

PUERTO RICO TOURIST INCENTIVES ACT OF 1983
(UNOFFICIAL TRANSLATION)

(Substitute to House Bill 429
and House Bill 780)
(Conference)

ACT 52, 2 June 1983

To determine the tourist operations (hotels, condohotels, Puerto Rican inns, tourist marinas, thematic parks, facilities in the ports area and other facilities operated mainly in the interest of tourism) that are eligible for temporary tax incentives established hereby and to provide for credits and deductions under particular circumstances; define the nature, extension and scope thereof; empower the Governor of Puerto Rico to authorize or deny such temporary tax incentives in certain cases; revoke them in certain cases; establish standards and facilitate the promulgation of rules and regulations as may be necessary for such purposes; and prohibit certain activities and provide for penalties for carrying them out, through fine or prison or both, and through the revocation of the tax incentives obtained hereunder, and to empower the Governor to establish a payment plan in certain cases for property taxes assessed and levied prior to the effectiveness of this act.

Be it enacted by the Legislative Assembly of Puerto Rico:

Section 1. - Short Title

This shall be known as "Puerto Rico Tourist Incentives Act of 1983".

Section 2.- Definitions

- (a) For the purposes hereof and when they are not manifestly incompatible:
 - (1) Persons - The term "persons" means a corporation, a partnership, an individual or group of individuals, a trust or an estate.

- (2) Hotel - The term "hotel" means any building, part thereof, or group of buildings approved by the Puerto Rico Tourism Company to be devoted appropriately, and in good faith, to offering lodging for payment, principally to guests in transit; it must consist of no less than fifteen (15) rooms for lodging of guests and have one or more dining rooms. Its facilities shall be operated under conditions and standards of cleanliness and efficiency as are acceptable to the Puerto Rico Tourism Company.
- (3) Puerto Rican Inns ("paradores") - The term "Puerto Rican Inns" means any inn that has taken advantage of the program sponsored by the Puerto Rico Tourism Company for the establishment of a net of lodging units throughout the Island that operates in coordination with and under the supervision of Paradores Puertorriquenos, Inc., a subsidiary corporation of the Puerto Rico Tourism Company. Said inn must comply with the provisions of the Minimum Requirements Regulation of Puerto Rican Inns promulgated, put into effect and administered by the Puerto Rico Tourism Company.
- (4) Condohotel - The term "condohotel" means a building, part thereof or group of buildings converted into a horizontal property system, which fulfills the requirements of a hotel and in which at least fifty percent (50%) of the rooms or apartments are devoted at any time to the lodging of transients through rental by their owners to a corporation or juridical entity under a single administration on the basis of rent or a tariff that is defined as daily or for a longer period.
- (5) Eligible Business - The term "eligible business" means any business not covered by a tax exemption decree under the Industrial Incentives Act, that is dedicated to the operation of:
- (a) Hotels, condohotels and Puerto Rican inns, excluding the operations of casinos, gaming rooms and similar activities; or
 - (b) Thematic parks, marinas for tourist purposes, facilities in ports areas and other facilities that, because of some special attraction deriving from their utility as a source of active, passive or diversionary entertainment, may be a stimulus

to internal or external tourism, provided the Governor of Puerto Rico deems such operation to be necessary and convenient to the development of Puerto Rican tourism, subject to the recommendation of the Executive Director of the Puerto Rico Tourism Company, the Administrator of Economic Development and the Secretary of the Treasury.

The Governor shall exercise his power to determine the eligibility of the business under this subsection 5 to receive the benefits hereof and shall establish the conditions under which, in his judgement, these benefits may be granted, taking into account the nature of the physical facilities, the number of jobs, the total payroll, the investment, the location of the project or other factors that merit such determination, considering the best economic and social interests of the people of Puerto Rico.

