

(H.B. 2712)

(No. 137)

(Approved July 31, 2006)

AN ACT

To amend clauses (1) and (2) and add a clause (3) to subsection (a) of Section 2; amend Section 3; amend subsection (a) and eliminate subsection (b) of Section 4; amend Sections 5 and 9; repeal Sections 6 and 10; and renumber Sections 7, 8, 9, 11 and 12 as Sections 6, 7, 8, 9 and 10, respectively, of Act No. 98 of May 16, 2006, known as the “Act to Impose the Supertax of 2006.”

STATEMENT OF MOTIVES

Act No. 98 of May 16, 2006, known as the “Act to Impose the Supertax of 2006,” (henceforth Act No. 98), was recently promulgated for the purpose of obtaining funds to defray part of the cost of the payroll of the central government chargeable to the General Fund of the Government of Puerto Rico for the Fiscal Year ending June 30, 2006. “Act No. 98,” provides that the corporations and partnerships that have generated a gross income of over ten million (10,000,000) dollars shall be subject to a supertax which may be claimed as credit against the income tax imposed for tax periods beginning after December 31, 2005.

This Legislature believes it necessary and indispensable to amend “Act No. 98,” in order to incorporate certain technical amendments and clarify its language.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Clauses (1) and (2) are hereby amended and a clause (3) added to subsection (a) of Section 2 of Act No. 98 of May 16, 2006, so that said subsection (a) may read as follows:

“Section 2.-Definitions

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

(1) Gross Income – Has the meaning provided in Section 1022 of Act No. 120 of October 31, 1994, known as the “Puerto Rico Internal Revenue Code of 1994,” as amended (“Code”). In the case of life insurance companies, gross income has the meaning contained in Section 1202, while for insurance companies that are not life insurance companies or mutual companies, the gross income is as provided in paragraph (2) of subsection (c) of Section 1207 of the Code.

(2) Taxpayer – Any corporation or partnership organized as profit-making whose gross income generated on the tax year ending on or before December 31, 2005, is of more than ten million (10,000,000) dollars, except those that have an election under Subchapters K or N of the Code, every corporation organized as non-profit which is exempt pursuant to Section 1101 of the Code and any registered investment company exempt under Section 1361 of the Code.

(3) Taxable Net Income – Means net income subject to normal taxation, as defined in subsection (a) of Section 1015, in subsection (c) of Section 1201, in paragraph (2) of subsection (c) of Section 1204, in subsection (a) of Section 1207 of the Code, as the case may be. The definition of taxable net income does not include ‘industrial development income’ (pursuant to the Puerto Rico Tax Incentives Act of 1987 and the

Tax Incentives Act of 1998, as both amended), tourism development income (as defined in the Puerto Rico Tourism Incentives Act of 1983 and the Puerto Rico Tourism Development Act of 1993, as both amended) nor the ‘income proceeding from the rendering of medical-hospital services’ (as defined in Act No. 168 of June 30, 1968, as amended).”

Section 2.-Section 3 of Act No. 98 of May 16, 2006 is hereby amended to read as follows:

“Section 3.-Supertax

A supertax of five (5) percent shall be imposed on every Taxpayer on the taxable net income corresponding to the tax year that ended during natural year 2005. To such ends, the Taxpayer shall use as base the income tax return filed for said year. In the case of a Taxpayer who has submitted an application for extension for filing the income tax return corresponding to said year and who at the time of filing the return corresponding to the supertax has not filed the income tax return, the Taxpayer shall use the estimate of the taxable net income which he/she used to make the computation of his/her tax responsibility for that year, to be subsequently adjusted when he/she files his/her return, if necessary.”

Section 3.-Subsection (a) is hereby amended and subsection (b) eliminated of Section 4 of Act No. 98 of May 16, 2006, which shall read as follows:

“Section 4.-Concession of Credit

(a) Every Taxpayer shall be entitled to claim as credit against the income tax, be it the regular tax or the minimum alternative tax, for tax years beginning after July 31, 2006, the total amount paid on account of the supertax. However, the sum taken as credit for each tax year shall not exceed twenty-five (25) percent of the supertax. The Taxpayer may consider

said sum when computing the estimated tax provided in Section 1062 of the Code.”

Section 4.-Section 5 of Act No. 98 of May 16, 2006 is hereby amended to read as follows:

“Section 5.-Special Return and Payment

(a) The Department of the Treasury shall prepare, on or before June 15, 2006, a special return in which the Taxpayer shall report the taxable net income and determine the supertax. Said special return shall be available at the Department of the Treasury as well as on its web page. The return and the corresponding payment are due July 31, 2006.

(b) The provisions of the ‘Code’ that refer to the failure to file a return, to the failure to pay or to late payment, interest, penalties and surcharges, shall apply regarding the special return and the payment of the supertax.”

Section 5.-Sections 6 and 10 are hereby repealed and Sections 7, 8, 9, 11 and 12 renumbered as Sections 6, 7, 8, 9 and 10, respectively, of Act No. 98 of May 16, 2006.

Section 6.-Effectiveness

This Act shall be retroactive to May 16, 2006, effective date of Act No. 98 of May 16, 2006.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No.137 (H.B.2712) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to amend clauses (1) and (2) and add a clause (3) to subsection (a) of Section 2; amend Section 3; amend subsection (a) and eliminate subsection (b) of Section 4; amend Sections 5 and 9; repeal Sections 6 and 10; and renumber Sections 7, 8, 9, 11 and 12 as Sections 6, 7, 8, 9 and 10, respectively, of Act No. 98 of May 16, 2006, known as the “Act to Impose the Supertax of 2006,”

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

In San Juan, Puerto Rico, today 31st of July of 2007.

Francisco J. Domenech
Director