

DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE OF PUERTO RICO

San Juan, Puerto Rico

DEPARTMENT OF STATE

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Approved Hon. Kenneth D. McClintock
Secretary of State

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Acting, Assistant Secretary for Services

REGULATION TO IMPLEMENT THE PROVISIONS OF ACT 153, THE "ACT TO CREATE
THE SPECIAL VIEQUES-CULEBRA ECONOMIC DEVELOPMENT ZONE"

MO-DEC-010

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GOVERNMENT OF PUERTO RICO
DEPARTMENT OF ECONOMIC DEVELOPMENT
AND COMMERCE OF PUERTO RICO
INDUSTRIAL DEVELOPMENT COMPANY OF PUERTO RICO

**REGULATION TO IMPLEMENT THE PROVISIONS OF ACT 153,
THE "ACT TO CREATE THE SPECIAL VIEQUES-CULEBRA ECONOMIC
DEVELOPMENT ZONE"**

MO-DEC-010

I. TITLE

Regulations to Implement the Provisions of Section 7(b) of Act 153 – 2002, Known as the "Act to Create the Special Vieques-Culebra Economic Development Zone," promulgated under Sections 3 and 7(b) of the Act.

II. LEGAL BASIS

This Regulation is adopted pursuant to Sections 3 and 7(b) of Act 153 – 2002, known as the "Act to Create the Special Vieques-Culebra Economic Development Zone."

III. RULES

- A. Section 2(a) of Act 153 designates Vieques and Culebra as a Special Economic Development Zone. The purposes of Act 153 are to achieve social and economic justice for our Puerto Rico brothers and sisters residing in these municipalities and to ensure the economic development of the municipalities by using targeted incentives to encourage economic development within the Special Economic Development Zone.
- B. Pursuant to Section 7(b) of Act 153, half of the net income obtained from the Sale of Services Performed in the Special Economic Development Zone, the sale of Industrial Products Produced in the Special Economic Development Zone, the sale of Tourist Products Produced in the Special Economic Development Zone, the sale of Cultural Products Produced in the Special Economic Development Zone, and the sale of Agricultural Products Produced in the Special Economic Development Zone shall be exempted from payment of income taxes.
- C. Persons with income that meets the requirements of section 7(b) of Act 153, and who comply with the application requirements of this Regulation, may receive the benefits of section 7(b) for a period of thirty (30) years from the date on which they avail themselves of the benefits of Act 153. A

person is considered to have availed itself of the benefits of Act 153 as of the first day of the taxable year during which such Person applies for benefits from the Department of Economic Development and Commerce of Puerto Rico, provided that such application is approved.

- D. These Regulations shall be interpreted liberally in order to comport with their stated purposes and goals of enhancing economic development in Vieques and Culebra.

IV. DEFINITIONS

Capitalized terms defined by the Act shall have the meaning assigned to them by the Act. Where the meaning of a term defined in the Act is clarified herein, such term shall have the meaning given to it by the Act, as clarified by these Regulations.

A. Person – The term Person shall have the meaning accorded to that term in section 1010.01(a)(1) of the Internal Revenue Code for a New Puerto Rico (the “Code”), and shall include a sole proprietorship. A sole proprietorship means an unincorporated business conducted by an individual who is the sole owner of such business.

B. Sale of Services – The Sale of Services means the sale of services for compensation in the regular course of business to a third party customer, including but not limited to, legal, accounting, investment management, investment banking, consulting, information technology, human resources, personal hygiene, salon, construction, building repair and maintenance, janitorial, travel agent, architectural, real and personal property rentals, and medical services, that are performed by a Person in connection with that Person’s trade or business. The Sale of Services shall not include work as an employee for salary or wages or any work performed by an individual in the individual’s capacity as an investor for that individual’s own account. The Sale of Services Performed in the Special Economic Development Zone also includes the Sale of Tourist Services Performed in the Special Economic Development Zone, except that subparagraphs III.E.3.a through h, below, shall not apply to such sales. Only the Sale of Services Performed in the Special Economic Development Zone shall be taken into account in performing the required computations. The Sale of Services shall be considered the Sale of Services Performed in the Special Economic Development Zone as further described below.