- (6) Office of Industrial Tax Exemption - "Office of Industrial Tax Exemption" means the office established under Section 10 of Act 26, 2 June 1978, as amended.
- (7) Industrial Incentives Act - "Industrial Incentives Act" means Act 26, 2 June 1978, as amended, and previous or subsequent statutes of a similar nature.
- (8) Excise Act - "Excise Act" means Act 2, 20 January 1956, as amended, and any future act of a similar nature.
- (9) Income Tax Act - "Income Tax Act" means Act 91, 29 June 1954, as amended, and any future act of a similar nature.
- (10) Municipal License Act - "Municipal License Act" means Act 113, 10 July 1974, as amended, and any future act of a similar nature.
- (11) Related Person - The term "related person" means a person of the type described in Section 24(b) of the Income Tax Act which deals with the relation with the person who operates an eligible business. For the purposes of the application of the sentence that precedes the "50 percent" which that law provides, it

shall be replaced by "10 percent" herein. The determination as to whether or not a person is related to another must be made on the date on which the eligible business acquires the property.

X Section 3. - Exemptions

- (a) Any person who operates an eligible business shall be, for a period of ten (10) years, exempted from the payment of taxes and excises as mentioned in paragraphs (1), (2) and (3) of this subsection.
- (1) Exemption regarding municipal and state taxes on real and personal property. The property of eligible businesses utilized in the operations that are described in Section 2(a) (5) (as well as property used in the development, organization, construction or establishment of the operations mentioned in Section 2(a) (5)), shall be exempted from all municipal state taxes on real and personal property, to the following extent:
- (a) During the first five (5) years, counted from the date fixed pursuant to subsection (b) hereof, it shall enjoy a ninety percent (90%) exemption.
- (b) During the next five (5) years, including and being made up of the sixth and tenth years counted from the date fixed pursuant to subsection (b) hereof, it shall enjoy a seventy-five percent (75%) exemption.
- (c) In the case of hotels or condohotels that are eligible businesses and that do not operate casinos, gaming rooms or similar activities, the exemption percentage shall be ninety-five percent (95%) during the period established in paragraph (A) and eighty percent (80%) during the period established in paragraph (B).
- (2) Exemption with regard to excises on articles of use and consumption.
- (a) In general.- On and after the date fixed pursuant to subsection (b) hereof, eligible businesses shall be exempted from the payment of taxes

imposed under the Excise Act with respect to those articles acquired in Puerto Rico and utilized in the development, organization, construction, establishment or in the course of the operations described in Section 2 (a) (4).

- (b) Articles acquired outside Puerto Rico.- The exemption granted in paragraph (a) shall be applicable in the case of articles acquired by eligible businesses outside Puerto Rico, only if the eligible business shows, to the satisfaction of the Economic Development Administrator, that a genuine effort was made to acquire said articles in Puerto Rico, but their acquisition was not justifiable economically, when taking into consideration their quality, quantity, price or availability in Puerto Rico. The Economic Development Administrator shall issue a certificate of accreditation that the eligible business made the required genuine effort. The Economic Development Administrator shall approve such regulations as may be necessary for this purpose.
- (c) Exemptions. - The exemption granted under this clause (3) shall not be applicable to:
 - (i) such stock or other property of such nature as to be properly included in the inventory of the eligible business pursuant with Section 22(c) of the Income Tax Act and that represents property possessed primarily for sale during the ordinary course of the industry or business; and
 - (ii) the tax on hotel room occupation imposed by Sections 11 and 40 of the Excise Act.
- (d) Refunds. - The Secretary of the Treasury shall refund any levy paid on the sale or introduction of articles sold to eligible businesses in the manner and with the limitations prescribed in the Excise Act.

(b) Commencement of the Exemption

The exemptions provided in subsection (a) shall commence:

- (1) with regard to taxes on real and personal property, from January 1 of the calendar year in which the Secretary of the Treasury is notified of the intent to take advantage of the benefits hereof;
- (2) with regard to licenses, excise and other municipal taxes, from the following first of July or first of January (whichever is closer) falling after the notification to which reference is made in paragraph (1); and
- (3) with regard to taxes under the Excise Act, from the date of notification to which reference is made in paragraph (1).

The eligible business shall have the option of establishing separately the commencement of its exemption period with respect to the taxes to which mention is made in paragraphs (1), (2) and (3) above, by sending separate notifications to the Secretary of the Treasury; provided that all exemptions must commence within the same period of twenty-four (24) months.

