

(H. B. 919)
(Reconsidered)

(No. 92)

(Approved May 16, 2006)

AN ACT

To add a new subclause (C) to clause (7) of subsection (e) of Section 1165 of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994,” to allow those individuals who are fifty (50) years old or more to make additional contributions over the limitations previously established by said Section, for the purpose of providing them with the mechanism to expedite the accrual of benefits for their retirement.

STATEMENT OF MOTIVES

Section 1165 of the “Puerto Rico Internal Revenue Code of 1994” includes a provision from the previous tax law through which tax exemptions were authorized for contributions made by individuals to employer stock bonus, pension, or profit-sharing plans for the benefit of the employees, among other matters. The purpose was to promote savings for retirement.

In 2001, the Congress of the United States approved the “Economic Growth and Tax Relief Reconciliation Act of 2001” (EGTRRA). This law arises as a result of statistical nationwide studies, including Puerto Rico, of persons who shall retire in the next five (5) years, taking into consideration the instability and uncertainty that have tainted the progression of the Social Security fund and its capacity to pay retirees in the near future. According to a study performed and published by the Social Security Administration, it is estimated that by the year 2039, the fund’s insolvency may cause a twenty

seven (27) percent reduction in the retirement, disability and death benefits to be paid, which may result in an increase in the poverty levels in this population. It is also estimated that, if this fund's insolvency and the increase in benefit payments continue, it shall be depleted by 2042.

In view of this situation, this Legislature considers that it is imperative to continue to promote individual retirement savings and therefore, proposes this legislative measure to allow those individuals fifty (50) years old or more to make additional contributions over the limitations established by Section 1165 of the Internal Revenue Code in order to provide them with the mechanism to expedite the accrual of benefits for their retirement.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- A new subclause (C) is hereby added to clause (7) of subsection (e) of Section 1165 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1165.- Employee trusts

(e) Cash or deferred contribution agreement

(7) Limitations on cash or deferred contributions

(A)

(B)

(C) Employees participating in a plan containing a cash or deferred contribution agreement, known as a “catch up” shall be allowed an additional contribution if at the closing of the year of the plan the employee has turned fifty (50) years old. The additional contribution shall not exceed the amounts indicated hereinbelow:

Taxable year beginning	Contribution
January 1, 2006	\$500
After December 31, 2006	\$1,000

These amounts shall not affect the deferred real percent tests, itemized in paragraphs (ii) (I and II of subclause (A) and subclauses (i) and (ii) of subclause (B) of clause 3 of subsection (e) of this Section. This additional contribution shall not be considered for the purpose of the \$8,000 limitation established in subclause (A) of Section 1165 (e) (7) for those cases in which a participant of a plan which contains a cash or deferred contribution agreement also makes contributions to an individual retirement account.

These “catch up” contributions may receive matched contributions, as they are defined in clause (3) of subclause (E) (i) in this Section.

.....”

Section 2.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 92 (H.B. 919) (Reconsidered) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to add a new subclause (C) to clause (7) of subsection (e) of Section 1165 of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994,” to allow those individuals who are fifty (50) years old or more to make additional contributions over the limitations previously established by said Section, for the purpose of providing them with the mechanism to expedite the accrual of benefits for their retirement,

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

In San Juan, Puerto Rico, today 8th of September of 2006.

Francisco J. Domenech
Director