

(H. B. 1445)

**(No. 41)**

(Approved January 27, 2006)

**AN ACT**

To amend subsection (a) of Section 3301 of Subtitle C of the Internal Revenue Code of 1994, as amended, in order to establish an alternative mechanism to obtain an estate exemption letter, when the final estate tax return of a decedent resident of Puerto Rico contains properties located in Puerto Rico; and to amend clauses (1) and (2) of subsection (a) of Section 3434 of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code,” to increase to fifteen thousand (15,000) dollars the sum that heirs, legatees, or beneficiaries of a decedent may withdraw from the decedent’s bank accounts without having to obtain the lien certificate or request the authorization of the Secretary of the Treasury.

**STATEMENT OF MOTIVES**

The requirement of filing a Tax Return on estate which only contains a property located in Puerto Rico is an onerous burden for and a prolongation of the waiting time of the heirs and the surviving spouse. At present, the estate exemption of the Department of the Treasury is required by insurance companies and the Property Registry, among other government agencies and for withdrawal at the time the beneficiaries’ claim what is rightfully theirs by vested rights. The waiting time for the declaration of heirship or letter testamentary, in case the decedent has left a will, is of several months, and we should add to this the waiting time for the “Exemption of the Department of the Treasury,” so that the heirs or

surviving spouse can dispose of the estate. Section 3052 of the Internal Revenue Code of 1994 establishes the deductions relative to properties located in Puerto Rico. Thus, said properties, as part of the estate, are exempted from the payment of taxes to the Treasury.

With the purpose of simplifying and expediting the liquidation of estates, and considering the financial urgency frequently experienced after the death of a family member who probably was an important source of sustenance for a Puerto Rican family, this Legislative majority deems it necessary to modify the requirements to obtain an estate tax return exemption when properties are located in Puerto Rico.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Subsection (a) of Section 3301 of Subtitle C of The Internal Revenue Code of 1994, as amended, is hereby amended to read as follows:

“Section 3301.- Final Return on Estate Tax

(a) Final Return to be filed by the Administrator.- Every Administrator, within the term of two hundred seventy (270) days immediately following decedent’s death shall file with the Secretary under oath, a final return in triplicate pursuant to the requirements which by regulations the Secretary shall determine, in which the estate tax imposed by Chapter 2 of this Subtitle shall be assessed; provided, that the Secretary shall have a term not to exceed ninety (90) days to issue his/her opinion on those properties located in Puerto Rico which have been included in the final estate tax return. If the Secretary fails to issue his/her opinion, the Administrator shall require from the Department of the Treasury a certification of filing of the estate tax return which

shall indicate that the term prescribed therefor by this Section has elapsed and that the same replaces the indicated exemption; this certification shall serve as an official attesting document before any administrative agencies, including the Property Registry and the Courts of Justice to continue with the transactions relative to the disposition of those properties located in Puerto Rico that have been included in said final return.

(b) ...”

Section 2.- Clauses (1) and (2) of Subsection (a) of Section 3434 of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994”, are hereby amended to read as follows:

“Section 3434.- Prohibited Acts Unless Production of Document Showing Cancellation of Lien.

(a) ...

(1) Courts, Notary Public, and Property Registrars.- Except in the specific case authorized by Sections 3312 and 3301 of this Subtitle, no court shall approve the partition or distribution, sale, delivery, transfer, or foreclosure of a mortgage without there being deducted and deposited in court, the product of the auction, in the name of the Secretary, the amount of the tax that the Secretary has determined or may determine as pertaining to said property, and no notary shall authorize, issue or certify any instrument of partition or distribution, sale, delivery, transfer or mortgage of such property, exempting from this prohibition the certification of instruments executed before the death of the decedent; and no property registrar of shall record in the

registry books under his/her custody, any notarial instrument, judgment or court decision, issued, entered, or rendered in connection with any partition or distribution, sale, delivery or mortgage of such property.

(2) Financial Institutions

...

No financial institution shall deliver to the heirs, legatees or beneficiaries of a decedent, the funds in the accounts of said decedent or of the latter and any other person jointly, any sum in excess of fifteen thousand (15,000) dollars or of twenty-five (25) percent of the total of said funds, whichever of the two amounts is higher, except when the delivery of a higher amount is authorized by the Secretary, pursuant to the provisions of Section 3312, or when a cancellation of the lien as provided in Section 3432, is presented to the financial institution.”

Section 3.- This Act shall take effect one hundred and eighty (180) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 41 (H.B. 1445) of the 3<sup>rd</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend subsection (a) of Section 3301 of Subtitle C of the Internal Revenue Code of 1994, as amended, in order to establish an alternative mechanism to obtain an estate exemption letter, when the final estate tax return of a decedent resident of Puerto Rico contains properties located in Puerto Rico; and to amend clauses (1) and (2) of subsection (a) of Section 3434 of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code,” to increase to fifteen thousand (15,000) dollars the sum that heirs, legatees, or beneficiaries of a decedent may withdraw from the decedent’s bank accounts without having to obtain the lien certificate or request the authorization of the Secretary of the Treasury,

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

In San Juan, Puerto Rico, today 1<sup>st</sup> of September of 2006.

Francisco J. Domenech  
Director

