

(Substitute for
H.B 2193)

(No. 117)

(Approved July 4, 2006)

AN ACT

To establish the “Taxpayers Justice Act of 2006” in order to amend Subsection (a) of Section 1011, add Sections 1040G, 1040H and 1141A, amend Subtitle B in general terms, and establish a new Subtitle BB of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Code of 1994,” in order to establish new tax rates on net income subject to taxation of individuals; add a earned income tax credit for individuals; to amend Subtitle B on excise taxes in general terms; to add a general sales and use tax in Puerto Rico; and to provide for modifications to certain existing deductions; and for other purposes.

STATEMENT OF MOTIVES

In recent years a topic of public discussion has been the need for a Tax Reform to address our tax system in view of the problems concerning taxation, monitoring, and equality and the need for collections.

In the context of a Tax Reform, it is evident that the present tax system requires a fundamental change. The system has been heading towards to a gradual increase in a dependence on the collections from the income tax sector, giving a secondary importance to the contribution of collections from other sources, such as from excise taxes. On the other hand, in terms of equity, the income tax rates are excessive and penalize the creation of capital which has brought about a significant increase in the incidence of evasion. It has not been possible to control tax evasion, since the revision and monitoring mechanisms have been highly ineffective. This

phenomenon has limited the collection potential since the system depends mostly on individuals and corporations that generate reported income, while the collection of the general excise tax and other excise taxes has remained relatively stable even when reports reveal that consumption expenses have increased significantly. The collections pertaining to the informal economy which have been estimated in \$1.6 billion have also been excluded from the system.

Many studies have been conducted on this matter by the Government as well as by the private sector. All of these studies support the conclusion that it is essential to establish a broad based consumption tax that would allow for the restructuring of the income tax system in order to do justice to those who have carried the burden of financing government spending, including those who have been penalized for the mere fact of being married when both spouses generate salaries. Thus, there is consensus as to the fact that to invert the current relation of the taxes is a priority: less tax on income and more tax on consumption.

The international experience indicates that a broad base general consumption tax and a tax on income complement one another, thus allowing the State to reduce the tax on income in the measure that the number taxpayers increases through the tax on consumption. Therein lies the great advantage of the tax on consumption, since it allows bringing into the system taxpayers who were not contributing before, be it for reasons of an administrative nature or conscious evasions. However, different opinions have been expressed as to the type of tax on consumption that should prevail.

Notwithstanding any differences in criteria that existed in the past on the type of tax on consumption to be established, these have been

surmounted in view of the fact that both the sales and use tax (IVU) and the aggregate value tax (IVA) must coincide in the following points, among others:

A sole rate or as an alternative, few classifications and special rates.

A minimum of exemptions and/or exclusions.

The complete elimination of the general excise tax.

The reduction of income tax for individuals, due to the broadening of the base of taxpayers.

In consideration of the above stated and after a profound analysis of the many recommendations received from all those who took the opportunity to participate in the evaluation process of this transcendental issue, this Legislature deems that this is the time to take action and pass legislation in order to establish in Puerto Rico a novel and modern taxation system such as that proposed by the present measure. The time has come to do justice to the salary earning class by establishing a broad based system of taxes on consumption easy to administer and to monitor. This new tax on consumption system shall allow an increase in the collection of funds for the public treasury, which shall in turn allow for the approval of additional legislation to reduce the burden that falls on the salary earning class as a result of the payment of income taxes.

As an initial step towards a Tax Reform that seeks great social justice, this Legislature has decided, through the present measure, to implement a tax on sales and use (IVU). The system consists of a tax that intends to be simple, efficient and broad based. The general excise tax is substituted by an IVU. Articles that had been subject to the general excise tax shall be now subjected to the IVU. Excise taxes are maintained on certain articles that,

due to their peculiarities require separate provisions, such as: cigarettes, gasoline and other fuels, vehicles and alcoholic beverages.

The exemptions to the IVU shall be limited to prescription drugs and other exemptions linked to the economic development of Puerto Rico or inherent to an IVU system, among these, raw materials for manufacturing, exported products and fuel purchased by the Electric Power Authority for the production of electric power.

The IVU shall be collected and remitted to the Secretary of the Treasury by the retail vendors of products. Special rules shall be adopted for the payment of the IVU for sales in vending machines.

On the other hand, the special appropriation from the tax on the sale of gasoline and other fuels and on admission fees to public shows remains in effect for the Highway and Transportation Authority and for several agencies or instrumentalities or corporations of the Commonwealth of Puerto Rico.

It must be pointed out that by establishing an IVU such as that proposed herein, we are paving the way for the possibility of participating in the future in what is known as the “Streamlined Sales and Use Tax Agreement.” Said agreement consists of a multijurisdictional pact among the states of the United States of America that arises from the boom in remote sales such as sales through catalogues or the Internet. The agreement promotes interstate cooperation for the collection of taxes on retail sales that have their source in vendors residing outside of the state.

In analyzing of this measure the taxation systems of several states such as Hawaii, New York and Florida were taken into consideration. Our IVU has mainly followed the Florida sales and use tax model for the following reasons: (i) it is well known that for many years Puerto Ricans

have visited and vacationed in the State of Florida, thus many have experienced the IVU fixed in Florida; (ii) in recent years, a considerable number of Puerto Ricans have moved to said state but still keep close ties with Puerto Rico and travel frequently to the Island and may share their experience with the IVU levied in Florida; and (3) the positive experience in Florida with its IVU system has made it possible not to impose income tax on individuals while obtaining large collections for the public treasury.

Notwithstanding the above, the tax reform shall not achieve its purpose of doing justice to the salaried workers if the implementation of the tax on sales and use is not accompanied by the restructuring of the income tax system to reduce the present tax on income of individuals. To such effect, the approval by this Legislature of the proposed tax on retail sales allows for the adoption of a reduction in the income tax of individuals so as to lessen the burden that falls on salaried workers as the result of the present system. For these purposes, the net income brackets subject to taxation are broadened and the tax rates applicable to such brackets are reduced.

On the other hand, since the approval of the Puerto Rico Income Tax Act of 1954, an injustice exists with regard to married couples whereby both spouses receive a tax much greater than the amount of the tax of two persons who are not married who generate the same income and file separate returns. In the majority of cases, married couples incur an additional penalty when they decide to file separate returns since they must use the tax schedule (that of married people filing separate returns) different from that which applies to other taxpayers (single persons, married couples that file jointly, or heads of family). The schedule for married persons that file separate returns imposes a greater tax than the other tax schedules. This tax burden or additional tax that arises artificially is known as the 'marriage penalty,' because if the

couple is not married it would not incur in the additional tax. This penalty is still in effect today under the Puerto Rico Internal Revenue Code of 1994 since the previous legislation that fixed its elimination was unfairly eliminated in the past years.

The injustice of the marriage penalty has worsened through the years with the socio-economic transformation Puerto Rico has experienced since 1954 when the Puerto Rico Tax Act was approved. It is well known to all that through the years there has been an increase in the number of married couples whereby both spouses work outside their home in order to support their family. Part of the additional income generated by the couple when both spouses generate incomes vanishes due to the inherent defect of the tax laws that create the marriage penalty.

It is also the purpose of this Act to eliminate the marriage penalty in order to enable every married couple to make better use of their income in their duty to support their family. To achieve this purpose an alternate method of calculating the tax is established which shall benefit those married couples whereby both spouses work and through which, at their option, they are able to determine their tax separately. By choosing this option, the tax should not be greater than that which would result if they had determined the same jointly. This calculation is to be made in an attachment to the joint return which shall be designed by the Secretary for such purpose.

This legislation grants substantial increases in deductions for the care of children and the education of dependents thus recognizing the efforts made by Puerto Rican fathers and mothers who work for the future of their children. These benefits are specifically for those that need them the most. Likewise, we are doing justice to retirees by increasing the deduction for pensioners and by granting a credit for low income pensioners.

Finally, the imposition of a sales tax makes it necessary to consider the regressive effect that said tax on consumption could have on certain economic sectors of our society. Therefore, this Legislature incorporates a credit for individuals for earned income similar to the “Earned Income Tax Credit” which exists at the federal level in the United States as well as a compensatory credit.

The collections resulting from the IVU that is imposed through the present measure, together with the other modifications to the tax system that shall be effected in the coming months, and the reductions in the public spending that have been under discussion as the result of a new vision of government service, all part of an unprecedented Fiscal Reform, should produce the revenues needed for the attainment of a sound and effective public administration, as our people deserve.

In addition, this legislative measure provides for the creation of a Fund to address the deficit in the Operating Budget pursuant to Act No. 91 of May 13, 2006, known as the Urgent Interest Fund Act, (FIA, Spanish acronym). This Fund shall be nurtured from several alternatives so that the citizenry may voluntarily invest, through incentives, and achieve economic mobility on the Island and at the same time allow for these collections to be used to contribute to the payment of the structural deficit.

It is necessary to establish that this measure by itself shall not eliminate the fiscal tribulations of the Government of Puerto Rico. It is essential that the Executive Branch implement a clear and well defined Fiscal Reform directed to achieve the reduction of government spending and to making the rendering of services to the citizenry more agile, comprehensive and effective.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- This Act shall be known as the “Taxpayers Justice Act of 2006.”

Section 1A.-Subsection (a) of Section 1011 of Act No. 120 of October 31, 1994, as amended, is hereby amended, and a subsection (d) is hereby added to said Section to read as follows:

“Section 1011.- Tax on Individuals

There shall be levied, collected and paid upon the net income of every individual in excess of the exemptions provided in Section 1025 and upon the net income of an estate or trust in excess of the credit provided in Section 1163, a tax determined in accordance with the following tables:

(a) Regular Tax.-

Tax to be:

(1) Tax for the taxable years beginning after December 31, 2000:

(A) Married individual living with spouse and filing a joint return, married individual not living with spouse, unmarried individual, head of household, estate or trust:

If the net taxable income is: The tax shall be:

Not over \$2,000	7 percent
Over \$2,000 but not over \$17,000	\$140 plus 10 percent of the excess over \$2,000
Over \$17,000 but not over \$30,000	\$1,640 plus 15 percent of the excess over \$17,000

Over \$30,000 but not over \$50,000 \$3,590 plus 28 percent of the excess over \$30,000

Over \$50,000 \$9,190 plus 33 percent of the excess over \$50,000

(B) For married individual living with spouse and filing a separate return:

If the net taxable income is: The tax shall be:

Not over \$1,000 7 percent

Over \$1,000 but not over \$8,500 \$70 plus 10 percent of the excess over \$1,000

Over \$8,500 but not over \$15,000 \$820 plus 15 percent of the excess over \$8,500

Over \$15,000 but not over \$25,000 \$1,795 plus 28 percent of the excess over \$15,000

Over \$25,000 \$4,595 plus 33 percent of the excess over \$25,000

(2) Tax for the taxable years beginning after December 31, 2006:

(A) Married individual living with spouse and filing a joint return, married individual not living with

spouse, unmarried individual, head of household,
estate or trust:

<i>If the net taxable income is:</i>	<i>The tax shall be:</i>
Not over \$17,000	7 percent
Over \$17,000 but not over \$30,000	\$1,190 plus 14 percent of the excess over \$17,000
Over \$30,000 but not over \$50,000	\$3,010 plus 25 percent of the excess over \$30,000
Over \$50,000	\$8,010 plus 33 percent of the excess over \$50,000

(B) For married individual living with spouse and filing a
separate return:

<i>If the net taxable income is:</i>	<i>The tax shall be:</i>
Not over \$8,500	7 percent
Over \$8,500 but not over \$15,000	\$595 plus 14 percent of the excess over \$8,500
Over \$15,000 but not over \$25,000	\$1,505 plus 25 percent of the excess over \$15,000
Over \$25,000	\$4,005 plus 33 percent of the excess over \$25,000

(b) Alternate basic tax on individuals:

- (1) General Rule.- There shall be levied, collected and paid for each taxable year by every individual in lieu of any other tax imposed by this part, a tax determined in accordance with the following table (when the same is greater than the regular tax):

If the net taxable income is:	The tax shall be:
From \$75,000 but not over \$125,000	10 percent
Over \$125,000 but not over \$175,000	15 percent
Over \$175,000	20 percent

(2) ...

- (c) Gradual adjustment of tax rates less than the rate of thirty-three (33) percent and the personal exemption and exemption for dependents.-

- (1) In general. – The tax imposed by clauses (1), (2), and (3) of subsection (a) of this Section (determined without considering this subsection), shall be raised by five (5) percent of the excess of the net taxable income over seventy five thousand (75,000) dollars, except that in the case of a married person who lives with his/her spouse and files a separate return, the tax shall be increased by five (5) percent of the net taxable income over thirty-seven thousand five hundred (37,500) dollars, according to the regulations established by the Secretary.

- (2) ...
- (d) Optional Tax Computation in the Case of Married Persons that Live Together, File Joint Tax Return, and Both Whom Work.- For the taxable years beginning after December 31, 2007, in the case of married persons living together both of whom work and file joint tax return the tax under subsections (a), (b) and (c) of this Section shall be, should they choose, the sum of the taxes determined individually, in the form provided by the Secretary for such a purpose, as follows:
- (1) the personal exemption shall be the one provided in subsection (a) of Section 1025;
 - (2) each spouse shall be entitled to claim fifty (50) percent of the total amount of the exemption for dependents granted in Section 1025;
 - (3) the gross income of each spouse shall be determined as follows:
 - (A) income earned for services rendered shall be the one generated by each spouse individually. For the purposes of this clause, the income for services rendered shall be deemed to be the salaries, wages, professional fees, commissions, income from annuities and pensions, the earnings generated by an industry or a business and the distributable shares from the income of special partnerships and corporate individuals, among others; and

- (B) income not covered by subclause (A) shall be attributed to each spouse based on fifty (50) percent of the total;
- (4) the fixed deduction shall be the one provided in subclause (D) of clause (1) of subsection (aa) of Section 1023;
- (5) the deductions detailed in clause (2) of subsection (aa) of Section 1023 shall be attributed to each spouse based on fifty (50) percent of the total; and
- (6) the additional deductions shall be granted to the spouse to whom they individually correspond, to the limits and subject to the provisions of subsection (bb) of Section 1023."

Section 1B.- A subsection (j) is hereby added to Section 1012 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1012.- Special Tax over Dividend Distribution and Profit Shares of Certain Corporations and Partnerships.

...

- (j) Transitory Provisions.- Any eligible distribution made by a corporation or partnership during the period comprising from July 1, 2006 to December 31, 2006, shall be subject to a special tax rate of five (5) percent of the total amount received by any eligible person, in lieu of the special tax established by subsection (b). Distributions made by a public corporation are excluded from the application of this provision. Eligible distributions thus made shall be subject to the other provisions of this Section.

Notwithstanding the above, the distributions thus made and taxed pursuant to the provisions of this subsection do not have to be regularly distributed to the stockholders or partners of such entities. According to which, said money may be kept in the books of the corporation or partnership in question in order to comply with any sort of contractual, commercial or statutory commitment of said entities, to be taken into account at the time any sort of distribution is to be made by the Board of Directors or managing partners or directors of said corporations or partnerships, and subject to the discretion of the former, in terms of the source or origin of the money to be distributed in the future by any of said entities.”

Section 1C.- Subclause (A) of clause (2) of subsection (c) of Section 1013A of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1013A.- Taxes on Individuals, Estates, Corporations, Partnerships and Trusts with Regard to Interest Paid or Credited on Bonds, Notes or Other Obligations of Certain Corporations or Partnerships and on Certain Mortgages.

...

(c) Requirements to avail oneself of the provisions of this Section.

(1) ...

(2) Means of exercising the option

(A) The option to pay only ten (10) percent of the tax referred to in clause (1) of subsection (a), is available to those who receive eligible interest which on the date of acquiring the bond, note, or other obligation or mortgage loan described

in the above subsection (b), authorize the payer of same to withhold the tax imposed by said subsection (a). In such case, the individual, estate, corporation, partnership or trust shall not include in his/her gross income of the corresponding taxable year, the income on eligible interest paid or accredited for bonds, notes, other obligations or mortgage loans described in the above subsection (b), as provided by Section 1022(b)(53).

...

(B) ...”

Section 1D.- Section 2.- A Section 1014A is hereby created in Act No. 120 of October 31, 1994, to read as follows:

“Section 1014A.- Special Tax for Individuals, Estates and Trusts for advance payment on the increase in the accrued value in capital gains.

- (a) Election of advance payment of special tax on the increase in the accrued value in capital gains.- Any individual, estate or trust may choose to pay during the period from the first of July, 2006 to December 31, 2006, the special tax established in this Section on the total or part of the increase in the accrued value of capital gains owned by any of said persons, without taking into consideration or requiring the sale of said assets to acknowledge and enable said profits. Said special tax shall be applicable only in the case of long-term capital gains.
- (b) Special tax.- The special tax established by this Section shall be five (5) percent of the increase in value determined by said persons over the capital gains.
- (c) Capital gains included.-

- (1) Stocks in corporations or shares in domestic and foreign partnerships;
 - (2) Real property located in Puerto Rico;
- (d) Base Increase.- The base of the individual, estate or trust on the capital gains subject to the present tax shall include the increase in value over which any of said persons chose to pay tax pursuant to the provisions of this Section. The base thus determined shall be taken into account at the time or on the date on which said persons sell the capital gains. Notwithstanding the above, any amount or increase in the value of said capital gains generated after the election or special treatment provided by this Section shall pay tax pursuant to the provisions of the laws in effect at the time of the final sale of said capital gain.
- (e) Recognition of loss – The amount of losses generated for the subsequent sale of the capital gains object of this Section shall be adjusted in accordance with the tax rate in effect applicable to this type of transaction at the time of the sale of said assets, prior to their use or carry over by the individual, estate or trust. In accordance to which, said loss shall be adjusted by formula or fraction, whose numerator shall be a five (5) percent rate and the denominator shall be the tax rate in effect on the date of sale of the assets in question.
- (f) Election and payment.- The election to pay in advance the tax on the increase of the value of the capital gains covered by this Section shall be made within the period provided in the present Section, upon completing the forms provided by the Secretary of the Treasury for these purposes. The tax shall be paid at the

Internal Revenue Collection Offices of the Department of the Treasury of Puerto Rico.”

Section 2.- A subclause (C) is added to clause (1) of subsections (a) and (c) and (e) of Section 1018 are hereby amended, of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1018.- Adjustments in Computing Alternative Minimum Net Income

(a) ...

(1) ...

(B) ...

(C) In the event a taxpayer, who is not specifically excluded in subsection (e) of this Section pursuant to a special law, has used an alternate method of accelerated depreciation or other exception to the requirements of capitalization or depreciation established in this Code, the straight line depreciation method authorized by Section 1023(k) shall be used.

(2) ...

(b) ...

(c) Income statement – For the purposes of this Section, the term ‘income statement’ means, with regard to any taxable year, a financial statement showing the results of the operations of the corporation or partnership, including an insurance company, for said taxable year, which shall include a general balance sheet and a cash-flow statement. Said statements shall be prepared according to generally accepted accounting principles and shall

be audited by a Certified Public Accountant licensed to practice in Puerto Rico, except that this last requirement shall not apply to non-profit corporations or those without capital stock, nor to for-profit corporations or partnerships whose volume of business does not exceed one million (1,000,000) dollars annually. For the purposes of this subsection, the term ‘volume of business’ means the gross sales of any business (deducting refunds), the gross income received or derived from the rendering of any service or from any other commercial activity and the sales price of any property.

(d) ...

(e) Exception for certain corporations and partnerships.—The provisions of Sections 1017 to 1020 shall not apply to special partnerships that have an option in effect for the taxable year under the provisions of Section 1342, to corporate individuals who have an option in effect for the taxable year under the provisions of Section 1391, to the registered investment companies that pay taxes according to what is established in Subchapter L, to real estate investment trusts exempted under Section 1101(18) and (23), to Special Employee-Owned Corporations organized pursuant to Chapter XVI of Act No. 144 of August 10, 1995, as amended, the ‘General Corporations Act’ or any other similar or subsequent Act, nor to corporations or partnerships that are operating or operate under the provisions of Act No. 8 of January 24, 1987, known as the ‘Puerto Rico Tax Incentives Act,’ or Act No. 135 of December 2, 1997, known as ‘Puerto Rico Tax Incentives Act of 1998,’ or

any other preceding or subsequent analogous statute, or under the provisions of Act No. 52 of June 2, 1983, as amended, known as the ‘Puerto Rico Tourist Incentives Act,’ or Act No. 78 of September 10, 1993, known as the ‘Puerto Rico Tourist Development Act,’ or those of any other special law that grants a tax exemption with regard to income derived from its operations, but only with regard to income derived from its operations covered under a tax exemption decree, resolution or grant conferred under said laws, or up to the amount of the exemption granted by any special law. Nor shall they apply to corporations or partnerships that operate a *bona-fide* agricultural business up to the limit that the income derived from such activity is allowed as a deduction under the provisions of Section 1023(s).

Section 3.- Subsection (a), subclause (K) of clause (4), and clauses (5), (37) and (43) are hereby amended, and clauses (48), (49), (51), (53) (54) and (55) are hereby renumbered as clauses (49), (50), (51), (52), (53), (54), (55) and (56), respectively, of subsection (b) of Section 1022 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1022.- Gross Income

- (a) General definition.—‘Gross income’ includes gains, profits and income derived from salaries, wages, or compensation for personal services (including remuneration received for services rendered as an official or employee of the Commonwealth of Puerto Rico, of any State of the Union, the United States, or any political subdivision thereof, or of any agency or

instrumentality of any of the abovementioned entities) of any sort and whichever the manner in which they are paid, or for professions, occupations, industries, businesses, commerce, or sales, or of deals in property whether real or personal that arise from the possession or use, or the interest in such property; also the income from interest, rents, dividends, or profits from partnerships, securities, or the operation of any business operated for profit or earnings, and gains or profits and income derived from any source.

(b) Exclusions from gross income.—The following items shall not be included as gross income and shall be exempted from taxes under this Subtitle:

(1) ...

(4) Tax-free interest.- Interest on:

(A) ...

(K) securities issued by cooperative associations organized and operating under the provisions of Act No. 239 of September 1, 2004, known as the ‘General Cooperative Associations Act of 2004,’ or under the provisions of Act No. 225* of October 28, 2002, known as the Cooperative Savings and Credit Unions Act of 2002, up to a maximum of five thousand (5,000) dollars;

(L) ...

* TRANSLATOR’S NOTE: Should read 255

(5) Compensation for injury or sickness.—Except in the case of amounts that can be attributed to, but are not in excess of the deductions granted under Section 1023(aa)(2)(P) in any prior taxable year, the sums received as sickness or accident insurance or under worker’s compensation laws, as compensation for personal physical injuries or physical sickness plus the amount of any compensation received in a legal action or a settlement out of court for such injuries or sickness, and the amount received as a pension, annuity or similar concession for personal physical injury or physical sickness, and for occupational or non-occupational disability including those that result from active service in the armed forces of any country.

...

(37) Income from special employee-owned corporations that are credited to the collective reserve account and the joint stock.—In order for apportionments to the joint stock to qualify for the exclusion granted herein, it shall be necessary for the benefits of the joint stock to be accessible to all the residents of the municipality where the special employee-owned corporation has its main office established, except for the regular and corporate members of the corporation; furthermore, the Secretary shall be given proof that the joint stock is used for the purposes indicated in Section 1507 of Act No. 144 of August 10, 1995, as amended.

...

(43) The amount received by the pensioners of the Commonwealth of Puerto Rico Employees Retirement System and its Instrumentalities, of the Retirement System of the Judicature, of the University of Puerto Rico Retirement System and the Pensioners of the Pensions and Annuities System for Teachers for Christmas Bonus and Summer Bonus granted by Act No. 37 and Act No. 38 of June 13, 2001, and the Medications Bonus granted by Act No. 155 of June 27, 2003 and Act No. 162 of July 15, 2003.

(44) ...

(48) ...

(49) ...

(50) ...

(51) ...

(52) ...

(53) ...

(54) ...

(55) ...

(56) ...”

Section 4.- A subclause (D) is hereby added to clause (1) of subsection (k), clause (3) of subsection (w) is hereby amended, paragraph (i) of subclause (A) is hereby amended and paragraph (i) of subclause (K) of

clause (2) of subsection (aa) is hereby amended, and subclause (B) of clause (3) is hereby amended and subclause (A) of clause (6) of subsection (bb) is amended in Section 1023 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1023.- Deductions from Gross Income

On computing net income, the following shall be allowed as deductions:

(a) ...

(k) Current Depreciation.- A reasonable allowance for the exhaustion, wear and tear, including reasonable allowance for obsolescence of:

(1) Property used in industry or business,

(A) ...

(D) using any alternate accelerated depreciation method, pursuant to the provisions of special laws.

(2) ...

(l) ...

(w) Alimony Payments.-

(1) ...

(3) Requirement of account number.-

(A) ...

(B) The individual who makes said payments shall include said account number and the number of the

separation or divorce, decree, sentence or document in his/her income tax return corresponding to the taxable year in which the payments were made.

(4) ...

(x) ...

(z) ...

(aa) Option of Fixed Deduction or Itemized Deduction.-

...

(2)

(A) Deduction for expenses incurred in the care of his/her child.- In the case of an individual there shall be allowed a deduction for all the expenses incurred for child care paid to a person who is not a dependent of the taxpayer, but only to the limit and subject to the restrictions indicated below:

(i) Maximum deductible limit.- This deduction shall not exceed one thousand five hundred (1,500) dollars for one (1) dependent and three thousand (3,000) dollars for two (2) or more dependents. In the case of a married person living with his/her spouse at the end of the taxable year and who files a separate income tax return, the aggregate amount of the admissible deduction for each spouse shall not exceed seven hundred and fifty (750) dollars for one (1) dependent and one thousand five hundred (1,500) dollars for two or more dependents.

- (ii) ...
- (B) ...
- (C) ...
- (K) Deduction for expenses incurred by the taxpayer for the education, at preschool, elementary and secondary level of his/her dependents. ...
 - (i) Maximum deductible limit.-
 - (I) For each dependent who is studying at the preschool, elementary level, from pre-kinder, kindergarten to sixth grade, a deduction of seven hundred and fifty (750) dollars shall be allowed.
 - (II) For each dependent that is studying at the secondary level up to the twelfth grade, a deduction of one thousand (1,000) dollars shall be allowed. This deduction shall not be allowed with respect to a dependent who for the taxpayer's taxable year qualifies as a university student for whom the exemption provided in Section 1025(b)(1)(B) is claimed.
 - (III) For taxable years beginning after December 31, 2007, in lieu of the provisions of the preceding subparagraphs (I) and (II), the maximum deductible limit

shall not exceed one thousand five hundred (1,500) dollars for one (1) dependent and three thousand (3,000) dollars for two (2) or more dependents. In the case of a married person living with his/her spouse at the end of the taxable year and who files a separate income tax return, the aggregate amount of the admissible deduction for each spouse shall not exceed seven hundred and fifty (750) dollars for one (1) dependent and one thousand five hundred (1,500) dollars for two (2) or more dependents. This deduction shall not be allowed with respect to a dependent who for the taxpayer's taxable year qualifies as a university student for whom the exemption provided in Section 1025(b)(1)(B) is claimed.

(bb) Additional deductions.- In the case of an individual, the following items shall be allowed as a deduction from the adjusted gross income in addition to the optional fixed deduction or itemized deductions:

...

(3) Regular and necessary expenses related to the practice of a profession or trade as employee.- In the case of an individual

who, in exercising a profession or trade earns income as an employee:

(A) ...

(B) The deduction allowed by this clause shall be limited as follows:

(i) One thousand five hundred (1,500) dollars or four percent (4%) of the adjusted gross income on account of salaries, whichever is less.

(ii) In the case of a married person living with his or her spouse at the end of the taxable year, who chooses the option to file separate tax returns, seven hundred and fifty (750) or four percent (4%) of the adjusted gross income on account of salaries, whichever is less.

(4) ...

(6) Special deduction in the case of a married couple when both receive earned income and file joint returns.-

Allowance.- In the case of spouses who live together and who both receive earned income and who choose not to avail themselves of the provisions of subsection (d) of Section 1011, a special deduction shall be allowed for the amount of three thousand (3,000) dollars in addition to any other deduction provided by this part.

Section 4A.- Subclause (A) and (B) of clause (1) of subsection (b) of Section 1025 of Act No. 120 of October 31, 1994, as amended are hereby amended to read as follows:

“Section 1025.- Allowance of deductions for personal exemption and for dependents.-

In the case of an individual, the exemptions provided in this Section shall be allowed as deductions to determine net income:

- (a) ...
- (b) Exemptions for dependents.-
 - (1) Allowance in general.-
 - (A) For each dependent, as defined in subclause (A) of clause (1) of subsection (d) of this Section, other than the one in relation to whom the exemption provided in subclause (B) of this clause is applicable, an exemption of one thousand three hundred (1,300) dollars shall be allowed for each taxable year of the taxpayer. As of the taxable years beginning after December 31, 2003, the exemption for each dependent provided in this subclause shall be of one thousand six hundred (1,600) dollars. As of the taxable years beginning December 31, 2007, the exemption for each dependant provided in this subclause shall be of two thousand five hundred (2,500) dollars.
 - (B) For each dependent, as defined in subclause (B) of clause (1) of subsection (d) of this Section an exemption of one thousand six hundred (1,600) dollars shall be allowed for the taxable year of the taxpayer. As of the taxable years beginning after December 31, 2007, the exemption for

each dependent provided in this subclause shall be of two thousand five hundred (2,500) dollars.

(C) ...”

Section 4AA.- Section 1040D of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1040D.—Credit for the Purchase of Products Manufactured in Puerto Rico for Export.—

Any eligible business that purchases products manufactured in Puerto Rico for export, directly or through business-related persons, may claim a credit as provided in this Section.

- (a) Use of the credit.- The credit provided in this Section shall be first applied against the sales tax collected by the eligible business and payable pursuant to Section 7032. Any remainder of the credit may be used against the taxes levied by subtitle A.
- (b) Amount of credit.—The credit provided under this Section shall be based on the value of the products manufactured in Puerto Rico purchased during the specific taxable year for which the credit is claimed and during which the products are exported to be sold outside of Puerto Rico for their use and consumption abroad, according to the following table:

Value of the Purchases for that Year	Amount of Credit
Up to \$50 million	10%
In excess of \$50 million up to 100 million	\$5 million plus 8% of the excess over \$50 million

In excess of \$100 million up to \$150 million	\$9 million plus 6% of the excess over \$100 million
In excess of \$150 million up to 200 million	\$12 million plus 4% of the excess over \$150 million
In excess of \$200 million	\$14 million

For the purpose of determining this credit, the purchases of products manufactured in Puerto Rico by persons related to the eligible business and by the manufacturing businesses that have an investment abroad, whether directly or through business-related persons, that exceeds the limit established by the Secretary through regulations, circular letter, or any other generally applicable administrative determination, shall be excluded. This exclusion shall not apply in the cases of purchases of products that have been manufactured in Puerto Rico by tuna processing plants.

- (c) Limitation of credit.—The credit provided under this Section shall be used as follows:
- (1) Sales tax.- Pursuant to the provisions of subsection (a), when the credit is used by the eligible business against the sales tax, said credit shall be granted with regard to the sales tax payable in subsequent years to that in which the business made the purchases object of the credit.
 - (2) Income tax.- Pursuant to the provisions of subsection (a) when the credit is used by the eligible business against the income tax

provided in subtitle A, said credit may be used to reduce said tax for up to twenty-five (25) percent.

Every credit not used by the eligible business may be carried over to subsequent taxable years until it is used up in its totality, subject to the preceding rules and limitations. Said carried over credit may be claimed against the sales tax as provided in subsection (a) of this Section, regardless of the taxable year in which it was generated by the eligible business.

(d) Definitions. —For the purposes of this Section, the following terms shall have the meaning provided below:

(1) Eligible business.—Any business engaged in an industry or business in Puerto Rico that is not under the provisions of the Tax Incentives Act of 1998, Act No. 135 of December 2, 1997, as amended, or any other previous or subsequent similar law.

(2) Products manufactured in Puerto Rico.—Shall include products turned into articles for trade from raw materials through any process, and any product made in a manufacturing business in Puerto Rico, as defined in clause (3) of this subsection.

(3) Manufacturing business.—Any person or entity engaged in the manufacture of any article or product in Puerto Rico, including bottlers, assemblers of articles, and persons who finish partially manufactured articles.

(4) Business-related person.—

(A) General rule.—For the purposes of this Section, a corporation or partnership shall be deemed to be a business-related person if it owns at least fifty (50)

percent of the voting shares or stock, or at least fifty (50) percent of the total value of all types of shares or stock of the eligible business.

(B) Shares or stock to be treated as owned.—For the purposes of subclause (A) of the clause, the following shares or stock shall be deemed as owned by the business related person:

- (i) Shares or stock owned directly by the business related person.
- (ii) Shares or stock owned by a corporation or partnership in which the business related person owns fifty (50) percent or more of the voting shares or stock, or of the total value of all the types of shares or stock of said corporation or partnership.
- (iii) Shares or stock owned by a person who owns fifty (50) percent or more of the voting shares or stock or at least fifty (50) percent of the total value of all types of shares or stock of the business related person.”

Section 4B.- Section 1040G of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“1040G.- Working Credit.-

- (a) Granting of Credit.- As provided in this Section, a credit against income tax shall be granted to those individuals who are residents of Puerto Rico or United States citizens not residents

of Puerto Rico who generate earned income, as said term is defined in subsection (b) of this Section, less than twenty thousand (20,000) dollars and that is not claimed as dependent, as said term is defined in clause (d) of Section 1025 of another taxpayer for the taxable year.

- (1) For taxable years beginning after December 31, 2006, in the case of individuals whose earned income does not exceed ten thousand (10,000) dollars, the working credit shall be equal to one point five (1.5) percent of said earned income up to a maximum credit of one hundred and fifty (150) dollars in a taxable year. For taxable years beginning after December 31, 2007, in the case of individuals whose earned income does not exceed ten thousand (10,000) dollars, the working credit shall be equal to three percent (3%) of said earned income up to a maximum credit of three hundred (300) dollars in a taxable year.
- (2) For taxable years beginning after December 31, 2006, in the case of individuals whose earned income is in excess of ten thousand (10,000) dollars but less than twenty thousand (20,000) dollars, the maximum credit of one hundred and fifty (150) dollars described in clause (1) of this subsection shall be reduced by an item equal to five (5) percent of the earned income in excess of ten thousand (10,000) dollars. For taxable years beginning after December 31, 2007, in the case of individuals whose earned income is in excess of ten thousand

(10,000) dollars but less than twenty thousand (20,000) dollars, the maximum credit of three hundred (300) dollars described in clause (1) of this subsection shall be reduced by an item equal to five (5) percent of the earned income in excess of ten thousand (10,000) dollars.

- (b) Earned income – For the purposes of this Section, the term ‘earned income’ includes salaries, wages, tips, any remuneration for services rendered by an employee for his/her employer or other compensation for the rendering of services as employee, but only if said amounts are included in the gross income for the taxable year.
- (c) Limitations.- For the purposes of subsection (b) of this Section, the earned income shall be calculated separately for every individual, regardless of filing joint returns without taking into consideration any amount received for pensions or annuities, income subject to tax under Section 1221 (on nonresident foreigners) nor the amount received by an individual for the rendering of services while said individual is confined in a penal institution.
- (d) Taxable year of less than twelve (12) months.- Except in the case of a taxable year ending due to the death of the taxpayer, no credit shall be allowed under this Section in the case of a taxable year that covers a period of less than twelve (12) months.
- (e) Denial of credit.- No credit shall be allowed under subsection (a) if the taxpayer earns net income from (whether or not considered gross income under subsection (a) of Section 1022)

interest or dividends, rents or royalties, the sale of capital assets, payment of alimony due to divorce or separation, any other types of income not considered earned income, as defined in subsection (b) of this Section, in excess of two thousand two hundred (2,200) dollars in the taxable year.

- (f) Refund of Credit.- Every individual who qualifies for this credit may claim the same in his/her income tax return. Said credit shall be claimed against the tax determined after the other credits provided in this Subtitle. The amount of said credit that exceeds the determined tax shall be refunded to the taxpayer or may be accredited against the estimated tax for the next taxable year.
- (g) Restrictions for Individual who Claimed the Credit Improperly in the Preceding Year.- Every taxpayer who improperly claims the credit for earned income shall be responsible for the payment of a sum equal to the credit improperly claimed as tax on additional income tax, including interest, surcharges and penalties as established in Subtitle F of this Code in the year that the amount of the improperly claimed sum is determined. In the case of fraud, the taxpayer, in addition to being responsible for the payment provided herein, shall be prevented from benefiting from the credit for earned income for a period of ten (10) years counting from the year in which the Secretary determines the amount of any sum improperly claimed.”

Section 4C.- Section 1040I is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1040 I.- Compensatory Credit for Low Income Pensioners

(a) For taxable years beginning after December 31, 2006, in the case of a low income individual who is a pensioner of the Puerto Rico Government Employees Retirement System Administration and of the Judicature, the Teacher's Retirement System, the University of Puerto Rico, the Electric Power Authority, as well as those duly pensioned by the private sector shall be entitled to a personal compensatory credit of up to three hundred (300) dollars annually."

Section 4D.-A subsection (e) is hereby added to Section 1046 of Act No. 120 of October 31, 1994, as amended, to read as follows:

"Section 1046.- Options to Acquire Corporate Stock and Interest in Partnerships.

(a) ...

(e) Transitory Provisions

(1) Election to pay in advance the special tax on accumulated profit on the option to acquire corporate stock or interest in partnership or on transferred stock or shareholding interest.-

(i) Any individual who is the owner of an option (qualified or nonqualified under the terms of this Section) to acquire shares of a corporation or interest in a partnership, may pay in advance during the period from July 1, 2006 to December 31, 2006, a special tax of five (5) percent on the total or part of the accrued profit on the option granted to an individual, without taking into consideration or requiring the exercise of said option nor the future sale of shares or interest in a partnership that the same represent to obtain such a profit, nor the period of time during which said individual has received or has

been granted the option to acquire said stock or interest in a partnership.

(ii) Any individual who is the owner of shares of a corporation or interest in a partnership acquired through the exercise of an option (qualified or nonqualified under the terms of this Section) to acquire shares of a corporation or interest in a partnership may pay in advance during the period from July 1, 2006 to December 31, 2006, a special tax of five (5) percent on the total or part of the accrued profit on the shares or interest in a partnership thus transferred without taking into consideration or requiring the sale of shares or interest in a partnership transferred to make said profit, nor the period of time during which said individual has owned said shares or interest in a partnership.

(2) Increase in the accrued profit on the option or the stock of a corporation or interest in a partnership acquired through the exercise of an option.- The base of the individual in the option or in the stock of a corporation or interest in a partnership acquired through the exercise of an option shall include the increase in accrued profit on which the individual chose to pay tax pursuant to the provisions of this subsection. The base thus determined shall be taken into account at the time or on the date in which the individual sells the transferred shares or interest in a partnership. Notwithstanding the above, any increase in the accrued profit of said corporate stock or interest in a partnership which occurs after the election provided in this Section shall

pay tax pursuant to the provisions of the Act in effect at the time the sale of said shares or interest in a partnership is finally executed.

- (3) Recognition of Loss.- The amount of loss generated due to the subsequent sale of corporate stock or interest in a partnership object of this Section shall be adjusted pursuant to the tax rate in effect applicable to this type of transaction at the time of the sale of said shares or interest in a partnership prior to their use or carryover by the taxpayer or individual. In accordance to this, said loss shall be adjusted through a formula or fraction, where the numerator shall be a rate of five (5) percent and the denominator the tax rate in effect on the date of the sale of the shares or interest in a partnership.
- (4) The election and payment.- The election to pay the tax in advance on the accrued profit determined by the individual shall be effected during the period established in this subsection, by completing the forms provided by the Secretary of the Treasury for such purposes. The tax shall be paid at the Internal Revenue Collection centers of the Department of the Treasury of Puerto Rico.”

Section 5.- Subsection (f) of Section 1049 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1049.—Returns for a period of less than twelve months.—

- (a) ...
- (f) Returns where by the taxpayer was not in existence for twelve (12) months.—In the case of a taxpayer who was not in

existence during the whole of an annual accounting period ending on the last day of a month for whatever reason, including the death of an individual, or if the taxpayer has no such annual accounting period or did not keep books during the whole calendar year, the return shall be made for the fractional part of the year during which the taxpayer was in existence. For the purposes of this subsection, the term ‘taxpayer who was not in existence during the whole of an annual accounting period,’ shall include any of the spouses who die during the annual period.

Section 6.- Subsection (d) of Section 1051 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1051.—Individual returns.—

(a) ...

(d) Trustees.— Returns to be filed by trustees shall be as provided in Section 1146. However, in the case of the death of one of the spouses, when a receiver or executor of the estate has not been appointed prior to the date to file the return for the taxable year provided in subsection (f) of Section 1049, said return may be signed by the surviving spouse. If a receiver or executor of the estate has been appointed, said receiver or executor may, upon the filing of a return on behalf of the deceased spouse, challenge the return originally filed by the surviving spouse within a term of one (1) year as of the last day established in the Code to file the return of the deceased spouse for the taxable year set forth in subsection (f) of Section 1049. In said case, the return filed by the receiver or executor shall be considered to be the return of the deceased spouse.”

Section 7.- Section 1052 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1052.—Corporation and partnership returns.—

Every corporation or partnership subject to taxation under this Subtitle shall file a return stating specifically the items of its gross income and the deductions and credits allowed by this Subtitle and such other information for the purpose of complying with the provisions of this Subtitle as the Secretary may by regulations prescribe. The return shall be sworn to by the person or persons appointed president, vice-president, or other principal officer and by the treasurer or assistant treasurer, in the case of a corporation, or by a managing partner in the case of a partnership. Notwithstanding the above, in those cases in which returns are filed through electronic means, the digital signature of the above mentioned officers shall be accepted as evidence of authentication. In cases where receivers, trustees in bankruptcy, or assignees are managing the property or business of corporations or partnerships, such receivers, trustees, or assignees shall file returns for such corporations or partnerships in the same manner and form as corporations or partnerships are required to file returns. Any tax due on the basis of such returns filed by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations or partnerships of whose business or property they have custody and control. The provisions of this subsection shall not be applicable to an International Insurer nor to a Holding Company of an International Insurer that complies with Section 61.040 of the Insurance Code of Puerto Rico. However, a Holding Company of an International Insurer that complies with Section 61.040 of the Insurance Code of Puerto Rico shall present the

certification required by Section 61.040(6) of the Insurance Code of Puerto Rico to the Secretary of the Treasury.”

Section 8.- Section 1055 of Act No. 120 of October 31, 1994, as amended, is hereby repealed, which reads as follows:

“Section 1055.—Publicity of returns and taxpayers’ documents.—

- (a) Public record and inspection.—
 - (1) Returns made under this Subtitle upon which the tax has been determined by the Secretary or any other document related to a taxpayer, shall constitute public records; but, except as hereinafter provided, they shall be open to inspection only upon order of the Governor of Puerto Rico, after showing just cause therefor, and under rules and regulations prescribed by the Secretary.
 - (2) All returns made under this Subtitle shall also constitute public records and shall be open to public examination and inspection to such extent as may be authorized by rules and regulations promulgated by the Secretary.
 - (3) Whenever a return is subject to the inspection of any person, a simple or certified copy thereof shall, upon request, be furnished to such person under rules and regulations prescribed by the Secretary. The Secretary shall prescribe a reasonable fee for furnishing such copy.
- (b) Inspection by shareholders and partners.—All *bona fide* holders of registered stock or of interest in partnership owning one (1) percent or more of issued stock of any corporation or of the total interest in a partnership shall, upon making the request to

the Secretary, be allowed to examine the annual income returns of such corporation or partnership and of its subsidiaries. For the purposes of this subsection, the term ‘corporation’ and ‘partnership’ shall include a corporation of individuals and a special partnership, respectively.

(c) Inspection by Committees of the Legislature.—

(1) Committees on Ways and Means and special committees.—

(A) The Secretary, upon request from the House and Senate Committees on Ways and Means, or a selected House or Senate committee specially authorized to investigate returns by a House or Senate resolution, or a joint committee so authorized by a concurrent resolution, shall furnish such committee assembled in executive session with any data of any nature contained in or shown by any return.

