

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10101 (1999)

§ 10101. Definitions

For the purposes of this part, the following terms, phrases and words shall have the meaning and scope stated below: *Industrial Development Income*.

(1) The net income of an exempted business derived from an operation declared as exempted under this part, computed according to §§ 8401 et seq. of this title, part of the "Puerto Rico Internal Revenue Code of 1994," adjusted by the special deductions provided in this part.

(2) Income from eligible investment activities described in subsection (j) of this section.

(3) Net income derived from the sale of patents, royalties or any other right to receive income related to intangible activities or properties resulting from operations declared to be exempt by this part.

(4) Income received by the exempted business as a result of foreign currency exchange rates at a given moment that can be attributed to the sale of its exempt products in foreign countries.

(5) Income from the distribution of dividends or profits by a corporation or partnership that is part of an exempt business and that may be attributed to industrial development income derived by said exempted business.

(6) Income obtained from insurance policies for interruptions in business operations, provided there is no reduction in the level of jobs in the exempted business as a result of the action that gave rise to the collection of said income. *Property intended for industrial development*.

(1) Real property, including land and improvements, or parts thereof; as well as any addition equivalent to not less than twenty-five percent (25%) of the area of the main plant engaged in the operation of an industry or an agro-industrial business, as defined by regulations under this part, which is intended for and used or owned by an exempted business in its development, organization, construction, establishment or operation.

(2) An ensemble of machinery and equipment necessary and convenient for an exempted business to perform the activity for which the tax exemption is granted, which is owned, installed, or otherwise used under contract by said exempted business. None of the provisions under this clause shall apply to leases denominated as financing leases.

(c) *Exempted business*. A business that is or will be established in Puerto Rico by a natural or juridical person, or a combination thereof; whether or not it is organized under a common name, to which a tax exemption decree has been granted under the provisions of this Part or under similar preceding laws, but excluding hotels, inns or other special facilities which are exempted businesses under preceding laws. *Eligible business*.

(1) Any industrial unit whose objective is the production of a manufactured product at a commercial scale that has not been in production before January 1, 1947, in Puerto Rico, or if in production, it has not

been produced on a commercial scale for the three (3) calendar years prior to the date of the application for a tax exemption decree for said manufactured product.

(2) Any bona fide industrial unit established permanently to produce a designated article under this part, subject to the production of a substantial quantity thereof in a continuous manner within a reasonable period of time, as recommended by the Administrator.

(3) Any industrial unit that would normally be deemed an eligible business under the preceding clauses, but that due to foreign competition caused by lower production costs and other factors, is not financially able to perform the complete manufacturing operation in Puerto Rico, since it requires some processing or finishing of the product outside of Puerto Rico. For the purposes of this clause, the Secretary of State, as recommended by the Administrator and the Secretary of the Treasury, may determine that said industrial unit is an eligible business in view of the nature of the facilities, the investment made, the number of jobs to be created in Puerto Rico, the total payroll and any other special factors that justify the same.

(4) Any service unit whose objective is to render on a commercial scale in Puerto Rico any type of designated service for markets abroad, including United States markets, provided that within a reasonable period of time it renders in a continuous manner a substantial amount of such services, as recommended by the Administrator. Also qualifying as eligible activities under this part are the operations corresponding to airport and seaport facilities whose management or ownership is privatized or that are privately managed, and in which the prices of the products sold at retail are comparable to the price levels for said products in the general community, provided they meet the investment, job creation, or economic or labor stability parameters provided in § 10107(a)(1) of this title.

In the case of service units that have been operating in Puerto Rico prior to filing their application, the fixed tax rate on industrial development income provided in § 10102 of this title shall only apply to that income obtained as a result of the increase over the annual average for rendering said services during the three (3) taxable years prior to the date the application is filed. The income equal to the average base period income shall be subject to the income tax rates provided under §§ 8006 et seq. of this title, known as the "Puerto Rico Internal Revenue Code of 1994".

In order to determine the above conditions, the rendering of services by any predecessor business shall be taken into account. For these purposes, "predecessor business" shall include any business related to the applicant business even if it had not been exempted before, and regardless of whether it had been operating under another corporate name or other owners.

(5) Property intended for industrial development.