- (c) Limitations.- Nothing contained in subsection (b) shall give entitlement to the refund of those taxes paid and properly assessed or levied prior to the dates which are mentioned in subsection (b).

Section 4.- Credit for Investments.

- (a) In general.- Every eligible business may claim the credit for investments established in subsection (d) against the tax levied under the Income Tax Act, with respect to income generated in the operations described in Section 2(a)(5), provided it has complied with the additional requirements of subsection (b) of this Section. Said credit shall be applicable for the first time in the taxable year within which the business complies with the requirement of subsection (b), provided that the investments in eligible

property acquired in order to fulfill said requirements shall qualify for the credit of this Section. Further, the credit in future taxable years shall be applicable with respect to investments in eligible property acquired subsequent to fulfilling the additional requirement established in subsection (b) and prior to the expiration of the period of one hundred and twenty (120) months, commencing on the date established in Section 3(b) for the commencement of the tax exemption with respect to personal and real property.

(b) Additional requirement.- Eligible business may claim the credit of subsection (d) if:

- (1) they make an investment in eligible property whose cost enhances the book cost of all the personal and real property existing as of 30 September 1982 by more than 25 percent or more than \$100,000 (whichever is more). The book cost as of 30 September 1982 shall be that reflected in financial statements prepared and certified as of that date by the independent certified public accountant who ordinarily prepares the annual statements for the eligible business; or
- (2) in the case of hotels, condohotels and Puerto Rico inns, they increment the number of existing rooms as of 30 September 1982 by more than 25.

(c) Eligible property.

- (1) New property.- In the case of new property, the term eligible property means the amounts invested during the taxable year:
 - (a) in the acquisition through purchase-sale of personal or real property of a tangible nature whose acquisition occurs or construction commences subsequent to 30 September 1982;
 - (b) with respect to which a deduction for depreciation could be granted under Section 23(1) of the Income Tax Act; and
 - (c) that are utilized in the operations described in Section 2(a)(5).

- (2) Used property.- In the case of used property, the term eligible property means the amounts invested (up to a maximum of \$125,000) during the taxable year in properties that fulfill the requirements of paragraphs (a), (b) and (c) of clause (1). If the amounts invested during the taxable year exceed \$125,000, the eligible business shall select the property classifications to be considered in computing the credit provided by subsection (d).
- (3) Definitions.- For purposes of this subsection:
- (a) the term "new property" means that whose use commences with the eligible business; and
 - (b) the term "used property" means property that is not new. That property which, subsequent to its acquisition by the eligible business, is utilized by a person (or related person) who used said property prior to such acquisition or that property acquired in a transaction described in Section 112(b)(1) and 112(f) of the Income Tax Act, shall not be considered as used property, to the extent to which the base of the acquired property includes an amount representative of the adjusted base of the transferred or converted property.
- (d) Amount of credit.
- (1) In general.- A credit shall be granted equal to 10 percent of the cost of the investments in eligible property carried out during the taxable year, except that if said investments are claimed for eligible property classified as property recoverable in 3 years under Section 5(c)(1), the credit shall be equal to 6 percent of the cost of the investment. Eligible businesses that claim the credit for investments granted under this clause shall be obliged to subtract 50 percent of said credit in determining the recoverable base of the properties that qualify for the benefits of Section 5 (relative to the accelerated system for recovering the cost); provided, however, that in any taxable year in which the business is eligible to increase its tax under clause (6) by reason of the premature transfer of a property whose base was

reduced pursuant to this clause, the base of said property (immediately prior to the transfer) shall be increased by an amount equal to 50 percent of the increase in taxes for said year.