(B) Any such committees shall have the right, acting directly as committees, or by or through such examiners or agents as they may designate or appoint, to inspect any or all of the returns at such times and in such manner as they may determine.

(C) Any information thus obtained by the committee may be submitted to the House or the Senate, or to both the House and the Senate, as the case may be.

(d) Inspection by municipal treasurers or directors of finance.— Upon request of the municipal treasurers or directors of finance, the Secretary shall furnish to them all such information from

the returns made under this Subtitle as may be necessary to determine the municipal license tax applicable to a merchant as authorized to be levied and collected by the Municipal License Tax Act, Act Number 113 of July 10, 1974, as amended.

- (e) Penalties for disclosing information.—For penalties for illegally disclosing information, see Section 6051 of Subtitle F.”

Section 9.- Subclause (B) of clause (1) of subsection (b) of Section 1114 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1114.—Basis for determining profit or loss.—

- (a) ...
- (b) Adjusted Base.- ...
 - (1) General Rule.- ...
 - (A) ...
 - (B) with respect to any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the amount allowed, but not less than the amount allowable, under this Subtitle or prior income tax laws. The adjustment herein provided shall be only with respect to the current depreciation provided in Section 1023(k) and shall be made irrespectively of any option for or deduction for, flexible depreciation under Section 1117 or accelerated depreciation under Section 1118, or the use of any accelerated depreciation method or exception of

the application of capital accounts allowed by special fiscal incentives laws.

(C) ...

(2) ...”

Section 10.- Subsection (m) of Section 1119 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1119.— Distributions by corporations.—

(a) ...

(m) Earnings and profits.—Adjustment for depreciation.—With regard to any adjustment for depreciation, the computation of earnings and profits of the corporation shall be made solely with reference to the current depreciation established in Section 1023(k) and shall be made regardless of any option for or deduction of flexible depreciation under Section 1117 or accelerated depreciation under Section 1118, or the special deduction established in subsection (e) of Section 4 of Act No. 135 of December 2, 1997, or the use of any accelerated depreciation method or exception of the application of capital accounts allowed by special fiscal incentives laws.

(n) ...

Section 10A .- A Section 1121A is hereby created in Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1121A.- Special Tax for Corporations and Partnerships for advance payment on the increase in the accrued value in capital gains.

(a) Election of advance payment of special tax on increase of accrued value in capital gains.- Any corporation or partnership may

choose to pay during the period from July 1, 2006 to December 31, 2006, the special tax established in this Section on the total or part of the increase in the accrued value of capital gains owned by said taxpayers, without taking into consideration or requiring the sale of said assets to obtain said profits as well as the period of time during which the taxpayers have owned the same. Said special tax shall be applicable only in the case of long-term capital assets.

- (b) Special tax.- The special tax established by this Section shall be ten (10) percent of the increase in the accrued value determined by said persons over the capital gains.
- (c) Capital gains included.- Real property located in Puerto Rico;
- (d) Base Increase.- The base of the corporation or partnership on the capital gains subject to the present shall include the increase in the accrued value over which the taxpayer chose to pay tax pursuant to the provisions of this Section. The base thus determined shall be taken into account at the time or on the date on which said corporation or partnership sells the capital gains. Notwithstanding the above, any amount or increase in the value of said capital gains generated after the election or special treatment provided by this Section shall pay tax pursuant to the provisions of the laws in effect at the time of the final sale of said capital gains.
- (e) Recognition of loss – The amount of losses generated by the sale of the capital gains object of this Section shall be adjusted in accordance with the tax rate in effect applicable to this type of transaction at the time of the sale of said assets, prior to their use

or carry over by the taxpayer. In accordance to which, said loss shall be adjusted by a formula or a fraction, whose numerator shall be a ten (10) percent rate and the denominator shall be the tax rate in effect on the date of sale of the assets in question.

- (f) Election and payment.- The election to pay in advance the tax on the increase of the value of the capital gains covered by this Section shall be made within the period provided in the present Section, upon completing the forms provided by the Secretary of the Treasury for these purposes. The tax shall be paid at the Internal Revenue Collection Offices of the Department of the Treasury of Puerto Rico.”

Section 11.- Section 1158 of Act No. 120 of October 31, 1994, as amended, is hereby repealed, which reads as follows:

“Section 1158.- Reserved”

Section 11A.- A subsection (d) is hereby added to Section 1221 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1221.- Tax on Non-Resident Alien Individuals

(a) ...

- (d) Transitory Provisions.- Any distribution of dividends and partnership profits (except special partnership profit shares) made during the period from July 1, 2006 to December 31, 2006, shall be subject to a special tax rate of five (5) percent of the total amount received by a non-resident alien individual in lieu of the special tax established under subsections (a)(1)(A)(ii). The distributions made by a public corporation to

said individuals are excluded from the application of this provision.

Notwithstanding the above, the distributions made and taxed pursuant to the provisions of this subsection do not have to be ordinarily distributed to stockholders or partners of the entities that make said distributions. Thus, said money may be kept in the books of the corporation or partnership in question for the purpose of complying with any type of contractual, commercial or statutory commitment of said entities, to be taken into consideration at the time of making any type of distribution by the Board of Directors or managing partners or directors of said corporations or partnerships, and subject as such to their discretion in terms of the source or origin of the money to be distributed in the future by any of said entities.”

Section 12.- Section 1370 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1370.—Application of provisions.—

The provisions of this Subchapter shall be applicable to Special Employee-Owned Corporations incorporated according to the provisions of Chapter XVI of Act No. 144 of August 10, 1995, as amended.”

Section 13.- Section 1381 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1381.—Effect of certain corporate reorganizations.—

When a for-profit corporation establishes a subsidiary under the provisions of this Subchapter and Chapter XVI of Act No. 144 of August 10, 1995, as amended, as part of a reorganization plan through which the parent

corporation, in turn, will be converted to an Employee-Owned Special Corporation by means of merger, consolidation or any other method, or with the purpose to segregate a part or segment of its operations, or liquidate the entity as such, it shall have a term of five (5) years to complete said reorganization and conversion plan. Such term shall also apply to for-profit corporations that amend their certificate of incorporation to convert to an Employee-Owned Special Corporation, whose amendment or conversion should also be consigned in a reorganization plan.

...”

Section 14.- Section 1385 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1385.—Payments to a deceased ordinary or special member’s successor in interest.—

The amounts to be paid to the heirs or successors of a deceased ordinary or special member of an Employee-owned Special Corporation pursuant to the provisions of subsection (g) of Section 1503 of Chapter XVI of Act No. 144 of August 10, 1995, as amended, known as the ‘General Corporations Act,’ or that may be includible pursuant to Section 1378, in the gross income of a successor in interest of a deceased member shall be considered as income with respect to a decedent pursuant to Section 1126 of this Subtitle.”

Section 15.- Clause (2) of subsection (a) of Section 1411 Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1411.—Definitions.—

(a) ...

(1) ...

(2) Corporations.—The term ‘corporation’ includes limited

companies, joint stock companies, private corporations and insurance companies, and any other associations receiving income or making profits taxable under this Subtitle. The terms ‘association’ and ‘corporation’ include, in addition to other similar entities, any organization, other than a partnership, created for the purpose of carrying out transactions or accomplishing certain ends, and which, in like manner as corporations, continue to exist regardless of the changes in the membership thereof, or the persons sharing therein, and whose business is managed by one person alone, a committee, a board, or any other body acting in a representative capacity. The terms ‘association’ and ‘corporation’ also include voluntary associations, business trusts, Massachusetts’ trusts, common law trusts and limited liability companies. The term ‘corporation’ also includes a special corporation owned by employees, when not otherwise incompatible with the provisions of Subchapter ‘M’ of Chapter 3 of this Subtitle. For the purposes of Section 1112, the term ‘corporation’ also includes partnerships and special partnerships.

(3)(A)...”

Section 16.- Subtitle B of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“SUBTITLE B—EXCISE TAXES

CHAPTER 1—DEFINITIONS AND GENERAL PROVISIONS

Section 2001.—General definitions.—

(a) For the purposes of this Subtitle, the following terms shall have the meaning stated herein below:

(1) 'Article' shall mean any object, device, good or thing for use and consumption, regardless of its form, material or essence and regardless of its name.

(2) 'Cost in Puerto Rico' shall mean and shall be determined in each case, as established hereinafter:

(A) 'Importers.'—The 'cost in Puerto Rico' shall be the sum of all the costs, excluding freight charges and insurance, that make possible the arrival of an article to the ports, regardless of its name or origin, including all types of royalties, payments for distribution rights, licenses or any other similar payment or commissions, plus ten (10) percent of the sum of the related costs in this clause for freight and insurance. Notwithstanding the above, in the case of truck tractors, buses and trucks, the 'cost in Puerto Rico' shall be the f.o.b. factory price quoted by the manufacturer of said motor vehicles to its distributors in Puerto Rico, plus ten (10) percent of the f.o.b. factory price for freight and insurance.

In no case shall the cost in Puerto Rico be reduced by discounts for down payment or for discounts granted for volume of purchases, for sales volume or for considerations of a speculative nature, but it may be reduced in a corresponding measure for commercial discounts granted to make the prices stipulated in lists, catalogues, advertisements or other publications

comparable to the prevailing market prices, or to convert the consumer price figures to wholesaler or retailer prices, provided the Secretary determines that said reduction is duly justified under the circumstances to determine the cost in Puerto Rico. This definition shall be interpreted by the Secretary in a manner that is analogous to the existing. The term 'cost in Puerto Rico' shall not be applicable in the case of automobiles.

(B) ...

(C) The Secretary, however, may determine the 'taxable price in Puerto Rico' in accordance with the method that reflects the value or price of the articles subject to taxation, when he/she deems that the documents needed to establish the 'cost in Puerto Rico' are not authentic, are insufficient or inadequate for such purpose; or when on the basis of the documents submitted by the taxpayer to establish the 'cost in Puerto Rico' it differs considerably from the 'cost in Puerto Rico' for similar articles; or when no rule is prescribed to determine the 'cost of Puerto Rico' in this Subtitle.

(3) 'Manufacturer' shall mean any person engaged in the manufacture of any article, including assemblers or finishers of articles, and persons who further process partially processed articles.

Any person who begins or undertakes the processing or manufacturing of any article subject to taxation under this Subtitle (B) shall notify the Secretary thereof and

post a bond in favor of the latter in the manner provided by regulations.

- (4) ‘Date of introduction’ shall mean the day the articles are unloaded at the port. However, when due to applicable customs, military or sanitary regulations or for strikes at the ports or other labor conflicts, or when for any force majeure event, the taxpayer or the person liable for the payment of the excise taxes is prevented from taking possession of the articles introduced from abroad within the term of thirty (30) days counting from their arrival in Puerto Rico, the date of introduction shall be deemed as the date on which the customs office or the corresponding authority allows the taxpayer or the person liable for the payment of the excise taxes to take possession of the articles introduced, or the date on which the Secretary of Labor and Human Resources officially announces the termination of the strike, or that on which, in the judgment of the Secretary, the circumstances of force majeure have ceased.

In the case of tax exempt articles introduced into the Foreign Trade Zones in Puerto Rico, the date of introduction shall be the date on which the merchandise is removed from the premises of said Zone, which event shall be verified through the presentation of the document known as the “Declaration of Entry for Consumption” of the Customs Service of the United States of America.

- (5) 'Introduction' shall mean the arrival of articles to the ports of Puerto Rico from abroad that are effectively unloaded.
- (6) 'Introducer' shall mean any person who receives or acquires an article from abroad, either as a consignee or through a bank, shipping agent or any other middleman.
- (7) 'Municipality' shall mean all the municipal governments of the Commonwealth of Puerto Rico.
- (8) 'Person' shall mean any natural or juridical person.
- (9) 'Tax-exempt' person shall mean every person who, by reason of his/her status and in accordance with the requirements and provisions of this Subtitle, is legally qualified to acquire taxable articles without the need of paying the excise taxes or taxes established in this Subtitle.
- (10) 'Taxable price in Puerto Rico' shall mean the 'cost in Puerto Rico' plus twenty (20) percent of said cost.

In the case of automobiles, the 'taxable price in Puerto Rico' shall be the 'suggested consumer sales price,' as indicated herein below.

- (11) 'Suggested consumer sales price' shall mean:
 - (A) New vehicles for sale.—In the case of new automobiles introduced into the country by distributors and authorized dealers, the suggested sales price to the consumer shall include the basic cost of the automobile model, including the optional factory installed equipment, plus the insurance and import freight, the

estimated sales profit margin, and the costs associated with the preparation and delivery of the vehicle.

(B) New vehicles for private use.—In the case of new automobiles introduced into the country by persons who will use them for private purposes, the ‘suggested consumer sales price’ shall be the suggested manufacturer’s retail price as published in the ‘Black Book New Car Market Guide’ or in any authoritative and independent source duly recognized by the industry, as determined by the Secretary, multiplied by one point thirty (1.30).

(C) Used vehicles for sale.—In the case of used automobiles including vehicles known as ‘vans,’ ‘minivans’ and customized vehicles, introduced into Puerto Rico by authorized dealers, the ‘taxable price in Puerto Rico’ shall be the suggested sales price multiplied by one point forty (1.40).

For the purposes of this subsection, the term ‘suggested sales price’ shall mean that suggested sales price as published in the ‘Black Book Used Car Market Guide’ or in any other independent and authorized source duly recognized by the used automobile industry for similar models, as determined by the Secretary, under the classification of ‘Wholesale Clean’ or its equivalent.

Notwithstanding the above, in the case of used automobiles regarding available models of the calendar year in which the taxable event takes place and of models

of that calendar year or the immediately preceding calendar year, the ‘taxable price in Puerto Rico’ shall be determined in the same manner as in the case of new automobiles.

(D) Used vehicles for private use.—In the case of used automobiles introduced into Puerto Rico by persons for their private use, the taxable price shall be that appearing in the column ‘Retail Clean’ of the ‘Black Book Used Car Market Guide,’ or the suggested retail sales price established by any other authorized independent source recognized by the industry, as determined by the Secretary, multiplied by one point thirty (1.30).

For the purposes of this clause, ‘private use’ shall mean particular, personal, private, own use or any other use that is not for the resale or sale to third parties.

- (12) ‘Port’ shall mean any pier, dock, wharf, terminal, air or maritime zone or port of entry of persons or articles from abroad, including all warehouses, businesses, stores and structures, facilities and the premises thereof.
- (13) ‘Territorial Waters’ shall mean those navigable waters extending to 12 nautical miles off the coastal limits of the Commonwealth of Puerto Rico as provided by Presidential Proclamation No. 5928 of December 27, 1998.
- (14) ‘Secretary’ shall mean the Secretary of the Treasury.
- (15) ‘Bonded warehouse’ – shall mean those buildings or premises authorized by the Secretary, used or destined to store, deposit and keep imported, or locally-manufactured

merchandise subject to taxation, pursuant to this Subtitle, but that are pending payment thereof. The bonded warehouses may be private or public. The private ones are those belonging to importers or local manufactures that solely and exclusively devote them to store their own products. The public ones shall be those in which products that belong to other persons who are not their owners or administrators, can be deposited.

- (16) ‘Foreign-trade zone’ – Shall mean those areas in ports or adjacent to them, provided with facilities for loading and unloading, handling, manufacturing, exhibiting, storing, packing, classifying, cleaning or any other handling of merchandise within the area duly designated as such by the Foreign Trade Zones Board pursuant to the provisions of the U.S. Foreign-Trade Zones Act of June 18, 1934, as amended.”

Section 2002.—Scope of term ‘include’.—

For the purposes of the terms and phrases defined in this Subtitle, the words ‘includes’ and ‘including’ shall not be construed in the sense of excluding, omitting or eliminating other matters within the meaning of the defined term. Likewise, the specified objects shall only be taken as an illustration or characterization but not as including the entire universe of the objects subject to the provisions of this Subtitle.

Section 2003.—Limitation to fix taxes.—

No municipality, whether autonomous or not, of the Government of the Commonwealth of Puerto Rico may impose or collect a local excise tax on any Sectionsubject to taxation under the provisions of this Subtitle, as

established in Section 6188 of Subtitle F.

Section 2004.- Application to Government Agencies

Except as provided in Chapter 3 of this Subtitle on tax exemption to articles, the departments, agencies, administrations, bureaus, boards, commissions, offices, instrumentalities and public corporations, and municipalities of the Commonwealth of Puerto Rico, as well as the Legislative and the Executive Branch, shall be subject to the excise taxes established in this Subtitle, even though their enabling acts contemplate an exemption in the payment of an excise tax, except in those cases in which their enabling acts contain an exemption to the provisions of Section 2004A, which is the predecessor of this Section.

CHAPTER 2—TAXES ON ARTICLES

Section 2005.—General excise tax provision.—

An excise tax shall be levied, collected and paid at the rates prescribed in Sections 2006 to 2010 inclusive, of this Subtitle, on cement manufactured locally or introduced into Puerto Rico, plastic products, the introduction or manufacture of cigarettes, gasoline, aviation fuel, gas oil or diesel oil, crude oil, partially finished and finished products derived from petroleum, as well as any other mixture of hydrocarbons, and motor vehicles. The prescribed excise tax shall apply if the Section has been introduced into, sold, consumed, used, transferred or acquired in Puerto Rico and it shall be paid only once, at the time and in the manner specified in Chapter 6 of this Subtitle. The application of the tax shall be subject to the exemptions granted in Chapter 3 of this Subtitle.

Section 2006.—Cement manufactured locally or introduced into Puerto Rico by dealers.—

A six (6)-cent excise tax shall be levied, collected and paid for each

hundredweight or fraction thereof of all hydraulic cement, or substitute thereof, manufactured locally or introduced into Puerto Rico by dealers or local manufacturers who hold the license required in this Subtitle.

Section 2007.- Plastic Products

A six point six percent (6.6%) excise tax of the taxable price in Puerto Rico shall be levied, collected and paid on all plastic products described below, manufactured outside of Puerto Rico that do not meet the standards established by the following entities:

Pipes and Fittings for drinking water

- National Sanitation Foundation (NSF); Standard 61
- American Society for Testing and Materials (ASTM)
- American Water Works Association (AWWA); ANSI/AWWA C900-97 & C905-97; 909-97
- FM Approvals, Class Number 1612
- Underwriters Laboratories Inc., (UL)

Pipes, conduits and fittings for electrical use

- Underwriters Laboratories Inc., (UL)
- National Electrical Manufacturers Association (NEMA)
- Canadian Standards Association (CSA)

Pipes and Fittings for sanitary use and drainage

- National Sanitation Foundation (NSF); Standard 61
- American Society for Testing and Materials (ASTM)
- The American Association of State Highway and Transportation Officials (ASHTO)
- International Association of Plumbing and Mechanical Officials (IAMPO)

- Canadian Standards Association (CSA)

Plastic Furniture

- American Society for Testing and Materials (ASTM)

Section 2008.- Cigarettes

An excise tax of six dollars and fifteen cents (\$6.15) shall be levied, paid and collected on each hundred or fraction of one hundred (100) cigarettes. For the purpose of this Subtitle, the term ‘cigarette’ shall mean any roll of finely cut natural or synthetic tobacco or any other finely cut natural vegetable or synthetic matter, or any mixture thereof, or other finely cut solid matter or substance that is used to make cigarettes, provided the wrapping of the roll is not natural tobacco leaf.

Cigarettes manufactured, introduced, sold, conveyed, used or consumed in Puerto Rico shall have affixed upon the boxes, packages or packs in which packed, a label with the information and characteristics which are prescribed by regulation. Each cigarette box, package or pack, must have the word ‘taxable’ or ‘tributable’ stamped on a visible place and in clear and legible form. These provisions shall not be applicable to exempt cigarettes.

Section 2009.—Fuels.—

- (a) An excise tax shall be levied, collected and paid as herein indicated on each gallon or fraction thereof of the following fuels:

- | | |
|---|-----|
| (1) Gasoline | 16¢ |
| (2) Aviation fuel | 3¢ |
| (3) Gas oil or diesel oil or any other fuel | 8¢ |

- (b) For the purposes of this Subtitle, the term ‘gasoline’ shall include all types of gasoline, combustible products and gasoline mixtures with any combustible product for use or consumption for

propelling aircraft. Excluded from the term 'gasoline,' for the purposes of this Section, shall be liquid gases such as propane, butane, ethane, ethylene, propylene, butylene and any mixture thereof.

- (c) The tax on all transactions and transfer of fuel established in this Section shall be computed on the basis of a corrected temperature of 60 degrees Fahrenheit (F), the volume of fuel subject to the payment of excise tax shall be the total of gallons dispatched from the tanks of the provider to the tanks of the importer, distributor or local manufacturer as the case may be and as evidenced by the measures taken and certified by the authorized inspector before and after initiating the transfer.
- (d) The articles, including gasoline, aviation fuel, gas oil or diesel oil or any other fuel subject to the provisions of this Section shall be exempted from the sale and use tax established in Subtitle BB.

Pursuant to Act Number 82 of June 26, 1959, as amended, the levying and collection of the excise tax on gasoline prescribed in clause (1) of subsection (a) of this Section shall be suspended, in regard to aviation fuel and any other combustible product for use or consumption in the propelling of aircraft that are destined to be consumed in air travels between Puerto Rico and other places, or in air travel within the territorial limits of Puerto Rico, provided that in lieu of the tax levied in this Section, the Ports Authority levies upon said products a tax of two cents (2¢) per gallon or fraction thereof and collects it from the suppliers operating in the airports of Puerto Rico.

Section 2010.—Crude oil, partially finished and finished products

derived from oil and other hydrocarbon mixtures.—

- (a) In addition to any other excise tax prescribed in this Subtitle, a tax shall be levied, collected and paid for the use in Puerto Rico of crude oil, and partially finished and finished products derived from oil and any other hydrocarbon mixture at the rates fixed in the following table:

	Index Price per Barrel			
	Up to	\$16.01	\$24.01	Over
		to	to	
	\$16.00	\$24.00	\$28.00	\$28.00
Excise tax per barrel or fraction	\$ 6.00	\$ 5.00	\$ 4.00	\$ 3.00

In the case of refineries and petrochemical companies which as part of their oil refining process obtain volume gain from the final product, such gain shall be subject to the tax imposed by this Section.

For the purposes of this Section, the term ‘use’ shall include the introduction, use, consumption, sale, acquisition and transfer in Puerto Rico of the crude oil or oil products taxed in this Section. The tax on all transactions and transfers of fuel taxed by this Section shall be computed on the basis of a 60 degree Fahrenheit (F) corrected temperature. The volume of fuel subject to the payment of excise tax shall be the total of barrels dispatched from the tanks of the supplier to the tanks of the importer, distributor or local manufacturer, as the case may be, and as evidenced by the measurements taken and certified by the inspector authorized by U.S. Customs and the Department of Consumer Affairs before and after the transfer.

- (b) ‘Determination of index price’.—For the purposes of this Section, ‘index price’ shall mean the monthly arithmetical average of the price of crude oil prevailing in the first of the two (2) months preceding the month for which the price of the product taxed in Puerto Rico is fixed. The Secretary shall fix the ‘index price’ using as a basis the price quoted in two (2) of the following markets, among others: the New York Mercantile Exchange, West Texas Intermediate, Saudi Light, and North Sea Brent. The Secretary shall establish the mechanism to calculate the ‘index price’ through regulations. In the event that there are no quotations in one (1) or two (2) of these markets, the Secretary may fix the price taking any other reliable market as a basis.

The ‘index price’ shall be determined monthly by the Secretary in accordance with the procedure established in this subsection and shall notify the taxpayers of the applicable excise tax one week before the first day of each month.

The provisions of Chapter 3 of this Subtitle shall not be applicable to this Section, except for the provisions of Sections 2014 and 2015.

(b) Exemptions.—The tax levied in this Section shall not be applicable to:

- (1) Crude oil, partially finished and finished products derived from oil, nor any other hydrocarbon mixture used by the Electric Power Authority to generate electricity.
- (2) Crude oil, partially finished and finished products derived from oil or any other hydrocarbon mixture exported from Puerto Rico.

- (3) Crude oil, partially finished and finished products derived from oil or any other hydrocarbon mixture imported or sold locally to the agencies and instrumentalities of the Federal government.
- (4) Crude oil, partially finished and finished products derived from oil, or any other hydrocarbon mixture used by local refineries or petrochemical companies in the oil refining process, whether for a shrinkage in the raw material used in production (plant loss) or in refinery fuel expenses. In the case of refineries that use crude oil, this exemption shall never exceed, individually or jointly, six (6) percent of the verified total of the oil products used in the refining process. In the case of petrochemical companies, the exemption may exceed six (6) percent, but for that, the petitioner must submit evidence to the Secretary that justifies a greater exemption, and the Secretary shall determine the amount of the exemption by evaluating the evidence submitted and any other pertinent information.
- (5) Crude oil, partially finished and finished products derived from oil, or any other hydrocarbons mixture used in the manufacture of articles which after finishing cannot be identified as oil products taxed by this Subtitle. All persons covered by this exemption must have a prior acknowledgement and authorization of the Secretary.
- (6) Crude oil, partially finished and finished products derived from oil, nor any hydrocarbons mixture used as

lubricant or fuel in the propulsion of air and maritime transportation vehicles in their air and maritime travels between Puerto Rico and other places.

(7) Crude oil, partially finished and products derived from oil, nor any hydrocarbons mixture used as lubricant or fuel for the generation of vapor for the cooking, canning and sterilization of raw material proceeding from industrial fishing.

(8) Crude oil, partially finished and finished products derived from oil, nor any hydrocarbons mixture used by vessels that provide towing service and/or fueling service to freight ships, cruise ships and/or other vessel that requires these services, be it within territorial waters or outside the same.

(9) The articles, including crude oil, partially finished and finished products derived from oil or any hydrocarbons mixture subject to the provisions of this Section shall be exempted from the sale and use taxes established in Subtitle BB.

(c) Time to pay.—The tax shall be paid pursuant to Section 2049 of Chapter 6 of this Subtitle, except in the case of local manufacturers, which shall be paid pursuant to the provisions of Section 2050.

(d) Refund for exemptions.—In the cases of refineries and petrochemical companies, the Secretary shall grant a credit or shall refund the excise taxes paid to the treasury if the exempted

person proves, to the satisfaction of the Secretary, that he/she is entitled to enjoy one or more of the exemptions established in this Section. In such cases, the credit or refund shall be limited to:

- (1) The exempted person when he/she has paid the tax directly.
 - (2) The exempted person, upon prior consent by the person who paid the tax.
 - (3) The person who after paying the tax has not transferred it, in whole or in part, in the sale price billed to the exempted person.
- (e) Amount of the bond.—The bond or endorsement to an existing bond, if any, shall be equal to the average of the taxes paid during thirty (30) days in favor of the Secretary to assure the faithful compliance of the provisions of this Section.
- (g) The Secretary shall require that a monthly inventory be carried out under the FIFO (First-In First-Out) method in accordance with generally accepted accounting principles for transactions related to the payment of taxes, acceptance of credits and allowable refunds, in accordance with the provisions of this Section.

Section 2011.—Vehicles

- (a) An excise tax shall be levied, collected and paid on every vehicle that is introduced from abroad or manufactured in Puerto Rico, as established subsequently following the description of said vehicle:
- (1) Automobiles: the percent corresponding to the taxable price

in Puerto Rico provided in the following table:

TAX TO BE PAID

If the taxable price in Puerto Rico is:	The tax will be:
Up to \$6,170	\$750 (minimum tax)
Over \$6,170 and up to \$10,690	\$750 plus 13% of the excess of \$6,170
Over \$10,690 and up to \$21,380	\$1,338 plus 25% of the excess of \$10,690
Over \$21,380 and up to \$31,780	\$4,010 plus 30% of the excess of \$21,380
Over \$31,780 and up to \$44,890	\$7,130 plus 35% of the excess of \$31,780
Over \$44,890	40%

This table shall apply to all new and used automobiles introduced to Puerto Rico, except in the case of new automobiles to be exported. The Secretary shall adjust the price brackets of the above table with the purpose of protecting consumers from the adverse taxable effect that inflation and the consequent increase the consumer sales price could have on the excise taxes in effect specified in such table. Such adjustment shall be made by administrative determination, in a period not greater than three years counted from the effective date of this Subtitle and subsequently in successive periods of not more than three years. The basis for making said adjustment shall be the Durable Goods Consumption Expenditures Implicit Deflator as published by the Planning Board. The Secretary shall publish these adjustments in a newspaper of general circulation and shall remit a copy of

the adjustments to the Legislature.

In any case, the adjustments made by the Secretary to the price brackets shall have the effect of lowering the taxes that would otherwise apply if the inflationary adjustment had not been made.

(2) Trailer Trucks -17% of the taxable price in Puerto Rico

(3) Buses - 20% of the taxable price in Puerto Rico

(4) Trucks - 10% of the taxable price in Puerto Rico

In no case shall automobiles, trailer trucks, buses and trucks pay a tax lower than seven hundred fifty dollars (\$750).

(b) Definitions.— For the purposes of this Section and of any other applicable provisions of this Subtitle, the following terms shall have the meaning stated below:

(1) ‘Automobile’ shall mean any vehicle provided with any self-propelled means designed to transport persons, including hearses and wreath coaches, but excluding buses, ambulances and motorcycles. It shall also mean those multipurpose vehicles that due to their design, internal structure, mechanical features and physical configuration may be used to transport freight as well as passengers. It also includes vehicles known by the generic name of ‘vans,’ ‘minivans’ and ‘customized vehicles.’

(2) ‘Bus’ shall mean and include any passenger motor vehicle, commonly known as autobuses or *guaguas* with a capacity of fifteen (15) passengers or more, including the driver, ambulances, as well as the chassis and bodies

and the passenger buses constructed on truck chassis.

- (3) 'Trailer Truck' shall mean and include all trucks especially designed to haul trailers.
- (4) 'Trucks' shall mean and include:
 - (A) Trucks, light trucks, trailers and similar self propelled vehicles by whatever name they are known, designed for the basic purpose of transporting freight. This term excludes those motor vehicles that due to their design and internal structure are used for the transportation of passengers, and whose basic although not exclusive purpose is for the transportation of passengers, which shall be taxable as automobiles.
 - (B) Motor vehicles provided with any number of wheels, horizontal or vertical platform, scoop or bucket, or crane geared to the motor power of the vehicle, designed expressly for the transportation, hauling, towing, lifting, stowing or storing of freight, materials or bundles, regardless of the distance traveled or said vehicle's area of activity.
 - (C) Any device or hoisting unit designed or constructed for adaptation to, installation on, or coupling to any vehicle mentioned in subclauses (A) and (B) of this clause, thereby extending, specializing or otherwise modifying the usefulness of said vehicle.
 - (D) The term 'trucks' shall also mean the trailers designed to be hauled by truck trailers or trucks including the bodies for the storage or transportation of merchandise.

(c) The following provisions shall complement the application and compliance of this Section:

- (1) Determination of the suggested sales price.— The suggested consumer sales price of the new and used automobiles shall be determined by the importer or distributor pursuant to the provisions of this Subtitle prior to the introduction of the vehicle into Puerto Rico. Provided, that the suggested consumer sales price for each vehicle does not necessarily have to be the same for all dealers, but the excise tax to be paid shall be determined and paid pursuant to the suggested consumer sales price shown on the price tag affixed to the vehicle and determined by the distributor.
- (2) Determination of the Secretary if the taxable price does not reasonably reflect the vehicle price.—In the case that the suggested consumer sales price reported by a specific importer does not reasonably reflect the suggested consumer sales price of similar models at the time of the vehicle's introduction to Puerto Rico, the Secretary shall determine and collect from this importer the tax fixed by this Subtitle, using as reference any other source of information that is duly recognized by the United States automobile industry. However, in no case shall it be understood that this power authorizes the Secretary to substitute, as a general applicable rule, the suggested consumer sales price basis for any other alternative fiscal base, except to correct the taxable price unreasonably determined by the importer in the particular case.

The determination of the Secretary shall be presumed to be correct without impairment to the provisions established in Subtitle F.

- (3) Affixing of suggested sales price tag.— The importer or distributor shall affix a tag or label to each automobile with the information that the Secretary determines is necessary so that each vehicle is visibly identified with its suggested consumer sales price. In the case of used automobiles, the Secretary shall determine the manner of complying with the labeling requirement.
- (4) Notification of shipments to the Secretary.—Every importer or distributor of new vehicles shall be required to submit to the Secretary, 15 days before the date of authorization of the release of shipment from the port, a description of the vehicles to be received and the suggested consumer sales price of each.
- (5) Partial release of shipments.—The Secretary may authorize the partial withdrawal of the vehicle shipment from the place where deposited, as provided by regulation.
- (6) Scanner.—The Secretary may require from the manufacturer or distributor, the labeling for scanner in vehicles to be introduced into Puerto Rico. The implementation by regulation of this means shall allow the Secretary to mechanize the operations relative to the implementation of this Subtitle.
- (7) Provisions applicable to models of automobiles not comprised among those covered herein.— The Secretary

shall establish for models of automobiles or vehicles not covered or contemplated under the provisions of this Subtitle, the listing of information he/she deems pertinent to clearly determine the 'suggested consumer sales price' that shall be used to fix the tax to be applied pursuant to this Subtitle. In every case, this reference price shall not be less than that corresponding to the 'Black Book New Car Market Guide,' or to what is established in any authorized and independent sources recognized by the industry, as determined by the Secretary, in effect on the date it is used as reference, multiplied by a factor 1.32.

- (8) Time for payment for imported vehicles for private use.—In the case of motor vehicles imported or manufactured for private use of the importer or manufacturer, the time of payment of the excise tax shall be the date of introduction. The release from the port of any vehicle introduced into Puerto Rico for the importer's personal use shall not be authorized until it is demonstrated that the unit was registered with the Department of Transportation and Public Works, and it is demonstrated, before retrieving the automobile from the deposit site, that the importer has, in effect, the vehicle license issued to his/her name.
- (9) No person shall be granted a license or license plate for a vehicle taxed by this Subtitle, nor shall the Secretary of Transportation and Public Works issue any such license or license plate, unless the person shows evidence that attests to the payment of the excise tax fixed in this Section or of

the exemption granted, if any, as the case may be.

- (10) The Secretary shall furnish information, free of charge, to any person that requests it on the cost in Puerto Rico and the taxable price of any motor vehicle introduced into or manufactured in Puerto Rico.
- (11) Every automobile, trailer truck, bus or truck subject to the provisions of this Section shall be exempted from the sales and use tax established in Subtitle BB.

Section 2012.- Excise Tax Statement and Monthly Excise Tax Return

(a) Every importer shall file an excise tax statement on all articles subject to taxation under Subtitle B introduced from abroad. The statement shall be made concurrently with the date of payment of the corresponding excise taxes. The statement shall contain the information on articles subject to taxation under this Subtitle B established by regulations and shall be made under oath.

(1) Exceptions.-

(A) dealers bonded to introduce vehicles shall file the statement indicated in subsection (a) no later than ten (10) days after the date on which they take possession of the vehicles; and

(B) in the case of merchandise introduced by mail and air courier, the statement on articles subject to taxation under this Subtitle B shall be filed no later than the fifth (5th) work day following the date on which possession of the merchandise is taken.

(b) Every bonded importer or manufacturer of articles subject to

taxation under this Subtitle B shall file a Monthly Excise Tax Return no later than the tenth (10th) day of the month following the date of introduction or manufacture. Said return shall be filed even when no transactions subject to taxation have been conducted. The Monthly Excise Tax Return shall contain the information on articles subject to taxation under this Subtitle established by regulations and shall be made under oath.

Section 2013.—Articles introduced in vans.—

Any persons who introduces articles subject to taxation under this Subtitle B into Puerto Rico using the system of vans to transfer the same from the port to their warehouses shall file before the Secretary an excise tax statement on all articles subject to taxation under this Subtitle contained in the van and the bill of lading corresponding to the articles introduced and subject to taxation under this Subtitle prior to removing the van from the custody of the carrier. The excise tax statement and the bill of lading shall include all the information required by regulations or by the Secretary. Said documents may be filed by electronic means in accordance with the mechanisms provided by the Secretary. When the taxpayer does not have the bill of lading available at that time, he/she shall submit the corresponding commercial invoices to the Secretary. If he/she does not have either of the said invoices available, or refuses to submit them, he/she shall be prevented from taking possession of the articles. These provisions shall not relieve the introducer from complying with the provisions of this Subtitle regarding the determination of the taxpayer and the term of payment or from his/her obligation to submit the commercial invoices to the Secretary at the time the tax is paid. In the case of perishable articles subject to taxation under this Subtitle and introduced from abroad using the van system, the Secretary

shall establish adequate administrative mechanisms so that the introducer can promptly take possession thereof.

Once the taxpayer, consignee or carrier has been authorized to move the van from the premises of the carrier company, whether directly or through his/her authorized representative, he/she shall be liable and shall be guilty of a felony, as of that moment, for any rupture to the binding, latch, padlock or seal of the van, if said rupture was not made in the presence of a treasury official of the Department of the Treasury or by express authorization through an official document from the Secretary. The Secretary, however, shall not prevent nor delay the process of the removal of merchandise if the advance payment of taxes is necessary.

Section 2014.—Obligations of Port Owners, Lessees and Administrators.—

No owner, lessee or administrator of any port who has articles subject to the payment of excise taxes pursuant to this Subtitle in his/her custody shall deliver them to the consignee, nor to the person that properly claims them unless they present a certification issued by the Secretary authorizing the delivery.

When, pursuant to Act Number 15 of May 9, 1941, as amended, and to its regulations, the owner, lessee or administrator of any port transfers the cargo to any depot or warehouse, the owner of the warehouse depot shall have the obligation of not delivering the taxable articles under this Subtitle or vans unless the corresponding certification issued by the Secretary therefor has been previously obtained. If such owner, lessee or administrator sells the articles because they have not been claimed, he/she shall pay the Secretary such excise taxes plus the surcharges and interest that encumber said articles up to the date of payment.

CHAPTER 3—EXEMPTIONS TO TAXES ON ARTICLES

Section 2015.—Exemptions; powers of the Secretary.—

- (a) The Secretary is hereby empowered to establish, through regulations, the conditions regarding the enjoyment of any exemption granted in this Subtitle in order to ensure due compliance of the terms, provisions and purposes by virtue of which the exemption is granted.

The Secretary may impose the following requirements and conditions among any others that he/she may deem pertinent:

- (1) Require the taxpayer to file returns and reports and to keep accounting books and records, as well as to present any document or evidence that is deemed pertinent to the exemption claimed or granted, as the case may be.
- (2) Require the posting of a bond for the amount of the exemption requested and of any administrative fine, surcharge or interest that may be imposed pursuant to this Subtitle.
- (3) Require that he/she be authorized to conduct periodic inspections, or any others, in connection with the exempted articles and that the contracts, orders or other information regarding permits to transfer or sell exempted articles be filed beforehand.
- (4) Establish a time limit during which the Section on which the exemption is claimed may be used for the purpose which entitles it to the exemption, unless otherwise provided in this Subtitle.

The Secretary may deny any petition for exemption, or prospectively revoke the recognition of any previously granted exemption, when he/she determines that the exempted person has not complied with a provision of this Subtitle or of its regulations

by virtue of which the exemption had been granted.

Section 2016.—Refund of taxes paid.—

(a) In order to achieve due supervision of the exemptions granted by this Subtitle, the Secretary is hereby empowered to collect the excise tax, upon recognition of the exemption, except in respect to:

- (1) The exemption granted to a manufacturing plant when the latter acquires raw material, equipment and machinery directly from abroad.
- (2) The exemption granted to a manufacturing plant when the latter acquires raw material, equipment and machinery deposited in bonded warehouses belonging to importer dealers.
- (3) The exemption granted to importer dealers on articles introduced into Puerto Rico and deposited in bonded warehouses with the purpose of selling the same abroad.
- (4) The exemption granted to nonprofit institutions under Section 2027 of this chapter.
- (5) The exemption granted in Section 2022 of this chapter.

(b) Likewise, excise taxes paid to public treasury may be refunded or credited if the exempt person shows to the satisfaction of the Secretary that he/she is entitled to enjoy one or more of the exemptions provided in this chapter. In such cases, the refund or credit shall be limited to:

- (1) The exempt person when the latter has paid the tax directly.
- (2) The exempt person with the previous consent of the person who paid the tax.

- (3) The person who, after paying the tax, has not transferred it in whole or in part in the selling price charged to the exempt person.

Section 2017.—Conditional exemptions for articles in transit, for re-export or for return.—

No conditional exemption shall be recognized in the cases indicated in Sections 2023 and 2024 of this chapter, unless the article to which the exemption is granted is once again exported, returned to the manufacturer, destroyed or otherwise disposed of as required by the provisions of such Sections.

Subject to the provisions of Section 6140 of Subtitle F, the Secretary may extend or broaden the time limit so that a taxpayer can once again export, return to the manufacturer, destroy or otherwise dispose of the articles subject to conditional exemptions for any of the reasons or causes established in the above-mentioned Sections 2023 and 2024 of this Chapter.

Section 2018. – Public carrier vehicles

- (a) The following vehicles shall be exempted from the excise tax fixed in Section 2010 of Chapter 2 of this Subtitle, provided they are acquired to be devoted to transportation for pay:

- (1) Every new or used motor vehicle initially registered with the Department of Transportation and Public Works by a person who, immediately after its acquisition, devotes it to public transportation for pay, shall be considered public transportation (P). When the carrier is the owner of more than one motor vehicle and uses the same for public paid transportation of passengers, he/she shall be entitled to avail him/herself of this excise tax exemption on the first motor

vehicle that he/she registers, but not on the second or any other thereon. Said first motor vehicle shall continue to benefit from the exemption granted herein in case of its sale, alienation or transfer, provided that the original acquirer has devoted it to public paid transportation of passengers for a minimum period of three (3) years.

In the event that the owner of said motor vehicle owns more than one motor vehicle destined for public paid transportation of passengers, twenty percent (20%) of the excise tax fixed under Section 2010 of Chapter 2 of this Subtitle shall be paid for the second motor vehicle and any other thereon. Said motor vehicles shall continue to benefit from the exemption granted herein in the event of sale, alienation or transfer, provided that the original acquirer has devoted it to public paid transportation of passengers for a minimum period of three (3) years. Motor vehicles devoted to school transportation shall also be exempted.

- (2) Every heavy motor vehicle initially registered in the Department of Transportation and Public Works of Puerto Rico by a person who, as a public carrier, devotes it immediately after its acquisition to public paid freight transportation, and is considered as a working tool of its owner under the provisions of Sections 1-109 and 1-165 of Act Number 141 of July 20, 1960, as amended, and in Section 2(d) of Act Number 109 of June 29, 1962, as amended, known as the 'Puerto Rico Public Service Act.' Provided, that when the owner of a heavy motor vehicle

sells, alienates, or otherwise transfers the same to another person who does not devote the same immediately after its acquisition to the usage and conditions established in this clause, the new acquirer shall be required to pay the difference between the total exemption provided in this clause and the amount he/she would have to pay pursuant to this Act. Said difference shall be computed taking into consideration the taxable price of said vehicle in Puerto Rico on the basis of which the excise tax was paid or the exemption granted, as the case may be, and the depreciation suffered.

When the owner of a motor vehicle subject to the exemption established in the above clause (1) sells, alienates or otherwise transfers it to another person, the new acquirer shall continue to enjoy the exemption of the partial payment of the excise taxes granted, provided the original owner has complied with the use and conditions established in said clause, pursuant to applicable regulations. Every owner of a motor vehicle exempted from the payment of excise tax or subject to a partial payment thereof established in clause (1) who subsequently decides to destine it for his/her personal use, shall continue to enjoy the exemption granted, provided he/she complies with the uses and conditions established in said clause.

When an importer or dealer pays the excise tax on a motor vehicle and subsequently sells it for the purposes established in clauses (1) and (2), the Secretary shall return

to such importer or dealer any difference between the tax paid and the partial tax or applicable exemption according to said clauses, provided said difference has not been passed to the purchaser, and if so, the difference shall be returned to the latter.

- (3) Every new or used motor vehicle acquired by a natural or juridical person who operates as a tourist transportation enterprise, if immediately after its acquisition, the vehicle is devoted to the transportation of passengers for direct or indirect pay. Said motor vehicle shall continue to enjoy the exemption herein granted in the case of sale, alienation or transfer, provided the original acquirer had devoted the same to the transportation of passengers for pay and operated regularly as a tourist transportation enterprise for a minimum period of three (3) years.