(6) The breeding of animals for experimental use in scientific, medical and other research laboratories.

(7) Scientific or industrial research and development laboratories to develop new products and industrial processes or for their improvement.

(8) Filming and production of short and feature films; Provided, That the Secretary of State determines, with the recommendation of the Administrator and the agencies that issue reports on tax exemption decrees, that the activities that said filming and production entail, shall benefit the economy in general. The Secretary of State, with the recommendation of the Secretary of the Treasury and the Administrator, shall establish the terms and conditions in the decree, such as the limits on the term and percentage of tax exemption, the taxes to be covered by the decree, the establishment of a fixed tax rate on the industrial development income higher than that provided in § 10102(a) of this title, and the establishment of the job requirements that are necessary and convenient pursuant to the purposes of this part.

(9) Any industrial unit established after the approval of this act whose main objective is the production of energy on a commercial scale for consumption in Puerto Rico, using local renewable sources of energy such as vegetation and other forms of biomass, solid waste (as this term is defined § 1320(a) of Title 12), and direct solar and wind energy, subject to the condition that the Energy Affairs Administration of the Department of Natural and Environmental Resources approve said unit beforehand. The prior approval of the Authority is also required in the case of units that sell energy to the Electric Power Authority, or that substitute substantial amounts of energy purchased from the latter.

(10) Partial recycling activities that include the collection, classification, shredding, compacting, and storing of recyclable materials as defined in §1320(o) of Title 12, that do not involve the transformation of said materials or the manufacture of new products, taking into account the stages or degrees of complexity of the process to be performed. Provided, That the Secretary State may grant up to a maximum of the benefits provided under this part, after recommendation of the Solid Waste Authority and the agencies concerned with handling tax exemption applications.

(e) *Designated articles.* This term comprises the following manufacturing operations:

- (1) Straw, reed and fiber articles, as well as ceramics and artificial flowers.
- (2) Sporting goods and fishing tackle.
- (3) Bedsprings, mattresses and rugs.
- (4) Leather and imitation leather articles as well as leather tanning and finishing.
- (5) Bodies or platforms for trailers.
- (6) Candles, soap and paint of all kinds.

(7) Food products manufactured or substantially prepared on a commercial scale. In the case of industrial units that are operating in Puerto Rico prior to filing their application, the fixed tax rate on industrial development income provided in § 10102 of this title shall apply solely to the income obtained as a result of the increase over the annual average of such operations for the three (3) taxable years prior to the date the application was filed. Said average base period income shall be subject to the income tax rates provided under §§ 8006 et seq. of this title, known as the "Puerto Rico Internal Revenue Code of 1994". In order to determine the above conditions, the industrial production of any predecessor business shall be taken into account.

For this purpose, "predecessor business" shall include any business related to the applicant business, even if it had not been exempted before, or regardless of whether it had been operating under another corporate name or other owners.

The production of roasted and ground coffee, carbonated beverages, pasteurized milk, and traditional pastries and baked products are excluded from this designated article.

- (8) Products derived from the slaughter of poultry and rabbits, among others, and the product of packing houses that use the products derived from the slaughter as their raw material.
- (9) Cigars and cigarettes.
- (10) Perfumes, cosmetics and other toiletries.
- (11) Wearing apparel, provided it is cut in Puerto Rico, unless the Secretary of State exempts the same for just cause; hosiery, gloves, and footwear.
- (12) Edible oils and fats.
- (13) Polishing and other processing of precious and semi-precious stones.
- (14) Articles made of glass and metal containers.
- (15) Cardboard, wood pulp and boxes, cartons and other cardboard containers, except corrugated cardboard boxes, cartons, and containers produced from therefrom.
- (16) Animal feed.

(17) Book publishing, when printed in Puerto Rico, printing and binding of books, as well as other products printed, provided they can be considered as products manufactured on a commercial scale. In the case of industrial units in operation in Puerto Rico prior to filing their application, the fixed tax rate for industrial development income provided in § 10102 of this title shall only apply to income obtained as a result of the increase over the annual average of such operations during the three taxable years prior to the date the application is filed. Said average base period income shall be subject to the income tax rates provided under §§ 8006 et seq. of this title, known as the "Puerto Rico Internal Revenue Code of 1994."