1. The Sale of Services is the Sale of Services Performed in the Special Economic Development Zone if at least seventy-five (75) percent of the total work-hours during the taxable year spent performing such services are performed by individuals located in the Special Economic Development Zone.

- (a) The provisions of this subparagraph are illustrated by the following example:

Example 1: Company A engages in the Sale of Services. Company A has ten employees, each of whom works 1,500 hours a year on the sale of such services. Eight of those employees work from Culebra and the other two from San Juan. The Sale of Services occurs in the Special Economic Development Zone because at least 75% of the hours worked are worked in Culebra. This is true regardless of the relative value of the services performed inside and outside of Culebra. Company A's Sale of Services is the Sale of Services Performed in the Special Economic Development Zone.

B. The Sale of Services is the Sale of Services Performed in the Special Economic Development Zone if at least fifty (50) percent but less than seventy-five (75) percent of the total work-hours during the taxable year spent performing such services are performed by individuals located in the Special Economic Development Zone, subject to the exception in subparagraph III.E.3.b.1.

(a) Notwithstanding the foregoing, if less than seventy-five (75) percent of the total work-hours in the taxable year spent performing the Sale of Services are performed within the Special Economic Development Zone, and if the work performed outside of the Special Economic Development Zone in connection with the Sale of Services is performed within Puerto Rico, and if the Secretary of Economic Development and Commerce (the "Secretary") determines that the value of the work-hours spent performing such services in the Special Economic Development Zone as compared to the value of all work-hours spent performing such services in Puerto Rico is substantially and disproportionately less than the percentage of work-hours spent performing such services in the Special Economic Development Zone, then the Secretary may deem that the Sale of Services is not the Sale of Services Performed in the Special Economic Development Zone, unless the Secretary determines that allowing such sales of services to qualify as the Sale of Services Performed in the Special Economic Development Zone is in the Best Social and Economic Interests of Puerto Rico.

(b) The provisions of this subparagraph are illustrated by the following examples:

Example 1: Company A performs consulting services, and has ten full-time employees. Seven are low-paid, unskilled workers who perform their work in the Special Economic Development Zone. Three are highly paid, skilled workers who perform their work in San Juan, outside of the Special Economic Development Zone. Even though 70 percent of the total work-hours spent performing services are performed by individuals physically located in the Special Economic Development Zone, the Secretary may determine that the services do not constitute the

Sale of Services Performed in the Special Economic Development Zone.

Example 2: Assume the same facts as Example 2, but Company A's highly paid, skilled workers are located in Miami. The Secretary may not determine that the services do not constitute the Sale of Services Performed in the Special Economic Development Zone, because the highly paid, skilled workers do not perform their services in Puerto Rico. Company A's Sale of Services is the Sale of Services Performed in the Special Economic Development Zone.

- C. If less than fifty (50) percent, but at least twenty-five (25) percent of the work-hours spent performing services which constitute the Sale of Services in the taxable year are performed by individuals located in the Special Economic Development Zone, the Secretary may only determine that the Sale of Services is the Sale of Services Performed in the Special Economic Development Zone if doing so would further the Best Social and Economic Interests of Puerto Rico. If the Secretary so determines, only the income attributable to work-hours performed in the taxable year in the Special Economic Development Zone shall be income from the Sale of Services Performed in the Special Economic Development Zone.
- D. If less than twenty-five (25) percent of the work-hours spent performing services which would constitute the Sale of Services in the taxable year are performed by individuals located in the Special Economic Development Zone, the services shall not constitute the Sale of Services Performed in the Special Economic Development Zone.
- E. Notwithstanding subparagraphs B.1 through d the sale of professional services to facilitate the construction, design, sale, or rental of real property and the rental of real property, including but not limited to legal, architectural, real estate brokerage, and construction management services, shall be treated as the Sale of Services Performed in the Special Economic Development Zone, even if such services would otherwise be treated as performed outside the Special Economic Development Zone, if the property constructed, designed, sold, or rented is located within the Special Economic Development Zone. If the individuals performing the services are located outside of the Special Economic Development Zone, then such services will only qualify for the benefits of the Act if the fee or rate charged to the customer in the Special Economic Development Zone for the services of the particular professional(s) rendering such service is at least ten (10) percent less than the average fee or rate charged for such services by that Business to customers in Puerto Rico but not in the Special Economic Development Zone. The Business claiming benefits bears the burden of proving that such rates qualify under this subparagraph. The Secretary may require the service provider to provide proof of its charges both within and outside the Special Economic Development Zone to verify that this ten (10) percent test is met.