Section 2019.- Exemptions to Consular Officials and Employees

The vehicles acquired or introduced in Puerto Rico for the personal use of consular officials and employees of foreign countries in Puerto Rico shall be exempted from the excise tax fixed in Section 2010 of Chapter 2 of this Subtitle, provided said countries extend a like privilege to the representatives of the United States of America pursuant to the 1961 Vienna Convention Treaty on Consular Relations and/or to the officers who hold positions in the offices of the Commonwealth outside of Puerto Rico. The terms 'consular official' and 'consular employee' shall have the meaning established in Section 1 of said Treaty. This exemption shall be granted provided the consular official or employee is not a citizen of the United States or a resident of Puerto Rico, and the compensation he/she receives is

for professional services rendered to the government of said foreign country. When the owner of a vehicle who is enjoying the exemption granted in this section sells, transfers or otherwise conveys it, the new acquirer shall be bound to pay the excise tax that results from applying the table contained in Section 2010 of Chapter 2 of this Subtitle, taking as basis the taxable price on which the exemption was granted minus depreciation, before taking possession thereof. It shall be the obligation of the exempted person to require evidence from the new acquirer of the payment of the excise tax prior to delivering the vehicle to him/her.

Section 2020.- Exemptions to Persons with Disabilities

- (a) Any person whose hands have been amputated or who is permanently paraplegic, or any person with a permanent disability of a similar nature shall benefit from the excise tax exemption established in Section 2010 for one (1) motor vehicle especially prepared and equipped to meet the needs associated to his/her disability, in accordance to the rules adopted to such effect.
- (b) In accordance with the regulations established by the Secretary, the exemption provided in subsection (a) of this Section may be claimed by a parent or guardian in the case of a not emancipated minor and by a guardian of an adult who has been judicially declared disabled.
- (c) The exemption established in this Section shall apply to the replacement of the motor vehicle acquired by the persons described above, provided that the motor vehicle to be replaced has been owned by the disabled person for his/her personal use for a period of not less than six (6) years.

Notwithstanding the above, when the motor vehicle to be replaced is no longer useful due to fortuitous causes that cannot be attributed to the negligence of its owner, the exemption shall be applied to the replacement. When the owner of a motor vehicle who is enjoying said exemption sells, transfers or otherwise alienates the motor vehicle, the new acquirer shall be under the obligation to pay the excise tax that results from applying the table contained in Section 2010 of Chapter 2 of this Subtitle, taking as basis the taxable price on which the exemption was granted minus depreciation, before taking possession thereof. It shall be the obligation of the exempted person to require evidence from the new acquirer of the payment of the excise tax prior to delivering the vehicle to him/her.

If the new acquirer is a person who has a disability described in this Section, he/she may avail him/herself of the benefits of the exemption for the remainder of the six (6) year term of the original exemption granted.

Section 2021. – Exemptions to Churches

(a) New vehicles with a capacity of twelve (12) or more passengers, excluding the driver, that are registered for the first time in Puerto Rico, acquired and used by churches exclusively for the transportation of their parishioners to the religious services, shall be exempted from the payment of the excise taxes fixed in Section 2010 of Chapter 2 of this Subtitle. The churches that wish to avail themselves of this exemption, shall meet the following requirements:

- (1) be recognized by the Secretary as a tax exempt organization pursuant to Section 1101(4) of Subtitle A.
- (2) The exempted vehicle must remain in the possession of the institution which acquires it for a minimum term of six (6)

years.

- (3) To obtain an express authorization from the Secretary recognizing the exemption and justify in the petition to such effects, the necessity and convenience of acquiring of the vehicle.
- (b) The Secretary may revoke the exemption provided herein in those cases in which the church devotes the vehicle to a use other than that established in this Section. When the church sells, transfers, or alienates the vehicle enjoying the exemption provided herein, the new acquirer shall pay the excise tax that results from applying the table contained in Section 2010 of Chapter 2 of this Subtitle, taking as a basis the taxable price on which the exemption was granted minus depreciation, prior to taking possession thereof. It shall be the obligation of the exempted church to require evidence from the new acquirer of the payment of the excise taxes prior to delivering the vehicle to him/her.

Section 2022.—Exemptions for donations to the Police of Puerto Rico and the Municipal Government Police.—

New vehicles acquired by a non-exempt natural or juridical person for the sole purpose of donating them to the Police of Puerto Rico and to the municipal governments for patrol duty, crime prevention, protection of property and other public services rendered by the Municipal Guard shall be exempted from the payment of the excise taxes fixed by this Subtitle.

Any exemption granted by the Secretary by virtue of this provision shall be subject to the registration of the donated object in the name of the Police of Puerto Rico, or of the Municipal Governments for the use of the Municipal Guard. Provided, that upon the receipt of the motor vehicle, it

must be delivered to the entity to which it will be donated.

Section 2023.- Exemptions on Articles for Manufacturing

Any raw material, excluding hydraulic cement, to be used in Puerto Rico for the manufacture of finished products, as well as trailers, trucks or lifts, as said terms are defined in Section 2010 that are used exclusively and permanently within the manufacturing plant circuit, shall be exempted from the payment of the excise tax established in this Subtitle.

Section 2023.—Exemptions on articles in transit and for export.—

(a) The articles comprised in the cases indicated hereinbelow shall be exempted from the payment of excise taxes established in this Subtitle, provided the provisions of the Section 2016 of this Subtitle are complied with.

- (1) Articles in transit in Puerto Rico consigned to persons outside of Puerto Rico, as stated in the shipping documents while they remain in the custody of the carrier or customs authorities, or deposited in a bonded warehouse, or in the warehouses of the shipping company that is the intermediary consignee in Puerto Rico, and that are stripped from Puerto Rico within one hundred and twenty (120) days from the date of their introduction.
- (2) Articles introduced into Puerto Rico consigned to dealer-importers with the intention of exporting them, while they remain in the custody of the customs authorities or in the Foreign Trade Zones in Puerto Rico.
- (3) Articles introduced into Puerto Rico or acquired from local manufacturers that, without having been subject to

sale, use or transfer in Puerto Rico, are in the custody of dealer-importers or dealers who have acquired them from manufacturers in Puerto Rico and that are sold for use or consumption outside of Puerto Rico. The articles thus sold must be reshipped abroad before they are subject to internal commerce or use or consumption in Puerto Rico in order to be exempted from the payment of taxes.

For the purposes of this clause the term ‘internal commerce’ does not include a sale or transfer transaction that initiates the completion of the reshipping of the articles outside of Puerto Rico.

Section 2025. Exemptions on Returned Articles

- (a) The articles in the cases described hereinbelow shall be exempted from the payment of the excise taxes fixed by this Subtitle provided the provisions of this section are complied with.
 - (1) Articles substantially returned by the introducer to persons abroad, or by the dealer or local manufacturer, without having been commercially exhibited or used in Puerto Rico, provided said return is made within sixty (60) days from the date of their introduction in Puerto Rico, when dealing with articles brought from abroad. In the case of articles manufactured locally, the above-mentioned term for their return abroad shall be counted starting from the date of sale.
 - (2) ...
 - (3) ...

(4) ...

Section 2026.—Exemption to Tourists and Residents of Puerto Rico Traveling Abroad.—

The introduction of two hundred (200) cigarettes shall be allowed without the imposition of the excise tax established in this Subtitle. Any excess over two hundred (200) cigarettes shall be subject to the payment of the corresponding excise tax. It shall be understood that the cost of the exempted cigarettes is included in the amount of the exemption.

Section 2027.—Exemption on articles sold in air or maritime terminal stores to persons leaving Puerto Rico.—

(a) The articles introduced or manufactured in Puerto Rico to be sold in stores established in air or maritime terminals that are duly authorized to sell duty-free articles to persons leaving the jurisdictional limits of Puerto Rico shall be exempted from the payment of excise taxes. This exemption shall be granted when the store that sells them:

- (1) Has the license required to operate this type of business.
- (2) Meets the requirements established to such effects by the Secretary for the sale of duty-free articles and the regulations adopted for the granting of said exemption.
- (3) Delivers the duty-free articles on board the plane or vessel in which the acquirer is to travel, or in the area or immediate boarding concourse of the air or maritime vessel.

Section 2028.—Nonprofit charitable institutions.—

(a) The organizations recognized by the Secretary as exempted from the payment of income tax pursuant to Section 1101(4), (6) (in the case of a civic league) and (23) (in the case of

nursing homes) of Subtitle A and that upon an investigation to such effects, demonstrate that they are engaged in Puerto Rico in social service work such as hospitals, dispensaries or nursing homes that, among other things, provide free transportation services to the elderly and persons with disabilities, or that are engaged in the teaching of educational material that appears in the general curriculum of the public education system of Puerto Rico, including vocational training, shall be exempted from the payment of the excise taxes fixed in this Subtitle on: The first five thousand (5,000) dollars of the excise tax on any automobile, other than luxury and the total amount of the excise taxes on trucks and buses especially designed and equipped for the transportation of persons with disabilities or the elderly, and buses that, in accordance with the rules adopted by the Secretary, are necessary for the operation of the institution.

The organizations described in this subsection that render free emergency services to the people of Puerto Rico shall be entitled to a total exemption on any vehicle that is donated to them under the condition that they use it to render said emergency services.

- (b) Any institution that wishes to avail itself of the exemption of the payment of excise taxes on vehicles established in this Section shall meet the following requirements:
 - (1) The organization must be recognized by the Secretary as an organization exempted from the payment of income tax pursuant to Section 1101(4), (6) (in the case of a civic league) and (23) (in the case of nursing homes) of

Subtitle A, engaged in the rendering of social services or free emergency services;

- (2) The exempt vehicle must remain in the possession of the nonprofit charitable institution for a term of four (4) years.
 - (3) In the case of institutions that render emergency services, it shall be necessary for the donor to obtain express authorization from the Secretary acknowledging the exemption prior to donating the vehicle.
- (c) If at any time after its acquisition, the nonprofit charitable institution sells, transfers or otherwise alienates the vehicle exempted from the partial payment of excise tax, the new acquirer shall be bound to pay the excise tax that results from the application of the table contained in Section 2010 of Chapter 2 of this Subtitle, taking as basis the taxable price over which the partial exemption was granted minus depreciation, prior to taking possession thereof. It shall be the obligation of the exempt nonprofit charitable institution to demand evidence of the payment of the excise tax from the new acquirer prior to delivering the vehicle to him/her. Likewise, a notice and payment of excise taxes shall be required in every case in which any other exempted article is sold, transferred or alienated.
- (d) The exemptions granted in this Section shall not be applicable to fuel.
- (e) Every nonprofit charitable institution that wishes to acquire any article or vehicle for the exclusive use of the institution, free from the payment of the excise taxes fixed in this Subtitle, must

request it in advance from the Secretary. The equipment it wishes to acquire shall be described in the petition as well as the necessity and convenience of its acquisition.

- (f) For the purposes of this Section and of the other applicable provisions of this Subtitle, 'social services' shall mean any systematic and effective program to improve living conditions in the rural zones or slum areas in Puerto Rico, also including the hospitalization of insolvent or needy persons, the maintenance of outpatient clinics, the teaching of educational material comprised in the public education system of Puerto Rico, vocational training, reeducation or reorientation of persons with deficiencies in their physical or mental development, the maintenance of prevention centers, sanatoriums, reformatories and orphanages.
- (g) In the case of religious institutions engaged in different activities, the exemption shall be applicable to those programs or units of the institution that are exclusively engaged in social service work. With regard to teaching, the fact that religious doctrine is taught shall not be an impediment for the granting of this exemption if, in the judgment of the Secretary, the teaching of the courses in the general curriculum of the Public Education System of Puerto Rico and vocational training prevails.
- (h) 'Nonprofit charitable institution' shall mean that partnership, association, organization or entity that renders 'social services' free of charge, at cost or at less than cost, or if at more than cost, the total amount of the profits is invested in extending the physical structure or the 'social services,' including the

American Red Cross and United Funds of Puerto Rico. The Secretary may, at any time, prospectively revoke his/her recognition to these institutions as an exempt person, when he/she determines that the institution does not qualify as a 'nonprofit charitable institution,' based on the following considerations, among others:

- (1) That it pays its directors, officers, officials or employees salaries, per diems, perquisites or other emoluments higher than those prevailing for similar institutions of the Government of the Commonwealth of Puerto Rico.
- (2) Incurs extravagant expenses or its expenditures are not clearly related to the objectives of social services as established in this Section.
- (3) Refuses, as required by the Secretary, to furnish any reports on its operations and the services rendered or its accounting books.

Section 2029.—Exemption on Articles Acquired by Government Agencies.—

- (a) Any article acquired for official use by the agencies and instrumentalities of the Government of the United States of America shall be exempt from the payment of the excise taxes fixed in this Subtitle.
- (b) Vehicles, and heavy construction equipment acquired for official use by the departments, agencies, administrations, bureaus, boards, commissions, offices, public corporations, public instrumentalities and municipalities of the Commonwealth of Puerto Rico, including the Legislative

Branch and the Judicial Branch, shall be exempt from the payment of the excise taxes prescribed in Section 2014 of Chapter 2 of this Subtitle.

- (c) Every automobile of the Government of the United States of America and the Commonwealth of Puerto Rico sold in public auction shall be subject to the payment of the taxes imposed by this Subtitle for used vehicles.

The agency which auctions the vehicle shall require from the acquirer proof as to the payment of the excise tax before delivering the same to him/her.

Section 2030.—Exemption on Articles Belonging to Persons in Government Service.—

- (a) Persons in the service of the Government of the United States of America or of the Government of the Commonwealth of Puerto Rico who are officially transferred to render services in Puerto Rico shall be entitled to introduce into the Island one vehicle exempt from excise taxes, provided such introduction is as a result of and contemporaneous with the transfer order.
- (b) Servicemen in the Armed Forces of the United States of America that are transferred to Puerto Rico or to any foreign country shall also be entitled to said exemption. In such cases, the exemption shall be extended to the spouse and dependents of the serviceman domiciled in Puerto Rico who is transferred from the United States or other foreign country to serve in a place where he/she is not allowed to take his/her family and that for said reason is forced to introduce such vehicle to Puerto Rico.

- (c) For the purposes of the exemption provided in this Section, the term ‘dependent’ shall mean the father, mother or any other relative that lives in the immediate custody of the serviceman and that must return to Puerto Rico because said serviceman has been assigned to serve in a place where he/she cannot take them.
- (d) Servicemen who live abroad alone, without their spouse or any dependent through which the person may introduce the above-mentioned vehicle to Puerto Rico, may send it to the spouse or closest relative, accompanied by a certified copy of the transfer order.
- (e) The exemption granted in this Section shall cease at the time the transferred person or the spouse or dependent of the serviceman, when he/she is the introducer, sells or transfers the vehicle so introduced or remitted. The new acquirer shall pay the corresponding excise taxes at the time of the sale or transfer.

Section 2031.—Exemption on cigarettes.—

Cigarettes sold or transferred to foreign flag ships and of United States registration and those sold to foreign warships and to ships of a foreign country on courtesy visits to Puerto Rico, shall be exempted from the tax levied in this Subtitle. This exemption shall only be granted when the cigarettes are delivered in accordance with the rules and procedures established by the Secretary and the violation thereof shall entail the obligation of the introducer or the distributor, as the case may be, to pay the corresponding excise taxes. The introducers or distributors who wish to avail themselves of this exemption shall post a bond to answer for the payment of said excise taxes.

Cigarettes which, having been withdrawn from the factories or ports, are removed from the market because they are unsuitable for normal consumption, shall likewise be exempted from the payment of excise taxes, provided they are destroyed under the supervision of the Secretary. In such case, the Secretary shall refund or credit the tax to the person who paid it.

Section 2032.—Exemption on gasoline or diesel oil, contaminated or for marine use.—

Gasoline and diesel oil which, before or when being pumped from a ship or from the refineries into tanks or plants in Puerto Rico, has become contaminated with water or other products and thereby rendered not to be commercially sold or unusable, shall be exempted from the excise tax levied in this Subtitle. This exemption shall be granted only if the contamination was accidental and not attributable to negligence on the part of the introducer, manufacturer or wholesale distributor or his/her agents or employees, and when the facts can be subject to visual verification or technical analysis by Commonwealth fiscal officials or Customs Service Officials of the United States of America.

Diesel oil or gas oil distributed for use outside Puerto Rico shall likewise be exempted from the excise taxes levied in this Subtitle, including the supply of gas oil or diesel oil to ships to be used by them in trips by sea between Puerto Rico and other places. For the purposes of this exemption, the term 'trips by sea' does not include trips or voyages for recreational or sports purposes.

Section 2033.—Partial exemption on gasoline for air or marine use.—

The Secretary shall refund the amount of eleven (11) cents for each gallon of gasoline which has been used in sea and air trips between Puerto Rico and other places outside of the territorial limits of Puerto Rico. For the

purposes of the Section, the term ‘trips by sea or air’ does not include flights or air trips, nor recreational or sports sea trips or voyages.

Section 2034.—Exemption for Vehicles Propelled by Electric, Solar or Hydrogen Energy.—

The electric or solar vehicles or those propelled by hydrogen that are introduced to or manufactured in Puerto Rico shall be exempt from the payment of excise taxes imposed by this Act.

Section 2035.- Exemption for Vessels used for Towing or Bunkering Services

All vessels used to render towing services within territorial waters or outside of the same shall be exempted from the payment of taxes.

Likewise, all towing vessels and barges used for bunkering other vessels shall be exempted. For the purposes of this exemption, the service may be rendered within territorial waters or outside of the same.

CHAPTER 4—TAX ON CERTAIN TRANSACTIONS

Section 2036.—General tax provision on certain transactions.—

A tax shall be levied, collected and paid at the rates fixed in Sections 2035 to 2036 on winnings in racing pool, pari-mutuels, *quinielas*, daily doubles, subscription funds and any other wager in the racetracks of Puerto Rico on official bets on horse races. The tax levied on said transactions shall be paid at the time and in the manner established in this Subtitle.

Section 2037.—Taxes on Winnings from racetrack wagers.—

A ten (10)-percent tax on all the winnings in the parimutuels, and twenty (20) percent on all the winnings in pools, *quinielas*, daily doubles, subscription funds or obtained in any other legally authorized wager at the racetracks in Puerto Rico shall be levied, collected and paid.

Section 2038.- Tax on Horse Racing Betting

A tax of five (5) cents shall be levied, collected and paid on each *papeleta* bet, a tax of fifteen (15) cents on each double bet, *exacta* bet, *quiniela* bet and any other legally authorized bet, and a tax of twenty-five (25) cents on any pari-mutuel bet made at horse racing agencies established pursuant to Act No. 83 of July 2, 1987, known as the Puerto Rico Horse Racing Sport and Industry Act.

CHAPTER 5—LICENSE FEES FOR WHOLESALE AND RETAIL SALE OF CERTAIN ARTICLES AND OTHER BUSINESSES OR ACTIVITIES

Section 2039.—License Fee for Wholesale or Retail Dealers of Certain Articles.—

(a) Any wholesale or retail dealer of any of the articles listed hereinafter, who sells the same at a fixed place or as an itinerant vendor, shall pay an annual tax as a license fee at the rate established in the following table for the corresponding category:

CATEGORIES

DEALER	1a	2a	3a	4a	5a	6a	7a	8a	9a
Cigarettes Wholesalers: Fixed location	\$400	\$200	\$100						
From a vehicle- each vehicle	60								
Retailers: Fixed location	100	60	40	\$20	\$12	\$7			
Itinerant retailers	12	6							
Gasoline: Wholesalers	6,000	4,000	3,000	2,000					
Retailers	1,000	900	700	500	300	200	\$60	\$40	
Vehicles	2,000	1,200	600	320	100				
Vehicle parts and accessories, wholesale or retail	2,000	1,200	600	320	100				
Jewelry Articles: Wholesalers and Retailers	4,000	3,000	2,000	1,600	1,200	600	300	100	
Itinerant Retailers	1,200	400	200	100	40				
Cement manufactured locally or introduced to Puerto Rico by wholesale dealers	250,000	240,000	200,000	160,000	120,000	80,000	40,000		
Arms and ammunitions dealers	300	140	100	40					

(1) For the purposes of this Section and the other provisions applicable to this Subtitle, the following terms shall have the meaning expressed hereinbelow:

(A) 'Dealer' shall mean any person who is engaged in the

business of selling or exchanging goods, whether at a fixed place or as an itinerant vendor or who displays the goods to the public in a shop window, unless such goods, in a strictly indispensable number, do not have any other purpose than the exhibition of such goods, or that acquires goods in such amount over normal consuming needs. The term manufacturer [sic] does not include a person engaged in the financial leasing or daily rental of goods and who incidental to said business or businesses sells articles object of financial leasing or daily rental.

- (B) 'Wholesale dealer' or 'wholesaler' means any person that sells to a dealer, regardless of whether he/she maintains stock of goods in the places where he/she deals or in relation to such sale.
- (C) 'Retail dealer' or 'retailer' means any dealer that sells exclusively for individual use and consumption, without intermediaries.
- (D) 'Itinerant dealer' means any person engaged in the business of selling or exchanging articles and whose characteristic is that said business does not have a fixed place from which to operate.
- (E) Jewelry articles and parts and accessories thereof:
 - (i) Any article commonly or commercially known as jewelry, regardless of the material used in its manufacture.
 - (ii) Pearls, precious or semiprecious stones and

imitations thereof.

- (iii) Articles made of, ornamented, embedded, set, filled or mounted with or attached to precious metals or imitations thereof, pearls, precious or semiprecious stones, ivory, amber, ebony, jet or alabaster.
- (iv) Articles gilded by fire with precious metals or alloys thereof.
- (v) Timepieces of all kinds.
- (vi) Small boxes, compacts, vanities or necessaires and similar articles made of or plated with precious metals or imitation precious metals for makeup, shaving or manicure.
- (vii) Gold, gold-plating, silver, silver-plating, sterling silver, platinum or platinum plating.
- (viii) Any case for jewelry.
- (ix) 'Precious metals' shall mean and include gold, silver, sterling silver, platinum, rhodium and palladium of any grade of purity of such metals.
- (x) 'Imitation precious metals' shall mean and include:
 - (I) Inferior metals gilded, silver-plated or platinized with precious metals.
 - (II) Alloys or mixtures of precious metals, in any proportion, with ordinary metals of inferior quality.
 - (III) Any other metal or alloy of metals used in the manufacture of an article sold in Puerto

Rico to the consumer at a price equal or higher than that of similar or analogous articles gilded or otherwise alloyed in any proportion with precious metals or imitation precious metals.

- (b) For the purposes of this Section, a manufacturer who sells or disposes of goods at wholesale in and from his/her own plant, or exhibits them there without selling or disposing of them at retail prices, shall not be deemed to be a dealer, except hydraulic cement manufacturers who shall be deemed to be dealers for the purposes of this Subtitle.
- (c) The fees fixed in the preceding table shall apply separately for each of the dealt in goods, and for each kept establishment. The Secretary shall determine the license category which must be obtained by every dealer according to the dealt in goods, the form, manner and volume of sales. The license must be displayed in a place that is visible to the general public at the fixed or moving location in which the dealer sells the goods for which it is issued.
- (d) In the case of itinerant dealers, each vehicle used in the sale or distribution of taxable goods is deemed to be a separate establishment. Every itinerant dealer who maintains a stock of goods in any place other than where he/she usually deposits the goods during inactive periods shall have the obligation of obtaining a fixed place dealer's license for each place where he/she maintains a stock of taxable goods, in addition to the itinerant dealer license.

- (e) Except as provided in this Code, or that which is specifically established by a special law, no law that authorizes a tax exemption, or by virtue of which a tax exemption is granted shall apply, in whole or in part, to the taxes or license fees established in this Subtitle.

Section 2040.- License Fees for Coin Operated Machines.-

- (a) Any person who operates amusement machines or devices operated by coins or tokens, or pool tables or cigarette-vending machines shall pay an annual tax on account of license fees in the amount indicated below:

- | | |
|---|------------|
| (1) For each jukebox | \$150.00 |
| (2) For each amusement machine or device operated by coins or tokens of a: | |
| A. Mechanical Type | \$75.00 |
| B. Electronic Type | \$50.00 |
| C. Video for children and youths | \$50.00 |
| D. Video and electronic game machine that contains violent material or of a sexual nature | \$300.00 |
| E. For adult entertainment | \$2,250.00 |
| (3) For each pool table | \$150.00 |
| (4) For each cigarette-vending machine | \$50.00 |

- (b) The above-established license fees will be applied separately for each coin or token-operated amusement machine or device, for each pool table, for each cigarette-vending machine that is imported or distributed. The license shall be displayed in a visible manner to the public on each machine or device to

which the same corresponds.

- (c) Every operator of coin or token-operated amusement machines or devices, of pool tables and cigarette vending machines must file with the Secretary, no later than March 30 and September 30 of each year, a six (6)-month report on all the machines or devices which he/she operates or leases, specifying the name and address of the operator or lessor, the make and serial number of said machines or devices and the exact place or address in which he/she is operating each machine or device.
- (d) The license fees for the sale of cigarettes 'retailer-fixed location' established in Section 2037 of this Chapter shall not apply to cigarette vending machines.
- (e) License fees shall be established to operate cigarette vending machines to be placed or operated by concessionaires. When the cigarette vending machine is located in a business or commercial establishment where admission is not restricted for persons under eighteen (18) years of age, it shall be the responsibility of the concessionaire to place the machine in an area to which minors do not have access. At the time of operating the machine, the owner or administrator of the business or commercial establishment may require any person who does not appear to be over twenty-seven (27) years of age, a photo identification that is valid on its face that proves that the person is over eighteen (18) years of age. The failure to comply with the above required responsibility shall entail the suspension of the license fees as provided in Section 2042 of this Code and a fine of not less than five thousand (5,000)

dollars nor greater than ten thousand (10,000) dollars shall be imposed, depending on the nature of the noncompliance, to the owner or administrator of the business or commercial establishment in which the cigarette vending machine is located or operated.

- (f) Exclusions from the tax.—The following shall not be required to pay the license fees established in this Section:
- (1) Persons who keep or have pool tables or any coin or token operated amusement machine or device other than for profit or gain and who do not charge or collect for their use.
 - (2) Persons who operate coin or token-operated machines or devices, such as public telephones, money-changing machines, postage-stamp vending machines and amusement machines for the exclusive use of children.
 - (3) Persons who operate slot machines in the gambling casinos of tourist hotels in accordance with Act Number 221 of May 15, 1948, as amended.

Section 2041.—License Fees of Businesses where Amusement Machines are Operated.—

Any person who operates a business, establishment or locale where four (4) or more coin or token operated amusement machines or devices, or pool tables are operated, shall pay an annual tax on account of license fees for each business, establishment or locale, for the sum of two hundred (200) dollars. The license must be displayed in a place visible to the general public in the establishment, business or locale for which it is granted. The exclusions to which subsection (f) of Section 2038 of this Subtitle refers

shall also apply to license fees established in this Section.

Section 2042.—License Fees for Duty-Free Stores and Sea, Air and Land Carrier Businesses.—

(a) Any person who operates one of the businesses described below shall pay an annual tax on account of license fees for the following amount:

- | | |
|--|---------|
| (1) For each store in the duty-free zones | |
| of air and sea ports | \$1,000 |
| (2) For each air, sea or land carrier business | \$2,000 |

The license shall be displayed in a place that is visible to the general public in the establishment or business for which it is granted.

(b) For the purposes of this Section and the applicable provisions of this Subtitle, the following terms shall have the meaning expressed below:

- (1) ‘Duty-Free zone store’ shall mean any store or business established in air or seaports engaged in the retail sale of articles exempted from the payment of excise taxes fixed by this Subtitle to persons leaving the jurisdictional limits of Puerto Rico.
- (2) ‘Air, land or sea carrier’ shall mean any person engaged in providing transportation services for pay of articles introduced from abroad. These services may include, among others, the grouping or consolidation of shipments, their distribution as well as the responsibility of transporting them from the point of entry to their final destination.

Section 2043.—Requirements for granting license.—

- (a) Any person who wishes to obtain a license under the provisions of this Chapter shall present the following, in addition to other requirements of this Subtitle or its regulations:
- (1) Evidence of payment of the municipal license tax required by Act Number 113 of July 10, 1974, as amended, known as the Municipal License Tax Act.
 - (2) The use permit for the site where the business is to be established duly certified by the corresponding government agency.
 - (3) The federal social security account number.
 - (4) A certified copy of the income tax return for the taxable year prior to the one in which the application for a license is made. In the case of partnerships or corporations, a copy of the tax return of that person who owns more than fifty (50) percent of the shares or partnership, as the case may be, shall be presented.
 - (5) A certificate of the criminal record of the person requesting the license. In the case of partnerships or corporations, a certificate of the criminal record of that person who owns more than fifty (50) percent of the shares or partnership, as the case may, shall be presented.
 - (6) A negative tax debts certification from the Department of the Treasury.
 - (7) Certification of having filed income tax returns for the past five years.
 - (8) Negative debt certification from the Child Support

Administration.

- (9) A certificate of Good Standing. In the case of corporations or other legal entity recognized by the Department of State of the Commonwealth of Puerto Rico.
- (10) Negative debt certification for property tax from the Municipal Revenues Collection Center.
- (11) Evidence of payment of any bond that could be required pursuant to the provisions of this Code.

The application for a license shall be made under oath on the form provided by the Department for such purpose and shall be filed at the Excise Tax District Office corresponding to the place where the business will operate. In the case of the coin-operated machines or devices referred to in Section 2038 of this Subtitle, the application for a license may be filed at the District Office corresponding to the office or main place of business of the applicant.

Section 2044.—Denial, suspension or revocation of license.—

The Secretary may deny, suspend or revoke any license requested or issued pursuant to the provisions of this Chapter to any person who does not meet the requirements of this Subtitle and to any person convicted of a felony for illegal trafficking of drugs or controlled substances, or of weapons or ammunition, or for having been convicted of a felony for violations of this Subtitle. Furthermore, in the case of motor vehicle or vehicle parts and accessories dealers licenses, the Secretary may deny, suspend or revoke a license when the person has been convicted of a crime that is a violation of Act Number 8 of August 5, 1987, known as the Vehicular Property Protection Act.

Section 2045.—Restrictions and Requirements for License - Weapons and Ammunition Dealers.—

- (a) The Secretary shall not issue a license to deal in weapons and ammunition to establishments located in a person's home or residence, or in any type of vehicle or mobile establishment. Nor shall he/she issue licenses to establishments located in the rural zone, unless there is a commercial area with the proper sites for such purposes in that zone. Furthermore, the Secretary shall not issue any license to deal in weapons and ammunition when the building where the establishment is located does not meet the security standards required by regulations of the Puerto Rico Police for the protection of said weapons and ammunition against theft, fire, improper use or any other risk to life and property.
- (b) Inspection.—At least once a year, the Puerto Rico Police shall inspect the establishments engaged in dealing in weapons and ammunition to determine if they meet the safety standards required by regulations. The Superintendent of the Puerto Rico Police shall issue a certificate to the Secretary approving or disapproving the security measures taken by the dealer within ten (10) days following the date of said inspection. He/she shall also send a copy of the certificate to the dealer.
- (c) Weapons and Ammunition Depot.— The security measure requirements established by subsection (b) of this Section shall not apply to firearm dealers who have deposited all the weapons and ammunition they possess for sale in the Weapons and Ammunition Depot established in Section 5.13 of Act Number 404 of September 11, 2000, as amended. These merchants shall

present a certificate from the Puerto Rico Police to the Secretary certifying that all the weapons they possess for sale have been turned over to the Depot, in lieu of the certificate on security measures.

- (d) Negative certification.—A negative security certificate, as required by subsection (b) of this Section, as well as noncompliance with any one of the security measures by a dealer who has not deposited all the weapons and ammunition for sale at the Police Weapons and Ammunition Depot, or the lack of a Police certificate stating that the dealer has turned in his/her weapons for sale at the Depot, shall be sufficient cause to deny issuance or renewal of the license.

Section 2046.—Restrictions and Requirements for License of Duty Free Stores.-

The Secretary shall not grant any license whatsoever for a duty free business or store at airports or marine ports unless, in addition to complying with the applicable requirements of Section 2041 of this Chapter, the applicant presents a certified copy of the authorization granted by the Tourism Company to establish that type of business or store.

The authorization to open and exploit this type of business shall be granted through public bidding. Once the authorization has been granted and the exemption recognized, the concessionaire shall operate the business subject to the regulations adopted to such effects by the Puerto Rico Tourism Company.

Noncompliance with any provision of this Section or of the applicable regulations shall be sufficient cause to revoke or deny the renewal of the required license.

Section 2047.—Restrictions and Requirements for Air, Sea or Land Carrier Businesses.—

No license whatsoever shall be granted to operate an air, sea, or land carrier business unless, in addition to complying with the applicable requirements of Section 2041 of this Chapter, the applicant presents a copy of the rates filed at the Federal Maritime Commission to the Secretary and posts a bond to secure payment of the taxes and any surcharges, interest or penalties that may be imposed under this Subtitle.

Section 2048.- Transfer of License

- (a) Upon prior written application of the holder of a license issued under this Subtitle for the use or exploitation in a particular site or building, the Secretary may approve the authorization for the transfer of said license to another site or building. Excepting the provisions of subsection (b), the licenses required by this Subtitle may not be transferred from one person to another.
- (b) When the holder of a license granted pursuant to the provisions of this Code sells or transfers the same to another person, the latter may continue the business for a term not to exceed one hundred and twenty (120) days after the date of the sale or transfer, term during which he/she shall certify to the Secretary compliance with the requirements established by law and by regulations to hold a license permanently. For such purpose, the buyer shall be under the obligation to inform the transaction to the Secretary within ten (10) days after it takes place, and the Secretary shall issue a temporary permit in his/her name backed by the license in effect, which shall not exceed in time the remainder of the sixty (60) day term previously granted. The license and temporary permit of any

business sold or transferred shall be automatically cancelled one hundred and twenty (120) days after the date of the sale or transfer transaction. Provided, that in the case of the death of the holder of a license required by this Subtitle, the spouse, child, heir, executor, administrator or other legal representative of the deceased license holder may continue the deceased's business during the remaining period for which the deceased had paid the license fees, without having to make additional payments for said period.

Section 2049.- Authorization of the Secretary for Carriers for Delivery of Merchandise.—

No sea, air or land carrier who has taxable articles under this Subtitle B in custody, may deliver them to the consignee or person properly claiming them unless the person presents a certificate from the Secretary authorizing their delivery. Any carrier who violates this provision shall be subject to the imposition of an administrative fine as provided in this Code and to the payment of the tax corresponding to said articles, including surcharges and interest computed from the date of introduction of the article, when the taxpayer fails to make such payment. Likewise, the license issued to him/her may be suspended.

When the sea, air or land carrier is bound to deposit shipments of articles from abroad subject to taxation under this Subtitle under the custody of the Federal Customs Service pursuant to applicable customs regulations, the obligation of not authorizing delivery through the Carrier's Certificate and Release Order shall rest on the carrier unless he/she has obtained the Secretary's certificate attesting to the payment of such taxes. The sea, air or land carrier that through the Carrier's Certificate and Release Order authorizes delivery of such articles without the Secretary's certificate shall

be subject to the imposition of an administrative fine and payment of the corresponding taxes thereon, including surcharges and interest computed from the date of introduction of the articles.

Section 2050.—License Exemption for Manufacturers.—

Manufacturers of articles subject to the taxes fixed by this Subtitle shall be exempted from the payment of license fees required in this Chapter provided their manufacturing activities are developed completely isolated from the manufacturer's premise or site in which any business, occupation or activity subject to the license fees established by this Subtitle is performed. The exemption established by this Section shall not apply to manufacturers of hydraulic cement who must obtain the license required in Section 2037 of this Subtitle.

CHAPTER 6—TIME, FORM OF PAYMENT AND
WITHHOLDING OF TAXES

Section 2051.—Payment of tax on articles introduced from abroad.—

(a) In the case of articles taxed by this Subtitle that are introduced from abroad in any way, the person responsible for the payment of taxes or the taxpayer shall be:

- (1) The consignee, if the article is directly consigned to a consignee.
- (2) The person determined by the Secretary pursuant to the economic reality of the transaction when the article is sent to the order of a shipper or to an intermediary, or when the consignee is not defined. If the article is not claimed within thirty (30) days from the date of introduction, the taxpayer shall be the shipper.
- (3) The person or member of the crew who introduces the article

when it is introduced by a person coming from abroad.

(b) The tax on articles introduced from abroad shall be paid as established below, as the case may be:

- (1) In the case of an article introduced to Puerto Rico by any means other than the mail or personally, the tax shall be paid before the taxpayer takes possession of the article.
- (2) In the case of articles introduced by mail by any person, the tax shall be paid no later than the fifth workday following the day the taxpayer takes possession of the article.
- (3) In the case of articles introduced by any person who arrives from abroad, the tax shall be paid no later than the fifth workday following the day that person arrives in Puerto Rico.
- (4) Notwithstanding the provisions of clause (1), in the case of articles introduced into Puerto Rico by a bonded importer, the tax shall be paid no later than the tenth (10th) day of the month following the month on which he/she takes possession of the article. Regardless of the above, in the case of vehicles introduced by bonded authorized dealers, the tax shall be paid no later than six (6) months after the date of their introduction or within fifteen (15) days following the date of sale, or within fifteen (15) days following the date which the dealer has allowed for the use of the vehicle on public thoroughfares, whichever occurs first.

Any bonded importer-dealer, upon previous authorization of the Secretary, may sell motor vehicles from its inventory to

another bonded dealer, without said event being deemed as a taxable sale. In such a case, the bonded importer-dealer, as well as the acquiring bonded-dealer shall be bound to declare said transaction to the Secretary within the term established in Section 2011 of this Subtitle. The bonded-dealer who acquired the motor vehicles from the bonded importer shall be responsible for the payment of the excise taxes. The sale transaction described herein shall not extend the term provided above for the payment of the excise taxes on said vehicles, which shall continue to be counted from the date the vehicles are introduced.

Section 2052.- Payment of Tax on Articles Manufactured Locally

In the case of articles taxed by this Subtitle that are manufactured in Puerto Rico, the person responsible for the payment of the tax, or the taxpayer shall be the manufacturer. Notwithstanding the above, when dealing with oil products manufactured in Puerto Rico, and when there is a mutual agreement or accord approved by the Secretary between the manufacturer and the bonded dealer-distributor for the latter to distribute the manufactured product, the dealer-distributor shall be the taxpayer. The tax on articles manufactured in Puerto Rico shall be paid no later than the tenth (10th) day of the month following the month in which the taxable event occurs. In the case of oil products manufactured in Puerto Rico in which there is a mutual agreement or accord between the manufacturer and the bonded dealer-distributor for the latter to distribute the manufactured product, the tax shall be paid no later than the tenth (10th) day of the month following the month of the sale of the product, or of the month in which the transfer of the tanks of the dealer-distributor commences.

Section 2053.—Payment of Tax on Prizes from Wagers at Racetracks.—

The tax fixed in Section 2035 of this Subtitle on prizes obtained in pools, pari-mutuels, *quinielas*, daily doubles, subscription funds or in any other wager at racetracks shall be paid by the winner of any prize and the total tax shall be deducted and withheld from the winnings at the time the amount corresponding to such prize is paid to him/her.

Section 2054.—Payment of Tax on Printed Betting Forms for Horse Race Wagers.—

In the case of the taxes fixed in Section 2036 of this Subtitle on the official printed forms for stamping bets at racing agencies, the person responsible for their payment or the taxpayer shall be the person who uses the forms. The payment shall be for each wager transaction in the printed betting form. This tax shall be paid at the time the racing agent stamps the corresponding printed form.

Section 2055.—Responsibility for Withholding Taxes.—

Every person who operates a racetrack or racing agency shall have the obligation to collect, withhold and remit the taxes fixed by Sections 2035 and 2036 of this Subtitle to the Secretary.

These persons shall post a bond in the amount fixed by the Secretary through regulations, in order to secure the timely payment of all taxes that must be collected pursuant to this Subtitle as well as to answer for any surcharge, interest or administrative fine imposed in the event of a violation of the provisions of this Subtitle and its regulations.

Section 2056.—Payment of Tax by Freight Carriers.—

Pursuant to the regulations to be approved, the Secretary may authorize air and sea freight carriers to pay the excise taxes on articles subject to

taxation under this Subtitle introduced into Puerto Rico by their clients and authorize these carriers to take possession thereof, taking into consideration the volume or frequency of the carrier's imports, as well as his/her record of payment of excise and other taxes.

Every carrier who wishes to be authorized to pay excise taxes in representation of his/her clients shall request it in writing on the form provided for such purposes by the Secretary. If such authorization is granted, he/she shall post a bond satisfactory to the Secretary to secure the payment of all the corresponding excise taxes and any surcharges, interest or administrative fines imposed on this account under this Subtitle, before taking possession of the articles. Said bond shall be posted with the Secretary in cash, letter of credit or through a bonding company duly authorized to post bonds under the laws of Puerto Rico. The Secretary may also impose any other requirements with respect to articles subject to taxation under this Subtitle that shall lead to the best operation of the system, such as the requirement to pay through electronic means.

Section 2057.—Term to Remit Withheld Taxes to the Secretary.—

Every person who pursuant to Section 2053 of this Subtitle is bound to collect and withhold taxes on prizes obtained from race track wagers and from the official forms for stamping bets shall remit the total amount of the taxes collected to the Secretary no later than the second (2nd) working day following the day on which the races with regard to which they were collected were held.

Section 2058.—Term for Payment of License Fees.—

The license fees required in Sections 2037, 2038, 2039 and 2040 of this Subtitle shall be paid for the complete year to which they correspond no later than the first (1st) day of October of each year. In the cases of renewals, the

license fees shall be paid no later than October 31 of each year.

The license fees required in Sections 2037 to 2040 of this Subtitle shall be paid for the complete year to which they correspond no later than the first day of October of each year.

No person shall engage in, or shall continue a business, industry or occupation for which a license is required until the fees have been paid in the manner and time established in this Subtitle.

Section 2059.- Discount for Payment of License Prior to Expiration.

The Secretary shall grant a discount equal to ten (10) percent of the license fees established in Section 2037 of this Subtitle when the license is renewed between the 15th and 30th day of the month of September of the corresponding year.

Section 2060.—Manner of payment of tax.—

The excise taxes, taxes or license fees fixed by this Subtitle shall be paid by postal or bank money order, legal tender, credit card or in any other manner established by the Secretary by regulation.

When the payment of the excise taxes on motor vehicles is made by check, it shall be required that it be a manager's, official or certified check; exempted from this requirement are those taxpayers with adequate bond to guarantee the total payment of the excise taxes.

The Secretary may require taxpayers with a history of issuing checks that have been returned by the banks to make subsequent payments by certified, official or manager's check.

When the due date for the payment of an excise tax, tax or any license fee is not a working day, or when the taxpayer is unable to make the payment because the Internal Revenue Collector's Offices are closed to the public during business hours, the payment shall be made on the next day

said offices are open.

Section 2061.—Extension for the Payment of Taxes.—

The Secretary may extend the term established in this Subtitle for the payment of excise taxes on articles introduced into Puerto Rico and authorize the introducer to take possession thereof, taking into consideration the volume or frequency of the introducer's imports, as well as his/her history of excise tax payments.

Every taxpayer interested in being granted an extension to pay excise taxes shall request the same in writing on the form provided by the Secretary for such purposes, and if such extension is granted before taking possession of the articles, he/she shall post a bond to the satisfaction of the Secretary to secure the full payment of the corresponding excise taxes and of any surcharges, interest or administrative fines imposed for not paying them within the term fixed in this Subtitle. The bond must be posted with the Secretary by means of a cash deposit, letter of credit or through a company duly authorized to post bonds pursuant to the laws of Puerto Rico.

Except as otherwise provided in any other Section of this Subtitle, no extension for the payment of excise taxes may exceed ten (10) days, counting from the last day of the month that the article is taken possession of.

Section 2062.—Disposition of funds.—

The product from taxes and license fees collected by virtue of this Subtitle shall be covered into the General Fund of the Treasury of Puerto Rico except as provided below:

- (1) The total tax collected on gasoline and four (4) cents of the gas oil or diesel oil tax fixed by Section 2008 of this Subtitle; up to one hundred and twenty (120) million dollars per fiscal year of

the excise tax collected for crude oil, partially finished and finished products derived from oil and other hydrocarbon mixtures fixed in Section 2009 of this Subtitle, shall be deposited into a Special Deposit in favor of the Highways and Transportation Authority for its corporate purposes.

