

(H. B. 1715)
(Conference)

(No. 49)

(Approved August 13, 2005)

AN ACT

To amend subsection (k) of Section 6 of Act No. 135 of December 2, 1997, as amended, known as the “Tax Incentive Act of 1998,” to increase the withholding tax rate on royalties, revenues and license fees paid to non-residents of Puerto Rico, from a maximum of ten (10%) percent to fifteen percent (15%).

STATEMENT OF MOTIVES

The “Tax Incentives Act of 1998,” as amended (the Act) was created as an instrument to achieve the economic development of Puerto Rico through the creation of better employment opportunities for the residents of Puerto Rico. Generally, the same sought to reduce the costs of doing business in Puerto Rico, reduce the bureaucracy and complexity of incentive programs, stimulate the generation of local capital, and promote the development of strategic industries and small and medium businesses.

Throughout the years, the laws that have promoted the economic development of Puerto Rico have provided the necessary flexibility to the concerned public agencies to conduct negotiations with manufacturers that ponder the possibility of engaging in an industry or business in the Island. The objective of these negotiations is to achieve a balance between the needs of the manufacturers and the economic and social benefit of the Commonwealth of Puerto Rico. However, these negotiations usually begin in the Industrial Development Company and, subsequently, the Secretary of

the Treasury is consulted on the effect of the proposed transactions on the Treasury.

The Secretary of the Treasury, by law, has the flexibility of negotiating the tax rate on royalties, revenues, and license fees. Experience has shown that at times, the exempted businesses are willing to accept an increase in the payment of withheld taxes. Due to the above, we deem it necessary to increase the rate so that the Secretary of the Treasury has greater flexibility to negotiate the current tax rate on royalties, revenues, and license fees, taking always into account the fiscal solvency and welfare of the Commonwealth of Puerto Rico. The funds to be collected by virtue of the provisions of this Act shall only be used to defray the expenses of the Department of Education, as provided by the Joint Resolution of the General Budget to be approved for the operation of the government in each fiscal year.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- This Act shall be known as the “Act to Provide a Better Educational Future to our Children.”

Section 2.- Subsection (k) of Section 6 of Act No. 135 of December 2, 1997, as amended, is hereby amended to read as follows:

“Section 6.- Exemptions.-

(a) ...

(k) Royalties, Revenues and License Fees. Notwithstanding any legal provisions, a fifteen percent (15%) tax shall be levied and collected in lieu of any other tax imposed by law, if any, in the case of payments made by exempted businesses that hold a decree granted under this Act to nonresident corporations, partnerships or persons, for the use or the privilege to use

patents, copyrights, formulas, technical skills and other similar property in Puerto Rico. The Secretary of the Treasury may recommend the imposition of a tax lower than fifteen (15%) percent, but never lower than two (2%) percent, provided that such tax reduction is determined to be in benefit of the best economic and social interests of Puerto Rico, in consideration to the special nature of the particular exempted business, or of any other benefit or factor that in his/her judgment merits such determination. The exempted business that makes said payment shall deduct and withhold said tax and report and remit the same to the Secretary of the Treasury pursuant to the provisions of the “Puerto Rico Internal Revenue Code.”

(1) ...”

Section 3.- Effectiveness

This Act shall take effect immediately after its approval and its effect shall be subject to the enactment of the House Joint Resolution No. 445 of the General Budget for fiscal year 2005-2006.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 49 (H.B. 1715) (Conference) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection (k) of Section 6 of Act No. 135 of December 2, 1997, as amended, known as the “Tax Incentive Act of 1998,” to increase the withholding tax rate on royalties, revenues and license fees paid to non-residents of Puerto Rico, from a maximum of ten (10%) percent to fifteen percent (15%),

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

In San Juan, Puerto Rico, today 2nd of November of 2005.

Francisco J. Domenech
Director