- F. The calculations of the work-hours expended performing the Sale of Services Performed in the Special Economic Development Zone and work that does not qualify as the Sale of Services Performed in the Special Economic Development Zone shall be determined on an annual basis.
- G. The provisions of this paragraph are illustrated by the following examples:

Example 1: Business A is a San Juan sole proprietorship run by Individual B, an accountant. In Year 1, Individual B spends 1,000 hours providing accounting services through Business A, 750 of which are performed in Vieques. In Year 1, the entire provision of accounting services constitutes the Sale of Services Performed in the Special Economic Development Zone, and income from it is subject to Section 7(b) of the Act. In Year 2, Individual B again spends 1,000 hours on the project, but only performs 200 hours of the work in Vieques. In Year 2, the project does not constitute the Sale of Services Performed in the Special Economic Development Zone, because less than 25% of the hours spent in performing the Sale of Services in Year 2 were performed in the Special Economic Development Zone.

Example 2: Assume the same facts as Example 1, except that in Year 2, Individual B spends 450 hours providing accounting services from Vieques. The Secretary may determine that the Sale of Services was the Sale of Services Performed in the Special Economic Development Zone if doing so would further the Best Social and Economic Interests of Puerto Rico, in which case only the income attributable to work-hours performed in the taxable year in the Special Economic Development Zone shall be income from the Sale of Services Performed in the Special Economic Development Zone, and income from it is subject to Section 7(b) of the Act.

- C. Sale of Tourist Services** – The Sale of Tourist Services includes, but is not limited to, the provision of lodging, food, ticket purchase, tour guide, beach services, eco-tourism services, hotel management, cleaning services, catering, event planning; watercraft rentals, aviation rentals and charters, sporting and recreational goods sales and rentals; athletic and recreational activities such as bicycling, kayaking, boating and fishing rentals and charters, SCUBA, sailing, flying, hang gliding, parachuting, windsurfing, horseback riding, and snorkeling; lessons in how to produce artisan products and lessons on the history and culture of such products, the rental of property for tourist activities, wholesale supply of goods to tourist establishments, transportation services to and from the Special Economic Development Zone, and transportation services in the Special Economic Development Zone. The Sale of Tourist Services also includes making available for purchase goods traditionally offered at tourist establishments and in support of tourist establishments, such as souvenirs, alcohol and spirits, cigars, clothing, accessories, jewelry, shoes, books, equipment necessary for athletic and recreational activities, music, musical instruments, local artifacts, art, photography, housewares, furniture, health and beauty aids, food, and beverages. The Sale of Tourist Services also includes lessons in any of the

activities herein mentioned, or other activities that qualify as Sale of Tourist Services. The Sale of Tourist Services shall be considered the Sale of Tourist Services Performed in the Special Economic Development Zone as further described below.

