

(H. B. 1524)  
(Conference)

**(No. 163-2013)**

(Approved December 25, 2013)

## **AN ACT**

To create the “Effective Tax Oversight Mechanisms Act”; amend subsection (a) of Section 10 of Act No. 113 of July 10, 1974, as amended, better known as the “Municipal License Tax Act”; amend subsection (c) of Section 6.03 of Act No. 83-1991, as amended, better known as the “Municipal Property Tax Act of 1991”; amend subsection (A) of Section 15.01 and subsection (A) of Section 15.03 of Act No. 164-2009, as amended, better known as the “General Corporations Act for the Commonwealth of Puerto Rico”; amend subsection (b) of Section 1031.01, amend subsection (a) of Section 1033.17, add a new subsection (c) to Section 1040.04, amend subsection (a), add a new subsection (b), and amend and renumber current subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, of Section 1061.15; add a new Section 1063.14, amend subsections (a) and (b) of Section 6041.11, amend Section 6051.02, amend Section 6051.07, add a new Section 6051.18, add a new Section 6073.01, add a new Section 6073.02, add a new Section 6073.03, add a new Section 6073.04, and add a new Section 6073.05 to Act No. 1-2011, as amended, better known as the “Internal Revenue Code for a New Puerto Rico,” in order to establish the most efficient oversight mechanisms, introduce technical amendments, and make specific interpretive clarifications; provide for the regulations, transitory clauses, and fund allocations; among others.

## **STATEMENT OF MOTIVES**

The mission of the State is, in modern society, 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 mission, since they have an impact on all of aspects of the citizen’s individual, family, and professional lives. Our people deserves and demands a strong government entity with financial resources to provide the people with tools and with the vision and strength to face the challenges of the 21st century.

With the recent approval of Act No. 40-2013, known as the “Tax Burden Redistribution and Adjustment Act,” and Act No. 117-2013, Act No. 1-2011, and other tax statutes were amended in order to address the fiscal situation of our Island responsibly and equitably for our people. Our Administration is committed to achieving a tax system where all of the components include simple provisions that make compliance therewith feasible and, in turn, maximize the collection of each of these taxes, among other objectives. For such reasons, through these amendments, we are modifying the filing requirements of financial statements for purposes of income taxes, real property taxes, and municipal licenses in order to adjust them to the current needs of each of the fiscal authorities responsible for such taxes. In doing so, we shall provide these fiscal authorities with more tools to ensure that they are able to discharge their overseeing duties which are essential for our system to be regarded by all taxpayers as a fair one.

Act No. 117, *supra*, introduced some mechanisms that allow for the Department of the Treasury to enhance their oversight efforts. In order to improve revenue collections and oversight in a correct and appropriate manner across the components of the tax system, we cannot continue to delay the standardization of other instances that may constitute additional revenues for the State. For such reason, this Legislative Assembly deems it appropriate to promote these amendments to Act No. 113 of July 10, 1974, as amended, better known as the “Municipal License Tax Act,” Act No. 83-1991, as amended, better known as the “Municipal Property Tax Act of 1991,” Act No. 164 of December 16, 2009, as amended, better known as the “General Corporations Act for the Commonwealth of Puerto Rico,” and Act No. 1-2011, better known as the “Internal Revenue Code for a New Puerto Rico,” in order to clarify their scopes and content.

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

Section 1.- Title

This Act shall be known as the “Effective Tax Oversight Mechanisms Act.”

Section 2.- Paragraph (1) of subsection (a) of Section 10 of Act No. 113 of July 10, 1974, as amended, is hereby amended to read as follows:

“Section 10.-

(a) Date of Statement.-

(1) General Rule.- On or before...

(A) Sales volume less than...