For the purposes of determining the above conditions, the industrial production of any predecessor business shall be taken into account. For this purpose, "predecessor business" shall include any business related to the applicant business, even if it was not exempted previously, or even when it had been operating under another corporate name or other owners.

The production of magazines, newspapers and commercial supplements or shoppers are excluded from this designated article.

(18) Distilled spirits for export and shipping to the United States if deemed to be Puerto Rican products under applicable Federal legislation. The applicable period shall be fifteen (15) years, regardless of the area in which the industrial unit is located. In case they had been produced in Puerto Rico prior to 1975, the following will be eligible under the provisions of this part:

- (A) Income obtained as a result of the increase over the average annual production in proof gallons, for the five (5) years of the business ending on June 30, 1974;
- (B) real and personal property acquired on and after June 30, 1975, used to obtain such increase, and
- (C) municipal licenses, municipal excises and other municipal taxes that apply to the volume of business resulting from such increase.

(19) Production of sand derived from industrial processes through the crushing of stone which meets the applicable specification standards.

- (20) Commercial fishing to furnish raw material to the canneries or packing houses established in

Puerto Rico and as raw material in the production of other products in Puerto Rico.

(21) All kinds of furniture as well as carved, embellished or turned wooden articles, including souvenirs, decorations, balustrades, and other wooden articles for decorative or functional use.

(22) Processing, dubbing and editing of short and feature films.

(23) Planting and cultivation through hydroponics, as well as the intensified culture of mollusks, crustacea, fish or other aquatic creatures through aquaculture, provided these operations are performed under standards and practices approved by the Department of Agriculture of the Government of Puerto Rico.

(24) Products transformed into commercial articles derived from recyclable materials that have been recovered in Puerto Rico, subject to the condition that they contribute to the objective of developing the recycling industry in Puerto Rico with the endorsement of the Solid Waste Authority and other concerned agencies, that have tax exemption applications. As an exception, in case the recyclable materials available in Puerto Rico are not sufficient to meet the demand for said materials as required for manufacturing operations, the Secretary of State, after recommendation of the Solid Waste Authority and other concerned agencies, may authorize the applicant industrial unit to import recyclable materials to meet its needs as if they had been recovered in Puerto Rico. The Solid Waste Authority shall establish regulations to such ends, which shall include a registration and certification procedure with regard to the availability of recyclable materials in Puerto Rico market in the normal course of business, in amounts and at prices that justify the operation of an industrial or service unit as an ongoing business.

(f) Production on a commercial scale. Production for sale in the market in the normal course of business, in amounts and at prices that justify the operation of an industrial or service unit as an ongoing business.

(g) Manufactured products. Shall include products transformed from raw material into commercial articles, designated articles and any product with regard to which substantial industrial operations are carried out in Puerto Rico which, in the judgment of the Secretary of State merit to be considered as manufactured products under this part, due to their nature and extent, the technology required, the substantial number of jobs provided, or any other benefit that the operation represents for the welfare of Puerto Rico.

Subcontracting for production in Puerto Rico of one or several products or subcontracting all or part of the manufacturing process of products covered under the decree of an exempted business, shall be permissible and the industrial development income from the sale of said products manufactured in Puerto Rico under a subcontract may be exempt under the terms and conditions of the decree of the exempted business; Provided, That the Secretary of State determines beforehand that said subcontracting would be in the best interests of Puerto Rico in consideration of the factors indicated in the previous paragraph.

Industrial unit.

(1) A plant, factory, machinery or ensemble of machinery and equipment with the capacity to perform the main functions used in the production of a manufactured product or designated article at a commercial scale, even when it shares certain facilities of lesser importance with other industrial units, such as parts of buildings, powerplants, warehouses, material conveyors, or other production facilities of lesser importance, or performs certain industrial operations outside of said industrial unit. An industrial unit may subcontract its production in Puerto Rico of one or several products or all or part of the manufacturing process of products covered under the decree of an exempted business, and the subcontractor will also qualify as an industrial unit; Provided, That the Secretary of State determines that said subcontracting shall be in the best interests of Puerto Rico in consideration of the terms and conditions established in its decree.

