

(H. B. 1145)
(Conference)

(No. 29)

(Approved July 20, 2005)

AN ACT

To amend Sections 1, 3, 4, 5 and 11 of Act No. 168 of June 30, 1968, as amended, known as the “Hospital Facilities Tax Exemption Act,” in order to authorize the renewal of the tax exemption for a period of ten (10) years; to hospital units established by law, and to establish conditions.

STATEMENT OF MOTIVES

The Constitution of Puerto Rico in its Section 9 of Article II imposes on the Legislature the duty to approve legislation for the protection of the life, health, and the welfare of the People. To such ends, this Legislature has the duty to ensure the rendering of health care services to our citizens, whether by public or private facilities. In the case of private facilities that render these services to the people, it is fundamental for them to count on the support of the Government of Puerto Rico to promote the availability and quality of services.

Act No. 168 of June 30, 1968, as amended, known as the “Hospital Facilities Tax Exemption Act,” provides certain tax incentives to hospital facilities or units in order to promote the establishment of new hospital institutions and to collaborate with these institutions in facing the high cost of the rendering of services. The Legislature set forth as the public policy of the Commonwealth the renewal of the referred incentive every ten (10) years according to the needs of the sector and the social and economic realities of

the Island. Since 1968, the Legislature has consistently renewed this tax incentive as a measure to ensure stability in the rendering of health services. The last renewal of incentives was made through Act No. 27 of March 3, 1995. According to the provisions of such Act, the incentives would be effective until December 31, 2004, thus the tax exemption is not in effect at present.

As it has been done in the past, we are once again before the need of extending such tax exemptions for a period of ten (10) years. This Legislature deems it necessary to renew this economic incentive as a measure to promote the development of new facilities for the rendering of health services. In the same manner, this Act is necessary in order to collaborate with hospital facilities in facing the high costs of operating and rendering the medical-hospital services. Furthermore, the Act also serves as a mechanism to lessen the crisis in cases of medical malpractice faced by physicians and hospitals of the Island. The expiration of the exemption period granted by Act No. 27 of March 3, 1995 and the social and economic reality faced by hospital facilities make it imperative for this Legislature to extend the tax exemptions granted to the hospitals of the Island as an incentive to ensure the availability and quality of health services.

Through this Act, a tax credit attached to the hospital's payroll expenses is also created. The tax exemption for hospital facilities established by this law, is hereby extended for a period of ten (10) years. This Act is part of the commitment contracted by this Parliamentary Majority and supported by the People of Puerto Rico in the past general elections.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 1 of Act No. 168 of June 30, 1968, as amended, known as the “Hospital Facilities Tax Exemption Act,” is hereby amended to read as follows:

“Any natural or juridical person who, upon prior compliance with the formalities of this chapter, engages in the operation of a hospital unit, as said term is hereinafter defined, shall be exempted for a period of ten (10) years from the payment of the provisions in subsection (d) of this Section, in addition, may opt to avail themselves of the tax credit equivalent to the provisions of subsection (a) of this Section.

(a) A tax credit of up to fifteen (15%) percent of the total eligible payroll expenses which may be used to defray up to fifty (50%) percent of the income tax determined by Subchapter A of the Puerto Rico Internal Revenue Code of 1994, as amended. Provided, that those entities that have obtained or obtain tax exemption under Section 8501 (4) of this title shall keep the total tax exemption provided in said Section.

(a) ...

(b) ...

(c) ...

(d) ...

Provided, that no contractor or subcontractor or a natural or juridical person who engages in the operation of a hospital unit shall be subject to any tax, right, license, excise tax, rate or tariff for the construction of works to be devoted to the operation of any hospital unit within any municipality imposed by any ordinance of any municipality.

Every natural or juridical person engaged in the operation of a hospital unit, who as of January 1, 2005, has availed him/herself of the tax exemption benefits provided in this Act, may continue to do so for an additional term of ten (10) years once the present exemption concludes. Those natural or juridical persons engaged in the operation of a hospital unit and whose benefits expired prior to January 1, 2005, may avail themselves of the tax exemption benefits for an additional period of ten (10) years, upon filing an application to such effects with the Secretary of the Treasury within sixty (60) days after the approval of this amendatory Act, and if all other requirements of this Act are complied with.

This additional ten (10) year period shall take effect on the date of the filing of the application to such effects before the Secretary of the Treasury. Likewise, those natural or juridical persons who organize to operate a hospital unit after the effective date of this amendment shall enjoy the tax exemption benefits contemplated in the same, provided they file an application to such effects before the Secretary of the Treasury within sixty (60) days after such organization.

After the completion of the period of five (5) or two (2) years, according to the case of extension of the tax exemption provided in this Act, the entities wishing to avail themselves of this tax benefits shall annually submit to the Secretary of the Treasury the certificates of compliance described in subsection (h) of Section 3 of this Act, as well as all other requirements.

The extension of the tax exemption period for ten (10) years shall only be granted to natural or juridical persons who are up to date in their tax responsibilities imposed by any of the applicable laws, or who are up to date in the tax payment plan to which they have availed themselves of.

The tax exemption benefits established in this Section shall cease as of the first year in which the natural or juridical person who has availed him/herself of the same fails to pay any taxes.

Every natural or juridical person enjoying the benefits of this Act shall file before the Secretary of the Treasury each year, on or before the last day of his/her taxable year, a certification from the Secretary of Health establishing that the facilities and medical services rendered are of medical excellence. Failure to comply with this provision or an unfavorable finding by the Secretary of Health shall constitute sufficient grounds to revoke the exemption granted by this Act. The inspection costs incurred by the Secretary of Health to the effects of issuing the abovestated certificate shall be reimbursed by each entity that availed itself of the benefits of this Act.”

Section 2.- Section 3 of Act No. 168 of June 30, 1968, as amended is hereby amended by adding a subsection (h) to read as follows:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) Submit to the Secretary of the Treasury certificates of compliance with the applicable laws relative to the health and the rights of patients, which shall be issued by the Department of Health and the Office of the Investigating Official for Patients. Provided, that the certificate shall only be denied if there is a final unfavorable finding on the applying entity.”

Section 3.- Section 5 of Act No. 168 of June 30, 1968, as amended, is hereby amended by adding a subsection (d) to read as follows:

“Section 5.- Definitions

(a) ...

(d) Eligible Payroll – “Eligible Payroll” shall be those expenses incurred in the payment of payroll of the personnel rendering direct services to patients. Payroll expenses of subcontracted personnel shall not be deemed part of the eligible payroll.”

Section 4.- Section 11 of Act No. 168 of June 30, 1968, as amended, known as the “Hospital Facilities Tax Exemption Act,” is hereby amended to read as follows:

“Section 11.- Effectiveness

The provisions of this Act shall be applicable with respect to taxable years commencing after December 31, 1968. The application for tax exemption and credit exemption under this Act shall be received by the Secretary of the Treasury until December 31, 2015. This Act is retroactive to January 1, 2005.”

Section 5.- Any natural or juridical person who avails him/herself of these benefits shall be bound to file an annual report on the perspective of hospitalization costs in Puerto Rico before the Legislature.

Section 6.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 29 (H.B. 1145) (Conference) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 1, 3, 4, 5 and 11 of Act No. 168 of June 30, 1968, as amended, known as the “Hospital Facilities Tax Exemption Act,” in order to authorize the renewal of the tax exemption for a period of ten (10) years; to hospital units established by law, and to establish conditions,

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

In San Juan, Puerto Rico, today 6th of March of 2006.

Francisco J. Domenech
Director