1. The Sale of Tourist Services is the Sale of Tourist Services Performed in the Special Economic Development Zone if the transactions between the business seeking exemption under the Act and its customer take place within the Special Economic Development Zone and at least fifty (50) percent of the work-hours spent in the operations which constitute the Sale of Tourist Services during a taxable year are performed by individuals located in the Special Economic Development Zone. If less than fifty (50) percent, but more than twenty-five (25) percent, of the annual work-hours spent performing services which constitute the Sale of Tourist Services are performed by individuals located in the Special Economic Development Zone, the Secretary may determine that the Sale of Tourist Services constitutes the Sale of Tourist Services Performed in the Special Economic Development Zone if doing so would further the Best Social and Economic Interests of Puerto Rico. The production of the goods whose sale constitutes the Sale of Tourist Services shall not be subject to this fifty (50) percent test, but instead may qualify for the benefits of the Act if it satisfies the applicable test in Paragraphs 4-7 of these Regulations.
2. A transaction between the business seeking exemption under the Act and its customer takes place within the Special Economic Development Zone when (1) both the business seeking exemption and the customer are physically present in the Special Economic Development Zone; or (2) the customer receives the benefits of such transaction while within the Special Economic Development Zone.

- (a) The provisions of this subparagraph are illustrated by the following example:

Example 1: Company A is a tour company that performs its services from Vieques. Customer, while in San Juan, calls Company A to book an eco-tour in Vieques for the following month. Because Customer takes the eco-tour in Vieques and Company A performs all of its services from Vieques, the Sale of Tourist Services is the Sale of Tourist Services Performed in the Special Economic Development Zone.

Example 2: Customer, located in Vieques, orders a piece of furniture from an online retailer located in San Juan. The piece of furniture is produced in and ships from Ponce to the customer in Vieques. Customer receives the benefits of this transaction while within the Special Economic Development Zone so the transaction does occur in the Special Economic Development Zone. However, this is not a Sale of Tourist Services Performed in the Special Economic Development Zone because at least 50 percent of the

work hours spent performing the sale of the furniture was not performed within the Special Economic Development Zone.

- D. Industrial Products Produced in the Special Economic Development Zone** – Industrial Products Produced in the Special Economic Development Zone include tangible property that is assembled or manufactured within the Special Economic Development Zone. Industrial Products shall be treated, solely for purposes of these Regulations, as produced in the Special Economic Development Zone if they would be treated as manufactured or produced in whole or in part in Puerto Rico under section 2101(a)-1(c)(3) of the Internal Revenue Code of 1994 Regulations, substituting “Special Economic Development Zone” for “Puerto Rico” in such section. Industrial Products Produced in the Special Economic Development Zone may be sold to buyers located outside of the Special Economic Development Zone.
- E. Tourist Products Produced in the Special Economic Development Zone** – Tourist Products Produced in the Special Economic Development Zone include souvenirs, alcohol and spirits, cigars, clothing, accessories, jewelry, shoes, books, music, musical instruments, local artifacts, art, photography, housewares, furniture, health and beauty aids, food and beverages, and other items that might cater to visitors from outside of the Special Economic Development Zone. Tourist Products shall be treated, solely for purposes of these Regulations, as produced in the Special Economic Development Zone if they would be treated as manufactured or produced in whole or in part in Puerto Rico under section 2101(a)-1(c)(3) of the Internal Revenue Code of 1994 Regulations, substituting “Special Economic Development Zone” for “Puerto Rico” in such section. Tourist Products Produced in the Special Economic Development Zone may be sold to buyers located outside of the Special Economic Development Zone.
- F. Cultural Products Produced in the Special Economic Development Zone** – Cultural Products Produced in the Special Economic Development Zone include art, artisan products, music, musical instruments, dance, crafts, storytelling, and other products that showcase the history and culture of Vieques and Culebra, and of Puerto Rico. Cultural Products shall be treated, solely for purposes of these Regulations, as produced in the Special Economic Development Zone if they would be treated as manufactured or produced in whole or in part in Puerto Rico under section 2101(a)-1(c)(3) of the Internal Revenue Code of 1994 Regulations, substituting “Special Economic Development Zone” for “Puerto Rico” in such section. Cultural Products Produced in the Special Economic Development Zone may be sold to buyers located outside of the Special Economic Development Zone.
- G. Agricultural Products Produced in the Special Economic Development Zone** – Agricultural Products Produced in the Special Economic Development Zone includes agricultural products that are grown in the Special Economic Development Zone in commercial quantities. “Commercial quantities” means products that are grown for regular sale to others, or for use in products that will be sold regularly to others. Agricultural Products include, but are not limited to, livestock, poultry, fish caught from the wild, fish produced in fish