(2) An industrial unit may use facilities in common with other industrial units of greater importance when the Secretary of State determines that said common use is necessary and convenient for the industrial and economic development of Puerto Rico, in view of the nature of the operations, the additional investment and the number of jobs generated.

(3) Any exempted business that establishes an eligible business to manufacture an article that is separate and distinct from that produced by said exempted business, with the machinery and equipment needed for an efficient operation, in addition to any other operation that has enjoyed or is enjoying an exemption, with an accounting system that clearly reflects the operation of said eligible business according to generally accepted accounting standards and principles.

(i) Service unit. A bona fide office, business or establishment with its equipment and machinery, with the capacity and expertise required to render on a commercial scale a designated service for markets outside of Puerto Rico, including markets in the United States, if in the judgment of the Secretary of State such designated service meets the provisions and purposes of this part, in consideration of the nature of the

service, the knowledge and technology required, as well as the contribution of said activity to the development of human resources in Puerto Rico and any other benefit that the service unit represents for the welfare of Puerto Rico. Provided, That not less than eighty percent (80%) of the employees, technicians and professionals of the service unit shall be residents of Puerto Rico.

It shall be understood that the service is rendered for markets outside of Puerto Rico, even when the service is rendered to another firm established in Puerto Rico which finally exports the designated service.

The service units for markets outside of Puerto Rico may operate together with the services rendered for the local market if they are able to show proof to the satisfaction of the Secretary of the Treasury of the income which is obtained from sources outside of Puerto Rico through an accounting method that reflects said transactions satisfactorily.

The designated services shall include any of the following business activities:

- (1) Commercial and mercantile distribution.
- (2) Investment banking and other financial services.
- (3) Advertising and public relations.
- (4) Economic, scientific, managerial and auditing consulting services.
- (5) Commercial and graphic arts services.
- (6) News services syndicates.
- (7) Catalog sales.
- (8) Assembly, bottling and packing operations for export.
- (9) Electronic data processing centers.
- (10) Airport and seaport facilities.
- (11) General repair and maintenance of ships and aircrafts as well as any kind of machinery and equipment, including electric, electronic, and clock and watch repair equipment.
- (12) Production of engineering and architectural plans and designs, and related services to be used in the construction of projects to be located outside of Puerto Rico.
- (13) Dental, photographic and optical and ophthalmologic laboratories.
- (14) Prefabricated houses made of any kind of material.
- (15) Marketing centers mainly engaged in providing, through leasing, service fees or other agreements, space and services such as secretarial, translating and data processing services, communications, marketing, telemarketing and other consulting services, to firms engaged in, or otherwise related to the purchase and export of products or the rendering of services for markets outside of Puerto Rico, including export and marketing companies, adjunct offices of commercial attaches, government agencies responsible for foreign trade, exchange, and product and service exhibition centers.
- (16) Central or regional corporate headquarters engaged in rendering centralized accounting, finance, tax, auditing, marketing, engineering, quality control, human resources, communications, electronic data processing services, and other centralized management services to affiliated entities.
- (17) Export of products manufactured in Puerto Rico.
- (18) *International trading companies.* For the purposes of this section, international trading companies shall mean any entity that derives not less than eighty percent (80%) of its gross income from:
 - (A) The purchase of products in or outside of Puerto Rico and their resale for use, consumption or disposition outside of Puerto Rico, and

(B) commissions derived from the sale of products for the use, consumption or disposition outside of Puerto Rico; Provided, That no part of the income derived from the sale or resale of products for their use, consumption or disposition in Puerto Rico shall be deemed to be industrial development income.

From time to time, the Governor, after favorable recommendation of the Administrator and the Secretary of the Treasury, may designate other service industries that merit being included under this part as a service unit through an Executive Order, when he/she determines that this designation shall be for the best interests and the economic and social welfare of Puerto Rico, considering the demand that may exist for said services outside of Puerto Rico, the total number of jobs to be created, the payroll, and the investment that the service unit would make in Puerto Rico, or any other additional factor that merits special consideration.

The designations thus provided shall be effective from the date of the Governor's Executive Order, and they shall be remitted to the Legislature for ratification at the beginning of the next regular session.