(B) Sales volume in excess of three million dollars (\$3,000,000) annually.-

(i) Financial statements audited by a certified public accountant licensed by the Commonwealth of Puerto Rico. For the purposes of this Act, audited financial statements shall be understood as a general balance sheet, a profit and loss statements, a cash flow statement, and the corresponding notations to the financial statements; and

(ii) Supplemental information, underlying financial statements and other records used to prepare financial statements and submitted to audit procedures applied when a financial statement audit is conducted by a certified public accountant holding a valid license to practice in Puerto Rico establishing the following:

(I) the total gross income earned on the rendering of any service or the sale of any good (gross sales) or other business activity;

(II) a breakdown of the items composing the category of other income;

(III) in case of store sales or trade stores, in addition to the foregoing, the returns total;

(IV) in the case of gas stations, the number of gallons of fuel sold and the requirements provided in paragraphs I and II above; and

(V) for business operating under a decree or tax exemption, a statement in detail of the income items generated from the exempt business and those generated from a taxable business, if any.

Every statement must be accompanied by the documents described below when pertinent, except for business operations...

(2) ...

(b) ...”

Section 3.- Subsection (c) of Section 6.03 of Act No. 83-1991, as amended, is hereby amended to read as follows:

“Section 6.03.- Personal Property Tax Return

(a) ...

(b) ...

(c) Revised tax returns and tax returns enclosed with financial statements audited, and other documents prepared by certified public accountants.-

Every corporation, except for nonprofit corporations and without capital stock, and/or for profit corporations whose volume of business does not exceed three million dollars (\$3,000,000) annually, shall file their tax return revised by a certified public accountant licensed by the Commonwealth of Puerto Rico:

(1) Financial statements (general balance sheet, profit and loss statements, cash flow statements, and the corresponding notations to the financial statements) corresponding to the last year of operation of the corporation; and

(2) Supplemental information, underlying financial statements and other records used to prepare financial statements and submitted to audit procedures applied when a financial statement audit is conducted by a certified public accountant holding a valid license to practice in Puerto Rico whereby the following is established:

(A) The amount of the inventory for each of the months of the calendar year as determined using any method accepted under the US Generally Accepted Accounting Principles or under this Act, except for the inventory valuation method known as ‘LIFO’(LAST IN FIRST OUT);

(B) The amount of the inventory reserves, if any, for each month of the calendar year; and taxable year, if different from the calendar year;

(C) The amount of cash, classified as cash in bank as of January 1st, and the amount of cash deposited in a financial institution before January 1st, which was credited to the bank account after January 1st; and in the case of a business operating under a decree or tax exemption, an itemization of the value recorded in the books of such assets that, as of January 1st, are not being used in the exempt business; and

(D) The amount of inventory adjustments, if any, for each month of the calendar year; and the taxable year, if different from the calendar year.

(d) ...”

Section 4.- Subsection (A.) of Section 15.01 of Act No. 164-2009, as amended, is hereby amended to read as follows:

“Section 15.01.- Domestic Corporations; Annual Reports; Books and Other Documents in Puerto Rico.-

A. Every corporation organized under the laws of the Commonwealth shall annually file with the office of the Department of State, or over the Internet, not later than the fifteenth (15th) day of April, a report certified, under penalty of

perjury, pursuant to Section 1.03 (A) and (B), by an authorized official, a director or the incorporator.

The report shall contain:

1. A financial statement prepared in accordance with generally accepted accounting principles showing the financial condition of the corporation at the close of its operations, duly audited by a certified public accountant licensed by the Commonwealth, who is neither a stockholder nor an employee of such corporation, together with the corresponding opinion of such certified public accountant.

Nonprofit and noncapital stock corporations and for-profit corporations whose volume of business does not exceed three million dollars (\$3,000,000) shall be required to render a Financial Statement. It shall not be required for such financial statement to be enclosed with an audit report prepared by certified public accountant.

2. ...

3. ...

B. ...”

Section 5.-Subsection (A.) of Section 15.03 of Act No. 164-2009, as amended, is hereby amended to read as follows:

“Section 15.03.- Foreign Corporations; Annual Reports

Every foreign corporation, whether or not for profit, authorized to do business in Puerto Rico shall annually file with the offices of the Department of State, or over the Internet, not later than the fifteenth (15th) day of April, a certified report, pursuant to Section 1.03(B) of this Act.

The report shall include:

A. A financial statement prepared in conformity with generally accepted accounting principles, showing the financial condition of the corporation at the close of its operations, duly audited by a certified public accountant licensed by the Commonwealth of Puerto Rico, who is neither a stockholder nor an employee of the corporation, together with the corresponding opinion of such certified public accountant.