farms, fruit, coffee, tobacco, vegetables, furbearing animals, as well as the products of farms, ranches, nurseries, ranges, and orchards. Livestock products are produced in the Special Economic Development Zone when the livestock from which such products are derived spend at least twenty-five (25) percent of their lives in the Special Economic Development Zone. Fish and other aquatic animals caught in the wild are produced in the Special Economic Development Zone if the vessel on which they are caught departs from and returns to a port in the Special Economic Development Zone, offloads the fish or other aquatic animals caught in the wild in the Special Economic Development Zone, and the fish or other aquatic animals caught in the wild are processed for consumption in the Special Economic Development Zone. Agricultural Products Produced in the Special Economic Development Zone may be sold to buyers located outside of the Special Economic Development Zone.

- H. Best Social and Economic Interests of the Special Economic Development Zone** – In determining what constitutes the Best Social and Economic Interests of the Special Economic Development Zone, the Secretary shall take into account the purposes for the Act, and may consider such factors as the compliance of a business with the requirements of Puerto Rico law generally, the special nature of the business exempted or seeking exemption under the Act, the employment that the business exempted or seeking exemption provides and the nature of the jobs it provides, including the number of new jobs generated, the average salary, the total payroll attributable to the business, the importance of having a local supplier of the goods or services subject to the exemption to the economic growth of the Special Economic Development Zone, the potential for future growth and expansion of the business, the amount of the investment in property, plant and equipment, its environmental impact, whether the business passes a meaningful portion of the benefits available to it under the Act through to its customers through reduced prices, more favorable terms of sale, or otherwise, or other factors that in his judgment merit said determination. None of these factors is determinative; each is merely a factor for the Secretary to consider. The Secretary retains the authority to refuse to certify a business where he concludes that its activities will harm social and economic conditions in the Special Economic Development Zone or it has or will engage in a step or series of steps designed to enable it to benefit from the reduction in tax rates offered by the Act without serving the purposes of the Act.
- I. Best Economic and Social Interests of Puerto Rico** – In determining what constitutes the Best Economic and Social Interests of Puerto Rico, the Secretary may consider such factors as the compliance of a business with Puerto Rico Laws in general, the special nature of the business receiving or seeking to receive the benefits under the Act, the technology and intellectual property generated or used, the employment level that the business receiving or seeking to receive the benefits under the Act provides in Puerto Rico and the nature of the jobs it provides, including the number of new jobs generated, the average salary, and the total payroll attributable to the business, the location of the business, the potential for the business to acquire resources

needed for its operations from local suppliers, the potential for future growth and expansion of the business, with a particular focus on the creation and maintenance of high-paying professional and technical jobs, the ability of the business to attract new businesses and economic opportunities to Puerto Rico, or other factors that in the judgment of the Secretary merit said determination, as well as the recommendations of the agencies that render reports and recommendations on applications for a Grant under the Act. None of these factors is conclusive; each is merely a factor for the Secretary to consider.

J. Benefits Under the Act – Half of Net Income Subject to Section 7(b) of the Act shall be exempted from the payment of income taxes, pursuant to the procedures established in these Regulations. The half of Net Income not Subject to Section 7(b) of the Act will be subject to the Code and such other incentive laws that may apply.

K. Net Income – Net Income is taxable income as defined in the Internal Revenue Code for a New Puerto Rico.

L. Income Subject to Section 7(b) of the Act – Income that is Subject to Section 7(b) of the Act is income that is derived from or attributable to the Sale of Services (including Sale of Tourist Services) Performed in the Special Economic Development Zone, the sale of Industrial Products Produced in the Special Economic Development Zone, the sale of Tourist Products Produced in the Special Economic Development Zone, the sale of Cultural Products Produced in the Special Economic Development Zone, and the sale of Agricultural Products Produced in the Special Economic Development Zone.

