

(S. B. 789)
(Conference)

(No. 139-2013)

(Approved November 27, 2013)

AN ACT

To amend subsection (b) of Section 4050.07, subsection (c) of Section 4050.08 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to authorize and establish the procedure for distributing the municipal sales and use tax revenues in the event it is certified that it cannot be reasonably attributed to a specific municipality; authorize the distribution of funds accumulated; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 117-2006, known as the “Taxpayers Justice Act of 2006,” amended Act No. 120-1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994,” to include a sales and use tax (SUT) in Puerto Rico. Subsequently, Act No. 80-2007 established the obligation of all municipalities to collect 1.5% corresponding to the municipal SUT uniformly: 1% is transferred directly to the municipalities, whereas the remaining .5% is collected by the Secretary of the Treasury and transferred to the Government Development Bank to be distributed as follows: 0.2% to the Municipal Development Fund, 0.2% to the Redemption Fund, and 0.1% to the Improvement Fund. Likewise, Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” maintained said provisions on the municipal SUT’s collection structure.

However, since the municipal SUT began to be collected, in accordance with the aforementioned procedure, the Government Development Bank has received funds on account of the 0.5% municipal SUT that have not been identified as proceeding from a specific municipality. For such reason, said funds have not been

distributed pursuant to the provisions of Act No. 80-2007, *supra*, but have rather been set aside in a special account. Act No. 80-2007, *supra*, does not specify how the funds proceeding from the 0.5% municipal SUT collected by the Secretary of the Treasury shall be distributed in the event the municipality in which the activity that generated said revenues cannot be determined. The Internal Revenue Code for a New Puerto Rico does not address this situation either.

The Legislative Assembly is responsible for overseeing and passing legislation to ensure that all the money paid by taxpayers is used in benefit of the public interest. This measure attests to the oversight efforts made by this Administration to distribute the funds that have accumulated throughout the years absent a legislation to such effect and that shall benefit all the municipalities. The approval of this bill and the consequent distribution of accumulated funds shall swell municipal operating accounts, thus enabling municipalities to provide solid waste collection and recycling services, implement health and safety programs for the people, and carry out construction of works and capital improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection (b) of Section 4050.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.07.- Municipal Development Fund - Creation

(a) ...

(b) Responsibility of the Municipal Development Fund. - The President of the Bank shall be the official responsible for implementing the procedure to be followed for the administration of the Municipal Development Fund, including all matters related to the distribution of the moneys accrued or deposited in the Fund to be distributed among all the municipalities of Puerto Rico, as provided hereinafter, after the repayment of the one-million-dollar (\$1,000,000) contribution to defray the cost of programming the collection system of the Department of the Treasury,

as provided in subsection (h) of Section 4050.06. If there are funds corresponding to any fiscal year after Fiscal Year 2013-2014, whose municipality of origin cannot be reasonably determined by the Secretary, upon certification to such effect at the time of transferring the funds to the Bank, the Bank shall be authorized, for purposes of depositing the same in the Municipal Development Fund and of distributing or using such funds pursuant to Section 4050.07, to accumulate the same in a special account and allocate such unidentified funds to the municipalities in the same proportion identified funds were distributed in the Municipal Development Fund during said fiscal year within one hundred and twenty (120) days after the end of the corresponding fiscal year.

...”

Section 2.- Subsection (c) of Section 4050.08 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.08.- Municipal Redemption Fund - Creation

...

(c) Responsibility of the Municipal Redemption Fund. - The President of the Bank shall be the official responsible for implementing all the procedures to be followed in the administration of the Municipal Redemption Fund, as well as the granting the loans authorized by this Section, including the imposition of interests and fees, and the repayment terms. If there are funds corresponding to any fiscal year after Fiscal Year 2013-2014, whose municipality of origin cannot be reasonably determined by the Secretary, upon certification to such effect at the time of transferring the funds to the Bank, the Bank shall be authorized, for purposes of depositing the same in the Municipal Redemption Fund and of distributing or using such funds pursuant to Section 4050.08, to accumulate the same in a special account and allocate such unidentified funds to the municipalities in the same proportion

identified funds were distributed in the Municipal Redemption Fund during said fiscal year within one hundred and twenty (120) days after the end of the corresponding fiscal year.

...”

Section 3.- Distribution of Accrued Funds

If there are funds accumulated in the Bank corresponding to any fiscal year prior to the approval of this Act, originating from the 0.5% municipal SUT collected by the Secretary of the Treasury, and the municipality where the activity that generated such revenues occurred cannot be determined, the Bank shall set aside twenty percent (20%) of said funds and deposit the same in the Municipal Improvement Fund to be distributed to the Municipalities as provided in Section 4050.09 of Act No. 1-2011, as amended. The remaining eighty percent (80%) shall be distributed by the Bank to the municipalities in accordance with the formula established in subsection (c) of Section 4050.07 of Act No. 1-2011, as amended, and shall allocate said unidentified funds to municipalities in the same proportion identified funds have been usually distributed in the Municipal Development Fund since the creation thereof. The funds distributed pursuant to this Section shall be used for the purposes described in subsection (g) of Section 4050.07 of Act No. 1-2011, as amended.

Section 4.- Severability

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

Section 5.- Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 139-2013 (S. B. 789) (Conference)** of the **2nd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend subsection (b) of Section 4050.07, subsection (c) of Section 4050.08 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to authorize and establish the procedure for distributing the municipal sales and use tax revenues in the event it is certified that it cannot be reasonably attributed to a specific municipality; authorize the distribution of the funds accumulated; and for other related purposes.

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

In San Juan, Puerto Rico, on this 21st day of December, 2016.

Juan Luis Martínez Martínez
Director