The Secretary shall transfer every month, or as agreed with the Highways and Transportation Authority, the amounts covered into said Special Deposit, deducting from these the amounts reimbursed according to the provisions of Section 2031 and 2032 of this Subtitle.

Provided, that the Secretary of the Treasury shall pay the one hundred and twenty (120) million dollars per fiscal year proceeding from the surtax on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle in monthly contributions of up to eleven (11) million dollars. Also provided, that if in any month of the fiscal year the collection on account of said surtax is not sufficient to meet the monthly payment of eleven (11) million dollars herein provided, the Secretary of the Treasury shall pay said deficiency using the excess of the eleven (11) million that have been collected on account of said surtax in previous months or that is collected in subsequent months of the same fiscal year.

The Highways and Transportation Authority is hereby authorized to commit or pledge the product of the collection thus received on gasoline and the tax of four (4) cents on gas oil or diesel oil fixed in Section 2008 of this Subtitle and the amount appropriated by virtue of this Act of the surtax on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle, for the payment of the principal and the interest on bonds or other

obligations or for any other legal purpose of the Authority. Said commitment or pledge shall be subject to the provisions of Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico. The product of said collection shall be solely used for the payment of interest and amortization of the public debt, as provided in said Section 8 of Article VI of the Constitution, until the other resources available to which reference is made in said Section are insufficient for such purposes. Otherwise the product of said collection, in the amount that may be necessary, shall be used solely for the payment of the principal and interest on bonds and other obligations of the Authority and to comply with any stipulations agreed to by the latter with the holders of said bonds or other obligations.

The Commonwealth of Puerto Rico hereby agrees and is committed to any person, firm or corporation or any agency of the United States of America or of any state or of the Government of the Commonwealth of Puerto Rico that subscribes or acquires bonds of the Highways and Transportation Authority of Puerto Rico for the payment of which the product of the tax on gasoline, gas oil or diesel oil and the amount appropriated of the excise tax on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle, are thus pledged, as authorized by this Section, to not reduce the tax on gasoline, gas oil or diesel oil fixed in Section 2008 of this Subtitle, to an amount of less than sixteen (16) cents per gallon of gasoline or of four (4) cents per gallon of gas oil or diesel oil, respectively, and to not reduce the types fixed in Section 2009 of this Subtitle in effect by the date of approval of this Act. It also agrees and is committed to not reduce or eliminate the tax on an amount of less than sixteen (16) cents per gallon of gasoline or of four (4) cents per gallon of gas

oil or diesel oil fixed in Section 2008 of this subtitle, nor reduce or eliminate the types of the excise tax on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbon fixed in Section 2009 of this subtitle. It also agrees and is committed to ensure that said amounts shall be covered into a Special Deposit in the name and for the benefit of the Highways and Transportation Authority of Puerto Rico, as provided in this Section, until said bonds issued at any time, including their interest, have been paid in full. The payer of the excise tax on the sale of gasoline, gas oil or diesel oil, crude oil and other products derived from oil shall furnish to the Highways and Transportation Authority copies of the tax statements and excise tax payment receipts.

In case the total amount of the product of the tax on gasoline, gas oil or diesel oil fixed in Section 2008 of this Subtitle or that amount of the surtax on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle, appropriated or to be appropriated in the future to said Highways and Transportation Authority, according to this Act, may at any be time be insufficient to pay the principal and the interest on the bonds or other obligations over money taken on loan or issued by said Highways and Transportation Authority for paying the cost of traffic facilities and the payment of which the product of said tax on gasoline, gas oil or diesel oil fixed in Section 2008 of this Subtitle or that amount of the surtax on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle, has been pledged and the reserve funds of the Highways and Transportation Authority for the payment of the requirements of the debt apply to cover the deficiency in the amount needed to make such payments, the amounts of

said reserve fund used to cover said deficiency shall be reimbursed to the Highways and Transportation Authority from the first product received on the next fiscal year or subsequent fiscal years by the Commonwealth of Puerto Rico proceeding from: (1) any other taxes in effect on any other fuel or means of propulsion used, for among other purposes, to propel highway vehicles; and (2) any remaining part of the tax on gasoline, gas oil or diesel oil fixed in Section 2008 of this Subtitle and the surtaxes on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle that are in effect. The product of said other taxes and the remaining part of the tax on gasoline and gas oil or diesel oil fixed in Section 2008 of this Subtitle and on the surtaxes on crude oil, partially finished products and finished products derived from oil and any other mixture of hydrocarbons fixed in Section 2009 of this Subtitle, that are to be used under the provisions of this Section to reimburse the reserve funds for the requirements of the debt, shall not be covered into the General Fund of the Government of the Commonwealth of Puerto Rico when collected, but shall be covered into the aforementioned Special Deposit for the benefit of the Highways and Transportation Authority of Puerto Rico and subject to the provisions of Section 8 of Article VI of the Constitution of Puerto Rico, shall be used to reimburse said reserve fund for the payment of the requirements of the debt.

(2) The remaining four (4) cents of the tax on gas oil or diesel oil fixed in Section 2008 of this Subtitle shall be covered into a Special Deposit in favor of the Metropolitan Bus Authority, henceforth 'the Authority', for its corporate purposes and powers. The provisions of this clause shall be subject to Section 8 of Article VI of the Constitution of the Commonwealth

of Puerto Rico. The contribution to the Authority of these four (4) cents shall not be deemed as surplus of the surtax on gas oil or diesel oil.

The Secretary shall transfer from time to time as agreed with the Authority, the amounts covered into the Special Deposit, deducting from these the amounts reimbursable according to the provisions of Sections 2031 and 2032 of this Subtitle.

(3) A fifth (1/5) of the product of the tax on the prizes won by racehorse owners established in Section 205 of Chapter 4 of this Subtitle is destined for the Horse Racing Vocational School for trainers and jockeys, created by Act No. 129 of July 23, 1974, as amended.

Section 17.—A Subtitle BB is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

SUBTITLE BB – SALES AND USE TAX

CHAPTER 1 – DEFINITIONS AND GENERAL PROVISIONS

Section 2301.—General Definitions.—

For the purposes of this Subtitle the following terms, words and phrases shall have the general meaning expressed below, except when the context clearly indicates another meaning:

(a) Food and food ingredients.—Substances, be they liquid, concentrated, solid, frozen, dry or dehydrated that are sold to be ingested by humans and consumed because of their flavor or nutritional value. Food and food ingredients exclude the following:

- (1) dietary supplements;
- (2) alcoholic beverages;
- (3) tobacco and its derivatives;
- (4) candy, sweets;
- (5) bakery products;

- (6) soda pop; and
- (7) prepared foods.

(b) Prepared foods.—

(1) Food sold hot or that is heated by the vendor;

(2) two or more food ingredients that are mixed or combined by the vendor to be sold as a single article or product, except foodstuffs that are only cut, repackaged or pasteurized by the vendor and eggs, fish, meat, fowl and food that contains said food raw and that requires cooking by the consumer, as recommended by the Food and Drug Administration in Chapter 3, part 401.11 of the Food Code to prevent disease caused by food.

(3) food sold with eating utensils by the vendor, including plate, flatware (knives, forks, spoons), glasses, cups, napkins or straws. The term plates does not include containers or packaging used to carry food; or

(c) Store or storage.—Includes maintaining or keeping in Puerto Rico tangible personal property to be used or consumed in Puerto Rico or for any purpose, excluding the sale in the ordinary course of business in Puerto Rico or abroad. To store or storage excludes the aging of distilled spirits under the control of the Commonwealth of Puerto Rico done pursuant to the provisions of Subtitle D of this Code.

(d) Taxable year.—The calendar or fiscal year of the taxpayer, in those cases whereby the Secretary authorizes the use of the fiscal year in lieu of the calendar year.

(e) Article.—Any object, artifact, good or thing, regardless of its shape, material or essence and of its name.

(f) Lease, leasing.—Any transfer of ownership or control of tangible personal property or real property for a fixed or indeterminate term in exchange for cause or consideration. A leasing may include future options for purchase or extension of its term. The term ‘lease’ or ‘leasing’ does not include:

(1) the transfer of ownership or control of property under a security agreement or payment plan that requires the transfer of title once the required payments are met;

(2) the transfer of ownership or control of property under an agreement that requires the transfer of title once the required payments are met and the purchase option price does not exceed the greater of one hundred (100) dollars or one (1) percent of the total payment required;

(3) providing tangible personal property together with an operator for a fixed or indeterminate period of time. As a condition for the exclusion it is a requirement that the operator be needed so that the equipment performs as designed. For purposes of this clause an operator must provide additional services besides maintaining, inspecting and preparing the tangible personal property for its use;

(4) agreements that involve motor vehicles or trailers when the amount of the rental payment may be increased or decreased by reference to the amount obtained in the sale or disposition of the property; and

(5) the room occupancy tax fixed by the Puerto Rico Tourism Company.

(6) the leasing of properties whose owner is the Puerto Rico Industrial Development Company or its successor entity.

(7) financial lease constituting a sale pursuant to subsection (ww) of this Section and the financial leases that meet the requirements set forth in Section 1(c) of Act No. 76 of August 13, 1994, as amended.

For the purpose of this subsection the term 'lease' or 'leasing' may not be done in reference to generally accepted accounting principles.

(g) Reserved

(h) Reserved

(i) Delivery charges.—The charges set by the vendor of taxable items for their handling and delivery to premises designated by the purchaser of the taxable item, including but not limited to, transportation, shipping, stamps, handling and packaging.

If the delivery consists of exempted and taxable personal property, the vendor must assign the delivery charges using:

(1) a percentage based on the total sales price of the taxable personal property compared to the total sales price of all the personal property delivered; or

(2) a percentage based on the total weight of the taxable personal property compared to the total weight of all the personal property delivered.

The vendor must tax on the percentage of the delivery charges corresponding to the taxable property but does not have to tax on the percentage assigned to the exempted property.

(j) Retail merchant or vendor.—Any person engaged in the business of selling taxable items in the Commonwealth of Puerto Rico, including any wholesaler. For the purposes of this Section, a person shall be

deemed to be engaged in the business of selling taxable items in the Commonwealth of Puerto Rico when:

(1) the merchant maintains establishments or offices in Puerto Rico; or

(2) the merchant has employees or agents in Puerto Rico who solicit business or conduct business transactions in the name of said retail vendor; or

(3) the merchant owns tangible personal or real property located in Puerto Rico; or

(4) the merchant creates a nexus in Puerto Rico in any manner, including but not limited to, the execution of sales contracts in Puerto Rico, direct merchandising or mail order selling or selling through the radio, the distribution of unsolicited catalogs through computers, television or other electronic means, or advertising in magazines or newspapers or other means; or

(5) through an agreement or reciprocity with another jurisdiction of the United States and that jurisdiction uses its authority to tax and its jurisdiction over the merchant in support of the authority of Puerto Rico; or

(6) the merchant agrees, expressly or implicitly, to the taxation imposed by this Subtitle; or

(7) the merchant is sufficiently connected to or related with Puerto Rico or its residents of some sort, other than those described in clauses (1) through (6), for the purpose of creating a sufficient nexus with Puerto Rico to impose on the merchant the responsibility of collecting the sales and use tax fixed by this Subtitle.

(k) Purchaser.—A person who acquires a taxable item.

(l) Consumption.—Includes the gradual use, deterioration or erosion of tangible personal property.

(m) Department.—The Department of the Treasury.

(n) Admission rights, charges or fees.—Include the amount of money paid to or for:

(1) admit a person or vehicle with passengers to any place of entertainment, sports or recreation;

(2) the privilege of entering or remaining at any place of entertainment, sports or recreation, including but not limited to, movie theaters, theaters, open air theaters, shows, exhibitions, games, races or any place where the rights, charges or fees for admission are obtained through the sale of tickets, entrance fees, seating charges, charges for exclusive areas, charges for season tickets, charges for participating or other charges;

(3) receiving any thing of value as part of the admission or entrance to or length of stay or accommodation at any exhibition or place of entertainment, sports or recreation; and

(4) the fees and charges paid to private clubs and membership clubs that provide recreational and physical training facilities, including but not limited to, golf, tennis, swimming, sailing, sports canoeing and exercising and gym facilities, except for those that operate as non-profit facilities and the gym facilities property of or operated by any hospital.

The terms ‘Admission rights, charges or fees’ exclude the amount of money paid to admit a person or vehicle to mass transit systems provided by the Commonwealth of Puerto Rico, such as the Metropolitan Bus Authority, the Ports Authority and the Department of Transportation and Public Works

or by an operator or subcontractor of these, including persons certified by the Commonwealth, its agencies or instrumentalities to provide said services. They also exclude those charges to be collected by box offices or ticket services.

(o) Candy or sweets.—Means any confection of sugar, honey and any other natural or artificial sweetener which is combined with chocolate, fruit, nuts or other ingredients or condiments to form bars, drops or pieces. The terms ‘candy’ or ‘sweets’ do not include confections that contain flour and that do not require refrigeration.

(p) Reserved

(q) In Puerto Rico.—Within the territorial limits of the Commonwealth of Puerto Rico.

(r) State.—Any of the states of the United States, the District of Columbia or a possession of the United States.

(s) Commonwealth of Puerto Rico.—The departments, agencies, administrations, bureaus, boards, commissions, committees, offices, public corporations, public instrumentalities and municipalities of the Commonwealth of Puerto Rico, including the Legislative Branch and the Judicial Branch. The term Commonwealth shall also include those persons who operate or act in the name of or on behalf of the same.

(t) Sales tax.—The tax fixed by this Subtitle on account of the sales at retail and the use, consumption or storage of a taxable item in Puerto Rico.

(u) Use tax.—The tax fixed by this Subtitle on account of the use, consumption or storage, as defined in this Section.

(v) Machinery and equipment used in manufacture.—Machinery and equipment used exclusively in the manufacturing process or in the

construction or repair of vessels inside or outside the premises of a manufacturing plant, including all machinery, equipment and accessories used to carry out the manufacturing process or that the manufacturing plant is bound to acquire as required by Federal or Commonwealth laws or regulations to operate a manufacturing plant.

(w) Vending machine (automatic dispenser).—A machine operated with coins, bills, credit or debit cards, tokens, coupons or similar device, to sell taxable items. The term includes, but is not limited to, food, beverages and cigarettes vending machines. The term ‘vending machine’ excludes: jukeboxes; slot machines operated with coins or tokens, either mechanical or electronic; videos for children or youths; video and electronic game machines that contain material of a violent or sexual nature; adult entertainment machines; and pool tables.

(x) Tangible advertising or publicity material.—Includes the exhibitors, exhibitor containers, pamphlets, catalogs, price lists, publicity of points of sale or sales outlet and technical manuals or any tangible personal property which is part of the product for the final consumer.

(y) Raw material.—Any product in its natural form derived from agriculture or from extractive industries, by-products, residual products or partially elaborated or finished products, to be transformed into or integrated with, by a manufacturing plant, finished products different from the products deemed as raw material or used in the manufacturing process of said products, including, but not limited to, the process for the production of electric power.

(z) Wholesaler.—Any persons who sells to merchants.

(aa) Medications.—Compounds, substances or preparations and any component of a compound, substance or preparation which is not a ‘dietary

supplement,’ ‘alcoholic beverage’ or ‘food or food ingredient,’ except for food used in enteral nutrition:

(1) recognized in the United States Pharmacopeia, the Homeopathic Pharmacopeia of the United States or the National Formulary; or

(2) used in the diagnosis, cure, mitigation, treatment or prevention of disease; or

(3) used to affect the structure of the body or any bodily function.

(bb) Business.—Any profit-making or non-profit activity in which any person is engaged with the intention of generating profits or benefits, be it directly or indirectly. ‘Business’ includes the sale or rental of tangible personal property, the sale of taxable services and rights of admission.

(cc) Operator.—Any person who owns a vending machine for the purposes of generating sales through said machine and who maintains his/her inventory inside and removes or accredits the funds obtained by or attributable to the receipts of said vending machine.

(dd) Taxable item.—Tangible personal property, taxable services, rights of admission and combined transactions.

(ee) Person.—An individual, enterprise, partnership, joint enterprise, association, corporation, limited liability company, succession, trust, trustee, receiver, syndicate or other entity or group or combination that acts as a unit. It also includes any government and its political subdivisions, municipalities, government agencies, bureaus or departments and public corporations.

(ff) Manufacturing plant.—Includes any plant engaged in assembling or integrating ‘tangible personal property,’ or which is devoted

to transforming 'raw materials' into finished products different from their original condition. Any factory that avails itself of any tax and industrial incentives laws existing in Puerto Rico or those that substitute the same shall likewise be deemed to be a manufacturing plant for the purposes of the exemption established in Section 2506.

(gg) Purchase price.—Has the same meaning as the sales price.

(hh) Sales price.—

(1) The total amount of the consideration paid in cash, on credit, property or services in a sale of taxable items without deducting the following:

(A) the cost of the property sold, including surtaxes and taxes which this Code may impose on said property;

(B) the cost of the materials, labor and service, interest, losses, all transportation costs and taxes of the vendor and all other costs of the vendor;

(C) fees billed by the vendor for any service needed to complete the sale other than the delivery or installation charges;

(D) delivery charges;

(E) installation charges;

(F) the value of the exempted personal property delivered to the purchaser when tangible taxable and exempted private property has been sold in a combined transaction; and

(G) tips and other charges imposed by a merchant as part of the sales price of the taxable item.

(2) Sales price.—shall not include:

(A) discounts allowed by the vendor and used by the purchaser in a sale, including cash or food stamps that are not reimbursable by third parties;

(B) interest and finance charges, if they appear as separate items in the bill of sale or any similar document given to the purchaser;

(C) any tax or charge imposed by law to the consumer, if the amount is separately indicated in the bill of sale or in any similar document given to the purchaser; and

(D) the value assigned to goods received as trade-in by the merchant as credit or as part of the payment of the sales price of taxable item sold.

(E) any service that is part of the sale, such as guaranty service, guaranty and extended guaranty.

(ii) Computer program.—A collection of coded instructions designed so that a computer or automatic data processing equipment may carry out a function or task.

(jj) Tangible personal property.—Includes personal articles or property that may be seen, weighed, measured or felt or that is in any manner perceptible to the senses, or that is susceptible to appropriation, including computer programs and prepaid phone cards, among others. The term tangible personal property excludes money or the equivalent of money, stock, bonds, notes, mortgages, insurance, securities or other obligations; automobiles, propellants, omnibuses, and trucks; the intangibles; gasoline, airplane fuel, gas oil or diesel oil, crude oil, partially manufactured and finished products derived from petroleum and any other hydrocarbon mixture; the electric power generated by the Electric Power Authority or any

other entity which generates electric power; and the water supplied by the Aqueducts and Sewers Authority.

(kk) Real property.—Land, subsoil, soil, buildings, objects, machinery, equipment and tools attached to a building or to the land so as to indicate permanency. For these purposes the objects, machinery, equipment, tools and plants permanently attached, to wit, that cannot be removed from a building without destroying or damaging the building or property shall be deemed as buildings. Real property is synonymous with real estate and real goods.

(ll) Prosthesis.—Devises as replacement or for correction or assistance, including repairs and replacement of parts of the same, used on or in the body to:

- (1) artificially replace a lost bodily part;
- (2) prevent or correct deformities or physical faults; or
- (3) assist a weak or deformed bodily part.

(mm) Telecommunications services.—

(1) Shall include the following services:

(A) the transmission or transfer by electronic means of the voice, video, audio or any other type of information or signal to a fixed point or between two fixed points;

(B) calls to 800 numbers through which a user is allowed to make a call without being charged for it. This service is usually marketed under no charge numbers ‘800,’ ‘855,’ ‘866,’ ‘877,’ and ‘888’ and other numbers designated by the Federal Telecommunications Commission;

(C) calls to 900 numbers through which a person permits his/her subscribers to call his/her telephone to receive a

prerecorded message or a live service. The charges for this service do not include collection services provided to the subscriber by the vendor of the telecommunications services and the charges for some good or service sold to the person who makes the call. The 900 numbers service is typically marketed under the name '900' and any other subsequent number designated by the Federal Telecommunications Commission;

(D) the fixed wireless service through which radio waves are transmitted between two fixed points;

(E) the lease for the use of beepers or paging services which permit the transmission of coded messages for the purpose of activating a beeper. Said transmission may include messages or sounds;

(F) the prepaid calling service which permits exclusive access to telecommunications services that have been prepaid to originate calls using an access number or code to be dialed manually or digitally and which is sold in units or by its monetary value which decreases with use;

(G) the prepaid wireless calling service which grants the right to use the prepaid wireless telecommunications service through the sale in units or by its monetary value which decreases with use;

(H) the private communications service which entitles a subscriber to have priority or exclusive access or to use a communications channel or group of channels between two

points, except in the case of services acquired by the Puerto Rico Police Department to those effects;

(I) calls generated through a coin operated telephone service which provides telephone service when a coin is deposited in a telephone;

(J) other added value data management services, excluding voice transmission, using computer programs as to the contents, form or coding of the information for purposes other than the transmission or transfer of said information.

(K) mobile wireless transmission services.

(2) Shall not include the following services or charges:

(A) data or information processing that allows the generation, acquisition, storage, processing, withdrawal and delivery of information through electronic transmission to a purchaser when the main objective of said transaction is the acquisition by said purchaser of the information thus managed or processed;

(B) installation and maintenance of cables or equipment at the client's facilities;

(C) charges for the use of tangible personal property;

(D) publicity, but not limited to the yellow pages of a phone book;

(E) billing and collecting from third parties;

(F) Internet access;

(F)(1) audio programming services or radio or television program videos regardless of the medium, including the transmission, transfer and channeling of said services;

(G) incidental services;

(H) sale or transfer of products in digital form, including computer, music, video and reading matter programs, among others;

(I) charges for services required by some local or federal law; and

(J) services to other telecommunications companies.

(3) Incidental services are those services associated with the provision of telecommunications services, including the following:

(A) conference bridging services by which two or more participants are linked in a video or voice joint transmission and which may include the availability of a connecting telephone number. Conference bridging services do not include telecommunications services used to access the conference call;

(B) detailed telecommunications billing service to provide details or information related to the calls made from a telephone number and other details related to the phone bill;

(C) directory assistance by which the user is provided with the telephone number or the address of a particular place;

(D) vertical service by which the user is provided with one or more advanced service options such as caller id and multiple calls, among others; and

(E) voice mail service by which the user is able to receive, save and send messages. The voice mail services do not include any vertical service required for the subscriber to be able to use the voice mail service.

(4) The term ‘charges for services required by any local or federal law’ shall include the following:

- (A) 911 emergency services; and
- (B) the universal service fund.

(nn) Designated professional services.—Means legal services and the following professional services as regulated by their respective Boards of Examiners attached to the Department of State of Puerto Rico:

- (1) Agronomists;
- (2) Architects and landscape architects;
- (3) Certified Public Accountants;
- (4) Real estate brokers, salespersons and companies;
- (5) Professional draftsmen;
- (6) Professional real estate assessor;
- (7) Geologists; and
- (8) Engineers and Surveyors

(oo) Cable or satellite television services.—Means the distribution of video programming by cable or satellite including the installation, leasing, or sale of related equipment.

(pp) Taxable services.—

- (1) Means any service rendered to any person, including:
 - (A) storage of tangible personal property, excluding motor vehicles and all types of foodstuffs;
 - (B) leasing;
 - (C) computer programming, including modifications to pre-designed programs;
 - (D) installation of tangible personal property by the vendor or a third party; and

- (E) repair of tangible personal property.
- (2) Taxable services shall exclude the following:
 - (A) services rendered to a person engaged in the exercise of an income producing industrial or business activity;
 - (B) designated professional services;
 - (C) services provided by the Commonwealth of Puerto Rico, including sewer services;
 - (D) educational services, including the registration fee;
 - (E) interest and other charges for the use of money; and the charges for services provided by financial institutions as defined in Section 1024 (f)(4);
 - (F) insurance services and commissions, including the issue of any insurance contract, and including, but without it being limited to, life, health, property and contingency insurance, guaranty and extended guaranty service contracts, property titles, reinsurance and excess limit, disability, credit insurance, annuities and bonds and service fees for the issue of the aforementioned instruments; and
 - (G) health or medical-hospital services.
 - (H) services rendered by persons whose annual volume of business does not exceed \$50,000. When a person belongs to a controlled group as defined in Section 1028, the volume of business of said person shall be determined considering the volume of business of all members of the controlled group. In the case of a person who is an individual, the volume of business shall be determined considering the volume of

business of all his/her income producing industrial or business activities.

(qq) Dietary supplements.—Any product, other than tobacco, used to supplement a diet and that:

(1) contains one or more of the following dietary ingredients:

(A) vitamins;

(B) minerals;

(C) herbs or other botanicals;

(D) amino acids;

(E) dietary substances used to supplement a diet, increasing the total dietetic consumption; or

(F) concentrates, metabolic supplements, components, extracts or the combination of any of these ingredients, taken as pills, tablets, capsules, powder, softgels, gelcaps or in liquid form, or if not taken in the aforementioned manner, not presented as conventional food and not considered as the sole dish of a meal or of a diet; and

(2) requires to be identified as a dietary supplement on the label that contains the nutritional data, as provided in 21 C.F.R. Sec. 101.36.

(rr) Reserved

(ss) Tobacco.—Cigarettes, as defined in Section 2007 of Subtitle B, cigars, chewing or pipe tobacco or any other article that contains tobacco, as said products may be defined in the future.

(tt) Reserved

(uu) Combined transaction.—The retail sale of two or more tangible personal properties or services, whereby the properties or services: (i) are

different and identifiable, and (ii) are sold at a not retailed total price. A 'combined transaction' excludes the sale of any tangible personal property or service whose sales price varies or is negotiable, based on the selection by the purchaser of the properties or services included in the transaction.

(1) Different and identifiable property or services exclude:

(A) Packing materials such as containers, boxes, crates, sacks, bags and bottles; other materials such as wrapping paper, labels and instruction manuals included in 'retail sale' of tangible personal property and that are incidental or immaterial to the 'retail sale.' Some examples of packing materials that are incidental or immaterial are: plastic bags used at the supermarkets, shoe boxes, laundry protection bags and postal services boxes and envelopes.

(B) Taxable tangible personal property obtained free of cost with the purchase of other property or service. Tangible personal property is free of cost if the sales price of the property or service acquired does not vary because free of cost property has been included.

(2) The term 'non-retailed total price' excludes the price identified separately from tangible personal property or services in documents furnished to the purchaser, such as bills of sale, invoices, sales receipts, contracts, service contracts, lease contracts rates and services periodic notifications, price lists or any other similar document.

(3) A transaction that complies with the definition of combined transaction shall not be deemed to be a combined transaction if it is:

(A) a retail sale of taxable tangible personal property and of a non-taxable service, whereby the taxable tangible personal property is essential for using the exempted service and is exclusively provided in relation to the exempted service and when the real object of the transaction is to render the non-taxable service.

(B) a retail sale of more than one service through which one of the services provided is essential for using or obtaining a second exempted service and the first service is exclusively provided in relation to the second exempted service and when the real object of the transaction is to render the second service; or

(C) a transaction that includes exempted taxable tangible personal property in which the purchase price or the sales price of the taxable property is immaterial.

(i) For these purposes the term ‘immaterial’ means that the purchase price or the sales price of the taxable tangible personal property does not exceed ten (10) percent of the total sales or purchase price of the combined tangible personal properties.

(ii) The vendor shall use the purchase price or the sales price of the taxable tangible personal property to determine whether the taxable tangible personal property is immaterial.

(iii) The vendor shall use the full term of the service contract to determine whether the price or value of the property is immaterial.

(vv) Use.—Includes the exercise of any right or power over a taxable item incidental to the title of the same, or interest on the same, including the use, storage or consumption of any tangible publicity material imported into Puerto Rico. The term use does not include:

(1) when the taxable item is subsequently the object of commerce in the ordinary course of business in Puerto Rico;

(2) the use of taxable items that constitute normal belongings and clothing of the tourists and visitors who arrive in Puerto Rico;

(3) the use of taxable items with an added value that does not exceed five hundred (500) dollars introduced by residents of Puerto Rico arrive in Puerto Rico from abroad; and

(4) the use of taxable items introduced in Puerto Rico temporarily that are directly related to film production, construction, trade shows, seminars, conventions or for other purposes, and that are re-exported from Puerto Rico by the person who imported them.

(ww) Sale.—Includes:

(1) any transfer of title or possession of taxable items, be it conditional, on installments or otherwise, or any manner, or by any means, in exchange for consideration or remuneration, including exchange, permutation or licensing for use, among others.

(2) the production, manufacture, processing or printing of taxable items in exchange for cause or consideration for the purchasers who, directly or indirectly provide the materials used for the production, manufacture, processing or printing;

(3) providing, preparing or serving in exchange for cause or consideration, any taxable item for consumption inside or outside the

premises of the person who provides, prepares or serves said tangible personal property;

(4) the transfer of taxable items requested by mail or other means of communication, including the Internet, to a merchant located in or outside of Puerto Rico who receives the order and transports the property or delivers the same to be transported, be it by mail or other means of transportation to a person in Puerto Rico;

(5) Financial lease that constitutes a purchase according to generally accepted accounting principles, except those financial leases that freeze [sic] with the requirements set forth in Section 1 (c) of Act No. 76 of August 13, 1994, as amended.

For the purposes of this subsection, the term sale excludes the permutations exempted under subtitle A of this Code, and the sale or permutation of all or substantially all the assets of a business, outside the ordinary course of business.

(xx) Retail sales.—

(1) the sale, lease or licensing of taxable items to a purchaser or to any person for any purpose that, except as provided in this Subtitle, is not a resale, sub-rental or sublease. This includes all those transactions that may be executed in lieu of selling at retail, as defined in this Subtitle. A retail sale includes the sale of taxable items which are used or consumed by a contractor in the fulfillment of a contract to the extent that the cost of the property is assigned or charged as an article direct of cost to said contract, the title of which property is acquired or transferred to the purchaser pursuant to the contract. The term contractor includes principal contractors and their subcontractors.

(2) As used in this Subtitle, the terms retail sale, use, storage and consumption do not include materials, containers, labels, sacks bags or similar articles that accompany the product sold to a purchaser without which delivery of the product would be impossible due to the nature of the contents and that is used only once for packing taxable items or for the convenience of the purchaser. When a purchaser pays a separate charge for packing materials, said transaction shall be deemed to be a retail sale of the packing material.

(yy) Gross sales.—The total sum of all sales of taxable items as defined in this Subtitle, without any deduction whatsoever of any kind or nature, except as provided in this Subtitle.

Section 2302.—Scope of the Term Includes.—

For the purposes of the terms and phrases defined in this Subtitle, the words includes and including shall not be construed in the sense of excluding, omitting or eliminating other matters within the meaning of the term defined. Likewise, the objects specified shall only be interpreted as an illustration or characterization, but not as representatives of the universe of the objects therein described.

Section 2303.—Regulations.—

The Secretary shall be empowered to promulgate those rules and regulations related to the imposition, exemption, interpretation, administration and collection of the sales and use tax fixed in this Subtitle.

CHAPTER 2 – IMPOSITION, COLLECTION AND PERSON RESPONSIBLE

Section 2401.—Sales Tax.—

(a) A tax on every sales transaction of a taxable item in Puerto Rico shall be imposed, collected and paid for the types established in this

Section. The application of the tax shall be subject to the exemptions granted in Chapter 3 of this Subtitle.

(b) The tax rate shall be five point five percent (5.5%) of the sale price of the taxable item and combined transactions.

Section 2402.—Use Tax.—

(a) A tax on the use, storage or consumption of a taxable item in Puerto Rico shall be imposed, collected and paid for the types established in this Section.

(b) The tax rate shall be five point five percent (5.5%) of the purchase price of the taxable item.

Section 2403.—Rules for Determining the Source of Revenues Generated by the Sale of Taxable Items.—

(a) The source of the sale of tangible personal property shall be determined using the following rules:

(1) when the property is delivered to the purchaser at the facilities of the vendor, the source shall be deemed to be said facility;

(2) when the property is not delivered to the purchaser at the facilities of the vendor, the source shall be deemed to be the place where the property is received by the purchaser, including the address indicated to the vendor for the transportation and delivery of the property;

(3) if clauses (1) and (2) do not apply, the source of the sale shall be the address of the purchaser as it appears in the records kept by the vendor in the ordinary course of business, when the use of said address does not constitute an act of bad faith;

(4) if clauses (1) and (3) do not apply, the source of the sale shall be deemed to be the address of the purchaser obtained in the

sales process, including the address which appears in the payment instrument of the purchaser, if no other is available, to the extent that the use of said address does not constitute an act of bad faith; and

(5) when none of the above clauses apply, including the situation whereby the vendor does not have sufficient information to apply said rules, then the source of the sale shall be determined in reference to the address from where the tangible personal property was sent or shipped.

(b) The source of the sale of taxable services, except for telecommunications, cable or satellite television services and the leasing of tangible personal property, shall be the place where the services are rendered.

(c) The source of the sale of telecommunications services shall be as follows:

(1) in the case of telecommunications services provided by wire line, the source shall be the place where two of the following three events occur: where the service originates, terminates or is billed; and

(2) in the case of wireless telecommunications services, including prepaid services, the source shall be the location of the place of primary use of the client, which shall be the residential or business address of the latter.

(d) In the case of cable or satellite television services, the source shall be the location of the place of primary use of the client, which shall be the residential or business address of the latter.

(e) In the case of a lease of tangible personal property, the source of the sale shall be as follows:

(1) In the case of any lease that requires recurrent periodic payments, the source of the first payment shall be determined according to the provisions applicable to the same of tangible personal property. The source of subsequent payments shall be according to the primary location of the property leased during the period covered by the payment. The primary location of the leased property shall be the one indicated by the lessee and available to the lessor in the records the latter keeps in the ordinary course of business, to the extent that the use of said address does not constitute an act of bad faith. The primary location of the leased property shall not be considered altered by the intermittent or temporary use of the property leased in another location, as would be the case of leased commercial property that accompanies an employee during a business trip.

(2) In the case of any lease that does not entail periodic payments, its source shall be determined according to the provisions applicable to the sale of tangible personal property.

(f) It is hereby provided that the rules set forth in this Section shall be exclusively applied to the imposition of the sales or use tax and that the same shall not apply nor may be used additionally for income tax purposes.

Section 2404.—Persons Responsible for the Payment of the Tax.—

(a) In general.—Except as otherwise provided in this Subtitle, any person who buys, uses, consumes or stores a taxable item for use or consumption in Puerto Rico, shall be the person mainly responsible for the payment of said tax to the Secretary.

(b) Exception.—Whenever a transaction is subject to the sales and use tax fixed in this Subtitle and the merchant is bound to collect the tax as withholding agent (as defined in Section 14119a)(13), the latter shall be the

person mainly responsible for the payment of the tax attributable to the transaction. However, the Secretary may collect from a purchaser the tax fixed in this Subtitle on a taxable item when said merchant fails to comply with his/her obligation to collect the tax.

Section 2405.—Collection of the Tax.—

(a) Any merchant engaged in any business where taxable items that are subject to the taxes fixed in this Subtitle are sold, shall be responsible for collecting the sale taxes as withholding agent.

(b) Any merchant responsible for collecting the sales tax provided in this Subtitle shall record the same separately in any receipt, bill of sale, invoice ticket or other evidence of sale, except as provided in Section 2406. In the case of the sale of admission tickets, every merchant shall prominently display in the ticket booth or other place where admission tickets are sold, a notice indicating the admission price and the sales tax which shall be computed and collected on the basis of the price of admission charged by the merchant.

(c) The tax shall constitute, together with the sales price, evidence of a debt of the purchaser to the merchant until it is paid and it may be collected by law in the same manner other debts are collected. The taxes fixed in this Subtitle shall be funds of the Commonwealth at the time they are collected.

(d) Except as otherwise specifically provided in this Subtitle, any merchant who refuses, fails or neglects to collect the sales tax for each and every retail sale of a taxable item made by the merchant, agents or employees shall be responsible for paying the taxes fixed in this Subtitle.

(e) A merchant engaged in any business where taxable items are sold subject to the taxes fixed in this Subtitle may in no way publicly

announce or express that he/she shall directly or indirectly absorb all or part of the tax or relieve the purchaser from the payment of all or part of the sales tax or that the tax shall not be added to the sales price or that when it is so added that it, or part thereof, shall be reimbursed, be it directly or indirectly by any means.

Section 2406.—Collection of the Tax together with the Sales Price.—

(a) When it is impractical, due to the nature of the business, to comply with the requirements of Section 2405(b), the Secretary may exempt the merchant, motu proprio or through a prior request to that effect, from complying with said requirement and require or authorize that the merchant reflect the sales tax together with the sales price.

(b) In the case mentioned in subsection (a), the taxes to be paid on taxable items shall be calculated by subtracting from the total gross sales for the applicable period of the report, the total taxable sales for the same period. The taxable sales shall be determined by dividing the gross sales by one point zero seven (1.07).

Section 2407.—Collection of Sales Tax on Sales for Resale.—

(a) A duly registered merchant may be relieved from the requirement of collecting, withholding and depositing the tax fixed in this Subtitle on the sale of taxable items bought exclusively for resale to merchants who hold a certificate of exemption duly issued by the Secretary.

(b) Except as otherwise provided in this Subtitle, any merchant who makes a sale for resale to a holder of a certificate of exemption, shall document the exempted nature of the transaction through the retention of a copy of said certificate of exemption of the purchaser or through any other means provided by the Secretary.

(c) Any merchant who does not hold a certificate of exemption or who acquires merchandise subject to the sales tax established in this Subtitle shall be bound to satisfy the sales tax at the time of the purchase. When the merchant resells the merchandise on which he/she paid the sales tax, he/she shall collect the tax on the full sales price and may not claim any credit for the tax previously paid.

Section 2408.—Collection of the Sales Tax on Sales Delivered by Mail.—

(a) Any merchant engaged in the business of selling through the mail is subject to the requirements of this Subtitle for the collection of sales tax, provided that no payment or charge shall be imposed on said merchant for conducting any of the activities required.

(b) The Secretary shall, with the consent of other jurisdictions of the United States whose cooperation may be necessary, enforce this Subtitle in that jurisdiction, be it directly or by choice of the jurisdiction, through its officials or employees.

(c) The tax to be collected pursuant to this Subtitle and any other amount, be it part of the tax or not, that is not returned to a purchaser but that was collected from the purchaser under the representation that it was a tax, constitute funds of the Commonwealth of Puerto Rico from the moment of their collection.

Section 2409.—Necessary Evidence and Presumption of Correctness.—

(a) Presumption of taxable acquisition.—It shall be presumed that any purchaser who acquires taxable items from a merchant for delivery in Puerto Rico, shall have done so use, consumption or storage in Puerto Rico, unless said person submits evidence to refute said presumption.

(b) Presumption of correctness.—The determinations made by the Secretary regarding the administration of this Subtitle shall be presumed to have administrative procedural correctness before the courts.

(c) Presumption of exemption.—It shall be presumed that any person who acquires taxable items from a merchant for delivery in Puerto Rico by submitting a certificate of exemption is entitled to enjoy the exemption therein granted. A merchant who trusts in said certificate shall not have to require additional documentation to validate said presumption.

Section 2410.—Limitation for Fixing Taxes.—

Except as provided in Section 6189, no municipality, whether autonomous or not, of the Commonwealth of Puerto Rico, may impose or collect any fee or tax whatsoever on articles, services, taxable items or transactions that are subject to or exempted from the sales and use tax established in this Subtitle, as set forth in Section 6188 of Subtitle F.

CHAPTER 3 – EXEMPTIONS

Section 2501.—Exemptions – Powers of the Secretary.—

(a) The Secretary is empowered to establish, through regulations or otherwise, conditions with respect to the concession of certificates of exemption from the payment or withholding of the tax fixed in this Subtitle. In order to ensure due compliance with the terms, provisions and purposes by virtue of which the exemption is granted, the Secretary may impose, among any others he/she may deem necessary, the following requirements and conditions:

(1) Demand that the taxpayers file tax returns and reports and maintain accounting books and files and present any document or evidence deemed pertinent to the exemption claimed or granted, as the case may be.

(2) Require the posting of bond for the amount of the exemption solicited and any administrative fine, surcharge or interest that according to this Subtitle may be imposed.

(3) Require authorization for conducting periodic or other inspections to, among others, vans, containers, warehouse or storage areas and exhibition areas in relation to taxable items.

(4) Require the prior filing of contracts, orders or other information related to the permits to transfer or the sale of taxable items.

(b) If a person uses a certificate of exemption from the payment of the tax established in this Subsection for the acquisition of taxable items and subsequently uses, stores or consumes the latter for non-exempt ends, he/she shall be liable for the payment of the tax established in this Subtitle.

Section 2502.—Certificate of Exemption.—

(a) Any merchant who acquires taxable items for resale, except those that are entitled to an exemption under this Subtitle and any manufacturing plant or person entitled to some exemption under this Subtitle, may, subject to compliance with the requirements established by the Secretary, request a certificate of exemption of the sales and use tax. Every certificate issued must be numbered and shall be valid for a term of three (3) years.

(b) The Secretary may revoke the certificate of exemption of the sales and use tax of any person who fails to comply with any of the requirement provided in this Subtitle. Any person whose certificate of exemption has been revoked may request to have a new certificate of exemption issued subject to the requirements established in subsection (a) of this Section.

(c) When issuing the certificates of exemption, the Secretary must make sure of the following:

(1) that the person requesting said certificate is a merchant or the holder of some exemption as established in this Subtitle;

(2) that the person is duly registered in the Registry of Merchants; and

(3) in the case of a vendor who resells, that the latter provide a detailed description of the tangible personal property he/she shall buy for resale in the ordinary course of business.

(d) The Secretary may require that a person submit documents and evidence of his/her organizational structure, certifications of tax debts or any other information or document needed during the review process ordered by this Section.

Section 2503.—Exemptions for Export.—

(a) Except for the reciprocity obligations concerning the collection of sales and use taxes in Puerto Rico provided in this Subtitle, the taxable items sold for use or consumption outside of Puerto Rico shall be exempted from the payment of the sale and use tax established in this Subtitle, even when the sale takes place in Puerto Rico. In order for the taxable items thus sold to be exempted from the payment of taxes, they must be exported within sixty (60) days as of the date of sale.

(b) The sale or transfer of tobacco or cigarettes to foreign-registered ships and to United States ships, to warships from foreign countries and to vessels from foreign countries that pay courtesy visits to Puerto Rico shall be deemed as sales for use or consumption outside of Puerto Rico for the purposes of subsection (a) of this Section.

(c) Subject to the provisions of Section 6145, the Secretary may extend the time limit established in subsection (a) of this Section for a taxpayer to export taxable items.

Section 2504.—Exemptions for Taxable Items in Transit.—

(a) Any ‘taxable item’ temporarily introduced into Puerto Rico that is directly related to film production, construction, trade shows, conventions, seminars or for other purposes and that is re-exported from Puerto Rico by the same person who exported the same, shall be exempted from the payment of the tax on use.

(b) Any person who claims the exemption established in subsection (a) of this Section must solicit the exemption from the Secretary by presenting the information provided by regulations.

Section 2505.—Reserved

Section 2506.—Exemptions on Articles for Manufacture.—

(a) All manufacturing plants shall be exempted from the payment of the sales and use tax established in this Subtitle for the purchase of ‘raw materials,’ excluding hydraulic cement and the ‘machinery and equipment used in manufacture’ in the elaboration of finished products or used in the manufacturing process of said products, including but not limited to, the electric power process. Manufacturing plants shall also be exempted from the sales and use tax with respect to the articles for which an exemption from the payment of excise taxes is provided under Section 6(c) of Act No. 135 of December 2, 1997, as amended, known as the ‘Tax Incentives Act of 1998,’ or any subsequent similar provision or under any law which substitutes the same;

(b) In order to enjoy the exemption provided in this Section, the manufacturing plant shall, as established through regulations, request of the Secretary the certificate of exemption.

(c) Any person entitled to claim the exemption herein granted shall certify to the merchant his/her condition as exempted person through the mechanisms provided for such a purpose by the Secretary.

Section 2507.—Exemption on Articles Sold at Shops in Airport or Ship Terminals to Person Leaving Puerto Rico.—

(a) The taxable items available for sale in shops established in airport or ship terminals to persons who travel outside the jurisdictional boundaries of Puerto Rico shall be exempted from the sales and use tax. This exemption shall be granted when the shop that sells such items holds the license required to operate that type of business and meets the requirements established by the Secretary for the sale of taxable items free from the payment of taxes and complies with the regulations adopted for granting said exemption.