1. The provisions of the preceding paragraph are illustrated by the following example:

Example: Company X is treated under these Regulations as producing widgets in the Special Economic Development Zone. Company X also produces widgets outside the Special Economic Development Zone. All of Company X's income associated with the widgets Produced in the Special Economic Development Zone shall qualify as Income Subject to Section 7(b) of the Act, but none of its income associated with widgets that are not Produced in the Special Economic Development Zone shall qualify as Income Subject to Section 7(b) of the Act.

M. Net Income Subject to Section 7(b) of the Act – Net Income Subject to Section 7(b) of the Act is Net Income, calculated using only Income Subject to Section 7(b) of the Act and the deductions properly associated with earning such income. Where a business has Income Subject to Section 7(b) of the Act and income that is not subject to Section 7(b) of the Act, it must allocate income and deductions as provided in these Regulations.

N. Allocation of Revenues and Deductions – If a Person has Income Subject to Section 7(b) of the Act, and also has income that is not subject to benefits under the Act, it shall allocate revenues and deductions to each in a commercially reasonable manner. The method provided in section 1123(e) of

the Internal Revenue Code of 1994 and the regulations thereunder shall be a commercially reasonable method.

1. Allocation of Revenues

- a. **Reasonable Manner** – If such Person maintains books and records through which revenue is or may be clearly allocated based on where the activities occurred to which that income is attributable, this shall be a reasonable manner of allocating revenues.

- (1) The provisions of the preceding subparagraph are illustrated by the following example:

Example: Company B earns income in the Special Economic Development Zone and also in other parts of Puerto Rico. Company B's books allocate revenues based upon where the services giving rise to that income were performed. Company B's books employ a reasonable manner for allocating income.

- b. **Alternate Reasonable Manner** – If such Person's books and records do not allow for the clear allocation of revenues based on where the services were performed, then revenues shall be allocated in another commercially reasonable manner. The revenues included in Income Subject to Section 7(b) of the Act shall be only those revenues attributable to the Sale of Services Performed in the Special Economic Development Zone, the sale of Industrial Products Produced in the Special Economic Development Zone, the sale of Tourist Products Produced in the Special Economic Development Zone, the sale of Cultural Products Produced in the Special Economic Development Zone, and the sale of Agricultural Products Produced in the Special Economic Development Zone.

2. Allocation of Deductions

- A. Deductions that are definitely related to Income Subject to Section 7(b) of the Act shall be allocated to such Income Subject to Section 7(b) of the Act.
- B. Deductions that are definitely related to income not subject to section 7(b) the Act shall be allocated to such income not subject to section 7(b) under the Act.
- C. Deductions that are not definitely related to any item of income, such as overhead and administrative expenses, shall be allocated based on the ratio of the Income Subject to Section 7(b) the Act, or not subject to the Act, as the case may be, to the total income of the Person.
- D. The provisions of this preceding paragraph are illustrated by the following example:

Example 1: Travel Agency A has \$100,000 of gross income, \$45,000 of which is Income Subject to Section 7(b) of the Act. Travel Agency A has offices in Vieques and San Juan. It has three employees: Agent B, who works in San Juan and sells trips outside the Special Economic Development Zone, Agent C, who works in Vieques, and Secretary, who supports both agents. Travel Agency A's overhead expenses include insurance, rent, and utilities. Travel Agency A may deduct from the \$45,000 of Income Subject to Section 7(b) of the Act Agent C's compensation. Travel Agency A may deduct from the \$45,000 of Income Subject to Section 7(b) of the Act 45 percent ($\$45,000/\$100,000$) of overhead expenses and Secretary's compensation.

3. A Person obtaining benefits under the Act must keep its books and records in a manner that allows the Department of the Treasury to determine that the income and deductions are properly allocated to Income Subject to Section 7(b) of the Act. The Department of the Treasury may adjust the allocation of income and deductions to reflect Net Income Subject to Section 7(b) of the Act more accurately.