- (2) Alternative credit.- Instead of the credit granted by clause (1), eligible businesses may opt to take a credit equal to 8 percent of the cost of the investments made during the taxable year in eligible property, except that if said investments are carried out in property classified as property recoverable in 3 years under Section 5 (c)(1), the credit shall be equal to four percent (4%) of the cost of the investment.
- (3) Limitation.- The amount of credit to be utilized during any taxable year shall not exceed the first \$25,000 of tax responsibility for the taxable year plus 85 percent of the tax responsibility for the year in excess of \$25,000.
- (4) Credit carry-forward.- Excess credit that is not utilized during the taxable year by reason of the limitation described in clause (3) shall be carried forward as such credit during the 15 subsequent taxable years. If said period of 15 years is not sufficient, half of the unutilized excess may be taken as a deduction in the taxable year that follows the last taxable year in which said excess could have been taken as a credit.
- (5) Taxable responsibility.- For the purposes of clause (3) taxable responsibility for the year shall be the tax imposed exclusively under Sections 11, 13(b) and 15(b) of the Income Tax Act, reduced by the credit permitted under Section 31 of the Income Tax Act (relative to the credit for taxes paid to the United States, its possessions and foreign countries).
- (6) Increase in tax for premature provisions.
 - (a) In general.- During any taxable year, if an eligible business transfers eligible property prior to completion of the period of real possession provided in paragraph (d), the tax imposed by the Income Tax Act for said taxable year shall be increased by an amount equal to the credits taken

for the investment in said eligible property in prior years, multiplied by the percentage of recovery provided in paragraph (b).

- (b) Percentage of recovery.- For the purposes of paragraph (a), the percentage of recovery shall be determined pursuant to the following table:

<u>If eligible property is transferred within</u>	<u>Eligible Property Recoverable in 3 years</u>	<u>Other Eligible Properties</u>
The first year of real possession	100%	100%
The second year of real possession	66%	80%
The third year of real possession	33%	60%
The fourth year of real possession	-0-	40%
The fifth year of real possession	-0-	20%

- (c) Limitation.- The tax for the taxable year shall be increased under sub-paragraph (a) only to the extent in which the credits authorized by this section were effectively utilized to reduce the tax responsibility of prior years. In the case of credits that were not effectively utilized to reduce the taxable responsibility for prior years, the carry-forward provided in paragraph (4) shall be adjusted as may be appropriate.

- (d) Definitions.- For the purposes of this clause

(i) the term "transfer" includes:

- (A) the sale or other disposition of eligible property or any transfer of title or possession of the property, except that it shall not include transfers by reason of death or a transfer in the course of an exchange described in Section 112(b)(5) or (6) of the Income Tax Act or a reorganization described in Section 112(g)(1)(A), (E) or (F) thereof, provided the eligible property continues to be utilized in the operations set forth in Section 2(a)(5);
- (B) the discontinuation for a period of more than six (6) months of the use of the eligible property in the operations describe in Section 2(a)(5);

- (C) the physical withdrawal of the eligible property from Puerto Rico.
 - (D) any other act or situation classified as a transfer in regulations prescribed by the Secretary of the Treasury. The Secretary of the Treasury, pursuant with regulations and subject to indication of good cause, may permit an extension or an exception to the classification as transfer with regard to any act or situation specified in the previous clauses, if he is convinced that treatment as transfer would not be appropriate under all circumstances.
- (ii) the term "period of real possession" means, with respect to eligible property, the period making up the first complete year when the eligible property is utilized by the eligible business and the four (4) complete subsequent years (the two (2) complete subsequent years in the case of property recoverable in three (3) years under Section 5(c)(1)).

Section 5.- Deduction under the accelerated system of recovery of cost.

- (a) In general.- Any eligible business may claim the deduction established in subsection (b) to compute its net taxable income under the Income Tax Act, with respect to the income generated in the operation described in Section 2(a)5, provided it has complied with the additional requirement of Section 4(b). The deduction shall be applicable for the first time in the taxable year in which the additional requirement of Section 4(b) is fulfilled; provided, that the investments in eligible property (as this term is defined in Section 4(c)) acquired to comply with said requirement shall qualify for the deduction granted under this section. Further, the deduction in future taxable years shall be applicable with respect to investments in eligible property acquired subsequent to compliance with the additional requirement established in Section 4(b) and prior to the expiration of the period of one hundred and twenty (120) months commencing on the date established in Section 3(b) for the commencement of the tax exemption with respect to personal and real property.
- (b) Amount of the deduction under the accelerated system of recovery of cost.

- (1) The deduction shall be calculated by applying the corresponding percentage that appears in the following tables to the cost (adjusted pursuant to Section 4(d)(1)) of the eligible property acquired and put into service during the taxable year.