Said designations shall be deemed to be ratified thirty (30) days after being filed if the Legislature has not acted on them. In the event they are not approved, their effectiveness shall terminate on the date of said disapproval by the Legislature. *Income from eligible activities.*

(1) The interest and dividends on eligible funds invested by the exempted business in:

(A) Obligations issued or secured by the Government of Puerto Rico or any of its instrumentalities or political subdivisions, and loans or shares on loans granted or secured by them;

(B) loans for financing the construction, acquisition or improvement of housing in Puerto Rico;

(C) loans for the construction, expansion or acquisition of buildings or land, and for the acquisition of machinery and equipment or for operating capital used in exempted businesses. The borrower exempted business shall not qualify for the benefits of this subsection (j) with regard to the investments it makes, for up to the amount of the unpaid balance of its loans for operating capital;

(D) loans for the acquisition of intangible property to be used by exempted businesses in their operations in Puerto Rico;

(E) obligations issued by the Puerto Rico Conservation Trust; Provided, That when issuing said obligations, the Secretary of the Treasury has not revoked his/her determination of the fact that the same is a nonprofit trust according to the terms and conditions established by the Commissioner;

(F) capital obligations or preferred stock as authorized §§ 1 et seq. of Title 7, known as the "Banking Law of Puerto Rico," as well as capital obligations issued by financial institutions, Provided That the amount of capital raised through the capital obligations or preferred stock issued is invested in Puerto Rico according to the terms and conditions established by the Commissioner;

(G) obligations issued by any subsidiary of the Farm Credit Banks of Baltimore, or its successor, the AgFirst Farm Credit Bank, set aside to finance farm loans directly or indirectly with said funds, as well as to finance farmers in Puerto Rico, including loans to rural residents to finance rural housing, loans to cooperatives owned and controlled by farmers and set aside for the marketing or distribution of agricultural produce, the purchase of supplies, the rendering of services to agricultural businesses and the acquisition of loans or discounts on notes which have already been granted;

(H) loans for financing maritime and air operations related directly to trade and industry in Puerto Rico, including but not limited to the moneys used in the construction, acquisition and operation of all types of ships and aircrafts;

(I) loans made to Special Employee-Owned Corporations;

(J) corporate stock or shares in partnerships that own or operate tourist businesses exempted under §§ 6001 et seq. of Title 23, known as the "Puerto Rico Tourist Development Act of 1993," which constitute an eligible investment under § 6001(n) of Title 23;

(K) corporate stock or shares in partnerships established as Capital Investment Funds under §§ 1241 et seq. of Title 7, known as the "Puerto Rico Capital Investment Fund Act," provided the Fund invests at least twenty percent (20%) of the total revenues generated by tourist activities, and

(L) any other obligations or loans designated by the Commissioner with the approval of the members of the public sector on the Financing Board and of the Administrator.

The Commissioner is hereby authorized to issue the regulations necessary for the administration of this clause, with the approval of the members of the public sector on the Financing Board and of the Administrator.

(2) Interest on eligible ends deposited or invested by the exempted business in institutions engaged in banking, savings and loan associations, savings banks, stock brokerage firms and other similar institutions conducting business in Puerto Rico which the Commissioner, with the approval of the members of the public sector of the Financial Board and of the Administrator, determines to be eligible institutions to receive such eligible funds. The regulations on eligible institutions shall take into consideration the following factors, among others:

(A) That the eligible funds shall be invested in Puerto Rico or in a Caribbean Basin country qualified under § 936(d)(4) of the Federal Internal Revenue Code in effect as of December 31, 1994, by the institutions that receive the same.

(B) That said funds be channeled towards activities that promote production, income and jobs in Puerto Rico, such as commercial, industrial, agricultural and construction loans or for the preservation of natural resources.

Regulations issued under equal provisions of preceding laws shall continue in effect and shall apply to investments under this part until the Commissioner, with the approval of the Financial Board and the Administrator, amends or repeals said regulations or issues new regulations specifically for funds invested under this part.

Should the Commissioner determine that an institution is no longer eligible to receive such funds, such a determination shall not prevent the interest earned thereon which was invested before the institution's loss

of eligibility, from continuing to be considered as eligible interest under this Part until said investment has matured.

(3) The assets that evidence the investments that qualify under subsection (j) of this section, shall be fully exempt from the payment of property taxes.