(b) Any person entitled to claim the exemption herein granted shall certify to the merchant his/her condition as exempted person through the mechanisms provided for such a purpose by the Secretary.

Section 2508.—Exemption of Taxable Items Acquired by Government Agencies.—

(a) Any taxable item acquired for official use by the agencies and instrumentalities of the Government of the United States of America and the Government of the Commonwealth of Puerto Rico shall be exempted from the payment of the sales and use tax fixed in this Subtitle.

(b) Those taxable items that have enjoyed the exemption provided in this Section and which are subsequently sold, transferred or otherwise

conveyed, shall be subject to the payment of the tax established in this Subtitle. The person who sells, transfer or otherwise conveys the taxable items shall be bound to:

(1) require from the person who acquires the taxable items, prior to their being delivered, evidence of:

(A) payment of the sales and use tax on the taxable items, or

(B) that it is a government agency entitled to the exemption provided under this Section; and

(2) notify the Department of said sale, transfer or conveyance within five (5) working days as of the date of the sale, transfer or conveyance in the form for such a purpose provided by the Secretary.

Section 2509.—Exemption on Taxable Items that Constitute Moving.—

(a) Any individual non-resident in Puerto Rico or those persons serving in the Armed Forces of the United State of America or the Government of the Commonwealth of Puerto Rico who are officially transferred to serve in Puerto Rico and who are interested in establishing or reestablishing their residence in Puerto Rico shall be entitled to introduce, free from the payment of the sales and use tax established in this Subtitle, the used taxable items which reasonably and effectively constitute part of the moving process and which belong to said person as well as to the other family members who accompany him/her.

(b) In the case of persons serving in the Armed Forces of the Government of the United States of America or the Government of the Commonwealth of Puerto Rico, or the other family members who

accompany them, who are officially transferred to serve in Puerto Rico, the exemption provided in subsection (a) of this Section shall include, in addition the used taxable items which reasonably and effectively constitute part of the process of moving, the introduction of one (1) used vehicle.

(c) For the purposes of the exemption provided in subsection (b) of this Section the term ‘family members’ shall mean the father, mother or any other relative under the immediate custody of the person in the military who has to return to Puerto Rico because said person in the military has been called to serve at a place where the family member cannot be taken.

(d) Military personnel who live alone abroad, without their spouse, or who have no dependants whatsoever through which they may introduce the taxable items into Puerto Rico, may remit them to the spouse or the nearest relative, accompanied by a certified copy of their transfer order.

(e) When a person who has enjoyed the exemption provided in subsection (b) of this Section, sells, transfers or otherwise conveys his/her motor vehicle, said person shall be bound to:

(1) require from the person who acquires the vehicle, prior to delivery of the motor vehicle, evidence of:

(A) payment of the sales and use tax on the motor vehicle, or

(B) that he/she is a person entitled to the exemption provided in subsection (b) of this Section; and

(2) notify the Department of said sale, transfer or conveyance within five (5) working days as of the date of the sale, transfer or conveyance in the form provided by the Secretary for such a purpose.

Section 2510.—Exemption to Admission Fees.—

(a) The admission fees to athletic events and other types of events sponsored by public or private elementary and secondary schools and high schools, universities or colleges engaged in the rendering of educational services shall be exempted from the taxes fixed in this Subtitle.

(b) Any person interested in claiming the exemption herein granted must be duly registered according to the provisions of Section 2801.

Section 2511.—Exemption to Foods.—

The following foods shall be exempted from the payment of the sales tax:

(a) foods and food ingredients as defined in Section 2301(a);

(b) prepared foods served to patients or residents at any hospital of other physical facility or a facility designed and operated primarily for the care of sick, elderly, frail and physically or mentally disabled persons, or those who require special care and attention, provided they constitute a combined transaction for the sale of health or medical-hospital services.

(c) prepared foods served to students in school cafeterias and those that constitute a combined transaction for the sale of educational services; and

(d) prepared and served foods provided they constitute a combined transaction for the charges for room occupancy subject to the tax fixed by the Puerto Rico Tourism Company.

Section 2512.—Exemption to Prescription Medicines.—

(a) The medicines for human consumption that may be acquired solely and exclusively with a medical prescription shall be exempted from the taxes provided in this Subtitle if they are:

(1) prescribed by physician licensed to practice the medical profession in Puerto Rico and delivered by a pharmacist licensed in Puerto Rico;

(2) given or sold to physicians, surgeons, dentists or podiatrists who hold a license in effect for the treatment of their patients;

(3) given by a hospital unit or health facility for the treatment of patients following the orders of a physician licensed to practice medicine in Puerto Rico.

(b) The following articles shall also be exempted from the payment of the sales and use tax provided by this Subtitle:

(1) hypodermic needles, hypodermic syringes, chemical compounds used for treating disease, ailments or injuries in humans generally sold for internal or external use for curing, mitigating, treating or preventing disease or ailments in human beings;

(2) prostheses;

(3) insulin; and

(4) oxygen.

(c) The exemption herein provided does not include cosmetics or toiletries, regardless of the presence of ingredients classified as medications in these products.

Section 2513.—Exemption on Real Property Leases.—

The following shall be exempted from the sales and use tax:

(a) the payment for leasing real property made by a lessor to a lessee on that which constitutes the main residence of the lessor or student housing; and

(b) the payment for leasing real property for commercial purposes, made by a merchant, including the payment for office spaces or sales office, warehouses or storage areas and parking facilities.

CHAPTER 4 – TERM AND MEANS OF PAYMENT

SUBCHAPTER A – RETURNS AND REPORTS

Section 2601.—Accounting Method.—

For the purposes of this Subtitle all merchants shall use the same accounting method they use to report their income in their income tax returns; provided that in all cases, the responsibility for the merchant's payment shall begin the moment he/she receives payment from the client. In the case of non-profit entities, they shall use the accounting method used to keep their accounting books.

Section 2602.—Monthly Sales and Use Tax Return.—

(a) In general.—In order to determine the amount of the sales tax to be paid under this Subtitle, all merchants must file a Monthly Sales and Use Tax Return and shall remit to the Secretary the sales tax not later than the twentieth (20th) day of the month following the month on which said taxes were collected, using the forms prepared and supplied by the latter. Said return shall show, separately for each municipality, the leases, admissions, gross sales or purchases, as the case may be, that may arise from all taxable leases, admissions, sales or purchases, deposits of the sales tax, credits during the preceding month and any other information the Secretary may require through regulations.

(b) Any person who has purchased taxable items subject to the use tax shall file a Monthly Sales and Use Tax Return and remit to the Secretary the tax not later than the twentieth (20th) day of the month following the

month in which the transaction object of the tax occurred in the forms prepared and supplied by the latter.

(c) The Secretary shall accept all returns as filed on time if postmarked not later than the twentieth (20th) day of the month following the month in which said taxes are collected or the month following the month in which the transaction object of the tax occurred, as the case may be. Should the twentieth day fall on a Saturday, Sunday or Federal or Commonwealth Holiday, the returns shall be accepted if they are postmark the following working day. Those returns the Secretary may require through regulations to be filed through electronic means must be received not later than the twentieth (20th) day of the month following the month in which said taxes are collected or the month following the month in which the transaction object of the tax occurred, as the case may be.

(d) Any merchant required to remit the sales tax through electronic transfer of funds, shall be bound to file the Monthly Sales and Use Tax Return through electronic means. The acceptable transfer method, regarding the form and contents of the electronic information exchange, the circumstances under which an electronic information exchange shall serve as substitute for the filing of the tax form and the means, if any, through which taxpayers shall receive confirmation, shall be established by the Secretary. The Secretary shall accept said returns as if having been filed on time if said transmission is initiated and accepted not later than the twentieth (20th) day of the month following the month in which said taxes are collected.

(e) The Secretary may relieve the merchant from the requirement of making an electronic information exchange transfer because of problems with the computer system of the merchant or the Department. For obtaining

said relief, the merchant must prove in writing to the Secretary that said circumstances exist.

(f) Except as provided in subsection (g) of this Section, for purposes of the segregation by municipality of the information required in the return according to subsection (a) of this Section, the sale of taxable items shall be deemed to have taken place in the municipality where the premises or other place of business of the vendor is located.

(g) In the case of the sale of telecommunications or cable or satellite television services, the determination of the municipality where the sale takes place shall be made using the address of the client to whom the services are billed.

Section 2603.—Annual Sales and Use Tax Return.—

(a) Any person engaged in industry or business who at any time in his/her tax year has been a merchant shall file an Annual Sales and Use Tax Return not later than the fifteenth (15th) day of the third month following the close of his/her tax year, including all the information required by the Secretary for said tax year.

(b) Any merchant required to remit the sales tax through an electronic transfer of funds, shall be bound to file the Annual Sales and Use Tax Return through electronic means. The acceptable transfer method, regarding the form and contents of the electronic information exchange, the circumstances under which an electronic information exchange shall serve as substitute for the filing of the tax form and the means, if any, through which taxpayers shall receive confirmation shall be established by the Secretary. The Secretary shall accept said returns as if having been filed on time if said transmission is initiated and accepted not later than the fifteenth (15th) day of the third month following the close of the tax year.

SUBCHAPTER B – PAYMENT

Section 2604.—Remittance of the Sales and Use Tax.—

The remittance to the Secretary of the taxes fixed in this Subtitle shall be made as provided below:

(a) by the merchant, except in the case covered in subsection (b), as provided in Section 2606 of this Subtitle;

(b) in the case of merchants who collect the sales tax in representation of other merchants under a billing and collection agreement, the person responsible for remitting the taxes to the Secretary shall be the person who acknowledges the sale in his/her books according to generally accepted accounting principles;

(c) by the person who uses, consumes or stores taxable items in Puerto Rico as provided in Section 2606 of this Subtitle.

Section 2605.—Payment of Sales Tax Calculated Together with the Sales Price.—

The taxes to be paid on taxable items calculated pursuant to Section 2406 shall be remitted to the Department by the operator or the merchant.

Section 2606.—Time for Remittance of the Sales and Use Tax.—

(a) In general.—The taxes fixed in this Subtitle shall be payable to the Secretary by the person responsible for issuing the payment not later than the twentieth (20th) day of the month following the month in which the transaction object of the tax occurred or in that other manner, as established in the regulations promulgated by the Secretary in relation to the manner, time and the conditions that shall govern the payment or deposit of said withheld taxes.

(b) Deposit in excess of thirty thousand (30,000) dollars.—In the case of merchants whose deposits of the tax fixed in this Subtitle for the

preceding tax year exceed thirty thousand (30,000) dollars, the tax shall be payable at that time and under those conditions that shall govern the payment or deposit of said withheld taxes, as provided through regulations.

Section 2607.—Manner of Payment.—

(a) The taxes fixed in this Subtitle shall be paid by postal or bank money order, legal currency, credit card, debit card, electronic transfer or any other method as provided by the Secretary through regulations.

(b) Any merchant with a sales volume equal to or greater than five hundred thousand (500,000) dollars per year, as reported in the Registry for Merchants Application or the Annual Sales and Use Tax Return, shall remit the sales and use tax through electronic transfer. The acceptable transfer method, regarding the manner and contents of the electronic transfer of funds shall be established by the Secretary.

(c) The Secretary may require that the merchant who has issued a bad check make subsequent payments through certified, official or cashier's checks.

(d) When the day payment of the tax is due is not a working day, the payment shall be made the following working day.

(e) The Secretary shall accept all payments as remitted on time if they are postmarked not later than the twentieth (20th) day of the month following the month in which said taxes are collected or the month following the month in which the transaction object of the tax occurred, as the case may be. Should the twentieth day fall on a Saturday, Sunday or Federal or Commonwealth Holiday, the payments shall be accepted their postmark is dated the following working day. Those payments that the Secretary requires be sent through electronic means must be received not later than the twentieth (20th) day of the month following the month in

which said taxes are collected or the month following the month in which the transaction object of the tax occurred, as the case may be.

CHAPTER 5 – DEDUCTION, CREDIT AND REFUND

Section 2701.—Deduction for Return of Taxable Items.—

(a) Refund to purchaser.—When the merchant receives taxable items returned by a purchaser from whom said merchant withheld the taxes under this Subtitle, the merchant must return the amount of the tax collected from the purchaser in the manner provided by the Secretary.

(b) Deduction to merchant.—When the merchant, pursuant to subsection (a) of this Section, receives taxable items returned by a purchaser, he/she may deduct the sales price of said returned taxable items from the total gross sales he/she must report in the monthly sales and use tax return corresponding to the month in which the return was made.

(c) At the time any returned taxable item is sold, the sale shall be subject to the sales tax imposed in this Subtitle.

Section 2702.—Credit for the Sale of Merchant's Property.—

A registered merchant who has purchased a taxable item for his/her own use, consumption or storage, and who has paid the sales and use tax and sells said item subsequently without having used the same, shall be entitled to a credit for the amount paid on account of the use tax on the taxable item in the manner provided by the Secretary.

Section 2703.—Credit for Uncollectible Accounts.—

(a) In general.—A merchant who has paid the taxes provided in this Subtitle on taxable items under the accrual method, may claim a credit in the subsequent monthly sales and use tax return for those taxes paid by the merchant on the total amount of those accounts that are uncollectible.

(b) Conditioned sales.—When a merchant has paid the tax established in this Subtitle on a taxable item sold and repossesses (with or without judicial proceeding) the taxable item, he/she may claim a credit in the subsequent monthly sales and use tax return for an amount equal to the taxes attributable to the indebted balance that becomes uncollectible for said merchant.

(c) Recovery.—In the case of the recovery of uncollectible accounts for which the merchant had claimed a credit, the amount recovered shall be included as ‘gross sale’ in the subsequent monthly sales and use tax return the merchant shall file after said recovery, and the merchant shall then pay the corresponding tax.

Section 2704.—Credit for Taxes Paid by the Merchant.—

Any merchant who possesses an certificate of exemption and who has paid the tax established in this Subsection for the purchase of taxable items for resale, or has had said tax improperly collected or has paid said tax in excess, may claim a credit for those taxes paid in the Monthly Sales and Use Tax Return for the period in which said tax was paid.

Section 2705.—Refund of Taxes Paid.—

(a) In general.—A person who has paid the sales tax or has had the same improperly collected or has overpaid the same, may request in writing from the Secretary a refund of the same within the term and pursuant to the procedures established by the Secretary.

(b) Application for refund.—A refund of the sales tax that has been improperly paid or collected or paid in excess may not be claimed in any of the sales tax returns. The Secretary shall issue the corresponding form for claiming the refund. The right to receive any refund under the provisions of this Section is nontransferable, except to a successor entity in a corporate

reorganization, to the executor, administrator, receiver, trustee in case of bankruptcy or assignee in an insolvency procedure of the person entitled to the refund.

(c) No refund whatsoever may be claimed unless the Secretary is presented with a sworn application within the period of time established to claim a refund of the tax paid or improperly collected or paid in excess pursuant to Subtitle F of this Code. The application for refund shall include as a minimum the following information:

- (1) the name and address of the person claiming the refund;
- (2) a description of each taxable item;
- (3) copies of the bills of sale of the taxable items object of the refund claim; and
- (4) a detailed explanation as to why the refund is claimed.

(d) When the Secretary approves an application for refund or when he/she *motu proprio* determines that the taxpayer has made an improper payment or an overpayment, he/she must credit the amount that corresponds to the refund to any tax debt of the taxpayer. Any amount that remains from the total of the tax overpaid or improperly paid in those cases whereby the taxpayer has no outstanding tax debt whatsoever must be returned to the taxpayer.

(e) A total or partial denial of an application for refund must be notified in the form and manner provided in Subtitle F of this Code.

(f) When the Secretary concludes that a refund has been erroneously paid, he/she may reconsider the case and redetermine the tax denying the refund and notifying the taxpayer of a deficiency in the form and pursuant to the procedure established in Section 6002 of this Code.

(g) Should the application for refund be denied in whole or in part, the taxpayer may initiate the procedure provided in Sections 6030 to 6032.

Section 2706.—Special Disposition of Funds.—

(a) The taxes on admission fees fixed in this Subtitle collected at the municipal stadium of the Capital City shall be covered into a special account and be transferred to the municipality of San Juan by the Secretary in the manner and at the time the latter may determine and for the time the Secretary may deem necessary, considering the revenues and expenses that result from the operation and construction of the stadium and its facilities.

(b) The taxes on admission fees collected at the stadiums of other municipalities shall be covered into a special account and be transferred to the corresponding municipality until the total of any debt or obligation said municipality may incur for the purpose of defraying the cost of improving or enlarging said stadiums is paid in full. This provision shall take effect as of the date the works for improving or extending said stadiums are initiated. The Sports and Recreation Secretary shall supervise and approve the works and notify the date of their initiation to the Secretary. For the purposes of this paragraph the works for the improvement and enlargement of the stadiums shall be deemed to have begun once the Municipal Assembly of the municipality in question authorizes a loan for financing said works. Said funds shall revert to the General Fund of the Commonwealth of Puerto Rico when the improvements and extensions are not physically initiated within a period of two (2) years as of the date of the authorization for the municipal loan.

(c) Ten percent (10%) of the product of the tax collected on admission fees, except for those taxes on admission fees referred to in subsections (a) and (b) of this Section and those corresponding to admission

fees for events held at the Pachín Vicens Coliseum in Ponce and at the Roberto Clemente Coliseum in San Juan, shall be covered into a special fund for the operating expenses of the Festival Casals, Inc., the Puerto Rico Symphony Orchestra Corporation, the Strings Program for Children and the Puerto Rico Conservatory of Music Corporation.

Every three (3) months the Secretary of the Treasury shall transfer sixty-six percent (66%) of the amounts covered into said fund to the Musical Arts Corporation, created by Act No. 4 of July 31, 1985, so that according to the applicable laws they may be put at the disposal of the Festival Casals, Inc. and the Puerto Rico Symphony Orchestra in equal parts; provided, that the remaining thirty-four percent (34%) of the amounts covered into said fund shall be transferred by the Secretary of the Treasury every three months to the Puerto Rico Conservatory of Music Corporation so that they may be used for its operation and the operation of the String Program for Children in equal parts.

CHAPTER 6 – REGISTRY AND DOCUMENTS REQUIRED

Section 2801.—Merchants’ Registry.—

(a) Any person who wishes to engage in business in Puerto Rico as a merchant must file with the Secretary an application for Certification in the Registry for Merchants for every commercial establishment, indicating the names of the persons with an interest in said business and their residences, the address of the main office of the business and any location where sales are carried out as well as any other information the Secretary may require.

(b) The application described in subsection (a) of this Section must be submitted to the Secretary before the person, enterprise, partnership or corporation begins to operate a business. The Secretary may impose a service charge that must accompany the application for registration.

(c) No merchant may sell, assign, transfer or otherwise convey to another any Certificate of Registration for Merchants according to the provisions of this Subtitle unless such a transfer is duly authorized by the Secretary after compliance with the requirements established in this Subtitle and the regulations adopted for its administration.

(d) The Secretary, after approving the Application for the Certificate of Registration for Merchants shall grant the applicant a Registry of Merchants Certificate in which the obligation of the merchant as withholding agent is established.

(e) Every merchant shall be bound to notify the Secretary about any change or amendment to the information required in the Application for the Registry of Merchants, the theft of the Registry of Merchants Certificate or the total or partial cease of operations not later than thirty (30) days after the change or the event.

Section 2802.—Display of Certificate of Registration.—

The Certificate of Registration shall be displayed at all times in a place visible to the general public in each place of business for which it was issued. No person may engage in business as merchant, neither may any person sell or receive anything of value in lieu of admissions without first having obtained a certificate or after said certificate has been cancelled; and no person shall receive a license from any entity of the Commonwealth of Puerto Rico to engage in such business without having obtained a certificate or after said certificate has been cancelled.

Section 2803.—Commercial Undertaking without Certificate of Registration.—

Any person who engages in business in Puerto Rico as merchant without having applied for a certificate of registration or whose registration has been revoked shall be subject to the penalties established in Subtitle F.

Section 2804.—Registry of Exhibitors.—

(a) As used in this Section, the term ‘exhibitor’ means a person who enters into an agreement which authorizes the display of taxable items in a specialized convention or exhibition. The following provisions apply to the registry of exhibitors as merchants under this Subtitle:

(1) an exhibitor whose agreement prohibits the sale of taxable items shall not be subject to the requirement of registering as merchant;

(2) an exhibitor whose agreement provides only for the sale of taxable items at wholesale must obtain a certificate of exemption from the purchaser but shall not be subject to the requirement of registering as merchant;

(3) an exhibitor whose agreement authorizes the retail sale of taxable items must register as merchant and collect the sales and use tax imposed by this Subtitle on said sales; or

(4) any exhibitor who makes a sales order by mail pursuant to Section 2408 must register as merchant.

(b) Any person who organizes a specialized convention or exhibition must have his/her agreement as exhibitor available for inspection by the Secretary.

Section 2805.—Resources of the Secretary.—

The Secretary is empowered to purchase the supplies and equipment and incur in any other proper expenses needed to make effective and administer this Subtitle.

Section 2806.—The Conservation of Documents Required.—

Any merchant, as defined in this Subtitle, shall ensure the conservation in Puerto Rico for a period of not less than six (6) years, of all information that provides evidence of the taxable items received, used, sold at retail, distributed or stored, leased by said merchant, such as invoices, bills of lading, collections for said sales and other documents the Secretary may require.

Section 2807.—Documents Required from Merchants and Purchasers.—

(a) Documents required from merchants.—Any merchant subject to the provisions of this Subtitle must conserve for a period of not less than six (6) years the account books, papers, documents and any other evidence related to the sales and the amounts of the sales taxes withheld and deposited. The documents and information to be conserved shall include, but not be limited to, statements, invoices, bills of sale, commercial receipts, cancelled checks payment receipts and certificates of exemption.

(b) Documents required from purchasers.—

(1) In general, the purchaser subject to the provisions of this Subtitle must conserve for a period of not less than 24 hours the sales receipts, documents and any other evidence of the retail purchase and the payment of the corresponding taxes.

(2) Exception.—In case the taxable item acquired has a purchase price of one thousand (1,000) dollars or more, the purchaser

must conserve the documents mentioned in paragraph (1) for a period of not less than four (4) years.

Section 2808.—Documents Required for Claiming Credits.—

(a) Any merchant who claims a credit granted in this Subtitled against his/her liability for the sales tax must conserve and have available for the Secretary all documents needed to verify the right of said merchant to said credits in the manner in which the Secretary may establish through regulations, including through electronic transmission means.

(b) The Secretary may deny a credit claimed in the return, to the extent that it is not supported by the information required under this Section, in which case the amount indebted shall be deemed a deficiency as established in Subtitle F.

Section 2809.—Sampling.—

(a) In case a merchant does not keep proper accounting books for his retail sales, the Secretary may, based on a sample of the available registers of the merchant or on other information related to the sales or purchases made by said merchant during a representative period, determine the sales ratio of taxable items in comparison with the total sales, or the ratio between the purchase of taxable items and the total purchases made by the merchant. This Section does not intend to relieve the merchant from collecting the sales and use tax.

(b) In case the accounting books of a merchant are properly kept but very voluminous, the Secretary may select a sample of the transactions and make a projection on the basis of the data collected during the whole period of the audit. This shall be done for the purpose of determining the ratio of the sale of taxable items in comparison with the total sales or the

ration between the purchase of taxable items and the total purchases made by the merchant.

In order to conduct said sampling, the Secretary may reach an agreement with the merchant to determine the means and methods to be used in the sampling process. In the event they may not reach an agreement, the merchant shall be entitled to a revision by the Secretary.

(c) In the case of an application for refund, every merchant is entitled, when his/her registers are properly kept but voluminous, to establish the amount of the refund through statistical sampling or through any other sampling method agreed to with the Secretary. Regardless of the sampling method selected, it must reflect the payments in excess as well as the deficiencies in the payment of the sales and use tax, as applicable.

The sampling method must be approved by the Secretary before an application for refund is submitted. Thus, an application for refund submitted before the sampling method has been approved by the Secretary may not be deemed as a complete application for refund.

(d) For the purpose of this Section, the Secretary, through regulations, shall establish the procedures related to the sampling methods, including the criteria for their use and the approval of the sampling method selected by a merchant.

Section 2810.—Bond.—

(a) In all cases in which it is necessary to ensure the payment of the sales tax established by the provisions of this Subtitle, the Secretary may require a cash deposit, a bond or any other security as a condition for a person to obtain or retain a certificate as registered merchant under this Subtitle. Said bond shall be in the manner and for the amount the Secretary may deem proper under certain particular circumstances.

(b) Any person who fails to make such a cash deposit or post a bond or other security as provided by subsection (a) of this Section, shall not be entitled to obtain or retain a certificate of registration under this Subtitle and the Secretary of Justice is thus authorized by this means to proceed through the corresponding judicial means when so required by the Secretary in order to prevent the person from doing business, subject to the provisions of this Subtitle, until the cash deposit has been made or the bond or other security has been posted with the Secretary.

Section 2811.—Permit to Pay the Sales and Use Tax Directly to the Secretary.—

(a) Any person who pursuant to the provisions of subsection (d) of this Section has a permit to pay the sales and use tax directly to the Secretary may present a certificate of total exemption to the merchants who sell taxable items to said person and these shall be relieved from the obligation of collecting the sales and use tax. This certificate shall cover every future sale of taxable items to the holder to said permit.

(b) The certificate of total exemption issued pursuant to this Section shall contain the number of the permit the Secretary has issued to such effects. It shall also contain a certification that indicates that the holder is committed to paying the sales and use tax on taxable items acquired with the certificate of total exemption.

(c) The Secretary shall be solely responsible for evaluating the application to obtain the permit for paying the sales and use tax directly to the latter pursuant to the requirements established in subsection (d) of this Section.

In these cases the decision may not be appealed. In those cases in which the permit is denied, a person may only require the authorization of

the Secretary to submit an amended application or to submit a new application after a reasonable period of time has elapsed from the moment the original application was denied.

(d) Any person interested in applying for the permit for paying the sales and use tax directly to the Secretary shall submit an application in writing that includes the following documents:

(1) an agreement signed by the applicant or his/her authorized representative;

(2) a description, with the detailed information the Secretary may determine, of the accounting method through which the applicant shall make a distinction between taxable items and exempted items; and

(3) evidence of registers that establish that the applicant will annually purchase taxable items valued at eight hundred thousand (800,000) dollars or more when purchased, excluding the worth of the taxable items for which a certificate of exemption would have been issued pursuant to subsection (a) of Section 2502.

(e) The holder of a permit to pay the sales and use tax directly to the Secretary may voluntarily rescind the same. However, said permit shall be valid until revoked by the Secretary and a notice is issued to that respect, as established in subsection (f) of this Section.

(f) The Secretary may, at his/her discretion, cancel the permit of a person who has been granted a permit to pay the sales and use tax directly to the Secretary. Said cancellation is not revocable, and the Secretary shall send a written notice by registered mail to the person in question about the cancellation.

CHAPTER 7 – TRANSITORY PROVISIONS

Section 2901.—Exclusion of Contracts and Preexisting Public Bids.—

(a) Except as provided in subsection (b) of this Section, retail sales covered by contracts and bids related to taxable items that have been executed or adjudicated before October 31, 2006, shall be excluded from the sales and use tax. The Secretary shall provide the manner in which this Section shall be administered through regulations.

(b) In the case of the retail sale of taxable services, these shall be subject to the sales and use tax if they were rendered after October 31, 2006, regardless of whether they are the result of contracts or bids that were executed or adjudicated before October 31, 2006.”

Section 18.—Subtitle E of Act No. 120 of October 31, 1994, as amended, is hereby repealed.

Section 19.—A new Subtitle E is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“SUBTITLE E – TAXPAYER’S BILL OF RIGHTS

Section 5001.—General Purposes.—

In harmony with the public policy of the Commonwealth of Puerto Rico and with the taxation laws in effect, pursuant to the purposes of the Fiscal Reform to promote equity, simplicity and justice and to benefit the taxpayer, the Taxpayer’s Bill of Rights is hereby updated. The Bill of Rights recognizes and protects the rights of taxpayers so they may have full confidence in the integrity, efficiency and impartiality of our tax system, together with the responsibilities of the Department.

Section 5002.—Taxpayer’s Rights.—

In interviews, investigations, claims for refund and credit and other matters that are carried out by the Department, hereinafter ‘the Department,’ every taxpayer shall be entitled to:

(a) Receive dignified, appropriate and impartial treatment by all officers and employees of the Department during any transaction the taxpayer may carry out at the Department.

(b) Having the confidentiality of the information submitted to the Department by the taxpayer or the person authorized to act as his/her representative guaranteed.

(c) Require that every interview carried out be at a reasonable time and place, in coordination with the officer or employee of the Department.

(d) Assurance that the interview or investigation is not to be used to harass or intimidate the interviewed person in any way.

(e) Receive, at the beginning of an investigation, an explanation in clear and simple terms of the procedure to which he/she shall be submitted and the rights to which he/she is entitled.

(f) Being assisted by an attorney, accountant, certified public accountant, or any person authorized to represent taxpayers registered before the Department, or authorized by law, subject to the provisions set forth below in subsection (n).

(g) Being informed prior to the interview, investigation, administrative hearing or any other matter under consideration of the intent to record the same and to be provided with an exact copy of said recording at his/her request, subject to payment of its cost.

(h) Being notified in writing about the nature of his/her tax responsibility as part of the procedures carried out at the Department in order to determine said responsibility.

(i) Being advised of his/her right not to incriminate him/herself through his/her own testimony, to remain silent and not to have this taken into account nor taken against him/her in case of investigations for possible violations of a criminal nature.

(j) Consult at any time during the interview or tax proceeding, with an attorney, public accountant or agent authorized to represent him/her before the Department or to end the interview even when it has commenced.

(k) Being notified in writing of any adjustment made by the Department as a result of a tax investigation when this entails adding interest, penalties and surcharges as stipulated by law, as well as the exact amount of the adjustment and the grounds for such changes.

(l) The taxpayer is entitled to pay the corresponding tax according to the law. If unable to pay the tax in its totality within the corresponding time, he/she shall be entitled to avail him/herself of a payment plan.

(m) Waive the rights described in the preceding subsections if this waiver is made voluntarily and knowingly.

(n) Grant a written power of attorney to any person authorized to represent taxpayers registered with the Department, or authorized by law to represent him/her during an interview or tax proceeding; said person shall receive treatment equal to that of the taxpayer for the purposes of the interview or proceeding.

(o) Not being discriminated against by reason of race, color, sex, birth, origin or social condition, nor for political or religious ideas or association with any taxpayer or person who represents him/her. It shall be

guaranteed to him/her that no file containing tax information shall be maintained for such purposes.

Nothing set forth in this Section shall be construed as a limitation to the powers of the Secretary to carry out investigations, provided these are conducted out without violating the constitutional rights of the taxpayer or the person who represents him/her.

Section 5004.—Office for the Protection of Taxpayer’s Rights.—

The Office for the Protection of Taxpayer’s Rights, attached to the Department, shall have the responsibility for attending to the problems and claims of the taxpayer, among other functions set forth in this Section. The Office shall be administered by a Director appointed by the Secretary.

The Office shall carry out the following functions:

(a) Oversee compliance with the provisions of the ‘Taxpayer’s Bill of Rights.’

(b) Facilitate matters between the taxpayer and the Department in any complaint related to a violation of any right granted by this Subtitle.

(c) Promote the rapid and effective solution of the problems confronting the taxpayer and that cannot be resolved through the regular procedures of the Department.

(d) Issue Taxpayer Assistance Orders *motu proprio* or at the request of the taxpayer if it determines that the taxpayer is suffering or is about to suffer irreparable significant damages as a result of the violation of the provisions contained in the Taxpayer’s Bill of Rights. The term ‘irreparable significant damages,’ as the same is used in this subsection shall be understood to be a significant deprivation caused or about to be caused as a result of the improper administration of tax laws and their regulations by

the Department. However, a mere financial or personal inconvenience caused to a taxpayer shall not constitute ‘irreparable significant damages.’

The Secretary shall establish through regulations the criteria that shall regulate the issue and disposition of Taxpayer’s Assistance Orders. Noncompliance with a Taxpayer’s Assistance Order by an officer or employee of the Department shall result in a disciplinary action according to the provisions of the Personnel Regulations.

Likewise, the Secretary shall establish through regulations the parameters that shall govern the procedures between the Office and the taxpayers as well as the internal operations of the Office.”

Section 20.—Section 6001 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6001.—Definitions.—

(a) Tax.—For the purposes of this Subtitle and unless otherwise provided in the Code, the term ‘tax’ means any tax, license fee or levy as provided in Subtitles A, B, BB, C and D of this Code.

(b) Deficiency.—As used in this Code, with respect to the tax imposed by any Subtitle of the Code, the term ‘deficiency’ means the amount by which the tax imposed by any Subtitle of this Code surpasses the excess of:

- (1) ...
- (2) ...

(c) Rules for the application of subsection (b).—For purposes of this Section:

- (1) The tax imposed by any Subtitle of this Code and the tax declared on the return or statement shall both be determined without regard to payments on account of the estimated tax and without regard

to the credits under Sections 1030, 1032, 1035, 1037, 1038, 1039, 1040 and 1040A of the Code.

(2) The term ‘rebate’ means that part of an abatement, credit, refund or other repayment made because the tax imposed by any Subtitle of this Code was less than the excess of the amount specified in subsection (b)(1) over the amount of rebates previously made.

(d) Last known address.—For the purpose of this Subtitle, the term ‘last known address’ means the last address reported by the taxpayer in his/her Income Tax Return, or Monthly or Annual Sales and Use Tax Return, or any other tax return submitted or on the form designed for such a purpose.”

Section 21.—Section 6002 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6002.—Procedure in General.—

(a) Notice of deficiency and remedies of the taxpayer.—

(1) If in the case of any taxpayer the Secretary determines that there is a deficiency with respect to the tax imposed by any Subtitle of the Code, the Secretary shall notify the taxpayer of such deficiency by registered mail and the taxpayer may, within thirty (30) days following the deposit of said notice in the mail, or within the extension granted by the Secretary for such a purpose, request from the latter in writing a reconsideration of such deficiency and an administrative hearing on the same. If the taxpayer should fail to request reconsideration in the manner and within the term herein provided, or if having so requested the deficiency so notified is confirmed in whole or in part, the Secretary shall notify the taxpayer by registered mail of his/her final determination, in either case,

indicating the amount of the original deficiency, of the interest, of the penalties and of the bond the taxpayer must post should he/she desire to appeal to the Court of First Instance such a determination of deficiency. Such bond may not exceed the total amount of the tax notified plus interest on the deficiency computed for an additional period of one year at the rate of ten (10) percent per annum.

It shall be required that the Secretary base his/her final determination on findings of fact and conclusions of law.

(2) Should a taxpayer disagree with a final determination of deficiency notified to him/her by the Secretary in the manner provided in clause (1), the taxpayer may appeal such a determination to the Court of First Instance by filing a complaint in the manner provided by law within the term of thirty (30) days from the date the notice of the final determination was deposited in the mail, provided he/she has previously posted a bond in favor of the Secretary, and subject to his approval, for the amount indicated in the aforementioned notice of the final determination; provided, however, that the taxpayer may pay part of the tax to which he agrees and litigate the remainder, in which case the bond shall not exceed the amount of the tax that is being litigated, plus the interest, surcharges and other additions to the tax on the deficiency computed in the manner provided in clause (1). In case the taxpayer should die on or after the date on which the notice of the final determination was deposited in the mail, but before the expiration of the aforementioned term of thirty (30) days, the term which his/her heirs or legal representatives would have to post the bond herein required and appeal to the Court of First Instance shall be of sixty (60) days as of the date on which the notice of the final

determination of the deficiency was deposited in the mail. Except as otherwise provided in this clause, both the posting of the bond for the amount indicated by the Secretary on the notice of the final determination and the filing of the complaint with the Court of First Instance, both actions taken within the term previously provided, shall be requirements of a jurisdictional nature without which the Court of First Instance shall not be able to hear the case.

(3) The taxpayer may file the complaint referred to in clause (2) with the part of the Court of First Instance which corresponds to the municipality wherein he/she resides and regardless of any other provisions of law regarding the transfer of actions or place of trial, he/she shall be entitled, for the convenience of his/her witnesses, to have the case heard in said part of the Court of First Instance. The provisions of Act No. 328 of May 13, 1949 notwithstanding, the summons shall be served pursuant to Rule 4.4 of the Rules of Civil Procedure of 1979.

(4) Shall the taxpayer is unable to post the bond for the amount required by the Secretary, or is unable to post any bond whatsoever, or if having posted bond for the amount required, the Secretary should reject the same before the complaint is filed, the taxpayer may, however, file his/her complaint with the Court of First Instance within the term previously provided, but in such cases he/she should accompany said complaint with a application which must be notified to the Secretary together with the complaint requesting that the Court reduce the amount of the bond or exonerate him/her from posting the same or approve the bond posted, as the case may be, giving the reasons he/she may have for such a application. In those

cases whereby the taxpayer files a application for the reduction, exoneration from or approval of the bond, the Court shall issue an Order for the Secretary to express him/herself about the request. Within thirty (30) days after receiving notice of the Order or within any other term the Court may provide, the Secretary shall submit whatever objections he/she may have against said application of the taxpayer after which the Court shall hold a hearing and hear the parties without going into the merits of the deficiency notified and shall issue a resolution either sustaining the amount of the bond required by the Secretary or reducing the same or exonerating the taxpayer from posting any bond or approving the bond rejected by the Secretary or ordering the taxpayer to post another bond.

(5) Should the taxpayer post bond for the amount required and before filing his/her complaint said bond has not been rejected, the Secretary shall have a term of thirty (30) days as of the date on which he/she is notified of the complaint, to file before the Court, with notice to the taxpayer, whatever objections he/she may have against the bond so posted, and if said objections were not made within the aforementioned term of thirty (30) days or within any extension granted by the Court for such a purpose, it shall be understood that the bond has been approved by the Secretary. Should the Secretary object to said bond, the Court shall issue an Order for the taxpayer to express him/herself on the objection presented and, at the request of the Secretary, the taxpayer shall be bound to divulge information about his/her financial condition. Within thirty (30) days as of the date in which he/she was notified of the Order, or within any other term the Court may provide, the taxpayer shall submit his/her answer to such

objections after which the Court shall hold a hearing and listen to the parties about the objections to the bond without going into the merits of the deficiency and shall issue a resolution either sustaining the bond posted by the taxpayer or demanding that the taxpayer post another bond in the manner and with the guarantees the Court may determine.

(6) ...

(7) Should the taxpayer fail to accompany his/her complaint with the application required in clause (4) of this subsection requesting a reduction in the amount of the bond, or to be exonerated from posting the same, or that the bond posted be approved; or should he/she fail to answer to the objections of the Secretary to any bond posted after the case is before the Court, or to appear at the hearing in relation to any bond; or should he/she fail to post any bond required by the Court within the term that was granted; or fail to file his/her complaint with the Court of First Instance within the term established for doing so; or otherwise fail to post the bond within said term to appeal to the Court; or fail to comply with any other of the requirements imposed by this subsection to enable the Court of First Instance to hear the case, any such failure shall be sufficient cause for the complaint to be dismissed; provided, that in the cases in which an order of dismissal is entered on the grounds that the taxpayer has failed to post any bond required by the Court by virtue of a resolution for revision for which the remedy of certiorari is hereby granted, before the Court of Appeals, said order of dismissal shall be final and unappealable.

(8) The decisions of the Court of First Instance on the merits of any incidental proceeding related to a bond, as well as its decisions entertaining or refusing to entertain any case for alleged failure on the part of the taxpayer to comply with the requirements established in this subsection so as to enable the Court to hear the case, shall be unappealable but any party affected may application the Court of Appeals for a review of the decision by means of certiorari, within ten (10) days from the date on which he/she is notified of said decision.

(9) The final judgments of the Court of First Instance pronounced on the merits of the deficiency may be appealed in the manner and within the term established by law through the presentation of the corresponding appeal before the Court of Appeals, subject to the requirement of maintaining the bond posted. Provided, however, that in those cases in which the judgment of the Court of First Instance determines the existence of a deficiency, the presentation of the computation of the deficiency shall be ordered and said judgment shall not be considered final and the term of appeal shall not commence for the parties until after the date of the filing in the record of the notice to the taxpayer and to the Secretary of the resolution of the Court of First Instance approving the computation of the deficiency determined by said Court.

(10) ...

(b) Collection of the deficiency after appeal to the Court of First Instance.—...

(1) ...

(2) In the case of appeal or certiorari to the Supreme Court.—When a taxpayer requests an appeal or certiorari to the

Supreme Court from the judgment of the Court of Appeals determining a deficiency, he/she shall be obliged to pay the total of the deficiency so determined within the term for requesting the appeal or certiorari, and the failure to comply with such a requirement for payment, except as provided further in clauses (3) and (4) shall deprive the Supreme court of the power to consider the appeal or certiorari on its merits. Should the Supreme Court decide that the deficiency determined by the Court of Appeals or part thereof does not exist and the taxpayer has paid in part or in full such deficiency when requesting the appeal or certiorari, the Secretary shall proceed to refund, from any available funds in the Public Treasury, the proper amount pursuant to the judgment of the Supreme Court plus interest at the rate of six (6) percent per annum on the amount to be reimbursed computed from the date the payment was made. Should the Secretary request an appeal or certiorari from the judgment of the Court of Appeals declaring the nonexistence of a deficiency in whole or in part, or if the taxpayer having requested an appeal or certiorari has failed to pay the total amount of the deficiency, should the decision of the Supreme Court be favorable to the Secretary in any of such cases, the deficiency determined on appeal or certiorari, or the unpaid part of the same shall be assessed and shall be payable upon notice and demand of the Secretary.

(3) In the case of a taxpayer who requests an appeal or certiorari from the judgment of the Court of Appeals upholding a deficiency and is unable to comply with the requirement of paying the deficiency, or is only able to pay part of the deficiency, the Court of Appeals may order, provided that the request for an appeal or

certiorari involves a substantial question subject to the provisions hereinafter set forth, that the appeal or certiorari follow their course until their final disposition on their merits without payment of the total amount of said deficiency. In such a case the taxpayer shall file with his/her writ of appeal or certiorari with the Court of Appeals, a sworn application stating the reasons for his/her inability to pay the deficiency in whole or in part and the grounds on which he/she bases his/her claim that the appeal or certiorari involves a substantial question. Should the Court of Appeals determine that the taxpayer is unable to pay the deficiency or is able to pay part only thereof, and that the appeal involves a substantial question, it shall order in lieu of the total payment, as the case may be, (A) that the appeal or certiorari follow its course under the bond posted to appeal to the Court of Appeals if the latter is sufficient to answer for any deficiency that may be finally determined, plus interest; or (B) that the taxpayer post a new bond, to the satisfaction of the Court, in a sufficient amount to answer for the deficiency plus interest for a reasonable period; or (C) that the taxpayer pay part of the deficiency and that the unpaid remainder be bonded in any manner provided previously in subclauses (A) and (B). In the case of a taxpayer who has been exonerated from posting bond in order to litigate the deficiency in the Court of First Instance and who shows that he/she is unable to pay the tax, or post bond, if the appeal or certiorari involves a substantial question, the Court of Appeals shall provide that the appeal or certiorari follow its course until the final disposition of the same on its merits without any requirement whatsoever for payment or posting bond.

(4) Should the Court of First Instance determine that the taxpayer is able to pay the deficiency or part thereof, or that he/she must post bond, the taxpayer shall proceed to pay the deficiency or the part so determined, or post bond, within the term of thirty (30) days from the date on which he/she is notified of the resolution of the Court of Appeals to such effects, and the payment of the deficiency or part thereof so determined, or the posting of the bond within such a term, shall perfect the appeal for revision for all purposes of law. If within said term of thirty (30) days the taxpayer should fail to make the payment or to post the bond that has been required, or if having posted a bond which was not accepted, he/she fails to post another bond within the term granted by the Court of Appeals, the Supreme Court shall be powerless to hear the appeal or certiorari on its merits and the same shall be dismissed. The resolutions of the Court of Appeals issued under the provisions of clauses (3) or (4) of this subsection shall be unappealable but any of the parties may, within ten (10) days as of the date on which any of them was notified of any of said resolutions, request a review by the Supreme Court by certiorari.