PERSONAL PROPERTY

	<u>Property</u> <u>3 Years</u>	<u>Property</u> <u>5 Years</u>
<u>If the year of</u> <u>recovery is:</u>	<u>The percentage of recovery is:</u>	
1	25%	15%
2	38%	22%
3	37%	21%
4	--	21%
5	--	21%

REAL PROPERTY

<u>If the year of recovery is:</u>	<u>The percentage of recovery is (use the column that represents the month of the 1st year in which property was placed in service)</u>											
	1	2	3	4	5	6	7	8	9	10	11	12
1	10	11	10	9	8	7	6	5	4	3	2	1
2	10	10	11	11	11	11	11	11	11	11	11	12
3	9	9	9	9	10	10	10	10	10	10	10	10
4	8	8	8	8	8	8	9	9	9	9	9	9
5	7	7	7	7	7	7	8	8	8	8	8	8
6	6	6	6	6	7	7	7	7	7	7	7	7
7	6	6	6	6	6	6	6	6	6	6	6	6
8	6	6	6	6	6	6	5	6	6	6	6	6
9	6	6	6	6	5	6	5	5	5	6	6	6
10	5	6	5	6	5	5	5	5	5	5	6	5
11	5	5	5	5	5	5	5	5	5	5	5	5
12	5	5	5	5	5	5	5	5	5	5	5	5
13	5	5	5	5	5	5	5	5	5	5	5	5
14	5	5	5	5	5	5	5	5	5	5	5	5
15	5	5	5	5	5	5	5	5	5	5	5	5
16	-	-	1	1	2	2	3	3	4	4	4	5

(c) Classification of the eligible property on the basis of recovery period. The eligible property shall be classified pursuant with the following recovery periods:

(1) Property recoverable in 3 years - this classification shall include the following personal property possessed and utilized in the operations enumerated in Section 2(a)(5):

- (a) automobiles;
- (b) trucks whose unloaded weight does not exceed 13,000 pounds;
- (c) light tractors to be used in tasks of conservation and landscape maintenance in general;
- (d) tableware of crystal, porcelain, cooking utensils, linens (cloths and napkins) and towels.

- (2) Property recoverable in 5 years - this classification includes any other type of personal property that is not included in clause (1) and is utilized in operations enumerated in Section 2(a)(5).
- (3) Property recoverable in 15 years - this classification includes the real property utilized in the operations enumerated in Section 2(a)(5).
- (d) Selection of an alternate period and percentage of recovery. The businesses may prolong the period of recovery established in subsection (c) by selecting from one or more of the following classifications of eligible property:

- (1) Periods. An alternate period of recovery on the basis of the following table:

<u>Recoverable Property</u>	<u>Alternate Periods of Recovery</u>
Personal -- 3 years	3, 5 or 12 years
Personal -- 5 years	5, 12 or 25 years
Personal (sic) -- 15 years	15, 35 or 45 years

- (2) Percentage. An alternate percentage of recovery equal to what results from dividing the cost of the property acquired and placed in service during the taxable year during the alternate period of recovery provided in clause (1). In the case of property recoverable in 3 and 5 years, a single alternate period shall be selected for each classification. In the case of property recoverable in 15 years, an alternate period may be selected for each piece of real property individually.

(e) Special Rules.

- (1) Flexible depreciation. Eligible businesses that take advantage of the benefits of subsection (a) shall be prohibited from taking the deduction for flexible depreciation to which reference is made in Section 114A of the Income Tax Act with respect to eligible property.
- (2) Profits and benefits - adjustment for depreciation under the accelerated system of recovery of cost. Computation of the profits and benefits of a

corporation or partnership that operates an eligible business that takes advantage of the benefits of this section shall be made by using the following periods and percentages of recovery:

- (a) Period -- a period of recovery shall be used based on the following table:

<u>Recoverable Property</u>	<u>Period of Recovery</u>
Personal -- 3 years	5 years
Personal -- 5 years	12 years
Real -- 15 years	35 years

- (b) Percentage of recovery -- a percentage of recovery shall be used that is equal to the results of dividing the cost of the properties depreciated under this Section (without the adjustment to which reference is made in Section 4(d)(1) by the period that is provided in paragraph (a).

