

(H. B. 2210)

**(No. 17-2020)**

(Approved January 12, 2020)

## **AN ACT**

To amend Sections 1035.01 and 1035.02 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to clarify the tax treatment on contracts for services rendered to the Government of Puerto Rico from outside of Puerto Rico; amend Section 2 of Act No. 73-2008, as amended, known as the “Economic Incentives Act for the Development of Puerto Rico,” in order to clarify the scope of the definition of any industrial unit established to produce any manufactured product at commercial scale; and for other related purposes.

### **STATEMENT OF MOTIVES**

This Legislative Assembly is committed to continuously reviewing the tax provisions in effect and ensuring that said provisions are consistent with the legislative intent and not subject to interpretations contrary thereto. Consistent with the foregoing, we deem it pertinent to clarify that all services rendered outside of Puerto Rico shall be considered as income from sources within Puerto Rico when: (1) the services are rendered by any individual, other than an employee, and juridical entity to any branch of the Government of Puerto Rico or any other entity created by federal or state law; and (2) the services are rendered under a contract that is not filed with the Office of the Comptroller of Puerto Rico; provided that said contract, by virtue of Act No. 18 of October 30, 1975, as amended, or any regulation promulgated by the Comptroller, is not expressly exempt from the disclosure requirement that governs government contracting, which requires that contracts be filed with the Office of the Comptroller of Puerto Rico. Given the

nature of contracts and of services rendered by an employee as such term is defined in the Internal Revenue Code for a New Puerto Rico, services rendered by them outside of Puerto Rico shall continue to be treated as income from sources outside of Puerto Rico, whether or not said employment contracts are filed with the Office of the Comptroller.

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

Section 1.- Subparagraph (A) of paragraph (3) of subsection (a) of Section 1035.02 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” is hereby amended to read as follows:

“Section 1035.01.- Income from Sources Within Puerto Rico.-

(a) Gross Income from Sources within Puerto Rico.- The following items of gross income shall be treated as income from sources within the Puerto Rico:

- (1) ...
- (2) ...
- (3) Personal Services.- ...

(A) Exception.- Beginning on August 1, 2019, in the case of services rendered by any individual, other than an employee, as defined in this Code in Section 1062.01, corporation, limited liability company, or partnership to any agency, entity, or instrumentality of the Government of Puerto Rico, public corporation, as well as to the Legislative Branch, the Judicial Branch and the municipalities or any other entity created by federal or state law, under a contract that is not filed with the Office of the Comptroller of Puerto Rico; provided that said contract, by virtue of Act No. 18 of October 30, 1975, as amended, or the regulations thereunder, is not expressly exempt from the filing requirement with the Office of the Comptroller of Puerto Rico and the funds of which originate in whole or in part from the General Fund, such income shall be deemed to be income

from sources within Puerto Rico, even when the service is rendered outside of Puerto Rico.

(4) ...

...”

Section 2.- Paragraph (3) of subsection (a) of Section 1035.02 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” is hereby amended to read as follows:

“Section 1035.02.- Income from Sources Outside of Puerto Rico.-

(a) Gross Income from Sources outside Puerto Rico.- The following gross income items shall be treated as income from sources outside Puerto Rico:

(1) ...

(2) ...

(3) Beginning on August 1, 2019, compensation for work performed or personal services rendered outside of Puerto Rico, except for those rendered by any individual, other than an employee, as defined in this Code in Section 1062.01, corporation, limited liability company, or partnership to any agency, entity, or instrumentality of the Government of Puerto Rico, public corporation, as well as to the Legislative Branch, the Judicial Branch and the municipalities or any other entity created by federal or state law, under a contract that is not filed with the Office of the Comptroller of Puerto Rico; provided that said contract, by virtue of Act No. 18 of October 30, 1975, as amended, or the regulations thereunder, is not expressly exempt from the filing requirement with the Office of the Comptroller of Puerto Rico and the funds of which originate in whole or in part from the General Fund.

(4) ...

...”

Section 3.- A new clause (i) is hereby added to subparagraph (A) of paragraph (1) of subsection (d) of Section 2 of Act No. 73-2008, as amended, known as the “Economic Incentives Act for the Development of Puerto Rico,” to read as follows:

“Section 2.- Definitions.

For the purposes of this Act, the following terms, phrases and words shall have the meaning and scope stated hereinbelow:

(a) ...

...

(d) Eligible Business.-

(1) For purposes of this Act, the following shall be eligible businesses:

(A) Any industrial unit that is permanently established for the production of any manufactured product at commercial scale.

(i) Provided, that from July 1, 2019 to December 31, 2019, any entity permanently engaged in Puerto Rico in the activity described in Section 2071.01(10)(i) of Act No. 60-2019, known as the ‘Puerto Rico Incentives Code,’ shall be deemed to comply with the definition of this paragraph (A).

Section 4.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph,

subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied.

Section 5.- This Act shall take effect immediately after its approval, but the effect thereof shall be retroactive to July 1, 2019.