

(H. B. 2175)

(No. 16)

(Approved January 20, 2006)

AN ACT

To amend Sections 1, 2, 3, and 4; to amend subsections (a) and (d) of Section 5, amend Sections 6, 7, 8, and 9; to add a new Section 10; redesignate Section 10 as Section 11 and amend said Section; to redesignate Section 11 as Section 12 and amend said Section of Act No. 168 of June 30, 1968, in order to clarify and correct certain technical errors incorporated by Act No. 29 of July 20, 2005.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 1 of Act No. 168 of June 30, 1968, as amended, is hereby amended to read as follows:

“Section 1.- “Any natural or juridical person who, prior compliance with the formalities of this Act, engages in the operation of a hospital unit, as said term is hereinafter defined, may enjoy for a period of ten (10) years the following benefits:

- (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 Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994,” on the net income arising from the rendering of medical-hospital services in a hospital unit.
- (b) Full exemption from the payment of property taxes or that portion of the property, whether real or personal, provided that said properties are used to render medical-hospital services, belong to a

hospital unit and are located within the perimeters of the institution whose area, for the purpose of the exemption granted herein, is limited to a total of ten (10) *cuerdas*. The exemption on the land area in cases of hospital units under Section 5(a)(4) is limited to one (1) *cuerda*.

- (c) Full exemption from the payment of Commonwealth excise taxes on all kinds of equipment, machinery and devices, (excluding spare parts and accessories therefor) which are expressly designed for the medical diagnosis and treatment of human diseases and introduced by or consigned to the hospital unit.
- (d) Full exemption in the payment of licenses, excise taxes and any other type of municipal taxes; Provided, that no contractor or subcontractor of a natural or juridical person who engages in the operation of a hospital unit shall be subject to any tax, duties, fees, 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. This additional ten (10) year period shall take effect after the date the application to such purpose is filed before the Secretary of the Treasury.

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 not later than January 31, 2006, and if all other requirements of this Act are complied with. This additional ten (10) year period shall take effect for tax year beginning after December 31, 2004.

The ten (10) year period shall only be granted to natural or juridical persons who are up to date in their tax responsibilities imposed by any Commonwealth or municipal ordinance laws, that apply or who are up to date in the tax payment plan of which they have availed themselves of. This exemption shall also be subject to the natural or judicial person's being up to date in their compliance with their tax responsibilities.

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. 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.

The entities which obtain or have obtained tax exemption under paragraph (4) of Section 1101 of the Puerto Rico Internal Revenue Code of 1994, shall keep the full income tax exemption provided in said Section.”

Section 2.- Section 2 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 2 – Bonds, obligations and promissory notes.

The bonds, promissory notes, or other obligations as well as fifty (50) percent of the interest thereon, issued by natural or juridical persons who construct, modernize, or operate hospital units during the time said persons enjoy the benefits granted by this Act, shall be exempted from all types of taxes, provided that the funds collected by the issuance of bonds, promissory

notes, or other obligations issued are used to pay the expenses of the construction, modernization or extension of the hospital unit.”

Section 3.-Section 3 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 3.- Benefits – Requirements

The benefits granted by this Act are subject to the condition that the natural or juridical person devoted to a hospital unit:

(a) That the stockholders or partners, in the case of a juridical person, do not owe any kind of taxes.

(b) ...

(c) Submits together with the request for exemption mentioned in Section 4, an inventory of all real and personal property belonging thereto at the time the request is prepared in the form and manner determined by the Secretary of the Treasury.

(d) ...

(e) Complies with the requirements established by Section 5.01(f) of Act No. 83 of August 30, 1991, as amended, in all that may be applicable.

(f) Is a facility certified for the rendering of services, and renders services to Medicare patients. The facility bearing said certification shall lose the benefits of this Act, if:

(1) ...

(g) ...

(h) Submits 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 4.- Section 4 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 4.- Granting

The Secretary of the Treasury shall grant, upon previous examination and evaluation of the petition submitted by the interested party, in consultation with the Secretary of Health, the benefits established in this Act, to any natural or juridical person applying therefore, if he finds that the granting thereof is necessary and convenient to enlarge or modernize the hospital facilities and the medical services to the general community. Likewise, the Secretary of the Treasury is hereby empowered to revoke the granted benefits, after the corresponding administrative hearing, if he finds that the requirements and conditions of this Act and its regulations have not been complied with.”

Section 5.- Subsections (a) and (d) of Section 5 of Act No. 168 of June 30, 1968, as amended, are hereby amended, to read as follows:

“Section 5.- Definitions.-

(a) Hospital Unit – the term “hospital unit,” as used in this Act, includes only those natural and juridical persons, or combinations thereof, which may begin operations or whose facilities may be built after this Act becomes effective and shall mean:

(1)...

(b)...