Section 6.- Option of conversion in exchange for benefits under this Act.

- (a) Conversion. Any exempted business under the Industrial Incentives Act that would be an eligible business under Section 2(a)(5) hereof shall be considered an eligible business and shall enjoy the tax incentive provided in Section 3, 4 and 5 (provided it complies with the requirements of said Sections), and the additional incentive under subsection (b), if:
- (1) within the twelve (12) months following the approval hereof it resigns its tax exemption decree issued under the Industrial Incentives Act and obtains a certificate accrediting said resignation from the Office of Industrial Tax Exemption; and
 - (2) together with the notification to the Secretary of the Treasury provided in Section 8(c), files the certificate to which reference is made in clause (1).
- (b) Additional incentive. Twenty-five (25) percent of the income from any exempted business that exercises the option to which reference is made in subsection (a) and that is derived from the operations described in Section 2(a)(5)

shall be exempted from income taxes during a period of ten (10) years that shall commence from the date on which it resigns its tax exemption decree, provided it fulfills the requirement of subsection (a).

- (c) Distributions. The distribution of dividends or profits (as well as distributions in liquidation) made by a corporation or partnership that has been an exempted business and that has exercised the option provided in subsection (a) shall be considered made (except for written determination to the contrary in the resolution declaring the distribution) from the surplus accumulated during the period in which it enjoyed tax exemption under the Industrial Incentives Act and shall be governed by the provisions of the law under which it was being regulated. Once said surplus is exhausted, the provisions of the Income Tax Act shall apply.

Section 7.- Denial, Revocation and Limitation of the Benefits of this Act.

- (a) The Governor of Puerto Rico may deny any request filed under Section 9(d) when he determines, in his sound discretion, that the grant will not result in the best economic and social interest of the people of Puerto Rico, based on the facts presented for his consideration by the agencies that file reports regarding the request and in view of the nature of the physical facilities, the number of jobs, the total payroll, the investment, the location of the project, its environmental impact or other factors that merit such determination in his judgement.

The applicant, once having been notified of a denial by virtue of the provisions of this subsection, may request a first and only reconsideration from the Governor within ninety (90) days after having received the notification, citing the facts and arguments regarding his request that he may understand are best for him, and including the offer of any consideration in the benefit of the people of Puerto Rico that he may deem makes the reconsideration of his request meritorious. In reconsidering the request, the Governor may accept any other term or condition that does not exceed the benefits provided hereby, which in his sound criteria may be necessary to assure the best interests of the people of Puerto Rico and the purposes of tourist development proposed hereby.

- (b) The basis and procedures for revocation. the Governor, or the person whom he designates, may revoke the tax benefits granted hereunder, after permitting the person enjoying them to appear and be heard, subject to the recommendation of the Economic Development Administrator, the Director of the Tourism Company and the Secretary of the Treasury, as provided below:
- (1) The Governor, or the person he may designate, may determine that such revocation be effective from the date on which the concessionaire incurred the failure on which the determination is based, in the following cases:
- (A) When the concessionaire has not complied with any of the obligations that may have been imposed by this Act, by the regulations promulgated hereunder, or by the terms contained in the approval of his request, as the case may be.
- (B) When the concessionaire suspends the operation of the eligible business for more than sixty (60) days without the Governor's authorization, or that of the person he may designate. The latter must authorize such suspensions for periods of more than sixty (60) days when they are motivated by causes beyond the control of the concessionaire.
- (C) In the case of a hotel, condohotel or Puerto Rican inn, when the concessionaire operates same in violation of existing provisions of the Code of Minimum Requirements for Hotels Exempt from Taxes or the Regulation of Minimum Requirements for Puerto Rican Inns. The Governor, or the person he may designate, may mitigate this revocation, limiting its effects to the suspension of the benefits hereof for periods no less than a year. The suspension periods shall be taken into consideration in computing the duration period of the benefits hereof. Provided, that in case the Puerto Rican inn is separate from the inn program sponsored by the Puerto Rican Tourism Company, the tax exemption and other benefits enjoyed by said Puerto Rican inn shall be suspended for the term during which it is separated from the program.