(c) In the absence of remedy.—Should the taxpayer fail to file a complaint with the Court of First Instance against a final determination of deficiency notified in the manner established in subsection (a), the deficiency shall be assessed and be paid upon notice and by requirement of the Secretary.

(d) Waiver of restrictions.—The taxpayer shall be entitled to waive at any time, through a written notice filed with the Secretary, the restrictions on the assessment and collection of the total or any part of the deficiency, as established in subsection (a) of this Section.

(e) Jurisdiction of the Court of First Instance to increase the deficiency, additional amounts or additions to the tax.—The Court of First Instance shall have the power to redetermine the correct amount of the deficiency even though the amount so redetermined were to be greater than the amount of the deficiency notified by the Secretary in the manner established in subsection (a) of this Section and to determine whether any additional amounts, or additions to the tax should be imposed, provided that the Secretary or his/her representative establish a claim to such effects at any moment before judgment is pronounced.

(f) Restricted additional deficiencies.—Had the Secretary mailed to the taxpayer notice of a deficiency with respect to taxes, license fees or levies as provided in Subtitles A, B, BB, C or D of this Code, as provided in subsection (a) of this Section and the taxpayer had appealed to the Court of First Instance within the term and in the manner established in this Subtitle, the Secretary shall not be entitled to determine any additional deficiency whatsoever with respect to the same tax class for which the deficiency was notified and with respect to the same tax year, except in case of fraud and except as provided in subsection (a) of this Section (in reference to the power of the Court of First Instance to determine deficiencies) and subsection (c) of Section 6003 of this Code (in reference to the assessment of the tax in jeopardy).

(g) Exceptions to assessment restrictions.—

(1) ...

(2) Reduction of assessment due to mathematical or clerical error.—

(A) Request for cancellation.—Notwithstanding the provisions of Section 6003(i), a taxpayer may submit to the

Secretary, within 60 days after he/she has been sent the notice under clause (1), a request for the reduction of any assessment specified in said notice and upon evaluating said request the Secretary may cancel the assessment.

(B) Suspension of collection.—In the case of any assessment under clause (1) and clause (1) notwithstanding, no lien or court proceeding for the collection of said assessment shall be imposed, initiated, or executed during the period in which said assessment may be reduced under this clause.

(3) Special definitions.—

(A) Return.—The term ‘return’ includes any return, statement, attachment, form, schedule or list and any amendment or supplement thereof, filed with respect to any tax imposed under this Code.

(B) Mathematical or clerical error.—The term ‘mathematical or clerical error’ means:

(i) ...

(ii) the incorrect use of any table included in the Code with respect to any return if said incorrect use is apparent in view of the existence of any other information in the return,

(iii) ...

(iv) any omission of information that is required to be included in the return to provide evidence of an entry in the return,

(v) an entry in a return of a deduction or credit for an amount which exceeds the statutory limit imposed by the Code if such a limit is expressed:

(I) as a specific amount of money or

(II) as a percentage, ratio, fraction if the items that enter in the application of said limit appear in said return, and

(vi) the omission in the return of the correct account number or social security number as defined in Section 1411, whenever required. It shall be considered that a taxpayer has omitted the account number or the social security number if the information submitted by the taxpayer does not agree with the information the Secretary obtains from the agency that issued the account number or the social security number.

(i) Extension of the term for the payment of deficiencies.—When it is shown to the satisfaction of the Secretary that the payment of a deficiency on the date established for doing so will result in undue hardship for the taxpayer, the Secretary may grant an extension for the payment of such deficiency for a period not to exceed eighteen (18) months, and in exceptional case, for an additional period not to exceed twelve (12) months. Should an extension be granted, the Secretary may require that the taxpayer post a bond for an amount that does not exceed double the amount of the deficiency and with such sureties as the Secretary may deem necessary to guarantee the payment of the deficiency according to the terms of the extension. No extension whatsoever shall be granted if the deficiency is due

to negligence, to intentional disregard for the rules and regulations or to fraud with intent to evade the tax.

(j) ...”

Section 22.—Subsections (a) and (d) of Section 6003 of Act No. 120 of October 31, 1994, as amended, are hereby amended to read as follows:

“Section 6003.—Assessment of Tax in Jeopardy.—

(a) Power to assess.—Should the Secretary believe that the assessment or the collection of a deficiency would be jeopardize by delay, he/she shall immediately assess said deficiency together with any interest, additional amounts or additions to the tax imposed by this Subtitle and shall issue notice and requirement for payment thereof by registered mail, notwithstanding the provisions of Section 6002(a)(10) of this Subtitle.

(b) ...

(d) Bond to suspend collection.—When a deficiency has been assessed according to subsection (a), the taxpayer may, within ten (10) days as of the date of the deposit in the mail of the notice and requirement of the Secretary for payment thereof, obtain a suspension of the collection of the whole or any part of the amount so assessed by posting a bond with the Secretary in such an amount (not greater than the amount for which the suspension of the collection is desired, plus interest on said amount computed at the rate of ten (10) percent per annum for an additional year) and with such sureties as the Secretary may deem necessary, which bond shall guarantee the payment of that part of the amount whose collection has been suspended by the same, as has not been abated (1) by a final determination of the Secretary on the deficiency if the taxpayer did not appeal against said final determination to the Court of First Instance, or if having appealed said Court pronounced judgment declaring itself without

power to hear the case, once the judgment is final, or (2) through a final judgment of the Court of First Instance on the merits.

(e) ...”

Section 23.—Section 6004 of Act No. 120 of October 31, 1994, as amended, is hereby repealed.

Section 24.—A new Section 6004 is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6004.—Bankruptcies and Receiverships.—

(a) In general.—In filing for bankruptcy or when a Receiver is appointed for any taxpayer in any judicial proceeding, any deficiency (together with the interest, additional amount or additions to the tax imposed by this Code) determined by the Secretary with respect to a tax imposed by the Code to said taxpayer shall be, notwithstanding the provisions of Section 6002(a) of this Subtitle, immediately assessed according to the provisions of this Subtitle.

(b) Suspension of term of prescription.—The term of prescription for collecting the debts covered by a application for bankruptcy or receivership shall be suspended for the period between the date of the filing for bankruptcy or the commencement of receivership for up to ninety (90) days after the date of discharge and the close of the bankruptcy case, whichever happens later.

Likewise, filing a application for bankruptcy shall extend the term of expiration of an embargo initiated by the Secretary for the remaining term pending expiration to the date of the filing for bankruptcy. The term shall begin to run again after the dismissal or discharge and close of the bankruptcy proceeding. In case an embargo initiated by the Secretary is modified within a bankruptcy or receivership proceeding, and after the

proceeding has been cancelled or dismissed, the embargo shall return to its original state before its modification through the reinstatement of the tax indebted, including interest, additional amounts or additions to the tax as provided in this Code.

(c) Interruption of the term of prescription.—In those cases whereby the Secretary initiates an investigation within the four (4) years granted by this Code to assess debts, the term of prescription for the assessment shall be understood as having been interrupted until the Bankruptcy Court finally adjudicates the correction of the debt notified as a deficiency or until the taxpayer accepts the notified deficiency, whichever occurs first. The term of prescription for the assessment shall be understood to be interrupted until the conclusion of the controversy as to whether the deficiency product of the investigation initiated as part of a bankruptcy case has been corrected or not. The objections of the taxpayer as part of a bankruptcy case about the deficiencies notified by the Secretary shall interrupt the term for assessing deficiencies until the controversy over these has been resolved.

(d) Deficiencies.—Any deficiency product of an investigation by the Secretary which has been notified as final to the taxpayer within the three hundred and sixty-five (365) days prior to the filing of a application for bankruptcy or after the bankruptcy case has been filed, shall be deemed as incurred and payable on the tax year of the date of the notice. This way it shall be claimed and collected as part of the bankruptcy case.

(e) Claims for deficiencies.—The claims for the deficiencies and for the interest, additional amounts or additions to the taxes shall be presented to the Bankruptcy Court or whichever court hears the receivership

process, despite the pendency of the proceedings before the Court of First Instance about the assessed deficiency.

(f) Unpaid claims.—After the taxpayer’s discharge and the closing of the bankruptcy or receivership proceeding, the Secretary may require the payment of any part of the claim confirmed by the Court, accepted by the taxpayer and included as part of the plan confirmed and neither discharged nor paid by the taxpayer, the reorganized debtor or the Receiver. After the notice and requirement, the debt may be collected by legal proceeding for collection or proceeding in court within a period of five (5) years or within the term of prescription that remains after the same was interrupted by the bankruptcy, whichever is greater, counted as of the term provided in subsection (b). In those cases whereby a novation of the debt with the Secretary exists as a consequence of a reorganization plan, the latter may introduce a legal procedure for collection or proceeding in court without prior notice and requirement.

Extensions for such payments may be obtained in the same manner and subject to the same provisions and limitations provided in Sections 6002 and 6004 in the case of a deficiency in any tax imposed by any Subtitle of this Code.”

Section 25.—Section 6005 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6005.—Period of Prescription for Assessment and Collection.—

(a) General rule.—Except as provided for in Section 6006, the amount of the taxes or levies established by any Subtitle of this Code shall be assessed within four (4) years after the return or statement was filed, and no proceeding in court without assessment for the collection of such taxes

shall begin after the expiration of such period. In the case of a taxpayer who amends his/her return within the sixty (60) days prior to the expiration of the period of prescription for the assessment of the tax and said amendment results in an increase in the amount of the taxes or levies determined in the original return, the Secretary shall have one (1) year from the moment he/she receives the amended return or statement to assess the additional taxes or levies.

In the case of merchant importers or manufacturers the term ‘return’ or ‘statement’ refers to the return required by Section 2011.

(b) Request for prompt Assessment.—In the case of income received during the lifetime of a decedent, or by his/her estate during the period of administration, or by a corporation or partnership, the tax determined under Subtitle A of this Code shall be assessed, and any proceeding in court without assessment for the collection of such tax shall begin within eighteen (18) months after written request to that effect (filed after the return or statement is submitted) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation or partnership, but not after the four (4) years from the filing of the return or statement. This subsection shall not apply in the case of a corporation or partnership, unless:

(1) such written request notifies the Secretary that the corporation or partnership contemplates dissolution not later than the expiration of such period of eighteen (18) months; and

(2) ...

(c) Omission in returns or statements.—

(1) ...

(2) In the case of excise taxes provided by Subtitle B of this

Code, if the taxpayer omits the statement required by Sections 2011 of Subtitle B an amount of the taxable price includible therein which is in excess of twenty-five (25) percent of the total taxable price reported in the statement, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time within six (6) years after the statement was filed.

(3) In the case of the sales and use tax provided by Subtitle BB of this Code, if a merchant or taxpayer omits from the gross sales or purchases an amount that may be properly included in the same which exceeds twenty five (25) percent of these, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time within six (6) years after the Monthly Sales and Use Tax Return has been filed.

(d) ...

(e) Returns filed before the established date.—For the purposes of subsections (a), (b), (c), and (d), a return or statement filed before the last day established by the applicable Subtitle for the filing thereof shall be considered as filed on such last day.”

Section 26.-Section 6006 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

Section 6006.—Exceptions to the Period of Prescription.—

(a) False return or statement or absence of return or statement.—In the case of a false or fraudulent return or statement required under any Subtitle of this Code which was filed falsely or fraudulently with the intent to evade tax or in the case of failure to file a return or statement, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) Waiver.—When before the expiration of the period established in Section 6005 of this Subtitle for the assessment of the tax, both the Secretary and the taxpayer have agreed in writing to the assessment of the tax after such a period, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Property inconsistently valued.—If any property of the estate or object of a donation (excepting in both cases property whose transfer is not subject to taxation under Subtitle C) were valued by the taxpayer for the purpose of determining its basis pursuant to the provisions of Subtitle A of this Code, or to comply with said provisions, in an amount greater than the value used with respect to said property for the purposes of the tax imposed by Subtitle C, or that which is used subsequently in any disposition, sale or exchange of said property, the period of prescription for the assessment and collection provided in subsection (a) of Section 6005 of this Code, shall begin to run from:

(1) ...

(2) the date on which said value was beneficially used for the purposes of the taxpayer or the tax imposed by Subtitle C, whichever of said dates is later.

(d) Collection after assessment.—

(1) When the assessment of any income tax imposed by this Subtitle has been made within the period of prescription properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun: (i) within seven (7) years after the assessment of the tax, or (ii) prior to the expiration of any period

for collection agreed upon in writing between the Secretary and the taxpayer before any seven (7) year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(2) Notwithstanding the provisions of Act No. 230 of July 23, 1974, as amended, known as the ‘Accounting Act of the Government of Puerto Rico,’ the Secretary, on his/her own initiative or at the request of the taxpayers, shall proceed to eliminate from the files of the Department and be prohibited from collecting, those debts imposed by the Code or prior laws that were assessed ten (10) years before. Provided, that in order to determine the period of prescription, any interruption thereof as a result of attempts for collection conducted by the Secretary by distraint or by judicial proceeding, shall be taken into consideration.

(e) Profit on the sale or exchange of residence or own business.—

In the case of the deficiency described in Section 1112(m)(7) of this Code, such deficiency may be assessed at any time prior to the expiration of the period therein established.

(f) Involuntary conversion.—In the case of a deficiency described in Section 1112(f)(2)(C) or (D) of this Code, such deficiency may be assessed at any time prior to the expiration of the period therein established.”

Section 27.—Section 6007 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6007.—Interruption of the Period of Prescription.—

The period of prescription established in Sections 6005 or 6006 of this Subtitle for making assessments and initiating distraint or a proceeding in court for collection, with respect to any deficiency, shall, after the mailing of

the notice of final determination established in Section 6002(a) of this Subtitle, be suspended for the period during which the Secretary is prohibited from making the assessment or initiating distraint or a proceeding in court (and in any event, if the case is brought before the Court of First Instance until the decision of the Court of First Instance becomes final) and for sixty (60) days thereafter.”

Section 28.—A final paragraph is added to clause (2) and clause (3) of subsection (a) is amended of Section 6011 of Act No. 120 of October 31, 1994, as amended to read as follows:

“Section 6011.—Refunds and Credits.—

(a) Authorization.—

(1) ...

(2) ...

The above notwithstanding, in those cases whereby the Child Support Administration orders the withholding of the refund pursuant to its Organic Act, the refund shall be accredited, in the first place, to the child support debt of the taxpayer.

(3) Credit against estimated tax.—The Secretary is authorized to promulgate regulations providing that the amount, determined by the taxpayer, or by the Secretary, as an overpayment of the tax for a preceding tax year be credited against the estimated tax for any subsequent tax year.

(4) ...

(b)”

Section 29.—Section 6020 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6020.—Credits or Refunds of Taxes Paid in Excess or

Improperly.—

(a) When a taxpayer believes that he/she has paid any tax fixed by this Subtitle B, or that it has been collected improperly or in excess of the amount due, he/she may application the Secretary in writing for a refund or credit thereof within the term and pursuant to the procedure established in this Subtitle. Act Number 232 of May 10, 1949, as amended, shall be used as supplement in the procedure to claim refunds established by this Subtitle.

(b) Any freight carrier, by air as well as by sea, authorized to pay excise taxes in advance in representation of his/her clients and consignees, who has posted a bond to the satisfaction of the Secretary to secure full payment of the excise taxes to such effect, may claim a credit for taxes paid on returned articles, or for undue or excessive payments against any tax fixed by Subtitle B then payable on demand by the carrier, and the remainder will be immediately refunded to said carrier. The Secretary may implement the granting of such credits through regulations to such effects.

(c) The Secretary, *motu proprio*, after a prior determination that the taxpayer has borne the burden of the tax payment, may grant a taxpayer the refund or credit of any amount that in his/her judgment was paid illegally or unduly, or in excess of the amount owed.

(d) No refund or credit whatsoever shall be granted unless the person shows to the satisfaction of the Secretary that he/she suffered the financial burden of the tax payment. Nor shall a refund or credit be granted after four (4) years from the date of payment of the tax, nor shall its total exceed any part that would have been paid during the four (4) years immediately preceding the granting of the refund.

(e) When the Secretary allows a application for a refund, or when he/she *motu proprio* determines that the taxpayer has made an excessive or

undue payment, he/she must investigate whether the taxpayer owes any tax debt payable under this Code or under any other law that impose taxes and will credit the corresponding amount of the refund to said debt. Any resulting remainder or the total tax paid in excess or improperly in cases whereby the taxpayer has no tax debt shall immediately be refunded to the taxpayer. In case there should be more than one payable tax debt, the Secretary shall apply the refund to the debts in strict order of expiration, beginning with the earliest, accrediting to those, the amount, in the first place, to the interest, surcharges and penalties.

(f) In the cases whereby the Secretary totally or partially denies a request for refund or credit, he/she shall notify the taxpayer by certified mail. The provisions of Section 6030 of this Subtitle shall apply to the denials of the Secretary in whole or in part of the applications for refund or credit pursuant to this Section.

...”

Section 30.—Section 6021 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6021.—Term of Prescription to Request Credits or Refunds on Taxes Paid on any Article Exempted under Subtitle B.—

Any person interested in having all or part of the excise tax paid on any article exempted under Subtitle B refunded or accredited, shall file a application for credit or refund accompanied by the documents requested by the Secretary within one hundred and eighty (180) days following the date of delivery of said articles to the exempted person. In the case of the exemptions established in Section 2023 of Subtitle B, said term shall be counted from the date the articles that give rise to the claim leave Puerto Rico. When the exempted person has already made the payment, he/she shall

file his/her application for refund and the documents required by the Secretary within one hundred and eighty (180) days following the date on which he/she paid the tax.”

Section 31.—Section 6025 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6025.—Credit for Taxes on Spirits and Alcoholic Beverages for Exemption Purposes.—

(a) The Secretary is hereby authorized to credit the manufacturers and wholesale dealers those taxes paid by them on spirits and alcoholic beverages which are afterwards disposed of in the form and manner specified in Sections 4020 and 4032 of Subtitle D.

(b) In those cases whereby the Secretary totally or partially denies a request for credit, he/she shall notify the taxpayer by certified mail. The provisions of Section 6030 of this Subtitle shall apply to the denials of the Secretary in whole or in part of the applications for credit pursuant to this Section.”

Section 32.—The last paragraph of subsection (c) is renamed as subsection (d) and a subsection (e) is added to Section 6026 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6026.—Refund for Losses Caused by Fortuitous Acts of Nature, Vandalism or Malicious Damages.—

(a) ...

(b) ...

(c) ...

(1) ...

(4) ...

(d) The refunds authorized by this Section shall be made in favor of

the claimant who had the beverages for sale in his power by the date of said damages; provided, that the minimum amount claimable for brakeage or destruction as a result of acts of vandalism or malicious damages shall be two hundred and fifty (250) dollars;

(e) In those cases whereby the Secretary totally or partially denies a request for refund, he/she shall notify the taxpayer by certified mail. The provisions of Section 6030 shall apply to the denials of the Secretary in whole or in part of the applications for credit or refund pursuant to this Section.”

Section 33.—A new Part IV is added and the present Part IV is renumbered as Part V and amended of Subchapter B of Chapter 1 of Subtitle F of Act No. 120 of October 31, 1994, as amended, to read as follows:

“PART IV – LICENSE FEES

Section 6029.—Refund of License Fees.—

The Secretary is authorized to refund the license fees provided in Subtitles B and D collected illegally or unduly or in excess of the amount owed, according to the provisions of Acts No. 231 and 232 of May 10, 1949, as amended. The provisions of Section 6030 shall apply to the denials of the Secretary, in whole or in part, of requests for the refund of license fees collected illegally or improperly or in excess of the amount owed.

PART (V) – GENERAL RULES APPLICABLE TO EXCESS PAYMENTS

Section 6030.—Suits for Refunds.—

(a) General rule.—If a claim for credit or refund of any tax imposed by this Code filed by a taxpayer is denied in whole or in part by the Secretary, the latter shall so notify the taxpayer by certified mail, and the taxpayer may appeal such denial to the Court of First Instance by filing a complaint in the manner provided by law within 30 days after the date of

mailing of said notice. The failure to file the complaint within the period herein provided shall deprive the Court of First Instance of the right to hear the case. Provided, that notwithstanding the provisions of Act No. 170 of August 12, 1988, as amended, or any other law which substitutes or supplements the latter, the taxpayer affected by a denial, in whole or in part, of a credit or refund of any tax imposed by this Code shall neither be entitled to request an informal hearing nor any other administrative procedure to the Secretary, his/her only remedy being to go before the Court of First Instance within the term provided.

The judgment of the Court of First Instance allowing or denying a credit or refund requested pursuant to this subsection may be appealed by the taxpayer or the Secretary, as the case may be, to the Circuit Court of Appeals by filing an application for appeal with the Secretary of such Court within thirty (30) days of the filing in the record of a copy of the judgment notice issued by the Court of First Instance.

The judgment of the Court of Appeals allowing or denying a credit or refund requested pursuant to this subsection may be appealed by the taxpayer or the Secretary, as the case may be, to the Supreme Court by filing an application for certiorari or appeal with the Secretary of such Court within thirty (30) days of the filing in the record of a copy of the judgment notice issued by the Court of Appeals.

(b) ...

Section 6031.—Payment in Excess Determined by the Court of Appeals.—

(a) If the Court of Appeals finds that there is no deficiency whatsoever and furthermore determines that the taxpayer has made a tax payment in excess regarding the taxable year in respect to which the

Secretary determined the deficiency, or determines that there is a deficiency but that the taxpayer has made a tax payment in excess in respect to such taxable year, the Court of Appeals shall have the power to determine the amount of such excess payment, and such amount shall, when the decision of the Court of Appeals has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Court of Appeals determines as part of its decision:

(1) ...

(2) If such portion was not paid within the period described in clause (1), but the notice of deficiency was mailed within seven (7) years from the date prescribed for filing the return, or a claim described in subsection (b)(7) of Section 6011 was filed, that such portion does not exceed the amount of the overpayment attributable to the deductibility of items described in subsection (b)(7) of Section 6011.

Section 6032.—Interest on Excess Payments.—

The credits or refunds administratively or judicially granted under this Subtitle shall accrue interest at the rate of 6 percent per annum, computed from the date of the payment of the tax object to the credit or refund and up to a date which precedes by not more than 30 days the date of the refund check, or in case of a credit, up to the date on which the Secretary notifies the taxpayer of the granting of the credit. Refunds granted for taxes correctly paid in transactions made with, or by, exempt persons shall not accrue interest. The amount of such credits or refunds, plus interest thereon and costs, if any, shall be credited or paid by the Secretary chargeable to the funds into which the proceeds of said taxes were originally credited, and in case such funds are insufficient, or when it may be impracticable to prorate

the charge against several funds, then the said payment or credit shall be made chargeable to the General Fund of the Public Treasury.”

Section 34.—The title of subsection (a) of Section 6041 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6041.—Additions to the Tax in Case of Nonpayment.—

(a) Tax determined by taxpayer.—

(b) ...”

Section 35.—Subsection (a) and (b) of Section 6042 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6042.—Additions to the Tax in Case of Deficiency.—

(a) Negligence.—If any part of any deficiency is due to negligence, or intentional disregard for the rules and regulations but without intent to defraud, ten (10) percent of the total amount of the deficiency (in addition to said deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of Section 6040 of this Subtitle related to the interest on deficiencies, shall not be applicable.

(b) Fraud.—If any part of any deficiency is due to fraud with the intent of evading the tax, then one hundred (100) percent of the total amount of the deficiency (in addition to said deficiency) shall be so assessed, collected and paid, regardless of any criminal action which may proceed against the taxpayer for such an act.

(c) ...”

Section 36.—Section 6046 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6046.—Exoneration from Surcharges and Interest in the Case of Taxes Fixed by Subtitles B or BB.—

(a) The Secretary, in his/her judgment and discretion, may relieve a

taxpayer from the surcharges and interest established by Section 6041 of this Subtitle in the case of taxes fixed by Subtitles B or BB and may fix a new payment date under the following circumstances:

(1) ...

(2) When it concerns new articles or taxable items on the Puerto Rican market that present reasonable doubts as to their condition, classification or taxable scope pursuant to the laws in effect, provided the taxpayer submits the information needed to determine their taxable condition, if any, to the Secretary not later than ten (10) days after the taxable event.

(3) ...

(4)”

Section 37.—Section 6046A of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6046A.—Exoneration from Penalties or Additions to the Tax Attributed to Erroneous Written Notice Sent by the Secretary.—

(a) In general.—The Secretary shall exonerate any party from any penalty or addition to the tax, license fee or levy established in Subtitles A, B, BB, C or D of the Code that can be attributed to erroneous information or advice furnished in writing to the taxpayer by an official or employee of the Department, acting as such official or employee.

(b) Limitations.—Subsection (a) shall only apply if:

(1) ...

(2) ...

(c) Regulations.—The Secretary shall establish through regulations, the rules needed to establish the provisions of this Section.”

Section 38.—Section 6047 of Act No. 120 of October 31, 1994, as

amended, is hereby amended to read as follows:

“Section 6047.—Bankruptcy and Receivership.—

(a) If the tax owed and due for collection after a bankruptcy or receivership proceeding has ended, as provided for in Section 6004 of this Subtitle, is not paid in full within ten (10) days from the date of notice and demand from the Secretary, it shall be accrued and collected as part of the unpaid amount of the claim interest on said amount at the rate of ten (10) percent per annum from the date of the notice and demand until payment.

(b) Furthermore, the following surtax shall also be collected from the date of said notice and demand:

(1) ...

(2) ...”

Section 39.—Section 6048 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6048.—Penalties.—

(a) In general.—Any person obligated, under any Subtitle of this Code, to pay any tax or estimated tax, or to withhold at the source and pay any tax, to file any return or statement, to keep any records or documents or to submit any information for purposes of the computation, assessment or collection of any tax or fee, who willfully fails to comply with such obligation, shall be subject to penalties and additions to the tax described in this Subchapter, as established below. Except as otherwise provided, the penalties shall be imposed, assessed and collected in the same manner as the tax.

(b) Penalties for misdemeanors.—Except as otherwise expressly provided in this Code, in any case of conviction for a misdemeanor established by this Code, the person convicted shall be punished with a fine

of not more than five thousand (5,000) dollars or with a maximum term of imprisonment of ninety (90) days, or both penalties at the discretion of the Court, plus the costs of the process.

(c) Penalties for felonies.—

(1) Except as otherwise expressly provided in this Code, in any case of conviction for a felony in the third degree established by this Code, the person convicted shall be sanctioned with a term of imprisonment that shall fluctuate between three (3) years and one (1) day and eight (8) years. The Court, at its discretion may impose the fixed penalty of imprisonment established or the penalty of a fine not to exceed twenty thousand (20,000) dollars, or both penalties, plus the costs of the process.

(2) Except as otherwise expressly provided in this Code, in any case of conviction for a for a felony in the fourth degree established by this Code, the person convicted shall be sanctioned with a term of imprisonment that shall fluctuate between six (6) months and one (1) day and three (3) years. The Court, at its discretion may impose the fixed penalty of imprisonment established or the penalty of a fine not to exceed ten thousand (10,000) dollars, or both penalties, plus the costs of the process.

(d) Penalty for failure to keep records or submit information.—Any person obligated under any Subtitle of this Code or regulations promulgated by authority of law to keep any records or submit any information for purposes of the computation, assessment or collection of any estimated tax or any tax imposed by any Subtitle of this Code who voluntarily fails to keep said records or to submit said information within the term or terms fixed by any Subtitle of this Code or by regulations, besides other penalties imposed

by this Code, shall incur a misdemeanor.

(e) Criminal liability of juridical persons.—All juridical persons and every non-incorporated partnership or association shall be criminally liable when their members, directors, agents or representatives commit criminal acts while in the exercise of their functions or execution of agreements or when executing actions that may be attributed to the juridical persons and non-incorporated partnerships or associations which they represent.

The liability herein established does not exclude the individual liability which may be incurred by the members, directors, agents or representatives of the juridical persons and non-incorporated partnerships or associations which participate in the criminal act.

Besides the penalties established in this Code, the penalties established by Sections 83 to 90 of the Penal Code of Puerto Rico, both inclusive, shall be imposed to the juridical persons who incur the crimes herein typified, in the measure that they are not incompatible with the penalties provided by this Code.”

Section 40.—Section 6049 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6049.—Penalty for Failure to File Return or Statement.—

(a) Any person who fails to file any return or statement required by any Subtitle of this Code within the term provided by the corresponding Subtitle of this Code or provided by the Secretary pursuant to this Code, unless it is proved that such omission is due to a reasonable cause and not due to willful neglect, in addition to any other penalties imposed by the Code, there shall be added to the tax: five (5) percent, if the failure to pay is for not more than thirty (30) days with an additional ten (10) percent for

each additional thirty (30) days or fraction thereof during which such failure continues, not to exceed twenty-five (25) percent in total. The amount thus added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the same has been paid before the discovery of the omission, in which case the amount thus added shall be collected in the same manner as the tax.

(b) Imposition of penalty over the net tax owed.—For purposes of subsection (a), the tax assessed on the return shall be reduced by any amount of said tax which has been paid not later than the date established for the payment of taxes, and by the amount of any credit against tax which has been claimed or may be claimed on the return.

(c) Any person bound under any Subtitle of this Code to file a return, statement, certification or report, who willfully fails to file said return, statement, certification or report within the term or terms established by the corresponding Subtitle, or by regulations, shall be guilty of a misdemeanor, in addition to other penalties established by this Code.

(d) In those cases in which any person willfully failed to file such return, statement, certification or report (within the terms fixed by the corresponding Subtitle or by regulations) with the purpose to evade or defeat any tax imposed by this Code, in addition to any penalties provided in this Code, shall be guilty of a third-degree felony.”

Section 41.—Section 6050 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6050.—Penalty for Failure to Collect and Pay over Tax, or Attempt to Defeat or Evade Tax.—

(a) Any person required under any Subtitle of this Code to collect, account for, and pay over any tax imposed by any Subtitle of this Code who willfully fails to collect or truthfully account for and pay over such tax in the form and within the terms established in any Subtitle of this Code, and

(b) any person who willfully attempts in any manner to evade or defeat any tax imposed by any Subtitle of this Code or the payment thereof, shall, in addition to other penalties established in this Code, be guilty of a third-degree felony.”

Section 42.—Section 6051 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6051.—For Disclosure of Information.—

(a) Commonwealth employees and other persons.—It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the Commonwealth of Puerto Rico to divulge or to make known in any manner whatsoever not provided by this Code to any person, the amount or source of income, gross sales, profits, losses, expenditures, taxes, excise taxes, sales and use taxes, estate and gift taxes or any particular thereof, set forth or disclosed in any return or statement established by this Code, or to permit any return or statement or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by this Subtitle. It shall be unlawful for any person to print or publish in any manner whatsoever not provided by this Subtitle any return or statement or any part thereof, or any source of income, gross sales, profits, losses, expenditures, or taxable taxes appearing in any return or statement. Any offense against the foregoing provisions shall constitute a fourth-degree felony. If the offender is an officer or employee of

the Commonwealth of Puerto Rico, he/she shall also be dismissed from office or discharged from employment.

(b) Shareholders.—Any shareholder or partner who pursuant to the provisions of Section 6132 of this Code is allowed to examine the return of any corporation or partnership, respectively, and who makes known in any manner whatsoever not provided by this Code the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor.”

Section 43.—Section 6052 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

Section 6052.—For Removal of Property or Departure of the Taxpayer.—

(a) The additions to the tax in the case of a taxpayer suddenly leaving Puerto Rico or removing or concealing property in such manner as to hinder collection of the tax shall be those provided for in Section 6065 of this Subtitle, for violation of Section 1151. These additions shall be imposed jointly with any other additions, interest, penalties or fines imposed by this Code.

(b) Any person who willfully attempts to evade or defeat any tax levied by any Subtitle of this Code, or the payment thereof by removing or concealing property, shall be guilty of a third-degree felony.”

Section 44.—Section 6053 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6053.—For Violations in Respect of Closing Agreements.—

(a) Any person who, in connection with any closing agreement or offer to enter into any such agreement, willfully:

(1) ...

(2) Withholding, falsifying and destroying evidence.—
Receives, destroys, mutilates or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall be guilty of a third-degree felony.”

Section 45.—Section 6054 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6054.—Penalty for Presentation of Fraudulent Returns, Statements, Sworn Statements, and Claims.—

(a) Fraudulent documents.—Any person who willfully hands over or furnishes to the Secretary any return, statement, sworn statement, certification, report, claim, or other document or information fully aware of the fact that the same is false or fraudulent, shall be guilty of a third-degree felony.

(b) Assistance in preparation or presentation.—Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under this Code, or in connection with any matter arising under this Code, of a false or fraudulent return, statement, affidavit, certification, report, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, statement, sworn statement, certification, report, claim, or document) be guilty of a third-degree felony.

(c) Verification of return; statement or other document; penalties of perjury.—

(1) Penalties.—Any person who willfully makes and subscribes any return, statement, certification, report or other

document, which contains or is verified by a written statement to the effect that it is made under the penalties of perjury, and which return, statement, certification, report or document he/she does not believe to be true and correct as to every material matter, shall be guilty of a third-degree felony.

(2) Signature presumed correct.—The fact that an individual's name is signed to a return, statement, certification, report or other document filed shall be *prima facie* evidence for all purposes that the return, statement, certification, report or other document was actually signed by him/her.

(3) Statement in lieu of oath.—The Secretary, under regulations promulgated by him/her, may require that any return, statement, or other document required to be filed under any provisions of this Code shall contain or be verified by a written statement that the return, statement, certification, report or other document has been filed under the penalties of perjury, and such statement shall be in lieu of any oath otherwise required.”

Section 46.—Section 6055 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6055.—False Representation.—

Any person who impersonates a Department's internal revenue official, employee or agent, and as such attempts to collect or collects taxes or license fees under this Code or attempts to obtain or obtains information that taxpayers are only bound to furnish to internal revenue agents or to duly authorized fiscal officers, shall be guilty of a third-degree felony.”

Section 47.—Section 6056 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6056.—Unlawful Acts by Officers or Employees.—

(a) Any officer, or employee of the Department of the Treasury acting under the authority of any Subtitle of this Code:

(1) ...

(7) ...

shall be guilty of a third-degree felony.”

Section 48.—Section 6057 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6057.—Definition of Person.—

For the purposes of this Subtitle, and except as otherwise provided, the term ‘person’ means and includes any individual, partnership, trust, corporation, association, or any official, agent or employee of a corporation, or a partner, agent or employee of a partnership or trust who, as such individual, official, agent, employee, partner or trustee is obliged to carry out the action with regard to which the infraction is incurred. This term also includes any official, agent or employee of a department, agency, instrumentality, public corporation or municipality of the Commonwealth of Puerto Rico.”

Section 49.—Section 6059 is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6059.—Crime by General Violations of the Code.—

Any person who does not comply with any provision of any Subtitle of the Code or the regulations promulgated thereunder, or any Puerto Rico internal revenue or tax law or regulation, or who knowingly cooperates, induces or otherwise assists a person in violating the laws and regulations referred to and for which this Subtitle has not specifically provided otherwise, shall be guilty of a misdemeanor.”

Section 50.—The title of Section 6060 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6060.—Penalty for Failure to Withhold or Deposit Certain Taxes.—“

Section 51.—Section 6061 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6061.—Penalty for Failure to Submit Information or Pay Tax.—

Any person liable to pay any tax or estimated tax under Subtitle A, or who is liable by law or by regulations prescribed under authority of law to keep any records or to submit any information, for the computation, assessment or collection of any estimated tax or tax imposed by Subtitle A who willfully fails to pay such estimated tax or tax, to keep such records, or to file such information within the term or terms established by Subtitle A or by regulations shall, in addition to other penalties established by this Subtitle, be guilty of a misdemeanor.”

Section 52.—Section 6062 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6062.—Penalty for Failure to File a Required Information Return.—

Any person who willfully procures, counsels, incites, or conspires for his own profit or that of a financial enterprise or brokerage business, with or without its authorization, so that said business omits to file the information return in the way, manner and extent established in Section 1153 or 1157 of Subtitle A, whichever applies, in addition to any other penalty shall be guilty of a third-degree felony.”

Section 53.—Section 6064 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6064.—Penalty for Failure to Pay or Deposit Income Tax on Wages.—

(a) Failure to pay or deposit deducted and withheld taxes.— Any person who, in violation of the provisions of Section 6181 of this Subtitle fails to pay or deposit any tax in the manner and on the date therein prescribed, shall be subject to the provisions of Section 6050 of this Subtitle, and there shall be imposed on said person a penalty of not less than twenty-five (25) percent nor greater than fifty (50) percent of the insufficiency thus assessed. Provided, that in cases of recidivism, the penalty provided for herein for insufficiency may be for up to a maximum of one hundred (100) percent, in addition to any other penalties provided for by law. For the purposes of this Section, the term ‘insufficiency’ means the excess of the amount of the tax that should have been deposited over the amount, if any, of the same which was deposited on or before the date prescribed therefor.

(b) Exception.—This Section shall not apply to any person who proves that his/her having failed to comply with the provisions of subsection (a) was due to circumstances beyond his/her control. For such purposes, the lack of funds immediately after the payment of wages, even if a result of the payment of wages, shall not be considered as a circumstance beyond the control of the person.”

Section 54.—Section 6065 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6065.—Penalty for Violation of Section 1151.—

If a taxpayer violates or attempts to violate Section 1151 of this Code, there shall, in addition to all other penalties, be added as part of the tax

twenty-five (25) percent of the total amount of the tax or deficiency in the tax, together with interest at the rate of ten (10) percent per annum from the date the tax became due.”

Section 55.—Section 6066 of Act No. 120 of October 31, 1994, as amended, is hereby repealed.

Section 56.—Section 6068 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6068.—Penalty for Failure to File Certain Statements Provided for in Section 1141.—

(a) Penalties for fraudulent statements or failure to furnish statements.—In lieu of any other penalty provided by this Subtitle, any person required under the provisions of subsection (n) of Section 1141 to furnish a statement, who willfully fails to furnish a statement in the form, within the term, and showing the information required under the referred to subsection (n) or under the regulations promulgated thereunder, shall for each violation, be guilty of a misdemeanor.

(b) Penalties in respect of withholding exemption certificates.—Instead of any penalty otherwise provided, except for the penalty provided under clause (c) of this Section, any individual required to supply information to his/her employer under clause (f) of Section 1141 of this Code, who willfully supplies false or fraudulent information, or who willfully fails to supply information under said clause (f), which would require an increase in the tax to be withheld under clauses (b) or (d) of Section 1141, shall be guilty of a misdemeanor.

(c) In the case of employees who, in determining the withholding concession based on deductions, exercise the option provided for in subsection (c)(2)(A)(ii) of Section 1141 of this Code, in addition to the

criminal penalty provided for in subsection (b), if seventy (70) percent of tax attributable to income derived from wages subject to withholding, as defined in subsection (a) of Section 1141, exceeds the tax withheld at the source on said income, there shall be added to the tax a sum equal to such excess, or equal to eighteen (18) percent of the amount by which such tax thus assessed exceeds the withheld tax, whichever is less. For the purposes of this subsection, ‘the tax attributable to income derived from wages subject to withholding’ shall be a proportional part of the total tax imposed by Subtitle A on the individual for the taxable year, based on the same proportion that his/her adjusted gross income from wages bears with his/her total adjusted gross income.”

Section 57.—Clause (2) of subsection (c) of Section 6070 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6070.—For Failure of Corporations or Partnerships to Pay the Estimated Tax.—

(a) ...

(c) Period of underpayment.—...

(1) ...

(2) In respect of any portion of the underpayment, the date on which such portion is paid. For the purposes of this subsection, a payment of estimated tax made on any of the dates established under subsection (c) of Section 1062 of this Code, shall be considered a payment of any previous underpayment only to the extent that such payment exceeds the amount of the installment determined according to the provisions of subsection (b)(1) for said date.

(d) ...”

Section 58.—The title of Section 6073 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6073.—Penalty for Failure to Deposit Taxes Withheld Under Sections 1147, 1149 and 1150.—”

Section 59.—Section 6075 is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6075.—Penalty for the Payment of Excessive Benefits.—
Initial penalty.—

To disqualified persons.—Any disqualified person who is paid excessive benefits by an organization that is tax-exempt under the provisions of Section 1101(4), (5), (6), (12), (13) and (14) of this Code, shall be under the obligation to return said excessive benefits paid, and in addition, shall have a penalty imposed equal to twenty-five (25) percent of the amount in each transaction that entails an excessive benefit. The penalty imposed under this Section shall be paid by any disqualified person as described in subsection (e)(1) of this Section in relation to such a transaction.

(2) To the management.—In the event that a penalty is imposed under clause (1), there shall also be imposed on each member of management involved in the excessive benefit transaction who was aware of such an approval, a penalty equal to ten (10) percent of the excessive benefit, unless he/she is able to prove that he/she was not voluntarily involved.

Additional penalty to disqualified persons.—In any case in which the initial penalty imposed under subsection (a)(1) of this Section in a transaction that entails an excessive benefit, and said situation is not corrected within the same taxable term, an additional penalty is imposed

equal to two hundred (200) percent of the excessive benefit. The penalty imposed under this subsection shall be paid by any disqualified person referred to in subsection (a)(1) in respect of said transaction.

Transaction that entails an excessive benefit.—For the purposes of this Section.—

(1) Transaction that entails an excessive benefit.—

(A) In general.—The term ‘transaction that entails an excessive benefit’ refers to any transaction in which the financial benefit determined by an organization which is tax exempt under Section 1101(4), (5), (6), (12), (13), and (14) of this Code, directly or indirectly for a disqualified person or for his/her use, if the value of the financial benefit thus determined exceeds the value of the consideration (including services rendered) received for providing such benefit. For purposes of the foregoing, a financial benefit shall not be treated as a consideration for services rendered, unless said organization clearly indicates its intent to treat said benefit as a consideration.

Excessive benefit.—The term ‘excessive benefit’ means the excess referred to in subsection (a) of this Section.

(2) Considered to be a transaction that entails an excessive benefit shall be any activity that an organization which is exempt under Section 1101(4), (5), (6), (12), (13) and (14) of this Code carries out, the income of which is for the benefit of a disqualified person and which activity is not covered under the aforementioned Section 1101(4), (5), (6), (12), (13) and (14) of this Code.

(d) Tax-exempt organization.—For purposes of this Section, the term ‘tax-exempt organization’ means:

any organization which is tax exempt under Section 1101(4), (5), (6), (12), (13) and (14) of this Code, and

any organization which qualifies under said Sections at any time during the period of five (5) years preceding the date of the transaction.

(e) Other definitions.—For purposes of this Section:

(1) Disqualified person.—The term ‘disqualified person’ means, in respect of any transaction:

(A) a person who was, at any time during the period of five (5) years preceding the date of the transaction, in a position to exert a substantial influence on the affairs of the organization;

(B) a family member of the individual described under subclause (A); and an entity controlled by thirty-five (35) percent by persons described in subclauses (A) and (B) of this subsection.

(2) Member of management.—The term ‘member of management’ means, in respect of an organization which is tax exempt under Section 1101(4), (5), (6), (12), (13) and (14) of this Code, any officer, director, receiver or trustee of said organization, or any individual with powers or responsibilities similar to those of said organization officers, directors, receivers or trustees.

(3) Entity controlled by thirty-five (35) percent.—

(A) In general, the term ‘entity controlled by thirty-five (35) percent’ means:

(i) a corporation in which the persons described under subclauses (A) or (B) of clause (1) of this subsection hold over thirty-five (35) percent of the total combined voting power;

(ii) a partnership in which these persons hold over thirty-five (35) percent of the profits;

(iii) a trust in which these persons hold over thirty-five (35) percent of the beneficiary interest.

(4) Family members.—Family members of a disqualified person shall be so determined pursuant to Sections 1027 and 1028 of this Code, except that these shall also include brothers and sisters of the disqualified person and their spouses.

(5) Taxable period.—The term ‘taxable period’ means, in respect of any transaction that entails an excessive benefit, the period which begins with the date the transaction takes place and ends with the date closest to:

(A) the date on which notice is sent in respect of an amount imposed under clause (1) of subsection (a) of this Section; or

(B) the date on which the penalty imposed under clause (1) of subsection (a) of this Section is determined.

(6) Correction.—The term ‘correction’ means, in respect of any transaction that entails an excessive benefit, rendering ineffective the excessive benefit and taking all necessary actions to return the organization to a financial position equal to that which it would be in if the disqualified person had acted under the highest fiduciary standards.”

