shall be imposed pursuant to the same basis, exemptions, and limitations provided in Subtitle D of the Code, except for the exemptions provided in this Section.

(2) Municipalities, upon approval by the Municipal Assembly, may discretionarily impose the one percent (1%)-tax on food products and food product ingredients, as defined in Section 4010.01(a) of this Act. For sales made before February 1, 2014, in the case of zero point five percent (0.5%) to be collected by the Secretary from the municipal tax, the Secretary shall not collect the zero point five percent (0.5%)-tax on food products or food product ingredients, as defined in Section 4010.01(a) of this Act, and neither shall he/she collect taxes on any of the exempt food products in Section 4030.11.

(3) Credit provided under Section 4050.04

(A) The manner in which the portion of the credit provided by Section 4050.04 of the Code shall be claimed against the one percent (1%)-tax collected by municipalities by virtue of this Section, as of February 1, 2014, shall be established by the Secretary through regulations.

(4) ...

(5) ...

(b) Use of Taxes.-

(1) ...

(2) For periods prior to February 1, 2014, the moneys originating from the municipal sales and use tax, corresponding to the zero point five percent (0.5%) to be collected by the Secretary, shall be used in such proportions as provided in subsections (e)(1), (e)(2), and (e)(3) of Section 4050.06, for the purposes established in Sections 4050.07, 4050.08, and 4050.09, as applicable.

(c) Tax Collection and Payment.- All municipalities are hereby compelled to collect one percent (1%) of the tax directly or by agreements with the Secretary or with a private business. For periods prior to February 1, 2014, the Secretary shall collect zero point five percent (0.5%) of the sales and use tax established in subsection (a) of this Section. Concerning the foregoing, the tax to be collected by municipalities shall be subject to the following:

(1) ...

(d) ...

(e) The Legislative Assembly may, through Concurrent Resolution, at any time after the effective date of this Act, but before February 1, 2014, postpone the effective date of the reduction of the municipal sales and use tax from the credit to be claimed against the municipal tax and the use of funds from the point five percent (.5%) that is part of the municipal tax. If such point five percent (.5%) is reduced and/or eliminated from the municipal Sales and Use Tax, the Legislative Assembly shall set aside the necessary funds in the General Budget to make debt service payment of municipal obligations incurred prior to the effective date of the change, until their maturity, payable with the funds established in Section 4050.08

of this Code. Provided, that any balance or surplus in the funds created under Sections 4050.07, 4050.08, and 4050.09 shall belong exclusively to the corresponding municipalities.

In the event that such point five percent (.5%) of the Municipal Sales and Use Tax is reduced and/or eliminated, the Legislative Assembly shall establish through legislation the guidelines and amounts necessary to maintain the Municipal Revenues Matching Fund, the Municipal Redemption Fund, and the Municipal Improvement Fund.”

Section 2.- Severability.

If any section, subsection, paragraph, subparagraph, clause or subclause, or part of this Act were held to be void or unconstitutional by a competent court, such holding shall not affect, impair, or invalidate the remaining provisions and parts of this Act.

Section 3.- Effectiveness.

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 138-2013 (H. B. 1568)** of the **2nd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend subsections (a), (b), (c), and (e) of Section 6080.14 of Act No. 1-2011, in order to postpone the effective date of the reduction of the municipal sales and use tax to February 1, 2014; provide that said effective date may be postponed through a Concurrent Resolution; and for other purposes.

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

In San Juan, Puerto Rico, on this 1st day of December, 2016.

Juan Luis Martínez Martínez
Director