(D) When the benefits hereof have been obtained by false or fraudulent representations on:

- (i) the nature of the eligible business;
- (ii) the use that may or will be given to business property;
- (iii) any other facts or circumstances that motivated the concession in total or in part.

Section 8. - Administration; Granting of Benefits; Penalties.

- (a) Except when anything else is provided herein, the Secretary of the Treasury shall be in charge of the administration of, and shall exercise the powers, shall carry out the duties and shall comply with the obligations imposed hereby. The Secretary of the Treasury shall prepare, in consultation with the Economic Development Administrator and the Director of the Tourism Company, such regulations as may be necessary to put the provisions and purposes of this Act into effect.
- (b) During the effectiveness hereof (as well as during the periods when it may be extended beyond its expiration date under Sections 3, 4, 5, and 6), all other fiscal laws, including, but without limitation, the Industrial Incentives Act, the Excise Act, the Income Tax Act, the Municipal License Act and laws regarding taxes on personal and real property, shall remain in effect with regard to eligible businesses (except when they may be manifestly incompatible therewith), including but without limitation, the obligation to file returns, file reports, pay taxes and the procedures related to assessment, imposition and collection of excises and taxes. Provided, that the persons who operate eligible businesses shall be obliged to maintain separately the accounting related to operations to which reference is made in Section 2(a)(5), and provided, further, that the taxes on income deriving from activities described in Section 2(a)(5) shall be computed separately. The Secretary of the Treasury is hereby authorized to impose by regulation or other manner the conditions with respect to the enjoyment of any exemption or benefit hereunder, when said conditions are necessary to assure the proper fulfillment of the terms and purposes under which the exemption or benefit is granted. The requirements that the Secretary may impose may include,

among others, requiring the filing of returns or reports, the maintenance of accounting books and records, the submission of any document or evidence he may judge pertinent to the exemption or benefit, the filing of a bond, the granting of permits for periodic or other types of inspections, and the prior filing of contracts, orders or other information related with permits to acquire, transfer, sell or introduce articles exempted under Section 3(a)(3).

- (c) Eligible businesses that wish to take advantage of the benefits hereof must notify the Secretary of the Treasury of their election. In the case of eligible businesses described in Section 2(a)(5)(B) said notification must be accompanied by the letter to which reference is made in subsection (d)(3) of this Section, and in the case of eligible businesses described in Section 6(a), by the certificate of accreditation mentioned in clause (1) of said section. The Secretary of the Treasury shall promulgate regulations providing the form and manner in which such notification shall be made.
- (d) Any person who has established or who proposes the establishment in Puerto Rico of an eligible business described in Section 2(a)(5)(B) may request the Governor to determine his eligibility to receive the benefits hereof by means of filing the corresponding duly sworn request with the Office of Industrial Tax Exemption.
 - (1) Once any request is received hereunder by the Office of Industrial Tax Exemption, its Director shall send a copy to the Economic Development Administrator, The Executive Director of Tourism and the Secretary of the Treasury so that said officials may report their recommendations on it to the Governor, by means of the Director of the Office of Industrial Tax Exemption.
 - (2) Once having received the recommendation of the officials described in the above clause, the Director shall submit the request to the Governor with the recommendations of said officials.
 - (3) The Governor shall approve or deny the request, taking into account the criteria established in Sections 2(a)(5) and 7(a). Said approval or denial shall be notified by means of a letter sent to the applicant by means of the Director.

- (e) Any person who voluntarily makes, or tries to make, for himself or in the name of another person, any false or fraudulent representation in relation with any request for or grant of benefits hereunder, shall be considered guilty of a felony and if convicted, shall be punished with a fine no greater than ten thousand dollars (\$10,000) or imprisonment for a term no greater than five (5) years, or both penalties plus costs, at the discretion of the Court.

Section 9. Administrative Decisions shall be Final.