Nonprofit and noncapital stock foreign corporations and foreign for-profit corporations whose volume of business in Puerto Rico does not exceed three million dollars (\$3,000,000) shall be required to render a financial statement. It shall not be required for such financial statement to be enclosed with an audit report prepared by certified public accountant.

B. ...

C. ...”

Section 6.- Clause (iv) is hereby added to subparagraph (A), and a clause (v) is hereby added to subparagraph (B) of paragraph (10) of subsection (b) of Section 1031.01 of Act No. 1-2011, as amended, to read as follows:

“Section 1031.01.— Gross Income. —

(a) ...

(b) Exclusions from Gross Income.- The following items shall be excluded from the definition of gross income:

(1) ...

(10) Income from the cancellation of indebtedness. —

(A) Exclusion. — The income derived from the cancellation of indebtedness shall not be subject...

(i) ...

(ii) ...

(iii) ...

(iv) Cancellation of indebtedness arising from the restructuring of a mortgage loan secured by the qualified residence of the taxpayer. The term ‘qualified residence’ shall have the meaning provided in Section 1033.15(a)(1)(D), except that for purposes of this clause, the residence shall be located in Puerto Rico. For purposes of this subparagraph:

(I) The original mortgage loan amount may not exceed one million dollars (\$1,000,000).

(B) Reduction of tax attributes. - The amount excluded under this paragraph shall be applied to reduce the tax attributes of the taxpayer in the following order:

(i) ...

(ii) ...

(iii) ...

(iv) ...

(v) In the case of a cancellation of a mortgage loan under clause (iv) of subparagraph (A) of this paragraph, the amount of the cancelled indebtedness excluded from gross income shall reduce directly the tax base of the qualified residence, but never below zero.

(11) ...

(12) ...”

Section 7.- Subparagraph (C) of paragraph (16) of subsection (a) of Section 1033.17 of Act No. 1-2011, as amended, is 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:

(i) 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,

(ii) a Home Office located outside of Puerto Rico, by a foreign corporation engaged in a trade or business in Puerto Rico through a Branch office, 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) ...

(18) ...

(b) ...”

Section 8.- A new subsection (c) is hereby added to Section 1040.04 of Act No. 1-2011, as amended, to read as follows:

“Section 1040.04.- Taxable Year for Which Deductions and Credits Taken

(a) ...

(b) ...

(c) Amounts owed to a related party that is a foreigner or a nonresident not engaged in a trade or business in Puerto Rico.-

(1) In general.- Any amount owed to a related party (as defined in Section 1010.05 of this Code) that is a foreigner or a nonresident not engaged in a trade or business in Puerto Rico that, otherwise, is deductible under Section 1033.01 of this Code, shall not be deductible by the taxpayer until such amount is paid to any such related parties.

(2) Amounts covered under this paragraph.- This subsection applies to amounts that would otherwise have been deductible and that are described in Sections 1091.01(a)(1)(A)(i) and 1092.01(a)(1)(A)(i).”

Section 9.- Subsection (a) is hereby amended, a subsection (b) is hereby added, and current subsections (b), (c), and (d) are hereby amended and renumbered as subsection (c), (d), and (e), respectively, of Section 1061.15 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1061.15.- Requirement to Submit Financial Statements or Other Documents with the Returns. –

(a) Financial Statements.- Any business, including an individual business, corporation, partnership, special partnership, limited liability company, corporation of individuals, insurance company, registered investment company, special employee-owned corporation, association, cooperative, real estate investment trust or any other entity engaged in a trade or business or in the generation of income in Puerto Rico, shall submit financial statements enclosed with its income tax return subject to the following requirements:

(1) When the business volume during a taxable year is lower than one million dollars (\$1,000,000), the business shall not be required to submit the financial statements required by this Section.

(2) When the...

- (3) When the business volume...
- (4) Any group...
- (5) In the case of foreign entities...
- (6) The requirement to...