O. Procedure for Obtaining Benefits Under the Act – In order to obtain benefits under the Act, a Person must submit to the Department of Economic Development and Commerce of Puerto Rico an application that sets out the following information on the application form provided by the Secretary. Such application must be signed and sworn by an officer or twenty-five (25) percent or greater owner of the Person.

1. Information required for application:

- (a) Name
- (b) Address
- (c) Phone number
- (d) Name of representative
- (e) Employer Identification Number (EIN), in the case of an entity, or Social Security number, in the case of a sole proprietorship
- (f) Merchant Registration Number
- (g) Location(s) in Vieques and Culebra
- (h) Description of business
- (i) Basis for qualification under the Act
- (j) Annual volume of business in dollars
- (k) Number of current employees

- (l) Agreement to hire from the unemployed work force of Vieques and Culebra, to the extent reasonably possible
- (m) Investment in property, plant, and equipment
- (n) Statement of current compliance with all Puerto Rico tax laws by entity and each and every twenty-five (25) percent owner
- (o) Statement of the manner in which a meaningful portion of the tax savings will be passed through to/made available to customers

B. The Department of Economic Development and Commerce of Puerto Rico retains the right to review applications and grant the exemption in the exercise of its discretion, based upon the purposes of the Act and the Best Social and Economic Interests of the Special Economic Development Zone. The Secretary or his delegate retains the authority to take the steps he deems necessary to confirm that the operations of a business granted exemption hereunder comply with the Act and the representations in the application, and may adjust the benefits or revoke the exemption in the case of non-compliance with the Act and the representations made in the application. The Secretary expressly retains the authority to revoke a Person's exemption under the Act if it has engaged in a step or series of steps designed to enable it to benefit from the reduction in tax rates offered by the Act without serving the purposes of the Act. Such revocation may be retroactive to the beginning of the taxable year of the determination of revocation, or the date of violation, whichever is earlier.

P. Date of Applicability – If an application for benefits is approved, the benefits shall be effective on the first day of the taxable year during which such Person applied for benefits.

Q. Filing Returns – To obtain benefits under this Act, the taxpayer shall complete a tax return for an Person of its type, published by the Department of the Treasury, disregarding the exemption provided for in Section 7(b) of the Act. The taxpayer shall then calculate the tax due by exempting fifty (50) percent of Net Income Subject to Section 7(b) of the Act. The taxpayer shall attach to said return the decree or grant provided by the Department of Economic Development and Commerce of Puerto Rico, exempting fifty (50) percent of such income from income tax. If the taxpayer has Income Subject to Section 7(b) of the Act and also income not subject to Section 7(b) of the Act, it must attach a statement to the return showing how the allocation of income and the associated deductions was made.

R. Flexible Year – If an Exempt Business elects that Income Subject to Section 7(b) of the Act for a specific taxable year not be covered by the tax exemption for such year, its exemption decree shall be extended for one additional year. If it so elects, it shall notify the Secretary by means of a notice attached to its tax return for such taxable year.

A Person that avails itself of the benefits of the Act is not precluded from claiming benefits available under other incentive acts, where there is no legal impediment to so doing.

V. DISCLAIMER CLAUSE

Any matter not covered by this Regulation shall be decided by the Director in accordance with the laws, regulations, executive orders and resolutions mentioned above in all matters not provided therein, shall be governed by the rules of sound public administration.

VI. SEVERABILITY

If a court with jurisdiction to declare invalid or unconstitutional any item, part, paragraph or provision of the Regulations, the decision to this effect shall not affect or invalidate the remainder thereof, and the effect will be limited to the article, part, paragraph or clause and declared.

VII. EFFECTIVE

This Regulation shall enter into force thirty (30) days after the date of its submission to the Department of State and after compliance with the provisions of Act No. 170 of August 12, 1988, as amended, entitled "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico."

APPROVED BY:



José R. Pérez-Riera
Secretary

Date: ~~November 14, 2012~~

JR December 16, 2012