(d) Eligible Payroll – “Eligible Payroll” shall be those expenses accrued or incurred in the payment of the payroll of the personnel rendering direct medical-hospital services. Payroll

expenses of subcontracted personnel shall not be deemed part of the eligible payroll.”

Section 6.- Section 6 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 6.- Subcontracting

Subcontracting of high technology medical services that involve a substantial investment for the diagnosis, and/or treatment of human diseases by a hospital facility shall be allowed. The contracted natural or juridical person may request the benefits provided in this Act, provided that evidence can be presented to the satisfaction of the Secretary of the Treasury, that such subcontracting is necessary and convenient to increase the medical services offered by the hospital facility.

Any subcontracting which offers high technology medical services for the diagnosis and/or treatment of human diseases which owing to, without it being limited to, the high cost of equipment, technical personnel and necessary facilities cannot be defrayed by the hospital facility, shall be deemed necessary and convenient.”

Section 7.- Section 7 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 7.- Distribution of dividends or benefits

The stockholders or partners of a hospital facility exempted under the provisions of this Act, shall be subject to a ten (10) percent tax on the distribution of dividends or benefits from the net income of the operations of the corporation or partnership covered by the benefits provided in this Act, which tax shall be in lieu of any other tax, if any, levied by law, and which the corporation or partnership shall deduct and withhold at the source and

inform and remit to the Secretary of the Treasury, as established in the Puerto Rico Internal Revenue Code of 1994.”

Section 8.- Section 8 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 8.-Accounting Systems

The persons covered by the benefits provided by this Act shall keep in Puerto Rico an accounting system which clearly shows their gross income, expenses, and other deductions regarding the rendering of medical-hospital services. In addition, they shall include in their income tax return and their property tax returns, in an attached sheet, a profit and loss statement of the operations exempted and a breakdown of all personal property exempted on account of the effects of this Act.”

Section 9.- Section 9 of Act No. 168 of June 30, 1968, as amended, is hereby amended, to read as follows:

“Section 9.- Transfer of Business

If any person transfers the hospital unit with respect to which he/she is enjoying the benefits under this Act, said transfer shall be notified to the Secretary of the Treasury of Puerto Rico and the acquirer shall enjoy, if he continues rendering the same services, the benefits provided by this Act for that portion of the exemption period which has not elapsed, provided that the Secretary of the Treasury in consultation with the Secretary of Health approves said transfer.”

Section 10.- A new Section 10 is hereby added to Act No. 168 of June 30, 1968, as amended, to read as follows:

Section 10.- Revocation

The Secretary of the Treasury shall revoke the benefits granted by this Act if the concessionary hospital unit or any of its members fails to make the

payment, ninety (90) days after the appraisal of any debt or deficiency of any tax, including without it being limited to, municipal license taxes or construction excise taxes. Likewise, the Secretary of the Treasury shall revoke the benefits granted by this Act, if any failure in the payment of any tax payment plan is not settled within ninety days following the notice of such non-compliance.

Failure to comply with the requirement of the annual submittal of the Certification of the Secretary of Health or an unfavorable certification from the Secretary of Health shall also be sufficient cause for the Secretary of the Treasury to revoke the benefits granted under this Act.

Every revocation issued by the Secretary of the Treasury shall take effect after the first day of the year in which the natural or juridical person owes taxes, as determined by final and binding judgment, fails to comply with the installment plan of taxes, or fails to submit the certification of the Secretary of Health or an unfavorable certification is issued.”

Section 11.- Section 10 is hereby redesignated as Section 11 of Act No. 168 of June 30, 1968, as amended, and is hereby amended, to read as follows:

“Section 11.- Regulations

The Secretary of the Treasury is hereby empowered to promulgate those rules and regulations that are necessary to administer the provisions of this Act, pursuant to Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act.” Likewise, he/she shall be responsible for publishing annually, in two newspapers of general circulation in Puerto Rico, a list of the natural or juridical persons who have availed themselves of the provisions of this Act.”

Section 12.- Section 11 is hereby redesignated as Section 12 of Act No. 168 of June 30, 1968, as amended, and is hereby amended, to read as follows:

“Section 12.- Effectiveness

The provisions of this Act shall apply with respect to taxable years commencing on December 31, 1968.”

Section 13.- Effectiveness

This Act shall take effect immediately after its approval, but its provisions shall become effective after July 20, 2005.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 16 (H.B. 2175) of the 3th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 1, 2, 3, and 4; to amend subsections (a) and (d) of Section 5, amend Sections 6, 7, 8, and 9; to add a new Section 10; redesignate Section 10 as Section 11 and amend said Section; to redesignate Section 11 as Section 12 and amend said Section of Act No. 168 of June 30, 1968, in order to clarify and correct certain technical errors incorporated by Act No. 29 of July 20, 2005,

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

In San Juan, Puerto Rico, today 15th of November of 2006.

Francisco J. Domenech
Director