(b) Supplemental information, underlying financial statements and other records used to prepare financial statements and submitted to audit procedures applied when a financial statement audit is conducted by a certified public accountant holding a valid license to practice in Puerto Rico for taxable years beginning after December 31, 2012.-

(1) Any business, including an individual business, corporation, partnership, special partnership, limited liability company, corporation of individuals, insurance company, registered investment company, special employee-owned corporation, association, cooperative, real estate investment trust or any other entity engaged in a trade or business or in the generation of income in Puerto Rico, shall submit together with its income tax return, supplemental information, underlying financial statements and other records used to prepare financial statements and submitted to audit procedures applied when a financial statement audit is conducted by a certified public accountant holding a valid license to practice in Puerto Rico, as established below:

(A) When the business volume during a taxable year is lower than one million dollars (\$1,000,000), the business shall not be required to submit the supplemental information required by this Section.

(B) When the business volume during a taxable year is equal to or greater than one million dollars (\$1,000,000), but less than three million dollars (\$3,000,000), the business may opt to submit the supplemental information required by this Section. Any business that is current in its tax liability and that opts to include, under this paragraph, the required supplemental information shall be

entitled to a full or partial waiver by the Secretary, as provided in subsection (g) of Section 1062.03 of this Code, from being subject to the withholding at the source provided in Section 1062.03, on payments received for services rendered.

(C) When the business volume during a taxable year is equal to or greater than three million dollars (\$3,000,000), the business shall submit the supplemental information required by this Section.

(2) To meet the requirements of this paragraph, the supplemental information, underlying financial statements and other records used to prepare financial statements and submitted to audit procedures applied when a financial statement audit is conducted by a certified public accountant, shall establish the following:

(A) for all taxpayers, that the withholdings on the payment of wages and their respective deposits have been made as required in Section 1062.01 of the Code;

(B) for all taxpayers, that the withholdings on services rendered and their respective deposits have been made as required in Section 1062.03 of this Code;

(C) for all taxpayers, that the business has deposited the full amount of the tax withheld on payments to nonresidents, as required in Subchapter B of Subtitle A of this Code;

(D) for all taxpayers, that the use tax reported and its respective deposits have been made as required in Subtitle D of this Code;

(E) for all taxpayers, that the sales tax reported and its respective deposits have been made, reduced by any credit for sales tax paid on the purchase of tangible personal property acquired for resale to which they are entitled, as required in Subtitle D of this Code;

(F) for all taxpayers, the total of credits generated from the purchase of tangible personal property acquired for resale, the amount of such credits used in the monthly returns, and the balance of unused credits at the beginning and end of the taxable year, as required in Subtitle D of this Code;

(G) for all taxpayers, that the expense accounts recorded in the accounting books do not include personal expenditures of the partners, stockholders, members, owners, employees or relatives of any of them.

(i) The certified public accountant, in his professional judgment, shall determine which expense accounts are likely to be used to record personal expenditures not related to the business, taking into account the particularities of the trade where it operates.

(ii) Some of the accounts to be analyzed shall include, but not be limited to,

(I) Maintenance

(II) Repairs

(III) Representation

(IV) Workshops, Trainings, and Education

(V) Reimbursements

(VI) Vehicle and Transportation

(VII) Travel

(VIII) Miscellaneous Expenses (others)

(iii) If there are exceptions, there shall be included an itemization of the personal expenses included in the accounts, the amount of each of these, and in which account are they included;

(H) for all taxpayers, that the use tax has been paid when tangible personal property has been disposed of for less than its cost in exchange for a service or maintenance contract;

(I) for all taxpayers, the amount of wages reported in Form 499R2/W2PR, as well as other payments, reimbursements, or compensations made to owners, stockholders, partners, or members, including payments made on their behalf, if any;

(J) for all taxpayers, that the total wages paid during the year is consistent with the amount reported in Form W-3PR and in the event that the close of the year is different from that of the calendar year, the information shall be validated with the information in the quarterly returns;

(K) for all taxpayers, verify the correctness of the services rendered reported as expenses in forms 480.6 filed with the Department of the Treasury, plus the payment of services rendered of less than five hundred dollars (\$500.00);

(L) for all taxpayers, verify the correctness of the lease expenses reported in the forms 480.6 filed with the Department of the Treasury;

(M) for all taxpayers, the balance at the end of the taxable year of the loans made to partners, members, or stockholders or, if applicable, to the members of a controlled group as such term is defined in Section 1010.04, or an affiliated group as such term is defined in Section 1010.05 of the Code;