Section 60.—Subchapter B of Chapter 2 of Subtitle F of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“SUBCHAPTER B – EXCISE TAXES AND LICENSE FEES

Section 6080.—Administrative Fine.—

(a) Generally.—In addition to the surcharges and interest provided for in this Subtitle, the Secretary may administratively impose and collect an administrative fine, which shall not be greater than twenty thousand (20,000) dollars for each infraction, from all those persons who violate any of the provisions of Subtitle B regarding excise taxes, or its regulations. The amount of this fine shall be determined pursuant to the extent of the violation and no amount in excess of two thousand (2,000) dollars shall be imposed except in cases in which fraud, deceit, systematic evasion or when the commission of the forbidden act or the omission of the prescribed act could seriously compromise the effective administration of Subtitle B regarding excise taxes, all according to the regulations adopted by the Secretary.

(b) Specially.—The Secretary may impose and collect a special administrative fine for a sum of not less than fifty (50) percent nor greater than one hundred (100) percent of the taxes owed in lieu of the general administrative fine established in subsection (a) and in addition to the surcharges and interest provided for in this Subtitle, in cases of a recidivist in the violation of the provisions this Subtitle B regarding excise taxes declares a lesser quantity of articles than those introduced, transferred, sold, used, acquired, or consumed; or declares a taxable price in Puerto Rico which is not in accord with the provisions of this Code; or presents commercial invoices that are not authentic or indicate the quantity of the articles incorrectly; or distorts the scope or nature of the discounts quoted; or

systematically fails to declare any article or merchandise in which he/she deals and sells at a market price comparable to that of his/her competitors, who, in fact, pay taxes, and does not prove to the Secretary's satisfaction that his/her acts were due to an error in good faith or an oversight on his/her part.

...

Section 6081.—Administrative Fine for Fraudulent Claim for Credit.—

Any taxpayer who knowingly presents false documents, fails to keep the required documents for the term of five (5) years, or who submits any false or incorrect information for the purpose of fraudulently claiming a credit to which he/she is not entitled shall be subject to the imposition of an administrative fine for twice the credit claimed illegally plus the corresponding interest and surcharges. The Secretary shall not authorize this type of credit in favor of a taxpayer to whom such a fine has been imposed during a period of five (5) years.

Section 6082.—Administrative Fine for Special Oil Tax.—

Any person who violates the provisions of Section 2009 of Subtitle B related to the tax on crude oil, unfinished oils or finished oil derived products and any other hydrocarbon mixture shall be subject to the imposition of an administrative fine of twenty thousand (20,000) dollars and the surcharges and interest established in Section 6041 of this Subtitle.

Section 6083.—Administrative Fine for Collusion Between Shipper and Consignee.—

(a) When the Secretary has clear and convincing proof against any shipper or sender of merchandise which is taxable in Puerto Rico, which demonstrates collusion between a consignee or another person in Puerto

Rico to conceal taxable items, or to mark down, or alter, deface or distort the nature of the articles introduced, or to exaggerate the real scope of the discounts, or to interpret their scope to their advantage, he/she shall proceed administratively against the persons who connived directly in either or both of the following ways:

(1) The person in Puerto Rico shall be required to pay the taxes, surcharges and interest and an administrative fine for a sum equal to four (4) times the taxes owed.

(2) The person outside of Puerto Rico shall be required to pay the taxes, surcharges and interest and an administrative fine for a sum equal to four (4) times the taxes owed.

Section 6084.—Fine for Delivery of Articles Without the Secretary's Authorization.—

Every owner, lessee or port administrator who delivers articles introduced from abroad in contravention of the provisions of Section 2013 of this Code shall be bound to pay the corresponding taxes for the articles, including the surcharges and interest prescribed in this Subtitle when such payment is not made by the taxpayer. He/she shall also be subject to the imposition of an administrative fine pursuant to Section 6080.

Section 6085.—Administrative Fine for Presenting False Documents.—

Every person who submits any documents to the Secretary that are not authentic or include amounts of articles or assets that are not exact or truthful with relation to the articles received, shall be subject to the imposition of an administrative fine equal to fifty (50) percent of the value of the merchandise introduced, in addition to the payment of the corresponding tax plus interest and surcharges. Also, and subject to the

Secretary's discretion, the person shall not open any trailer van he/she receives thereafter, unless he/she does so in the presence of a fiscal officer, who shall examine its contents together with the taxpayer, and if he/she does so without the presence of a fiscal officer, he/she shall be guilty of a fourth-degree felony.

Section 6087.—Imposition and Collection of Administrative Fines.—

The Secretary is hereby authorized, in his discretion and by request of the offender, to impose and collect administrative fines which shall not exceed ten thousand (10,000) dollars for each infraction to the provisions of Subtitles B and D regarding license fees, or to the regulations to be approved for the enforcement thereof, in the case of a misdemeanor, at any time before trial is held. In such cases, the Court, after giving notice to the Secretary, shall discontinue and deem as concluded the criminal procedure initiated to that effect.

Section 6088.—Crimes Related to Cigarettes.—

(a) Guilty of a misdemeanor shall be any person who:

(1) ...

(b) ...

...

Section 6089.—Crime by Destruction of Manufacturer's Serial Number.—

Every person who knowingly purchases, sells, receives, disposes of, conceals or has in his/her possession any article taxed by the provisions of Subtitle B of this Code, from which the manufacturer's serial number or any other identification number, if any, has been removed, altered, covered, defaced or destroyed, shall be guilty of a third-degree felony.

Section 6090.—Crime by Forcing or Handling Locks or Straps.—

(a) Any person who is not a duly authorized internal revenue official, employee or agent of the Department of the Treasury who destroys, breaks, damages or attempts to destroy, break or damage any lock, padlock, seal or strap placed by an internal revenue official or agent on any warehouse, trailer van, depot, wagon, container, apparatus, room or building, or who opens the lock or door, or enters any place of the places described above, shall be guilty of a third-degree felony.

(b) Once a taxpayer, consignee or carrier has been authorized directly or through his/her authorized representative to move the van from the premises of the carrier company, the former shall be liable and guilty of a third-degree felony, as of that moment, for breaking the van's strap, lock, padlock or seal if not broken in presence of a fiscal official of the Department.

Section 6091.—Crime by Collusion Between Shipper and Consignee.—

Every person, shipper or consignor who ships taxable merchandise and colludes with a consignee or another person in Puerto Rico to conceal taxable articles, or to reduce the quantity, alter or deface them, or to distort the nature of the articles introduced, or who colludes to exaggerate the true scope of the discounts or interpret their scope to his/her advantage shall be guilty of a third-degree felony.

Section 6092.—Crime Related to Articles Introduced in Vans.—

Any person who introduces articles into Puerto Rico using the van system to transport them from the dock to his/her warehouses, and does not submit to the Secretary the shipping list corresponding to the articles subject to tax pursuant to Subtitle B introduced before removing the trailer van from

the custody of the shipping company, as required by Section 2012 of this Code, shall be guilty of a third-degree felony.

Section 6093.—Offenses Related to Any Person.—

Any person who has under his/her custody articles which are taxable under Subtitle B and who hands them over to the consignee or to the person who duly claims them without authorization from the Secretary to hand them over as required in Section 2013 of this Code, shall be guilty of a third-degree felony.

Section 6094.—Violations.—

(a) Jurisdiction to hear cases of violations and impose penalties.—The Court of First Instance of Puerto Rico is hereby conferred original exclusive jurisdiction to hear all cases of misdemeanor for violations of the provisions of Subtitle B regarding license fees, as well as of the regulations promulgated or to be promulgated for its enforcement. If in any case of a misdemeanor for violation of the provisions of Subtitle B regarding license fees or of the regulations promulgated or to be promulgated for its enforcement, the accused presents to the consideration of the Judge, not later than the date the trial is to be held, a certification issued by the Secretary attesting that an administrative fine has been imposed and collected for the same violation for which the person has been accused, the Court is empowered to decree for the referred case to be vacated and superseded, after having paid the Clerk of the Court for judicial costs incurred in the transaction of said case up to that point.

(b) Offenses related to the holding or lack of a license.—Guilty of a misdemeanor shall be any person who:

- (1) undertakes or continues to engage in an industry, business or occupation requiring a license or permit under the

provisions of Subtitle B without obtaining or renewing the corresponding license in the form and time established in Subtitle D, or whose license has been revoked;

(2) being engaged in the manufacturing, import or sale of alcohol or beverages subject to the payment of taxes provided for in Subtitle B and licenses established in Subtitle B, fails to comply with or violates its provisions;

(3) undertakes or continues to engage in the business of distilling, rectifying or manufacturing products subject to the payment of taxes pursuant to Subtitle D in a building where there is a similar industry of another person who holds a license under Subtitle B;

(4) holds a an alcoholic beverage wholesaler's license and sells alcoholic beverages to persons not holding an alcoholic beverage dealer's license;

(5) sells or donates alcoholic beverages to a minor under the age of eighteen (18), whether for his/her personal use or for use by another person, or employs or uses minors under the age of eighteen (18) for the sale of alcoholic beverages;

(6) after having been issued an alcoholic beverage wholesale or retail dealer's license, opens in his/her establishment a door, window or any other opening that communicates directly with a residence;

(7) holding a Category 'B' alcoholic beverage retail dealer's license, allows the consumption of alcoholic beverages in his/her establishment or immediate surroundings;

(8) holding a Category 'C' alcoholic beverage retail dealer's license, allows the consumption of alcoholic beverages in his/her

establishment or immediate surroundings;

(9) transfers his/her license and his/her stock of distilled spirits or alcoholic beverages to another establishment or building without the previous authorization of the Secretary.

In addition to being subject to the penalties mentioned above, any person convicted for the first time of violating clause (4) of this subsection shall have his/her alcoholic beverage wholesale or retail dealer's license suspended for a term of twelve (12) months. If after having been restituted his/her license, the person is found guilty of the same violation on a second occasion, he/she shall have said license permanently revoked, in addition to the penalties established in the first clause of this subsection. For purposes of the foregoing provisions a conviction that takes place after five (5) years have elapsed from the time the first conviction became final and binding, shall not be considered a second conviction under clause (4) of this subsection .

(c) Falsification of licenses.—

(1) Any person who, with the intention to defraud:

(A) mutilates, falsifies or alters a license among those provided for in Subtitle B; or

(B) uses, sells or has in his/her possession any of said mutilated, falsified or altered licenses, or any metal plate or die that had been used or which could have been used to prepare the same; or

(C) again uses any license that under Subtitle B should be cancelled, shall be guilty of a third-degree felony.

(d) Offenses related to omitting or furnishing false or fraudulent information, deny reports or documents.—Any person who fails to notify the Secretary of any change in the status or condition of or in the persons holding an interest in firms or companies engaged in any business subject to licensing pursuant to the provisions of Subtitle B, except for corporations, shall be guilty of a fourth-degree felony.

(e) Obstruction of inspection.—Any person who hinders or obstructs the inspection by the Secretary of commercial establishments, industrial plants or products subject to the payment of the license fees established by Subtitle E, shall be guilty of a misdemeanor.

(f) Attempt to obstruct or delay action by Secretary.—

(1) Any person who attempts by means of threat or violence to prevent the Secretary from discharging any obligation imposed by Subtitle B, or who knowingly resists said officer in the compliance of his/her duty by employing live force or violence, shall be guilty of a third-degree felony.

(2) Any person who resists, delays or disturbs the Secretary in the application of the provisions of Subtitle B regarding license fees, provided there is no other penalty set forth, shall be guilty of a fourth-degree felony.

Section 6095.—Reserved.—

Section 6096.—Reserved.—

Section 6097.—Information on Suggested Consumer Sales Price and Penalty for Labeling Omission on Vehicles.—

The vendor shall keep affixed to the vehicle the suggested consumer sales price for consumer information purposes. The absence of informative labels indicating the suggested consumer sales price shall be subject to an

administrative fine of five thousand (5,000) dollars per violation. Such omission shall constitute a misdemeanor.

Section 6098.—Penalty for Detaching, Altering or Mutilating Labels.—

Any person who willfully detaches, withdraws, mutilates, transforms or otherwise alters the label or poster issued or authorized for issue by the Department of the Treasury which shall be affixed to every vehicle, shall be guilty of a misdemeanor. Any person that willfully helps or assists in or procures, advises or induces another to alter, mutilate, or transform said label or poster, shall be guilty of a misdemeanor and subject to the payment of an administrative fine for each infraction.

Section 6099.—For Late Payment of License Fees.—

(a) ...

(b) Recidivism.— In cases of recidivism, with regard to failure to pay license fees, or when any person has not obtained a license on or before the date on which he/she started his/her business or occupation subject to licensing, the administrative fine shall be two hundred (200) percent of the sum owed plus surcharges and interest computed or determined in the manner established above. This provision shall not be construed as limiting the Secretary's power to revoke the license of any person who does not pay the fees thereof, and in which case, in addition to the administrative fine for operating without a license established in Chapter 5 of Subtitle B, the surcharges and interest established herein shall be imposed for the period of time that he/she has operated without a license.

(c) The provisions of subsections (a) and (b) of this Section shall in no manner whatsoever prevent the same action or omission committed from also being judicially prosecuted and punished as a crime.

Section 6100.—License to Operate as Dealer or Vendor of Motor Vehicles and Penalty for Operating without License.—

Every dealer or vendor of motor vehicles, whether new or used, operating as such without obtaining a license pursuant to Section 2037 of Subtitle B and Act Number 22 of January 7, 2000, known as the ‘Puerto Rico Vehicle and Traffic Act,’ shall be subject to an administrative fine of ten thousand (10,000) dollars, irrespective of the criminal sanctions provided for in this Code and in the Puerto Rico Vehicle and Traffic Act.

Section 6102.—Requirement to Keep and Deliver Documents.—

(a) ...

(1) ...

(2) Introduce, purchase, sell, transfer, use or manufacture any article in Puerto Rico.

(3) Operate an enterprise whose nature is that of banking, financing, insurance or credit which involves money orders, policies, invoices or other documents with regard to any article.

(4) Act as shipping agents, commission agents, brokers, representatives, forwarders or intermediaries or in any other capacity in respect of any article.

(5) Bring any article to Puerto Rico as a sea, air, land or any other type of carrier on account of shippers or on account of any consignee residing in Puerto Rico.

(b) ...

Section 6103.—Officials and Employees, Felonies and Misdemeanors; Disciplinary Sanctions.—

Officials and employees of the Department of the Treasury who, while performing their duties by authority of Subtitle B of this Code, commit

acts which constitute a crime, as typified by the Penal Code of the Commonwealth of Puerto Rico, shall also be subject to the disciplinary sanctions provided by the Secretary through regulations.”

Section 61.—A new Subchapter C is hereby added to Chapter 2 of Subtitle F of Act No. 120 of October 31, 1994, as amended, to read as follows:

“SUBCHAPTER C – SALES AND USE TAX

Section 6104.—Administrative Fines.—

(a) Failure to display merchant register certificate.—Any merchant who violates the provisions of Section 2802 shall be subject to an administrative fine of one thousand (1,000) dollars.

(b) Inappropriate advertising.—Any merchant who fails to comply with that provisions is established in Section 2405(e) shall be subject to an administrative fine of not less than one thousand (1,000) dollars nor greater than twenty thousand (20,000), to be determined by the Secretary based on the frequency, duration or media used to publicize the advertisement or expression and the amount of establishments to which it applies.

(c) Failure to display sales and use tax separately or failure to display notice.—Any merchant who fails to comply with the provisions established in Section 2405(b) shall be subject to an administrative fine of one hundred (100) dollars for each infraction.

(d) Displaying a falsified merchant register certificate.—Any merchant who displays a falsified merchant register certificate shall be subject to an administrative fine of five thousand (5,000) dollars for each infraction.

Section 6105.—Penalties for Violations of Provisions of Chapter 3 of Subtitle BB.—

(a) Fraudulent claim for exemption.—Any taxpayer who fraudulently and with the intent of evading his/her tax responsibility hands over to a merchant or to any agent of the Commonwealth of Puerto Rico an exemption certificate or any other documentation attesting to his/her right to exemption, shall be liable for the payment of the tax and a penalty equal to two hundred (200) percent of the sales and use tax.

(b) Fraudulent claim for credit.—Any merchant who fraudulently and with the intent to evade his/her tax responsibility fraudulently claims a credit under the provisions of Subtitle BB, shall be liable, in addition to the payment of tax, to the payment of a penalty equal to double the credit unlawfully claimed plus the corresponding interest and surcharges.

(c) Falsification of exemption certificate or holding a fraudulent exemption certificate.—Any person who in any way falsifies an exemption certificate or who holds an exemption certificate fully aware of the fact that it is fraudulent, shall be subject to a penalty of ten thousand (10,000) dollars for each exemption certificate he/she falsifies or holds.

(d) For failing to require and withhold a copy of the exemption certificate or other documentation attesting to the right to exemption.—Any merchant who does not require or withhold a copy of the exemption certificate or any other document attesting to the right to exemption as provided for in Sections 2407, 2505, 2506, 2507 and 2508, shall be liable for the payment of the tax and a penalty of fifty (50) percent the sales and use tax.

(e) Failure to notify the sale of a taxable item by an exempted person or failure to require evidence of payment of the sales and use tax or

the right to exemption.—Any person who has availed him/herself of the exemptions provided for in Sections 2505, 2508 and 2509 and who sells, transfers or otherwise alienates the taxable item which enjoyed the exemption granted and fails to comply with the provisions of Sections 2505(e), 2508(b) and 2509(e), shall be subject to a penalty of five hundred (500) dollars for each taxable item sold, transferred, or otherwise alienated.

(f) Failure to pay the sales and use tax when buying taxable items from exempted persons.—Any person who acquires a taxable item which enjoyed the exemption granted under Sections 2505, 2508 and 2509 and does not pay the tax as provided in Sections 2505(e), 2508(b) and 2509(e), shall be liable for the payment of the tax and a penalty of fifty (50) percent of the sales and use tax.

Section 6106.—Penalties for Violations of the Provisions of Chapter 6 of Subtitle BB.—

(a) For failure to register.—Any merchant who does not register as required under Section 2801(a) shall be subject to a penalty of ten thousand (10,000) dollars.

(b) For selling, assigning, ceding, or otherwise transferring the merchant register certificate.—Any merchant who violates the provisions of Section 2801(c) shall be subject to a penalty of five thousand (5,000) dollars.

(c) For furnishing false information.—Any merchant who knowingly furnishes false information on the application required under Section 2801(a) shall be subject to a penalty of five thousand (5,000) dollars.

(d) For failure to notify changes or amendments to the information required and others.—Any merchant who violates the provisions of Section 2801(e) shall be subject to a penalty of five hundred (500) dollars.

(e) Falsification of merchant register certificate.—Any person who in any way falsifies a merchant register certificate or who holds a merchant register certificate fully aware of the fact that it is fraudulent, shall be subject to a penalty of ten thousand (10,000) dollars for each merchant register certificate he/she falsifies or holds.

Section 6107.—For Failure to Remit Sales and Use Tax.—

Any person who, in violation of the provisions of Section 2606, fails to remit the sales and use tax in the form and on the date established therein, shall be subject to a penalty of not less than twenty-five (25) percent nor greater than fifty (50) percent of the insufficiency thus determined. In cases of recidivism, the penalty provided herein shall be one hundred (100) percent the total amount of the insufficiency thus determined. For purposes of this Section, the term ‘insufficiency’ means the excess of the amount of the tax that should have been deposited over the amount, if any, of the same, which was deposited on or before the date established therefor. The Secretary may exempt from the penalty established herein, any person who proves that his/her failure to comply with the provisions of Section 2606 was due to circumstances beyond his/her control.

Section 6108.—Penalties for Violation of Other Provisions.—

(a) Unduly collecting the sales and use tax.—Any merchant who withholds sales and use tax in excess of the amount required by Section 2405 shall be subject to a penalty of one hundred (100) dollars for each receipt, invoice, ticket or other evidence of sale.

(b) Failure to keep documents.—

(1) Any merchant who does not comply with the requirements imposed by Section 2405 shall be subject to a penalty of twenty thousand (20,000) dollars for each infraction.

(2) Any merchant or buyer who does not comply with the requirements imposed by Section 2807(a) or (b)(2) shall be subject to a penalty not greater than five hundred (500) dollars for each infraction.

Section 6109.—Prescription Period for Credits or Tax Refunds.—

Unless a claim for credit or tax refund is submitted by the taxpayer within four (4) years from the date on which the sales and use tax was paid, no credit or tax refund whatsoever shall be granted after this period has elapsed.”

Section 62.—Current Subchapter C is hereby amended and renamed as Subchapter D of Part 2 of Subtitle F of Act No. 120 of October 31, 1994, as amended, to read as follows:

“SUBCHAPTER D – ESTATE AND GIFT TAXES

Section 6110.—For Failure to Submit Information or Pay Tax.—

Any person bound to pay any tax under Subtitle C, or bound by said Subtitle or regulations adopted under authority thereof, to keep any records or give any information for the purposes of the computation, assessment or collection of any tax imposed by Subtitle C, who willfully fails to pay such tax, or keep said records, or give such information within the term or terms fixed by this Code or by regulations, shall, in addition to other penalties provided for by this Subtitle, be guilty of a third-degree felony.

Section 6111.—For Disposal of or Permitting the Disposal of Property Included or Includible in the Gross Estate.—

Any person who, in violation of any of the provisions of Subtitle C, willfully disposes of or permits the disposal of any property included or includible in the gross estate of any decedent, in addition to other penalties provided for in this Subtitle, shall be guilty of a felony.

Section 6112.—For Violation of Section 3434.—

Any person who willfully violates the provisions of Section 3434 of this Code regarding prohibited actions, unless a document accrediting the cancellation of the lien is presented, shall, in addition to any other penalty provided for by this Subtitle, be liable for all taxes, plus additions thereto, which become unpaid for such violation, except in the cases covered by clause (3) of subsection (a), in which case the violation shall constitute a misdemeanor.

For the purposes of subsection (a) of Section 3434, it shall be presumed that the persons thereto referred were aware of decedent's death when doing or permitting the acts prohibited by such subsection (a). Satisfactory evidence as to not knowing of decedent's death at the time of doing or permitting any such acts, shall relieve such persons from the liabilities prescribed in this Section.”

Section 63.—Current Subchapter D is hereby amended and renamed as Subchapter E of Part 2 of Subtitle F of Act No. 120 of October 31, 1994, as amended, to read as follows:

“SUBCHAPTER E – TAX ON ALCOHOLIC BEVERAGES

Section 6115.—Fines and Penalties.—

(a) Late payments.—...

(b) Failure to comply with requirements on the containers, stickers, labels or bottle caps.—

Every manufacturer, importer, introducer, wholesale dealer or retail dealer who has distilled spirits, alcoholic beverages, any fermented or non-fermented malt product, or beer, in his possession, whose containers, labels, stickers, and bottle caps do not meet the requirements established in Subtitle D, shall be guilty of a misdemeanor.

(c) Violation of Section 4061.—

(1) Any carrier who violates the provisions of subsection (a) of Section 4061, shall be guilty of a misdemeanor and shall also have the obligation to pay the corresponding tax on said merchandise, including surcharges, interest, administrative fines and all other penalties established in the Code, if said payment is not made by the taxpayer.

(2) Any importer or dealer who, in violation of the provisions of subsection (b) of Section 4061, removes alcoholic beverages from the custody of Customs without prior written consent of the Secretary, shall be guilty of a misdemeanor.

(d) Violation of Section 4106.—

Any person who holds a license as ‘Category B’ or ‘Category C’ retail dealer of alcoholic beverages and allows the consumption of alcoholic beverages in his establishment or its surroundings, shall be guilty of a misdemeanor.

Section 6116.—Reserved.—

Section 6117.—Confiscation.—

(a) ...

(b) ...

(c) The Secretary may seize and sell at public auction the plant, machinery, equipment, taxable products, and any other property that is used in the industry, business or occupation of a person subject to a license or permit under the provisions of Subtitle D, who has not obtained or renewed the corresponding license in the form and term provided for in Subtitle D, or whose license has been revoked.

When the Secretary seizes and confiscates products, whether because the corresponding tax has not been paid, or because the owner of said products has been engaged in dealing in them without having obtained the needed permit or license, or for any other reason, as provided for in Subtitle D, said products shall remain in custody of the Secretary or the person designated by him as trustee. Any person in charge of the custody of these products, who disposes of all or part of them without first having been authorized by the Secretary, shall be guilty of a misdemeanor.

Section 6118.—Violations.—

(a) Jurisdiction to hear cases of violations and impose penalties.—

...

(b) Evasion from payment of taxes.—Guilty of a fourth-degree felony shall be any person who:

(1) ...

(6) ...

...

(c) Possession of products on which no taxes have been paid.—

Any person who has products subject to the payment of taxes under Subtitle D in his possession or at his disposal, in any place, with the exception of those persons who are duly authorized by Subtitle D, on which no taxes have been paid, shall be guilty of a misdemeanor, and upon conviction, shall be punished as stated below:

(1) If the possession is incidental to the manufacturing of said products, or if it is for business or distribution purposes, shall be punished by a fine of not less than one thousand (1,000) dollars or more than two thousand, five hundred (2,500) dollars, or imprisonment or a minimum of one (1) month and a maximum of

three (3) months for the first infraction, and for the second and subsequent infractions, by a fine of not less than three thousand (3,000) dollars or more than five thousand (5,000) dollars or imprisonment for a minimum term of three (3) months and a maximum of six (6) months.

(2) In all other cases, by a minimum fine of one thousand (1,000) dollars and a maximum of four thousand (4,000) dollars, or imprisonment for a minimum term of one (1) month and a maximum of three (3) months for the first infraction, and a fine of not less than four thousand (4,000) dollars or more than five thousand (5,000) dollars, or imprisonment for a minimum term of four (4) months and a maximum of six (6) months, for the second and subsequent infractions.

The Secretary shall seize said products and destroy them or sell them at public auction for the benefit of the Commonwealth of Puerto Rico.

(d) ...

(1) For the first infraction, a fine of not less than five hundred (500) dollars or more than two thousand (2,000) dollars, or imprisonment for a minimum term of one (1) month or a maximum of three (3) months.

(2) For the second and following infractions, a minimum fine of one thousand (1,000) dollars and a maximum of four thousand (4,000) dollars, or imprisonment for a minimum term of four (4) months and a maximum of six (6) months. The Secretary shall seize these substances and destroy them.

(e) Withholding or giving false or fraudulent information, refusing to produce reports or documents.—

Guilty of a fourth-degree felony shall be any person who:

- (1) ...
- (5) ...
- (f) Stills and buildings for unauthorized distilleries.—

Guilty of a misdemeanor shall be any person who:

- (1) ...
- (g) Possession of unregistered stills.—

Any person who has in his possession or custody or available to him/her as owner, lessee, depository, guardian, or otherwise, an installed or uninstalled still that is not registered with the Alcoholic Beverages and License Bureau; or who fails to register a still that is in his/her possession as a deposit or otherwise under his/her custody or at his/her disposal; or who prevents or hinders the Secretary's free inspection thereof, shall be guilty of a misdemeanor for the first infraction, and guilty of a fourth-degree felony for the second and subsequent infractions. The Secretary shall confiscate every unregistered still, and seize and sell it in benefit of the Commonwealth of Puerto Rico, or if he/she deems it convenient, he/she shall destroy it.

- (h) Hindering inspection.—

Any person who hinders or obstructs an inspection by the Secretary of business establishments, industrial plants, or products subject to the payment of taxes under Subtitle D, shall be guilty of a misdemeanor.

- (i) Bonds.—

Any person who engages in or continues to be engaged in the distilling, rectifying, manufacturing or storing products that are taxable under the provisions of Subtitle D without having posted a bond, in the form and pursuant to the conditions required under Subtitle D, shall be guilty of a

misdemeanor. The Secretary may also suspend his/her permit for a term of not less than one (1) year, or cancel the permit outright.

(j) Labeling.—

(1) Guilty of a misdemeanor shall be any person who:

(A) ...

(B) ...

(2) Guilty of a third-degree felony shall be any person who:

(A) ...

(B) ...

(k) Forgery of licenses; destruction of locks; installations with the intent to defraud.—

(1) ...

(A) counterfeits, falsifies, or alters a license or statement or receipt of the payment of taxes used under the provisions of Subtitle D; or

(B) uses, sells or has in his/her power any of said licenses or statements or receipts of payment of taxes that are counterfeit, falsified, or altered; or any metal plate or die that was used or could be used in preparing them; or

(C) reuses any license or statement of the payment of taxes that should be canceled pursuant to Subtitle D; or

(D) gives false information in an application for a license or an import or introduction declaration under Subtitle D; or

(2) Any person who:

(A) destroys, breaks, or damages, or attempts to destroy, break or damage a lock, padlock or strap seal placed on

any distillery, brewery, warehouse, depot, freight car, motor vehicle, container, apparatus, room or building duly authorized by the Secretary; or who, without breaking, or damaging them, opens said lock, padlock, depot, freight car, container or apparatus, or the door or other part of said warehouse, room or building that is locked or duly sealed by the Secretary, shall be guilty of a third-degree felony; or

(B) installs in an industrial plant, or in a warehouse dedicated to manufacture or store distilled spirits or alcoholic beverages, a faucet, tube, valve or any other apparatus or mechanism with the purpose of defrauding the Commonwealth of Puerto Rico, shall be guilty of a third-degree felony.

(l) Attempt to obstruct or delay action by Secretary.—

(1) Any person who attempts, by means of threat or violence, to impede the Secretary from fulfilling any obligation imposed by Subtitle D, or who knowingly offers resistance to said official in the performance of his duty using force or violence, shall be guilty of a third-degree felony.

(2) Any person who resists, delays, or hinders the Secretary in his/her application of the provisions of Subtitle D, provided there is no other penalty indicated, shall be guilty of a fourth-degree felony.

(m) Penalty.—

(1) Any person who violates or fails to observe the provisions of Subtitle D not typified with a specific penalty, shall be guilty of a misdemeanor, and upon conviction, punished by a fine of not less than one hundred (100) dollars nor greater than five hundred

(500) dollars, or by imprisonment for a term of not less than thirty (30) days nor greater than six (6) months.

(2) Any person who knowingly aids, allows or otherwise assists another person in violating or failing to observe any provision of Subtitle D shall be guilty of the same offense committed by the other person as typified in the applicable provision of law. In these cases, the co-author of the offense in question may present as an mitigating circumstance to the applicable penalty, the fact that he/she did not profit financially from the transaction or that his/her actions or omissions arose from the regular course of his/her business.”

Section 64.—Subsection (a) is hereby amended and subsection (c) added to Section 6124 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6124.—Tax Returns or Statements or Declaration of Occupation.—

(a) Authority of the Secretary.—If any person fails to make and file a return or statement on the date prescribed by law, the Secretary may make the return or statement from the information in his/her power and from such information as he/she may obtain through testimony or otherwise. If any person undergoing bankruptcy or receivership proceedings fails to file a return or statement on the date established by law, the Secretary shall present a claim after having evaluated the information in his/her power and any other information he/she may obtain through testimony or otherwise.

(b) ...

(c) Filing return after return or declaration of occupation.—Any return or declaration or statement filed by the taxpayer after the date on which the Secretary prepares the return or declaration of occupation, shall be

deemed to be an amended return.”

Section 65.—Subsection (a) of Section 6126 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6126.—Closing Agreements.—

(a) Authority.—The Secretary or his/her authorized representative is hereby empowered to enter into an agreement in writing with any person relating to the liability of such person, or of the person or estate for whom he/she acts, in respect of any tax levied by this Code for any taxable period.

(b) ...”

Section 66.—Clause (1) of subsection (a) is hereby renamed as subsection (b) and subclauses (A) through (E) of said clause (1) are renumbered as clauses (1) through (5) of new subsection (b), clause (2) of subsection (a) is renamed as subsection (c) and subsections (d) and (e) are added to Section 6127 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6127.—Payment Commitments.—

(a) ...

(b) ...

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(c) ...

(d) Effect of the application for offer; prescription.—The filing of an application for an offer by a taxpayer shall have the effect of interrupting the prescription period applicable to all debts included in said offer, and the

same shall begin to run as follows:

(1) Denial.—Sixty (60) days after the date on which the Department notifies denial of said offer.

(2) Acceptance.—Sixty (60) days after the date on which the Department notifies the taxpayer of the revocation of the previously accepted Offer. Notwithstanding the provisions of Section 6006, the Department may collect those debts included in the offer application through distraint assessment or through court proceedings within five (5) years following the date of notice of the offer denial, or within the remainder of the prescriptive period provided for in Section 6006, whichever is greater.

(e) The Secretary shall be empowered to impose by regulation the collection of those fees for services as he/she deems necessary for evaluating applications submitted for his/her consideration pursuant to the provisions of this Section.”

Section 67.—Section 6129 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6129.—Prohibition of Administrative Review of Secretary’s Decisions.—

In the absence of fraud or mistake in mathematical calculation, the findings of facts and the decision of the Secretary upon the merits of any claim presented under or authorized by this Code shall not be subject to review by any other administrative or accounting officer, employee, or agent of the Commonwealth of Puerto Rico, except by those officers designated by the Secretary to that effect. In the absence of fraud or mistake in mathematical calculation, the allowance by the Secretary of interest on any credit or refund under this Subtitle shall not be subject to review by any

other administrative or accounting officer, employee, or agent of the Commonwealth of Puerto Rico, except by those officers designated by the Secretary to that effect.”

Section 68.—Subsection (a) of Section 6130 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6130.—Rules and Regulations.—

(a) Authorization.—

(1) In general.—The Secretary shall promulgate the necessary rules and regulations to enforce this Code.

(2) In case of change in law.—The Secretary may promulgate such other regulations that may become necessary by reason of any alteration of law in relation to the taxes imposed by this Code.

(b) ...”

Section 69.—Section 6131 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6131.—Filing and Payment Through Electronic Means.—

The Secretary shall authorize, through rules set forth in circular letters or regulations, the filing of any returns, statements or forms required by Subtitle A or Subtitle C through electronic means, as well as the payment of any taxes imposed by said Subtitles. In this case, the digital signature or electronic authentication mechanism of the taxpayer shall be deemed valid for all the purposes provided for in this Code.”

Section 70.—Section 6132 is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6132.—Publicity of Taxpayer Returns and Documents.—

(a) Public document and inspection.—

(1) Returns filed under this Code on which tax has been determined by the Secretary, or any other document relative to a taxpayer, shall constitute public documents, but except as provided further, shall be subject to inspection only by order of the Governor of Puerto Rico after it has been proved there is just cause therefor, and pursuant to the rules and regulations promulgated by the Secretary.

(2) Furthermore, all returns filed under this Code shall constitute public documents and be subject to public inspection and examination to the extent authorized under the rules and regulations promulgated by the Secretary.

(3) Provided the returns, statements and other documents relative to a taxpayer are subject to inspection by any person, a simple or a certified copy shall be issued to said person if requested, pursuant to the rules and regulations promulgated by the Secretary. The Secretary may issue a certification of the tax information included in the return in lieu of the copy of the return. The Secretary shall fix a reasonable fee for providing such a copy.

(b) Inspection by shareholders and partners.—All *bona fide* holders of registered stock or shares in partnerships who hold one (1) percent or more of the shares issued from any corporation or of the total interest in a partnership, shall be allowed, upon request to the Secretary, to examine the annual income returns of said corporation or partnership and its subsidiaries. For purposes of this subsection, the terms ‘corporation’ and ‘partnership’ shall include a corporation of individuals and a special partnership, respectively.

(c) Inspection by Committees of the Legislature.—

(1) Ways and Means Committees and special committees.—

(A) Upon request of the Committee on Ways and Means of the House of Representatives, the Committee on Ways and Means of the Senate, a selected committee of the Senate or the House specially authorized to investigate returns by a Senate or House resolution, or a joint committee so authorized by a concurrent resolution, the Secretary shall provide such committee in executive session assembled any information of any nature contained or stated in any return.

(B) Any such committees, whether acting directly as committees or through those examiners or agents they designate or appoint, shall be entitled to inspect any or all returns on those occasions and in the manner as they determine.

(C) Any information thus obtained by the committee may be submitted to the Senate or the House or to the Senate and the House, as the case may be.

(d) Inspection by Municipal Treasurers or Finance Directors.— Upon request of the Municipal Treasurers or the Finance Directors, the Secretary shall provide them with the information on returns filed under this Code as necessary to determine the license tax that applies to a merchant, the levy and collection of which is authorized under the Municipal License Tax Act, Act No. 113 of July 10, 1974, as amended.

(e) Penalties for disclosure of information.—For the penalties applicable to the unlawful disclosure of information, see Section 6051.”

Section 71.—Clause (19) of subsection (a) of Section 6140 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6140.—Powers of the Secretary.—

(a) ...

(1) ...

(19) Deny authorization to take possession of articles introduced from abroad.

(20) ...”

Section 72.—Subsection (g) is hereby repealed, subsections (h) through (n) are renamed as subsections (g) through (m), and new subsection (m) is amended in Section 6145 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6145.—Powers of the Secretary.—

(a) ...

(g) ...

(h) ...

(i) ...

(j) ...

(k) ...

(l) ...

(m) Filing and payment of taxes through electronic means.—The Secretary is hereby authorized to allow through rules set forth in circular letters or regulations, the filing of any statements or forms required by Subtitle D through electronic means, as well as the payment of taxes imposed on alcoholic beverages and license fees established in said Subtitle. In this case, the digital signature or electronic authentication mechanism of the taxpayer shall be deemed valid for all the purposes provided for in the Code.”

Section 73.—Subsection (a) of Section 6147 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6147.—Powers of Officials in Charge of Executing Subtitle D.—

(a) General rule.—The Secretary or any of his/her agents, officers, officials or employees designated by him/her to enforce the provisions of Subtitle D, shall have all the powers granted by the Laws of Puerto Rico to law enforcement officers, including, but without it being construed as a limitation, the power that the members of the Police of Puerto Rico have to bear, carry, possess, transport and convey weapons under the provisions of Act No. 404 of September 11, 2000, as amended, known as the ‘Puerto Rico Weapons Act,’ as well as the power to make arrests as provided by Rule No. 11 of the Rules of Criminal Procedure of 1963, for the General Court of Justice, as amended.

(b) ...”

Section 74.—Chapter 4 of Subtitle F of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“CHAPTER 4 – DISTRAINT ASSESSMENT, SEIZURE AND SALE OF
PROPERTY OF DELINQUENT TAXPAYER

Section 6150.—Seizure and Sale of Property of Debtor.—

(a) If any person fails or refuses to pay his/her taxes, fees, fines, interest, surcharges and penalties within the period prescribed in this Code, the Secretary shall proceed to collect the delinquent taxes, fees, fines, interest, surcharges and penalties owed to the Department by seizure and sale of the property of said debtor not exempted from seizure, as provided hereinafter. Furthermore, the Secretary is hereby empowered to require from any person holding any property, property rights, credits or money payable

to the taxpayer for any reason, including wages, accounts receivable or bank deposits property of or payable to the taxpayer, which are not exempted from seizure, to withhold from said property or rights the amounts that the Secretary notifies, in order to cover the tax debt pending payment.

(b) Any debtor whose personal property has been seized for the collection of taxes may resort to the Court of First Instance within the term fixed in the notice of seizure to contest the same.

(c) The notice and demand made by the Secretary to the person who has possession of the property or any obligation to pay any amount of money to the taxpayer on any account, shall constitute a preferred lien on said property or rights which the depositary shall be bound to withhold until the total amount of money owed is paid to the Secretary. Provided, that the seizure of wages, salaries, accounts receivable, bank deposits or income from any source, belonging or payable to the taxpayer, not exempted from seizure, shall be a continuing preferred lien on such wages, salaries, accounts receivable, bank deposits or income on any account to be earned, until the total amount of the debt is paid to the Secretary. Any depositary or person who holds money or any other personal property owed or belonging to the taxpayer, who disposes of or permits the disposal of said property or rights shall be compelled to pay the total amount of the value of the property. He/she shall also be compelled to pay a special penalty amounting to fifty (50) percent of the assessed debts, fines, interest, surcharges and penalties owed. However, the amount of this special penalty shall not be creditable to said debt. The person who withholds said goods, rights or properties shall not incur any obligation to the taxpayer, provided he/she does so in compliance of an order of the Secretary to such effect.

(d) Notwithstanding the above, the Secretary may postpone the sale of real property, subject to such procedure because of an assessed tax debt, of an elderly taxpayer or one suffering from a terminal illness or one that permanently disables him/her, if he/she presents the medical certificate that so certifies, and the following circumstances concur:

(1) ...

(2) the taxpayer does not possess property or sufficient income for the total payment of the assessed tax debt, neither is it possible to avail him/herself of a payment plan.

(e) ...

Section 6151.—Procedure for Seizure of Real and Personal Property.—

Immediately after the expiration of the terms granted by this Code, the Secretary shall make out a written notice of seizure which shall contain the total amount of the taxpayer's debt and shall proceed to seize the property of the delinquent debtor. Said notice shall state the total amount of taxes, fees, fines, interest, surcharges and penalties which are due and unpaid, and the amount of fees for the process server, as provided below. The Secretary shall notify the debtor by serving a copy of the notice on him/her and warning him/her that if he/she does not pay the taxes within the term of thirty (30) days from the date of such notice, the seized property or part thereof which is strictly sufficient to cover the debt shall be sold at public auction as soon as possible after said period, with no further notice. If any debtor, or any of his/her relatives or dependents, refuses to surrender the seized property to the Secretary upon demand after the above stated thirty (30)-day period has expired, or if after the seizure, he/she should sell, conceal, destroy, transfer, cede, or in any other way alienate said property

for the purpose of annulling the seizure or evading the payment of taxes, he/she shall be guilty of a third-degree felony. Said seizure shall be enforceable as soon as notice shall have been served by leaving a copy thereof with the debtor or any member of his/her family in charge of said property. When the Secretary fails to find the debtor or any member of his/her family in charge of said property, he/she shall notify the debtor of said seizure by registered mail with return receipt requested to the address which appears or shows from documents, records or database of the Department in the Collections District where the seizure is made, and notice of the seizure, as mentioned above, shall be *prima facie* evidence that said delinquent taxpayer has been notified of the seizure, and notice by any of said forms shall be as valid and effective as if the debtor had received it personally. As soon as the seizure is notified as above, the Secretary is authorized to seize the attached property, or close the business or property, if he/she believes it is necessary. Upon execution of said attachment, the Secretary is hereby authorized to enter the debtor's house or domicile, if necessary, with the consent of the debtor, and in case said consent is denied, a judicial mandate shall be requested from a court of justice to authorize entry to the debtor's house or domicile with the sole purpose of executing said proceedings. If under such circumstances, any such debtor or his/her relatives or dependents should offer any resistance to any Department official after the presentation of said order of the court, he/she shall be guilty of a misdemeanor. It shall be the duty of the police authorities or their officers to provide the Secretary with all the assistance required for the proper execution of the duties of the Secretary, as required by this Code. As soon as the seizure notice is forwarded, the seized property may be deposited in charge of any person who commits him/herself to keep it available for the

Secretary until the debtor pays said taxes or it is sold at public auction, and if any depositary of the seized property should dispose of the same, when the seizure of personal property or notice to the debtor, his/her relatives or dependents is performed as provided by this Code, the Secretary may collect, in addition to the taxes assessed, interest, surcharges and penalties, an amount sufficient to defray the cost of the custody and deposit of the seized property, together with fees for an amount equal to ten (10) percent of the total amount of taxes owed, excluding surcharges, which shall be paid to the process server who carried out the notification proceedings, or be deposited in the General Fund if said notification was served by the Secretary or another employee of the Commonwealth of Puerto Rico.

