

(H. B. 2577)

(No. 98)

(Approved May 16, 2006)

AN ACT

To implement measures directed to financing part of the cost of the payroll of the Central Government, chargeable to the General Fund of the Government of Puerto Rico for the fiscal year ending June 30, 2006, which shall include, among other items, the imposition of a supertax on corporations and partnerships that have generated a gross income of more than ten million dollars (\$10,000,000) to be paid as a tax of a special nature, which the entity shall use as credit against the income tax imposed for taxable periods beginning after December 31, 2005. Said credit shall not be applicable in the case of foreign entities that may take credit in their jurisdiction of origin, resulting in substantial revenues for the treasury. To also provide controls for the use of said money; and to authorize the President of the Government Development Bank to make advances in anticipation of the funds to be collected from the supertax provided in this Act.

STATEMENT OF MOTIVES

The people of Puerto Rico are undergoing a crisis caused by the budgetary deficit of the Government of Puerto Rico and the inability of the Government to pay the payroll of public servants for the months of May and June, 2006. The fiscal crisis the Government is going through has its roots in the excessive and uncontrolled spending of government agencies and their respective heads. The agencies have incurred expenses that exceed their constitutional budget and have caused the financial disaster that affects them today. This situation of compelling interest to the Legislature, has led us to

assess different alternatives, and this is definitely the one less onerous for the People of Puerto Rico.

The public servants of Puerto Rico feel hopeless in view of the threats of the closing of agencies and the suspension of the payment of payrolls. Since this situation overrides any particular interests, today, it is duty of this Legislature to find short term solutions to solve this deficit.

This measure, which helps to identify part of the resources needed to solve the fiscal crisis, is in addition to Act No. 160 of December 21, 2005, previously introduced by the Legislature, which has enabled the Government of Puerto Rico to collect, to the present, approximately thirty million (30,000,000) dollars from the Incentive for Speedy Payment of Tickets. The effectiveness of said Act was extended through the approval of H.B. 2573, which shall help to collect additional funds that shall allow the Government to relieve the budget deficit.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Title.—

This Act shall be known as the “Act to Impose the Supertax of 2006.”

Section 2.—Definitions.—

(a) As used in this Act, the terms set forth hereinafter shall have the following meaning:

(1) Gross Income – For the purposes of this Act, gross income shall have the same meaning provided as part of Act No. 120 of October 31, 1994, known as the “Puerto Rico Internal Revenue Code of 1994,” as amended.

(2) Taxpayer – For the purposes of this Act, taxpayer shall be defined as the corporations and partnerships, for profit, whose gross income generated for the taxable year ending on or before

December 31, 2005, is greater than ten million dollars (\$10,000,000), that are not covered by Subchapter K and N of Act No. 120 of October 31, 1994, known as the “Puerto Rico Internal Revenue Code of 1994,” as amended; provided, that churches, unions, and nonprofit institutions are among the entities exempted from the tax imposed by this Act, as well as registered investments companies exempted from tax pursuant to Section 1361 of said Code.

Section 3.—Supertax.—

Taxpayers shall file a special return in which a five percent (5%) income tax of a special nature shall be assessed and calculated over the nonexempt taxable net income generated, taking as base the income tax return corresponding to the taxable year which ended on or before December 31, 2005. In the case of taxpayers that have filed an application for extension to file their income tax return, the supertax shall be assessed on the basis of an estimate of their nonexempt taxable net income for that year, to be subsequently adjusted upon the filing of the return.

Section 4.—Concession of Credit.—

(a) General Rule – One hundred percent (100%) of the supertax thus assessed shall be used by the entity as a credit against the income tax assessed for taxable years beginning after December 31, 2005. The amount of the unused credit may be used in equal parts during a period of four (4) taxable years beginning as of the taxable year following that year in which the supertax is paid.

(b) Foreign Taxpayers.—

(1) Nature of the Credit – In the case of taxpayers organized outside of Puerto Rico that generate nonexempt income subject to tax, said credit may be claimed in equal parts during a period of four (4)

years beginning as of the taxable year following that year in which the supertax is paid. In the event the Taxpayer has operational losses in any of said years and is unable to claim the credit, said period shall be extended until the credit can be claimed in full, without extending or increasing the number of years during which the credit may be claimed, nor increasing the annual amount to be claimed.

(2) Requirements – In order to claim the credit, the taxpayer shall evidence and/or certify for each year that the credit is to be claimed, that a credit or deduction on the supertax paid could not be made in any other jurisdiction.

Section 5.—Special Return and Payment.—

The supertax thus assessed shall be paid through a special return which shall be made available in all Commonwealth Collections Offices and over the Internet not later than June 15, 2006, to be filed by the taxpayers on or before July 31, 2006.

Section 6.—Penalties.—

A penalty equal to those established in the Internal Revenue Code applicable for the failure to file income tax returns shall be imposed on those taxpayers who fail to file the special return established by this Act.

Section 7.—Creation of a Special Fund.—

The funds collected by virtue of the provisions of this Act shall be deposited into a Special Fund to be used to pay the advances made for the payment of the public servants payroll for the months of May and June of 2006.

The distribution shall be made in the following proportion:

- a. Payroll Expenses
 1. Department of Education \$ 244,700,000

2.	Corrections Administration	30,000,000
3.	Department of Health	10,500,000
4.	Natural and Environmental Resources Administration	7,700,000
5.	Juvenile Institutions Administration	4,625,518
6.	Mental Health and Addiction Services Administration	3,197,566
7.	Right to Work Administration	500,000
8.	National Park Company	800,000
9.	Medical Emergency Corps	700,000
10.	Public Service Commission	200,000
11.	Puerto Rico Medical Services Administration	<u>18,010,444</u>
	Payroll Total	<u>\$ 320,933,528</u>

b. Operating Expenses

1.	Puerto Rico Health Insurance Administration	\$ 146,300,000
2.	Government Employee and Judiciary Retirement System Administration – Payment of obligations: pension benefits and health plans	42,900,000
3.	Department of Health – Payment of debt with the Puerto Rico Medical Services Administration	2,825,732
4.	Puerto Rico Police	<u>18,566,484</u>
	Operating Expenses Total	<u>\$210,592,216</u>
	GRAND TOTAL	<u>\$531,525,744</u>

Section 8.—Advances.—

The President of the Government Development Bank is hereby authorized to make advances in anticipation of the funds to be collected by virtue of the supertax provided by this Act, with the purpose of covering the payroll and other operating expenses.

Section 9.—Regulation.—

The Secretary of the Treasury is hereby authorized to draft any regulations necessary to implement, including any related special returns and forms, not later than June 15, 2006, without being subject to Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act.”

Section 10.—Decrees and Exemptions.—

This supertax shall be applied to taxable income, except for income subject to decree provisions.

Section 11.—Severability Clause.—

If any paragraph, section, part or provision of this Act were to be found null or unconstitutional by a court with competence and jurisdiction, the ruling thus rendered shall not affect or impair the remaining provisions of this Act and its effect shall be limited to the paragraph, section, part or provision thus found null or unconstitutional.

Section 12.—Effectiveness.—

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 98 (H.B. 2577) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to implement measures directed to financing part of the cost of the payroll of the Central Government, chargeable to the General Fund of the Government of Puerto Rico for the fiscal year ending June 30, 2006, which shall include, among other items, the imposition of a supertax on corporations and partnerships that have generated a gross income of more than ten million dollars (\$10,000,000) to be paid as a tax of a special nature, which the entity shall use as credit against the income tax imposed for taxable periods beginning after December 31, 2005, etc.,

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

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

Francisco J. Domenech
Director