(N) in the case of a business operating under a decree or tax exemption, that the business meets, as applicable, the requirements of the decree or exemption, including but not limited to, the job requirement, the investment requirement, that the income reported in the return as exempt was generated from the business activity covered by the decree, and the volume of sales requirement;

(O) in the case of construction business for contracts exceeding one million dollars (\$1,000,000):

(i) that the sales and use tax has been paid for the purchase of construction materials;

(ii) the accounting method used and if the use thereof for such taxable year was authorized under this Code;

(iii) if the completion percentage method is used, that the percentages of completion of each project have been certified by an engineer; and

(iv) when applicable, that the amount shown in the books as withheld represents the total amounts withheld for works or projects that have not been accepted as completed by the owner of such work or the developer;

(P) in the case of hospital units operating under Act No. 168 of June 30, 1968, as amended:

(i) that the amount reported as ‘eligible payroll’ complies with the definition of this term under said Act, and

(ii) that the credit claimed in a return by the hospital unit meets the requirements established in Section 1(a) of such Act; and

(Q) in the case of financial institutions:

(i) that the amount reported as interest expense in the income tax return does not include the interest expense attributable to any income earned on exempt interests accrued on exempt obligations after December 31, 1987, as provided in Section 1033.17(f) of this Code and the regulations;

(ii) that the amount reported as expenses, other than interest expenses, does not include expenses attributable to exempt income; and

(iii) a detailed description of the methodology used to determine the nondeductible expenses in accordance with clause (ii) above;

(3) The Secretary shall establish a mechanism whereby the certified public accountant shall submit the supplemental information electronically.

(c) For purposes of...

(d) For purposes of...

(e) The Secretary shall establish...”

Section 10.- A new Section 1063.14 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1063.14.- Information Return on Cancellation of Indebtedness

(a) Every creditor that claims a deduction for a loss related to the cancellation of indebtedness shall submit to the debtor that benefited from such cancellation an information return not later than February 28 of the calendar year following the date of the of the cancellation of indebtedness. Said declaration shall include such information and shall be made in such a form as the Secretary prescribes through regulations, circular letter, bulletin, or any other administrative communication of a general nature. If the creditor fails to submit the information return as required in this Section, any deduction to which he may be entitled as a result of the cancellation of indebtedness shall be denied.”

Section 11.- Paragraph (8) is hereby amended and a new paragraph (9) is added, and current paragraph (9) is hereby renumbered as paragraph (10) of subsection (a), and paragraph (1) of subsection (b) of Section 6041.11 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6041.11. – Penalty for Failure to File Certain Information Returns, Reconciliation Statements and Returns, Transaction Reports, Securities Broker or Trader Declarations. –

(a) ...

(1) ...

(8) the information return of the division, merger, or transfer of real estate required by Section 11 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,”

(9) the information return on cancellation of indebtedness required in Section 1063.14, or



(10) any other...

(b) ...

(1) For every return required under Sections 1062.01(n)(2), 1062.08, 1062.11, 1063.01(a), 1063.02, 1063.03, 1063.04, 1063.05(a), 1063.06, 1063.12, 1063.13, and 1063.14, five hundred dollars (\$500);

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...”

Section 12.- Section 6051.02 of Act No. 1-2011, as amended, is hereby amended to read as follows.

“Section 6051.02.- Examination of Books and Witnesses

(a) To determine Taxpayer’s liability.-

In order to determine the correction of any tax return or statement, or with the purpose of preparing a tax return when none had been filed, the Secretary may, through any official or employee of the Department of the Treasury, examine any books, papers, records, or memoranda pertinent to the matters that should be included in the tax return or declaration, and he may require the appearance of the person filing the tax return or statement, or the appearance of any official or employee of said person, or the appearance of any other person who is knowledgeable about the issue in question, and take their statements with respect to those matters required by law to be included in said tax return or declaration, with the authority to administer oaths to such person or persons.