Section 6152.—Sale of Personal Property for Taxes; Exemptions.—

The sale of personal property for the payment of any assessed debt, fine, interest, surcharges and penalties shall be made by public auction, and if said property is separable or divisible, there shall be sold such part or portion of said seizable personal property as is strictly necessary for the payment of all taxes, fees, fines, interest, surcharges, penalties and costs. A number of properties whose the appraised value is sufficient to cover, with the award price at a third auction, the probable amount of the total tax and fee debt and the interest, fines, surcharges, penalties and costs at said third auction, shall be understood to fulfill the foregoing condition. Before initiating the sale at public auction of said personal property, the Secretary shall proceed to appraise the same. The sale of the personal property shall be by public auction, which shall not be held before to thirty (30) days, nor after sixty (60) days after the seizure has been made, fixing as the minimum rate of award for the first auction one hundred (100) percent of the appraised value fixed by the Secretary. If the first auction produces no sale, or award,

the minimum rate of award for the second auction held shall be seventy-five (75) percent of the appraised value fixed by the Secretary for said personal property. If at said second auction there is no sale or award, and it should be necessary to hold a third or subsequent auction, the minimum rate for said third or subsequent auction shall be fifty (50) percent of the *ad hoc* appraised value that the Secretary has made of said personal property. If at any of these auctions there is no sale or award, the Commonwealth of Puerto Rico, through the Secretary's representative before whom the auction is held, may award to him/herself the attached personal property for the minimum appraised rate corresponding to the auction at which the property is to be awarded. In both cases, when the personal property object of the auction is awarded to a third person, or when it is awarded to the Commonwealth of Puerto Rico, the proceeds of the sale of such property shall be applied to the payment of the tax debt. In case the property is awarded to the Commonwealth of Puerto Rico, the Secretary shall issue and deliver a note of credit to the taxpayer for an amount equal to the difference between the price of the award and the tax debt under collection, which note of credit shall be sufficient for the cancellation in the future of and equal amount of a tax debt of the same taxpayer. In case the property is awarded to a third person, the surplus, if any, shall be delivered by the Secretary to the taxpayer. If the amount obtained in the auction is insufficient to settle the tax debt, the Secretary may collect the amount of the tax, fees, fines, interest, surcharges and penalties that remains unpaid by said delinquent taxpayer, as soon as he/she has knowledge that said delinquent taxpayer possesses and owns real and personal property subject to attachment, in which case the attachment procedure for the collection of the remaining amount established by this Code shall be instituted against him; provided, that the following

personal property shall be exempt from and utensils sale for the payment of taxes: mechanics' and artisans' instruments, operated exclusively by hand; cattle; and household furniture. The personal property mentioned in Section 249 of the Code of Civil Procedure shall also be exempted from attachment. The unsold part of said property shall be left at the site of the auction at the owner's risk and expense."

Section 6153.—Title Transferred to Purchaser; Disposition of Proceeds of Sale.—

On payment of the price bid for personal property sold, the delivery thereof, with a bill of sale, shall vest the title and right of the same in the purchaser. All excesses over the taxes, fees, fines, interest, surcharges, penalties and costs generated by the proceeds of such sale shall be returned by the Secretary to the owner of the property sold, or his/her heirs or assigns as provided in Section 6011 of this Code. The agent shall give account to the Secretary or his/her delegate of the total amount obtained from each sale of attached property and of the investment of the proceeds thereof.

Section 6154.—Seizure and Sale of Real Property.—

In case it is decided to seize in the first instance personal property of a delinquent taxpayer and the same is insufficient to pay the assessed debts, fines, interest, surcharges, penalties and costs owed by him/her to the Commonwealth of Puerto Rico; or if the taxpayer has no personal property subject to seizure and sale, the collections agent of the district where such taxpayer resides shall seize real property of said debtor not exempt from seizure pursuant to the provisions of Section 6150 of this Code and shall notify it to the Secretary, and at any time after the receipt of such notification, the Secretary shall order the agent to sell the seized real property of said delinquent taxpayer to pay said assessed debts, fines,

interest, surcharges, penalties and costs. The real property so attached shall be sold at public auction, at a minimum rate of award that shall be the value of the equity of the delinquent taxpayer in the attached property or the value of the credit represented by the tax debt, whichever is less. Equity shall be understood to be the difference between the real value of the property and the amount for which it is mortgaged. The credit that the taxpayer's debt represents includes assessed debts, fines, interest, surcharges, penalties and costs. The minimum rate of award shall be fixed by an appraisal performed on said real property by the Secretary prior to the publication of the auction. The minimum rate of award shall be confidential between the Secretary and the taxpayer. However, the agent may announce it in the auction after receiving the best offer, only when it does not exceed the minimum rate. The number of auctions to be held for each sale, as well as the minimum rate to be used in each of them, shall be determined by the Secretary by regulation.

If at any of these auctions there is no sale or award in favor of a private person, the Commonwealth of Puerto Rico may, through the internal revenue agent before whom the auction is held, award to itself the attached real property for the amount of the corresponding minimum rate of award. If at any auction held the real property, object of the attachment proceedings, is awarded to a third person and the proceeds of the sale at auction is insufficient to cover the total amount owed for assessed debts, fines, interest, surcharges, penalties and costs, the Commonwealth of Puerto Rico may collect from said delinquent taxpayer the amount of the taxes, fees and fines, with their surcharges, interest and penalties that remains unpaid as a result of the auction sale held, as soon as the Secretary has knowledge that said delinquent taxpayer possesses and owns attachable real or personal property, in which case the attachment proceedings for the collection of taxes

established by this Code shall be instituted against him/her.

...

Section 6155.—Certificate of Seizure; Registration.—

Immediately after the expiration of the terms granted for the payment of the assessed debts, fines, interest, surcharges and penalties in the cases where the property to be attached is real property, the agent shall prepare a certificate of seizure describing the real property seized and shall cause said certificate to be presented for registration in the corresponding property registry. Said certificate shall contain the following details: the name of the delinquent taxpayer; the amount of assessed debts, fines, interest, surcharges, penalties and costs owed by him/her; the description of the property or real property seized, which shall be the same as that which is recorded at the Property Registry; and that the seizure will be valid in favor of the Commonwealth of Puerto Rico. Presentation of the certificate of seizure at the registry shall be sufficient to notify the taxpayer and to begin the attachment proceeding.

Section 6156.—Registration of Certificate of Seizure; Personnel to Cooperate with Registrars.—

It shall be the duty of every property registrar, immediately upon the receipt of said seizure certificate, to properly register it and return it to the corresponding agent within the term of ten (10) days, with a note from the property registrar stating that it has been duly recorded. No fees shall be charged by the property registrar for such service. The Secretary is hereby authorized to appoint the personnel necessary to cooperate with the property registrars in the task of searching in the files of the property registries for the real property seized, in the annotation of the seizures ordered, and in any other task related to seizure of real property for the collection of assessed

debts.

Section 6157.—Notice of Seizure; Notice of Auction.—

(a) Once the certificate of seizure has been presented for registration in the corresponding property registry, or upon having seized any other personal property, the agent shall give notice of said seizure in the manner prescribed in this Code to the effect that if all the assessed debts, fines, interest, surcharges, penalties and costs owed by the owner of the seized property are not paid within thirty (30) days of notice of seizure, the property shall be sold at public auction for a minimum rate of award fixed on the basis of the value of the taxpayer's equity on the seized property or the value of the tax debt, whichever is lower. If the person to whom the real property seizure has been notified, because he/she appears as the owner of property in the property registry, is not the owner on the date of the notice, he/she shall be bound to give written notice of such circumstances to the agent who notified him/her of the seizure within ten (10) days following the date on which he/she received said notice. Should the person fail to do so, the person shall be guilty of a misdemeanor.

(b) Notice of sale at auction.—Once the term granted to the taxpayer in the Seizure Notice has elapsed without the taxpayer having paid the entire amount owed for assessed debts, fines, interest, surcharges, penalties and costs, the agent shall issue a Notice of Auction, which shall be published at least three (3) times for a period of one (1) week in two (2) newspapers of general circulation in Puerto Rico and edicts shall be published for the same purpose, and the cost of said notice and edits, together with the fees for service of said notice of the taxpayer or his/her representative, shall be collected as part of the costs of the sale and paid to the Secretary. The Secretary shall keep a copy of such notice and a copy of

the notice published in the newspapers, together with a sworn statement from each one of the administrators of the newspapers where such notice appeared. These documents shall be *prima facie* evidence of the due notice of such auction.

Section 6158.—Auction; Notice and Payment of Surplus to Taxpayer; Effect on Right of Redemption.—

The time, place and conditions under which said auction sale shall take place shall be plainly stated in the Notice of Auction, as provided for in Section 6157. Upon the expiration of the aforesaid period of notice, or as soon as possible thereafter, the said property shall be sold by the agent at public auction to the highest bidder. No bid shall be accepted for an amount lower than that fixed for the auction sale in this Code. Nor any other bid shall be accepted unless accompanied by a cash deposit of ten (10) percent of the amount bid, which deposit shall be forfeited in the event of failure on the part of the purchaser to pay the balance of the amount for which the property was sold within ten (10) days following the date of the sale.

Within thirty (30) days after the holding of the auction sale, the Secretary or the authorized agent, after applying the proper amount to the payment of the debt, shall notify the taxpayer of the result of the auction, informing him/her of the amount of the surplus if the price of the award was higher than the debt under collection and also whether the grantee was a third party or the Commonwealth of Puerto Rico. The Secretary shall be bound to deliver to the taxpayer, upon request by the latter, at any time within the term of one year from the date of the auction, said surplus, if the grantee was a third party, and if said grantee certifies that the taxpayer has conveyed to him the ownership of the property, or that such conveyance has

been agreed upon to the satisfaction of both. In such case, the right of redemption granted by this Code shall be understood to have expired as soon as said amount is delivered to the taxpayer or to his/her lawful estate. After a year, if the taxpayer has not exercised the right of redemption, or if said right has expired, as herein provided before, the Secretary shall be bound to notify the taxpayer or his/her estate that the surplus is available for delivery, and to deliver said surplus upon proof, by the interested persons who may so request, of the right they may have thereto. When the award has been made to the Commonwealth of Puerto Rico, the taxpayer may at any time after notification to him/her of the result of the auction, request the delivery of the surplus, and such request shall be interpreted as an offer of waiver of the right of redemption, which shall be consummated upon making delivery of the same to him/her or to his/her estate. Said delivery shall be made by the Secretary out of the regular funds of the Commonwealth of Puerto Rico. Before making payment of the surplus to the taxpayer, the Secretary may permit any instrumentality or agency of the Commonwealth of Puerto Rico to acquire the auctioned property, if the nature of the business of said any instrumentality or agency is compatible with such acquisition. In such case, the instrumentality or agency shall pay to the taxpayer or to his/her estate, through the Secretary, the surplus, and shall pay to the Secretary the amount of the debt for those collection the property was auctioned. A certificate from the Secretary that both payments were made shall constitute sufficient title to the property in favor of said any instrumentality or agency, and said title shall be registered at the Property Registry. The Secretary shall make no payment whatsoever of the surplus to the taxpayer before said taxpayer shall have delivered the possession of the property.

Section 6159.—Extension or Postponement of Sale.—

The agent may continue the sale from day to day, if in his/her opinion such delay is necessary, and for just cause may postpone the sale for a period not exceeding sixty (60) days, of which due notice shall be given by advertisement, in the manner provided for in this Code.

Section 6160.—Unauthorized Sale; Penalty.—

If any agent sells or assists in selling any real or personal property, knowing it to be exempt from seizure, or knowingly and willfully sells or assists in selling any real or personal property for the payment of taxes with the intent to defraud the owner thereof, or in any manner restrains bidders, or knowingly or willfully issues a certificate of purchase of real property so sold, he/she shall be guilty of a fourth-degree felony, and be liable to pay the aggrieved party all damages sustained by him/her on account thereof, and all such sales shall be void.

If an agent expressly or implicitly offers the bidders guarantees on the validity of the title, the quality, size or condition of the property, he/she shall be subject to the penalties established in the preceding paragraph, but the sale shall be valid.

In all cases in which an agent incurs in a violation of provisions of this Section, the Secretary shall open an administrative procedure whereby he/she shall request the removal from office of said agent, pursuant to the regulations established in the Department for the application of disciplinary measures.

Section 6161.—Purchase by Collector or Agent, Prohibited.—

No agent of the Department and no employees involved in collection procedures of the Department may acquire property seized and sold at auction by the Department. Any agent or employee involved in collection

procedures of the Department that directly or indirectly purchases any part of any real or personal property sold for the payment of unpaid taxes, he/she and his/her sureties shall be liable on his/her official bond for all damages sustained by the owner of such property, and all such sales shall be void. In addition thereto, the employee who committed said offense shall be guilty of a fourth-degree felony.

Section 6162.—Certificate of Purchase; Registration of Title.—

Within sixty (60) days after the date of the auction, the agent shall prepare, sign and deliver to the purchaser of any real or personal property sold due to nonpayment of taxes, a certificate of purchase which shall contain the name and address of the purchaser, the date of sale of said properties, the amount for which they were sold, a statement that said amount has been paid by the purchaser, the amount of assessed debts, fines, interest, surcharges, penalties and costs, and the description of the property as is required by this Code, and in the case of real property, the folio and volume of the corresponding section of the Property Registry of Puerto Rico wherein the property sold is registered, in case it has been so recorded.

If the right of redemption provided in Section 6163 of this Subtitle is not exercised within the time prescribed, said certificate when recorded in the corresponding section of the Property Registry of Puerto Rico shall vest the title to said property absolutely in the said purchaser, subject to the liens that have a preferred status over seizure of the Commonwealth of Puerto Rico. Said certificate shall be *prima facie* evidence of the facts stated therein in any controversy, proceeding or suit involving or concerning the rights of the purchaser, heirs or assigns, to the property thereby conveyed. The purchaser, heirs or assigns may, upon receipt of such certificate, have the

same duly recorded by the property registrar in the corresponding section of the Property Registry of Puerto Rico, upon the payment of the corresponding registration fee.

Section 6163.—Redemption of Property Sold for Payment of Taxes.—

Except as provided for in Section 6158 of this Subtitle, the owner on the date of the sale of any real property hereafter sold to another natural or juridical person or to the Commonwealth of Puerto Rico for the payment of taxes, his/her heirs or assigns or any person who, on the date of the sale may have any right or interest therein, or his/her heirs or assigns, may redeem said property within the period of one (1) year from the date of issuance of the certificate of purchase by paying to the internal revenue agent in whose Collection District the property was sold, or to the purchaser, his/her heirs or assigns, the full amount of the purchase money, in addition to the improvements and expenses incurred by the buyer plus all the costs accrued and taxes, fees, fines, interest, surcharges and penalties due to the date of redemption to which twenty (20) percent of the above stated shall be added as compensation for the buyer. Upon verification of the payment of said amounts, the person who has redeemed the property shall be entitled to receive from the purchaser, his/her heirs or assigns, the said certificate of purchase, on the reverse of which shall be duly endorsed before a notary public, the receipt of the money paid to redeem the property, and the person redeeming the property shall pay to the notary public the necessary fee. The receipt, duly endorsed upon the certificate of purchase, or in the proper case, the certificate of the Secretary herein after prescribed shall operate as a release of all claims of the Secretary to title to the real property sold under or by virtue of said auction for the payment of unpaid taxes and as cancellation

of the certificate of purchase. If the property has been awarded to the Commonwealth of Puerto Rico, once the above mentioned amounts have been paid to the authorized agent, the Secretary shall issue a certificate for the property registrar setting forth the redemption and directing that it be entered in the Property Registry, canceling the purchase in behalf of the Commonwealth of Puerto Rico. The person redeeming the property may have such formal receipt or in the proper case, the certificate of the Secretary, be duly entered in the Property Registry against the certificate of purchase, upon the payment of the corresponding registration fee. The property so redeemed shall remain subject to all liens and legal claims against it, other than for taxes, to the same extent and in the same manner as though said property had not been sold for the payment of unpaid taxes. When the property is redeemed by a mortgagor, the redemption money paid by him/her shall be added to a mortgage credit and may be recovered at the same rate of interest that is earned by the mortgage credit. When the tenant or lessee redeems such property, he/she may deduct the amount of such redemption money from the rent he/she pays. Except as provided for in this Section, when the property has been awarded to the Commonwealth of Puerto Rico, the Secretary may, at his/her discretion, or after the term of one (1) year from the date of the issuance of the certificate of sale, accede to the redemption thereof by any person entitled to redeem it within one (1) year, provided that at the time the redemption is requested the property is not being used by the Commonwealth of Puerto Rico, or has not been sold, transferred, or ceded under lease by the latter, or the surplus of the auction has not been delivered and that the person requesting the redemption previously deposits in the corresponding Collection District the amount of the taxes being collected through the auction, in addition to the

improvements and expenses incurred by the Commonwealth, together with all accrued costs and the taxes that would have been imposed on said property had it remained in the possession of any taxpayer, with the surcharges and interest thereon, plus twenty (20) percent of the above stated award as penalty for the Commonwealth; Provided, that in these cases, after the Secretary has acceded to the redemption, the certificate of redemption shall be issued and the sale shall be canceled in the Property Registry in the same manner as prescribed in this Section for cases of redemption within the first year.

Section 6164.—Notice to Purchaser Whose Domicile is Not Known.—

(a) When a taxpayer whose real property has been sold for the payment of a debt with the Department wishes to redeem it and is ignorant of the domicile of the person to whom it was sold, or does not find him/her at the domicile stated in the certificate of sale, he/she shall publish an edict to that effect in a newspaper of general circulation, once a week for thirty (30) days, and he/she shall also post it for one (1) month in the Collection District where the property was sold, offering the sum paid by the person to whom the property was awarded, and the interest thereon up to the day the money was judicially deposited, and at the expiration of the period, he/she shall make the judicial deposit in the corresponding property registry in the manner and for the purposes determined in Section 6165 of this Subtitle.

(b) ...

Section 6165.—Procedure if Purchaser Refuses Redemption Money if Domicile in Unknown.—

If the aforesaid purchaser, his/her heirs or assigns, refuse to accept the offer of money so made, to redeem the property or if they cannot be located,

the person who has the right to redeem the property shall pay the amount of redemption money to the authorized agent at whose Collection District the property was sold. In said case, the agent shall compute the lawful amount of redemption money due, in accordance with the provisions of this Code, and upon receipt of the same shall issue to the redemptioner a certificate of redemption to such effect. The payment of such redemption money to the aforementioned agent shall restore to said former owner, his/her heirs or assigns, all the right and title, interest and estate in and to said real property, held by said former owner before the property was sold for the payment of taxes.

Section 6166.—Notice to Purchaser of Deposit of Redemption Money.—

Upon the receipt of such money, to redeem the property in the aforesaid manner, the agent shall notify the purchaser, his/her heirs or assigns, of the payment of such money, and shall keep the same available to said purchaser, his/her heirs or assigns. Such notification may be sent by registered mail to the last residence of the purchaser, his/her heirs or assigns, as specified in the certificate of purchase. The agent shall not charge any amount whatsoever for his/her services in the aforementioned proceedings.

Section 6167.—Purchase of Real or Personal Property by the Commonwealth.—

Any personal property or real property offered in public auction for the payment of assessed debts, fees, fines, interest, surcharges, penalties and costs due, and which is not sold for lack of sufficient bids to cover all the debts that encumber said property, may be purchased by the agent on behalf of the Commonwealth of Puerto Rico in any public auction. The agent shall make a public bid for such property for the amount of said taxes, fines,

interest, surcharges, penalties and costs, and if no higher bid is offered it shall issue and cause to be registered in the Property Registry of the corresponding district a certificate of purchase on behalf of the Commonwealth of Puerto Rico, containing the data and description of the property, as prescribed in Section 6162 of this Subtitle. If the right of redemption granted by Section 6163 of this Subtitle is not exercised during the term prescribed, said certificate when recorded in the Property Registry at the District in which said property is located, shall vest absolute title to said property to the Commonwealth of Puerto Rico, free from all mortgages, liens or any other encumbrances. Said certificate shall be *prima facie* evidence of the facts recited therein in any controversy, proceeding or suit involving or concerning the rights of the purchaser, his/her heirs or assigns, to the property thereby conveyed. No fees shall be collected by the property registrars for the registration of said certificate or for the copies issued thereof. The Secretary shall adopt and promulgate the rules needed to regulate the use by the collectors of the authority granted herein, to purchase on behalf of and for the Commonwealth of Puerto Rico, real and personal property, or both, in auctions for the payment of taxes, and he/she may, in specific cases, instruct the agent to purchase or to abstain from purchasing the attached property.

In those cases in which the property is awarded to the Commonwealth, the Secretary is hereby empowered to pay to the person with homestead rights the amount fixed in the statutes to protect this right from any unencumbered funds.

The Secretary shall have the authority to transfer, free of charge, to the Department of Agriculture the titles to the properties which are or shall

be property of the Commonwealth through the attachment proceedings for the collection of taxes owed, pursuant to the provisions of this section, if said property qualifies to be used as family agricultural farms under the Program Title VI of the Lands Act of Puerto Rico and by express application of the Department of Agriculture. The preceding notwithstanding, in those cases in which the property transferred to the Department of Agriculture is subsequently sold, said Department shall deposit into the General Fund of the Secretary the proceeds corresponding to said sale or the amount for which said property was sold, whichever is less.

Section 6168.—Cancellation by the Commonwealth of Irregular Sale.—

When any real property has been sold for delinquent assessed debts, fines, interest, surcharges and penalties, and has been awarded to the Commonwealth of Puerto Rico and it is afterwards discovered that, for any reason, such sale was irregular and that the owner of said property has been improperly deprived of his/her property, the Secretary shall have authority to cancel said sale and where necessary to issue a certificate of redemption which shall act as a reconveyance of the property to the owner, or to his/her heirs or assigns, as the case may be, and the property shall remain subject to all liens and legal claims against it to the same extent and in the manner as though said property had not been sold for the payment of taxes, and the property registrar shall record the certificate of redemption without charging any fee for such service. The Secretary shall, in all cases where a certificate of redemption is issued in accordance with the provisions of this Section, transmit to the Secretary of Transportation and Public Works a certified

copy of said certificate, together with a statement setting forth the facts in the case and the grounds for issuing such certificate.”

Section 75.—Chapter 5 of Subtitle F of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“CHAPTER 5 – PROVISIONS RELATIVE TO TAX RETURN AND
STATEMENT OR REFUND CLAIM SPECIALISTS
AND TO TAX REPRESENTATIVES

SUBCHAPTER A

REGULATION OF THE PROVISIONS RELATIVE TO TAX RETURN,
STATEMENT OR REFUND CLAIM SPECIALISTS

Section 6170.—Creation of the Tax Specialist Register and Requirements to Practice as Tax Return or Statement Specialist.—

(a) Registration as tax specialist required.—No one may practice or continue practicing in Puerto Rico as a tax return or statement specialist, unless he/she requests and obtains from the Department of the Treasury an entry in the Register which is established by this Chapter.

(b) Tax return, statement or refund claim specialist register.—The official tax refund, statement or refund claim specialist register is hereby created and established. This register shall be kept and maintained by the Office of the Deputy Internal Revenue Secretary of the Department. This register shall include a list of the registration of tax return, statement or refund claim specialists. The register shall be available to the public with the name, address and business phone number of the tax specialist.

(c) Definition of tax specialist.—Subject to the provisions of this Chapter, a ‘tax return, statement or refund claim specialist,’ hereinafter ‘tax specialist,’ shall be deemed to be any natural or juridical person who prepares any returns or statements on taxes imposed by this Code or any refund claim form for said taxes, for pay or remuneration, and who is registered in the Tax Return, Statement or Refund Claim Specialist Register of the Department. For the purposes of the preceding sentence, the preparation of a substantial part of a tax return, statement, or refund claim shall be deemed to be the preparation of such documents. The Secretary shall determine by Regulations, the requirements needed to be included in the Tax Specialist Register established in subsection (a). Provided, that an attorney at law or a certified public accountant holding a license in effect to practice his/her profession shall be considered to be in compliance with education or training requirements that may be imposed by the Secretary in order to be entered into the Tax Specialist Register referred to in subsection (a).

(d) The following natural or juridical persons shall not be deemed to be tax specialists:

- (1) an employee of the Department;
- (2) a person who prepares a tax return, statement or refund claim form for his/her employer, including officers or employees;
- (3) a person who prepares in good faith and free of charge a tax return, statement or refund claim form for any other person;

(4) a person who transcribes or only includes in the tax return, statement or refund claim form information not relative to the determination of taxable liability;

(5) a person who was an employee of the Department, for up to one (1) year from the date of separation of service, except in those cases in which the Government Ethics Office grants a dispensation to that effect; and

(6) a person who was an advisor or freelance contractor with the Department, for up to one (1) year after the date of termination of contract, except in those cases in which the Secretary grants a dispensation to that effect.

(e) Requirements for registering in the Tax Return, Statement or Refund Claim Specialist Register.—Any person who wishes to be regarded as a tax return, statement or refund claim specialist shall:

(1) fill out the application for registration as a tax return, statement or refund claim specialist. All applications submitted shall be charged a service fee as established by the Secretary by regulation.

(2) submit evidence of experience or education which qualifies him/her to prepare tax returns, statements or refund claims;

(3) attend the competency course on the duties and responsibilities of tax specialists offered by the Department;

(4) submit an income tax return filing certification within the term provided in this Code for filing tax returns or statements, including those he/she should file as withholding agent, as well as any time extension granted;

(5) submit a negative debt certification from the Department, including those which he/she shall submit as a withholding agent; and

(6) submit a negative debt certification from the Child Support Administration (ASUME, Spanish acronym).

An attorney at law or a certified public accountant holding a license in effect to practice his/her profession shall be deemed to be in compliance with the requirements of clauses (2) and (3).

The entry in the Register shall be valid while the same is not withdrawn, suspended or revoked.

(f) ...

...

(g) Renewal of tax specialist registration number.—

(1) The tax specialist registration number shall be renewed every three years between August 1 and October 31, which period shall be considered to be the renewal period.

(2) To renew the tax specialist registration number, the following requirements shall be met:

(A) fill out the application to renew registration as tax return, statement or refund claim specialist. All applications shall be charged a service fee as per established by the Secretary by regulation;

(B) complete a minimum of thirty-six (36) hours of qualified continuing education for each renewal period. Provided, that an attorney at law or a certified public accountant

holding a license in effect to practice his/her profession shall be deemed to be in compliance with the continuing education requirements; and

(C) meet the requirements established in subsection (e) of this Section.

(3) A tax specialist who does not comply with the renewal period shall be charged an additional fee of two hundred (200) dollars.

(h) ...

Section 6171.—Duties of Tax Specialists.—

(a) Without it being construed as a limitation, all tax specialists shall have the following duties:

(1) act competently as a knowledgeable professional in taxation matters;

(2) abide by the laws, morals and public order;

(3) comply with the rules or regulations issued under the provisions of this Code;

(4) provide to the taxpayer a copy of the final tax return, statement or refund claim form signed by the tax specialist;

(5) keep a copy of said tax return, statement or claim form or keep a list with the name and account number of each taxpayer for whom they have prepared a tax return, statement or claim form. Such copies and lists shall be available for inspection, at the request of the Secretary, for a term of four (4) years counted from the closing date of the tax return, statement or refund claim filing period.

In the event that two or more tax specialists have prepared one tax return, statement or refund claim form, the Secretary shall determine by regulation which of them shall comply with the requirements provided for in the preceding clauses (4) and (5);

(6) submit a statement regarding the tax specialists they employ or contract during a tax return or statement filing period.

A partnership or corporation shall file the statement as to its partners, shareholders and any other persons who sign tax returns on behalf of the entity.

Said statement shall be submitted to the Secretary not later than July 31 following the closing of the immediately preceding tax return or statement filing period. The term tax return or statement filing period means the twelve (12)-month period beginning on July 1 of each taxable year;

(7) include in the tax return, statement or refund claim form, the name of the tax specialist, his/her signature, registration number, name of the firm, and employer social security number, in order to facilitate the identification of said tax specialist, his/her employer or both, as the case may be;

(8) keep the confidentiality of any information they have been provided for or in relation to the preparation of a tax return, statement or refund claim form and use the information they are provided solely for those purposes. Tax specialists shall be exempted of the preceding duty when the disclosure of information is made under the following circumstances:

(A) when so authorized or required under this Code or any other law and its regulations,

(B) ...

...

(9) ...

Section 6172.—Administrative Sanctions for Violation of or Noncompliance with the Provisions of this Chapter.—

(a) Understatement of taxpayer's liability.—Every tax specialist shall be subject to the imposition of administrative sanctions in the manner established herein, in any case in which it is determined that an understatement of the liability of a taxpayer for whom he/she has prepared a tax return, statement or refund claim form, when such understatement is attributable to negligence, intentional disregard of the provisions of this Code and its regulations, or willful conduct of such tax specialist, when the understatement arises from a position assumed in the tax return which is supported by a reasonable interpretation of the applicable laws.

...

(1) When the understatement of taxpayer's liability is attributable to the tax specialist's negligence or willful noncompliance with the provisions of this Code or its regulations, said tax specialist shall be punished by an administrative fine of two hundred fifty (250) dollars for each return, statement, or refund claim form. This amount shall no exceed twenty-five thousand (25,000) dollars within the same calendar year.

(2) When the understatement of taxpayer's liability is attributable to a tax specialist's intentional act, said tax specialist shall be punished by an administrative fine of one thousand (1,000) dollars for each return or refund claim form. This amount shall not exceed twenty-five thousand (25,000) dollars within the same calendar year.

(b) Other violations.—...

(1) failure to furnish a copy to the taxpayer of the return, statement or refund claim form in the manner prescribed by any Subtitle of this Code: fifty (50) dollars for each omission, unless the existence of just cause can be proven. The maximum penalty imposed on each person in respect of the documents completed during any calendar year shall not exceed twenty-five thousand (25,000) dollars;

(2) failure to sign the return, statement or refund claim form in the manner prescribed by this Code or its regulations: fifty (50) dollars for each omission, up to a maximum of twenty-five thousand (25,000) dollars within the same calendar year, unless the existence of just cause can be proven;

(3) failure to retain a copy of the return, statement or refund claim form or the list of taxpayers as required under this Code: fifty (50) dollars for each omission, up to a maximum of twenty-five thousand (25,000) dollars for each tax return period, unless the existence of just cause can be proven;

(4) failure to file the statement of the tax specialists employed or contracted during a tax return period in the manner established by this Chapter: fifty (50) dollars for each statement not

filed for each tax return or statement period and fifty (50) dollars for each item of information not included in the statement, up to a maximum of twenty-five thousand (25,000) dollars in both cases, unless the existence of just cause can be proven;

(5) any person who practices as a tax specialist without having being entered into the Register established in this Chapter shall be punished by a fine of two hundred fifty (250) dollars, up to a maximum of ten thousand (10,000) dollars.

(c) The Secretary may decree the suspension of the validity of the entry in the Register established by this Chapter in the event the tax specialist commits an act which is prohibited under this Section. The Secretary may likewise decree the revocation of the registration when the tax specialist incurs a subsequent violation of the provisions of subsections (a) and (b) of this Section. The regulations adopted by the Secretary shall establish the minimum guarantees of the due process of law for the procedures to suspend and revoke the validity of the said registration.

Section 6173.—General Provisions Relative to the Imposition of Administrative Sanctions.—

(a) ...

(d) ...

(e) The tax specialist may file judicial action for the review of the administrative sanction imposed on him/her for a violation of the provisions of Section 6172, within thirty (30) days following the date on which he/she was denied his/her return claim or if six months have elapsed since he/she

filed his/her claim and no final determination has been issued, whichever takes place first.

(f) ...

(g) ...

(h) ...

(i) the seven (7)-year prescription period for the administrative or judicial collection of the amounts owed on account of the imposition of penalties shall be interrupted by the period during which the Secretary is barred from imposing a penalty or transact the collection by judicial means.

Section 6174.—Sanctions of Penal Nature.—

(a) Any tax specialist who discloses or uses in violation of the provisions of this Code, the information he/she receives in the exercise of his/her functions, and any person engaged in the business of preparing or providing services relative to the preparation of tax returns or statements, who:

(1) ...

(2) uses said information for any purpose other than to prepare or assist in the preparation of any tax return, statement or refund claim form, shall be guilty of a misdemeanor.

(3) Exceptions.—

(A) This subsection shall not apply if the information is disclosed:

(i) pursuant to the provisions set forth in this Code; or

(ii) pursuant to a Court order.

(B) This subsection shall not apply to disclosure for the purpose of preparing or assisting in the preparation of a tax return, statement, refund claim form, or estimated tax statement of the person to whom the information belongs.

(b) Any person who practices as a tax specialist without having been entered into the Register established in this Chapter shall be guilty of a misdemeanor.

Section 6175.—Injunction to Prohibit Certain Acts.—

Upon request of the Secretary, an injunction proceeding may be initiated in the name of the Commonwealth of Puerto Rico, pursuant to the laws governing these procedures, against any person who practices as an income tax return specialist in violation of the provisions of this Chapter. The action for injunction provided herein does not relieve the violator from being processed by administrative action nor of being criminally punished for the violations of this Code.

SUBCHAPTER B – REGULATION OF PROVISIONS RELATIVE TO
TAX REPRESENTATIVES BEFORE THE DEPARTMENT

Section 6176.—Provisions Relative to Tax Representatives.—

(a) No natural or juridical person may practice or continue practicing in Puerto Rico as a tax representative unless he/she complies with the provisions established in this Subchapter.

(b) A ‘tax representative’ shall be deemed to be a natural or a juridical person with capability and experience in taxation matters, who free of charge or in exchange for compensation represents a taxpayer before the Department. The term ‘tax representative’ shall include:

- (1) an individual who is a member of the Bar Association;
- (2) an individual who is duly authorized to practice as a certified public accountant; and
- (3) any person who is competent in taxation matters and who complies with that which is established in this Section.

(c) No person shall act as a tax representative if an individual who was an employee, advisor or contractor of the Department of the Treasury after one (1) year has elapsed from the date he/she separated from the service, except in the cases in which the Government Ethics Office grants a dispensation to that effect.

(d) Any natural or juridical person who appears before the Department in relation to the following subjects, shall comply with the requirements to practice as a tax representative, subject to that which is established in this Subchapter:

- (1) administrative determinations;
- (2) closing transactional agreements;
- (3) tax exemption decrees;
- (4) applications for tax credits; and
- (5) deficiencies.

(e) Mathematical errors and corrections are matters which may be handled before the Department by professionals not deemed to be tax representatives.

Section 6177.—Requirements and Duties to Practice as a Tax Representative.—

(a) Requirements.—Any person who practices as a tax representative before the Department, shall comply with the following requirements:

- (1) observe proper conduct at all times; and
- (2) have the capability, experience or qualifications necessary to provide quality services on taxation matters.

(b) Duties.—In order to appear and to continue appearing before the Department, tax representatives shall comply with the following duties:

- (1) act competently as a professional knowledgeable in taxation matters;
- (2) abide by the laws, morals and public order;
- (3) comply with the rules or regulations issued under the provisions of this Code; and
- (4) present a power of attorney to represent the taxpayer and reach an agreement in relation to a controversy.

Section 6178.—Revocation of the Representation Privilege and Notices or Written Messages to Tax Representatives.—

(a) Privilege revoked.—The Secretary may revoke the privilege of appearing as representative of the taxpayers before the Department to any tax representative who:

- (1) fails to comply with the requirements and duties for acting as tax representative, as stipulated in this Subchapter;
- (2) with the intention of voluntarily and knowingly defrauding, deceives or threatens the person he/she represents.

(b) Notices or communications.—When a taxpayer is being represented by a tax representative, any written notice or communication shall be issued to said representative, unless the taxpayer specifically indicates otherwise. When the taxpayer is represented by more than one tax representative, it shall be sufficient to deliver the communication to one of said representatives.

Section 6179.—Application for Injunction to Prohibit Certain Act and Sanctions of a Penal Nature.—

(a) As required by the Secretary, an injunction procedure may be initiated to prohibit certain acts of the tax representatives as well of the specialists in tax returns, statements or refund claims, as provided in Section 6175.

(b) Any tax representative who intentionally delivers to the Secretary any list, declaration, account, statement or other document or information knowing that the same is false or fraudulent, shall incur a felony and be sanctioned with the penalty of a fine of not less than one thousand (1,000) dollars nor of more than twenty-five thousand (25,000) dollars or with a fixed term of imprisonment of three (3) years. Should extenuating circumstances exist, said term may be reduced to one (1) year. Should aggravating circumstance exist it may be increased to five (5) years.”

Section 76.—Section 6180 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6180.—Liability for Taxes Collected.—

Whenever any person is bound to collect or withhold any tax levied by this Code, from any other person and to pay over such tax to the Commonwealth of Puerto Rico, the amount of the tax so collected or withheld shall be deemed to be a special fund in trust for the Commonwealth of Puerto Rico. The amount of such fund shall be assessed, collected and paid in the same manner and subject to the same provisions and limitations, including penalties, that are applicable with regard to the taxes from which such fund proceeded, except that the provisions of Section 6005 relative to the limitation period for the assessment shall not apply and the Secretary may assess such an amount at any time.”

Section 77.—Section 6181 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6181.—Obligation to Deposit Taxes Deducted and Withheld from Wages.—

Deposit of taxes withheld from wages.—Any person who pays wages and is under the obligation of deducting and withholding any income tax from any employee under Section 1141, or under the regulations promulgated by the Secretary pursuant to the Code, and to pay over said tax to the Commonwealth of Puerto Rico, shall deposit the amount of the tax thus deducted and withheld in any of the banking institutions designated as depositories of public funds which have been authorized by the Secretary to receive such taxes. Provided, that Federal Savings and Loan Associations and Federal Savings Banks doing business in Puerto Rico shall be deemed to be financial institutions for the purpose of being designated as depositories of public funds for the purposes of this Code. The tax shall be paid or deposited on or before the fifteenth (15th) day following the close of the calendar month in which it was deducted and withheld.”

Section 78.—The title and subsection (a) of Section 6183 of Act No. 120 of October 31, 1994, as amended, are hereby amended to read as follows:

“Section 6183.—Duty of Depositing Deducted and Withheld Taxes in the Case of Nonresident Individuals or Foreign Corporations and Partnerships not Engaged in Industry or Business in Puerto Rico.—

(a) General Rule.- Any person bound to deduct and withhold any income tax under Sections 1147, 1149, and 1150 of this Subtitle, or by regulations prescribed by the Secretary pursuant with this Subtitle, and to pay over said tax to the Commonwealth of Puerto Rico, shall deposit the

amount of the tax so deducted and withheld during a calendar month (but only if it exceeds two hundred (200) dollars) in the Internal Revenue Collector's offices of the Commonwealth of Puerto Rico, in the Collection Bureau or office designated for such a purposes of the Department of the Treasury, or in any of the banking institutions designated as depositories of public funds which have been authorized by the Secretary to receive such tax, as provided for in Section 6182. The tax shall be deposited on or before the fifteenth day following the close of the calendar month in which the same was deducted and withheld. In the case of the tax withheld on income attributable to the distributive share of a non resident partner of the income attributable to the distributable participation of a non-resident partner in a special partnership, the same shall be deposited on or before the fifteenth (15th) day of the third (3rd) month following the close of the taxable year of the special partnership or on or before the fifteenth (15th) day of the fourth (4th) month following such closing, when an extension has been granted pursuant to the provisions of Section 1054(c)(3).

(b)”

Section 79.—The final paragraph of Section 6184 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6184.—Form of Payment.—

(a) ...

(b) ...

(1) ...

...

The Secretary may require of a taxpayer with a history of issuing checks that are returned, and in the case of final agreements subscribed according with Section 6126 of this Code, to make

subsequent payments by certified, cashier's or manager's checks.”

Section 80.— Section 6186 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 6186.—Publication of Statistics.—

The Secretary shall prepare and publish annually the statistics reasonably available with respect to the application of this Code, including classifications of taxpayers and of income, the items allowed as deductions, exemptions, and credits, the items related to excise taxes, to the sales and use tax, to taxes on a decedent's estate and donations and any other facts deemed pertinent and useful.”

Section 81.—Clauses (1) and (2) of subsection (b) of Section 6187 of Act No. 120 of October 31, 1994, as amended, are hereby amended to read as follows:

“Section 6187.—Authority to Exempt from the Payment of Excise Taxes and Extend the Deadlines to Take Certain Tax Actions Due to Disasters Declared by the Governor of Puerto Rico.—

(a) ...

(b) Extension of the deadlines for specific tax actions.—...

(1) to file any income tax return or declaration (except the income tax withheld at source), excise taxes, the sales and use tax or the tax on a decedent's estate and donations;

(2) to pay the income tax, (except the income tax withheld at source), excise taxes, the sales and use tax or the tax on a decedent's estate and donations or any term of said taxes;

(3) ...

(c)”

Section 82.—A Section 6188 is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6188.-Limitation for Fixing Taxes.—

Except as provided below or in Section 6189, no municipality, whether autonomous or not, of the Commonwealth of Puerto Rico may impose or collect any tax or levy established in this Code. The excise taxes on construction and the tax on the volume of business authorized by Act No. 81 of August 30, 1991, as amended, known as the ‘Autonomous Municipalities Act’ and by Act No. 113 of July 10, 1974, as amended, known as the ‘Municipal License Tax Act,’ respectively, whose imposition by the municipalities is expressly authorized, are hereby exempted from this provision. However, when the application of the Autonomous Municipalities Act and the Municipal Licenses Tax, jointly with this Code, produces an untenable taxation situation by violating some constitutional prohibition, if said situation were to be sustainable by the imposition and collection of a single one of said taxes or levies, the imposed tax or levy fixed in this Code shall prevail.

Section 6189.—Municipal Imposition of the Sales and Use Tax.—

A. The Municipalities are hereby authorized to impose retail sales and use tax according to the authorization established in Section 2410. Said tax shall be for a tax rate of one point five (1.5) percent to be imposed according to the same base, exemptions and limitations contained in Subtitle BB of the Code, except that they shall tax all foods, to be established and imposed uniformly by all the municipalities of Puerto Rico through a Municipal Ordinance to that effect. Federal preemption shall likewise be taken into consideration.

The municipal tax rate of one point five percent (1.5%) shall be proportionally distributed as follows:

- i. a rate of one point two percent (1.2%) for the municipality
- ii. a rate of point one percent (.1%) for the Municipal Improvements Fund
- iii. a rate of point two percent (.2%) as a Municipal contribution to the General Fund for a tax relief for individuals.

B. Distribution of collection among the Municipalities (Reserved)

C. Administration of the tax.—

i. In the case of taxpayers who pay by an electronic transaction, the banking institution handling the sales points and/or the corresponding deposit shall send said contribution directly to the Secretary of the Treasury.

ii. In the case of those who pay by monthly tax return, said contribution shall be deposited in an escrow account in the name of the Secretary of the Treasury. Said distribution shall be the responsibility of the Depository Banking Institution.

D. Municipal Improvements Fund (Reserved)”

Section 83.—A Section 6189A is hereby added to Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 6189A.—Transitory Provisions.—

The Legislature shall make a quarterly evaluation as to compliance with the collections estimate as provided in this Act. To those effects the following parameters shall be used, among others for said evaluation:

- i. The factual experience of the municipalities
- ii. The state of the economy according to the economic indicators

as indicated by the Planning Board, the Department of Labor and the Commerce and Exports Company, among others.

Should the collections estimate per percentage point be greater than the base of three hundred and twenty-eight (328) million per percentage point, the Legislature shall consider accelerating the effectiveness of the deferred tax relief on the credit per dependent and the education of dependents.

Section 83.—Severability Clause.—

Should any article or provision of this Act were to be declared null or unconstitutional by any court with competence and jurisdiction, the judgment rendered shall neither affect nor invalidate the remaining provisions of this Act and their effect shall be limited to the paragraph, article, part or provision declared null or unconstitutional.

Section 84.—Effectiveness.—This Act shall take effect immediately after its approval; provided that the provisions of Sections 1012(j), 1014A, 1046(e), 1121A and 1221(d) shall apply to transactions made as of July 1, 2006 to December 31, 2006; furthermore provided that the provisions of Sections 1023(aa)(2)(A), 1023(aa)(2)(k)(i) and 1023(bb)(3) of the Code shall take effect from tax years beginning after December 31, 2007; and provided that the provisions of Subtitles B and BB of the Code shall take effect as of November 15, 2006. It is further established that the municipalities shall be empowered to commence implementing the retail sales and use tax on July 1, 2006, pursuant to Section 6189, otherwise, they shall begin its implementation on November 15, 2006.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 117 (Substitute for H.B. 2193) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to establish the “Taxpayers Justice Act of 2006” in order to amend Subsection (a) of Section 1011, add Sections 1040G, 1040H and 1141A, amend Subtitle B in general terms, and establish a new Subtitle BB of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Code of 1994,” in order to establish new tax rates on net income subject to taxation of individuals; add a earned income tax credit for individuals; to amend Subtitle B on excise taxes in general terms; to add a general sales and use tax in Puerto Rico; and to provide for modifications to certain existing deductions; and for other purposes,

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

In San Juan, Puerto Rico, today 25th of October of 2006.

Francisco J. Domenech
Director