- (a) All decisions and determinations of the Governor of Puerto Rico, or the person he may designate, made under this Act shall be final and no judicial or administrative review or other motion shall be processed against them, except by specific provision to the contrary.
- (b) Any concessionaire who is adversely affected or injured by any action taken by the Governor, or the person he may designate, revoking and/or cancelling a grant of benefits pursuant with Section 7(b), shall be entitled to judicial review thereof by means of filing a motion for review with the Superior Court of Puerto Rico, San Juan Section, within thirty (30) days following the final decision or adjudication of the Governor, or the person he may designate. During the process of the judicial review, the Governor or the person he may designate are hereby authorized, when in his opinion justice so requires, to postpone the effective date of any action taken under such conditions as may be required, and to the extremes as may be necessary, to avoid irreparable damage. When such postponement is requested and denied, the Court before which the review is requested, including the Supreme Court of Puerto Rico, may decree any necessary and appropriate procedure to postpone the effective date of any action taken by the Governor or the person he may designate, to preserve the status or right of the parties until the termination of the review procedures, subject to filing a bond in favor of the Secretary of the Treasury, subject to his approval and for the total of the taxes in discovery, plus interest and penalties, plus interest computed for the period of one year at the legal prevailing rate.

Any decision or judgement of the Superior Court of Puerto Rico shall remain subject to review by the Supreme Court of

Puerto Rico by means of certiorari requested by any of the parties in the manner provided by law.

Section 10. Eligibility of a Business previously covered by this Law.

No business that is enjoying or that has enjoyed the benefits hereof shall be eligible to take advantage of its benefits again, except when the Governor determines, subject to the recommendation of the Executive Director of Tourism, the Economic Development Administrator and the Secretary of the Treasury, that the specific operation results in the best economic and social interests of the people of Puerto Rico, in view of the nature of the facilities, the number of jobs, the total payroll, the investment, the location of the project or other factor that merit such determination in his judgement.

The Governor shall exercise his power to determine under what conditions the benefits of this act must be granted again within its terms, to limit its period and/or the exemption percentage and/or the taxes to be exempted and/or the credits and/or deductions that will be applicable, and to condition the operations and the number of jobs, as may be necessary.

Section II. - Payment Plan - Special Interest.

Notwithstanding the provisions of Article 330 of the Political Code, as amended, and Act 17, 30 June 1981, the Governor may authorize the Secretary of the Treasury to approve a payment plan for the eligible business, pursuant to the definitions of Section 2(a)(5), at a special prospective interest on such personal and real property taxes that have been levied and not paid prior to the effective date hereof, in accordance with the following norms:

- (i) The Executive Director of Tourism and the Economic Development Administrator shall certify that the adoption of the payment plan is essential for the operation of the eligible business and that it will result in the best economic and social interests of the people of Puerto Rico, in view of the nature of the facilities, the number of jobs, the total payroll, the investment, the location of the project, or other factors that merit such determination in their judgement.
- (ii) The special interest to be fixed prospectively shall be nine (9) percent.

- (iii) The period granted for the payment plan shall not exceed the term of ten (10) years.
- (iv) The eligible business must be up to date in the payment of any other tax determined or fixed by the laws of the Commonwealth of Puerto Rico, including those in which it acts in the capacity of special withholding agent.

Section 12. - Tourist Cruise Ships.

The Executive Director of the Puerto Rico Tourism Company, together with the Executive Director of the Ports Authority, is hereby authorized to examine and evaluate everything related to tourist cruise ships, including wharfage charges, for the purpose of stimulating growth in the movement of passengers deriving from this important tourist traffic and to render recommendations as they may deem pertinent.

Section 13. - Separability.

If any section, subsection, paragraph, sub-paragraph, clause or part hereof be declared unconstitutional by a court of competent jurisdiction, the decision handed down to that effect shall not affect, prejudice or invalidate the rest hereof, its effect being limited to the section, subsection, paragraph, sub-paragraph, clause or part hereof that was thus declared unconstitutional.

Section 14. - Clause of Effectiveness.

This Act shall become effective immediately after its approval and shall continue in effect for a period of ten (10) years following its approval. After that date neither notifications nor requests to be considered hereunder shall be admitted. Provided, that the periods of exemption, credits and deductions that are established in Sections 3, 4, 5 and 6 shall not be diminished because of the expiration of the Act.