The Secretary may hire personnel skilled in tax matters to examine any books, papers, records, or memoranda pertinent to the matters that should be included in the tax return or declaration, as well as to provide technical support to

the officials or employees of the Department of the Treasury; provided, that the person hired by the Secretary to discharge the functions described in this subsection shall be subject to the provisions of Sections 6030.13, 6030.17, and 6030.18 relating to prohibited or unlawful actions of the officials and employees of the Department of the Treasury, even when the person hired is not an employee of the Department of the Treasury.

(b) ...

(c) In those instances when the Secretary hires skilled personnel on tax matters to examine any books, papers, records, or memoranda pertinent to the matters that should be included in the tax return or declaration, as well as to provide technical support to the officials or employees of the Department of the Treasury, such hired personnel shall:

(i) be a duly qualified person with the credentials that empower him to conduct technical analysis on taxation;

(ii) be a Certified Public Accountant licensed to practice the profession in Puerto Rico;

(iii) be part of a public contractors registry as established by the Secretary to keep control of the hired personnel and the retribution thereof.”

Section 13.- Section 6051.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6051.07.- Final Agreements

(a) ...

(b) ...

(c) Every final agreement shall establish expressly that those provisions related or applicable to taxation events which occurred after the execution of the agreement shall be subject to any statutory amendment approved after the date of execution of the aforementioned agreement.

(d) ...

(e) The Secretary shall establish a registry of Final Agreements whereby - each Agreement executed by a taxpayer is identified. Every taxpayer may have online access to the registry and only to those agreements that such taxpayer has executed with the Department of the Treasury.”

Section 14.- A new Section 6051.18 is hereby added to Act No. 1-2011, as amended, to read as follows:

“6051.18.- Disclosure of Information About Delinquent Tax Debtors

(a) In accordance with the provisions of Section 1001.01 of this Code, and in compliance with the ministerial duty of administering tax laws, the Secretary may publish a list or lists of taxpayers that have outstanding tax debts as imposed by this Code when, according to the bylaws adopted by the Department, taxpayers are deemed to be in default. The foregoing includes both taxpayers’ and withholding agents’ debts.

(b) The Secretary shall establish through regulations the criteria that shall govern the publication of information and the parameters for the debt to be disclosed, including the amounts, type, and information to be published regarding which, upon exhausting the procedures that guarantee the due process of law, it shall be understood that there is no expectation of confidentiality. The aforementioned regulations shall established the service of notice to the taxpayer about the publication of the debt in default and the process to be followed in order to prove that the publication thereof is unwarranted and the exclusions. It shall also provide for the updating of the information upon publication.

(c) Prior to the publication of the list provided by this Section, the Secretary:

(1) shall document every step of the process established through regulations, as well as certify that the appropriate procedures were used to guarantee the accuracy of the information;

(2) shall notify taxpayers in a timely and appropriate manner; and

(3) shall grant a term for the taxpayers to challenge or pay the debt, in accordance with the registries of the Department.”

Section 15.- A new Section 6073.01 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 6073.01.- Provisions Related to Certified Public Accountants

(a) For purposes of this Subchapter, a Certified Public Accountant shall be understood to be a person who:

(1) is duly authorized to practice the certified public accountant profession in Puerto Rico; and

(2) has issued an opinion on the supplemental information required under Section 1061.15.”

Section 16.- A new Section 6073.02 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 6073.02.- Requirements, Duties, and Rights of the Certified Public Accountant

(a) Any person who is authorized by the Department to practice the certified public accountant profession for purposes of opining on the supplemental information required in Section 1061.15, shall discharge the following duties and meet the following requirements:

(1) to retain the opinion issued on the supplemental information, records and documents that support the preparation and evaluation of such information for a four (4)-year term, following the date of issue thereof;

(2) to reply, within the term and under the conditions to be established, to the requirements for information of the Secretary regarding the supplemental information required in Section 1061.15, and submitted by a taxpayer enclosed with the income tax return thereof;

(3) to file electronically with the Department in the form and manner established by the Secretary through Regulations, the supplemental information required under Section 1061.15 to be prepared as requested by any taxpayer.

(b) Any notice or requirement for information from the Secretary relating to the supplemental information required under Section 1061.15 shall be issued to the name of the taxpayer and the certified public accountant, simultaneously.”

Section 17.- A new Section 6073.03 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 6073.03.- Revocation of Privilege

The Secretary may revoke or suspend the privilege of opining on the supplemental information for purposes of meeting the requirements of Section 1061.15, to any certified public accountant who willfully and knowingly has made a misrepresentation with respect to the supplemental information furnished with the intent to defraud. In view of this situation, the Secretary shall be required to refer the certified public accountant to the Board of Accountancy College of Certified Public Accountants of Puerto Rico for the corresponding disciplinary action.”

Section 18.- A new Section 6073.04 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 6073.04.- Criminal Penalties

Any certified public accountant who intentionally opines on the supplemental information required under Section 1061.15 knowing that such information is false shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not greater than five thousand dollars (\$5,000) or by imprisonment for a maximum term of ninety (90) days or both penalties at the discretion of the Court, plus any costs incurred during the proceeding.”

Section 19.- A new Section 6073.05 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Civil Fine for Conspiracy between a Certified Public Accountant and a Taxpayer

When the Secretary has clear and conclusive evidence proving conspiracy between the certified public accountant and the taxpayer in the preparation of the supplemental information, required under Section 1061.15, and the opinion issued with respect thereto, an administrative process shall begin against those two persons as follows:

(a) A fine equal to the taxpayer’s deficiency, as determined from the misrepresentations made in the supplemental information submitted, shall be imposed on the certified public accountant, plus any interests and penalties, as applicable, which fine shall be assessed, collected, and paid as if it were a deficiency, up to a maximum of twenty-five thousand dollars (\$25,000) for each case; and

(b) A fine equal to fifty percent (50%) of the deficiency imposed, as determined from the misrepresentations made in the supplemental information submitted, shall be imposed on the taxpayer, including any interests, surcharges, and penalties, which fine shall be assessed, collected, and paid as if it were a deficiency.”

#### Section 20.- Transitory Clause

A grace period of one (1) year upon the approval of this Act shall be established for every taxpayer in connection with any surcharge, fine, or penalty relating to the deficiencies that may arise upon submitting the additional information herein provided for. The foregoing notwithstanding, the taxpayer shall be required to pay off the outstanding balance of the principal as well as any interests accrued on such tax liability, as determined by the Secretary of the Treasury.

#### Section 21.- Rulemaking Authority

The Department of the Treasury is hereby empowered to provide through regulations, circular letter, or administrative determination the scope, guidelines, standards, and definitions, among others, as are appropriate and necessary to clarify the interpretation and implementation of this Act.

#### Section 22.- Fund Appropriation

In order to improve the oversight process of the Department, the sum of one million dollars (\$1,000,000) is hereby appropriated to the Department of the Treasury for Fiscal Year 2014-15 for the following purposes:

- (a) The mechanization of the filing and processing of supplemental information required in accordance with Section 1061.15 of the Code.
- (b) The acquisition of computer equipment necessary to achieve the aforementioned objective.
- (c) The training of personnel and the establishment of processes and procedures as are necessary to use the information required under Section 1061.15 of the Code.

For fiscal years following 2014-15, the Department shall include this amount in its budget request.

Section 23.- Severability

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

Section 24.- Effectiveness

This Act shall take effect immediately after its approval, except for the provisions of Section 9, which shall apply to taxable years beginning after December 31, 2012.



## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 163-2013 (H. B. 1524) (Conference)** of the **2<sup>nd</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to create the “Effective Tax Oversight Mechanisms Act”; amend subsection (a) of Section 10 of Act No. 113 of July 10, 1974, as amended, better known as the “Municipal License Tax Act”; amend subsection (c) of Section 6.03 of Act No. 83-1991, as amended, better known as the “Municipal Property Tax Act of 1991”; amend subsection (A) of Section 15.01 and subsection (A) of Section 15.03 of Act No. 164-2009, as amended, better known as the “General Corporations Act for the Commonwealth of Puerto Rico”; amend subsection (b) of Section 1031.01, amend subsection (a) of Section 1033.17, add a new subsection (c) to Section 1040.04, amend subsection (a), add a new subsection (b), and amend and renumber current subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, of Section 1061.15; [...]

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

In San Juan, Puerto Rico, on this 6<sup>th</sup> day of April, 2018.

Orlando Pagán-Ramírez  
Director