Furthermore, income obtained from said investments shall be fully exempt from income taxes, municipal license taxes, municipal excises, and other municipal taxes. The expiration or extension of the exemption period under this part of the borrower or the lender prior to the expiration of the loan, or even before the exemption period of the borrower has commenced, shall not prevent the interest paid by the borrower or earned by the lender from being treated as income from eligible funds under this part.

(4) For the purposes of this subsection (j), the term "eligible funds" shall include funds generated by industrial or service activities covered by an exemption decree under this part, (including the extension under § 10107(c) of this title and the taxable years covered by the option of § 10105(f) of this title) or similar provisions of preceding laws, in addition to their earned or accrued income on said funds during the term they have been invested in Puerto Rico or abroad prior to October 1, 1976. *Exempted predecessor business.*

(1) Any business that is or was exempted under this part or preceding laws for the conduct of a business activity substantially similar to the one specified in the decree of a successor business; and

(2) twenty-five percent (25%) or more of its issued and outstanding stock or other interest on property is or was owned by the successor business or by any of the stockholders or owners of the successor business who own twenty-five percent (25%) or more of the stock or other interest on property of the successor business. This last requirement shall not apply when reference is made to an exempted predecessor business in § 10110(a)(4) of this title.

(A) The holding of stock or other interest on property shall be determined according to the rules concerning the holding of corporate stock or shares in partnerships under §§ 8401 et seq. of this title, known as the "Puerto Rico Internal Revenue Code of 1994."

(B) If any of the stockholders or owners of a successor business affected by said rules can prove to the satisfaction of the Secretary of the Treasury that the capital invested or to be invested in the successor business does not proceed directly or indirectly from their spouses, lineal ancestors or descendants, or siblings, but proceeds from their own private money, such rules shall not apply to them.

(l) *Successor business.* Any business that obtains a decree under this part to conduct a business activity substantially similar to that specified in the decree of an exempted predecessor business.

(m) *Industrial tax exemption grant.* Shall have the same meaning as "exemption decree," "tax exemption," or merely "exemption" or which can be used interchangeably as may be convenient for the purpose of explaining what is provided in the text.

(n) *Extraordinary circumstances.* Any cause of an exceptional nature such as strikes, wars, actions by the Government or the elements, fire and others, or any other cause beyond the control of the successor business or the exempted predecessor business.

(o) *Definitions of other terms.* For the purposes of this part, "Governor" means the Governor of Puerto Rico; "Administrator" means the Economic Development Administrator; "Director" means the Director of the Industrial Tax Exemption Office; "Commissioner" means the Commissioner of Financial Institutions, created by §§ 2001 et seq. of Title 7; "Financing Board" means the Financing Board attached to the Office of the Commissioner of Financial Institutions created by §§ 2001 et seq. of Title 7; "Exemption Office" shall mean the Industrial Tax Exemption Office; "Puerto Rico Internal Revenue Code" means the Puerto Rico Internal Revenue Code of 1994, §§ 8006 et seq. of this title; "Federal Internal Revenue Code" shall mean the United States Internal Revenue Code of 1986, Pub. Law 99-514, 68A Stat. 3, as amended.

The remaining terms used in this part, unless otherwise specifically provided, shall have the same meaning that they have in the "Internal Revenue Code of Puerto Rico," and its regulations.

HISTORY: Dec. 2, 1997, No. 135, § 2, eff. Jan. 1, 1998.

NOTES:

TEXT REFERENCES. Reference to this act is to Act Dec. 2, 1997, No. 135.

EFFECTIVENESS. Section 21 of Act Dec. 2, 1997, No. 135, provides: "This act shall take effect January 1, 1998. Applications for exemption under this act shall be received by the Tax Exemption Office until

December 1, 2007. The levy of taxes provided by this act shall remain in effect during the term that the tax exemption granted hereunder remains in effect."

STATEMENT OF MOTIVES. Dec. 2, 1997, No. 135.

TITLE. Section 1 of Act Sept. 21, 1997, No. 135, provides: "This act [this chapter] shall be known as the "Tax Incentives Act of 1998'."

SEPARABILITY. Section 20 of Act Dec. 2, 1997, No. 135, provides: "If any section, subsection, clause, paragraph, item or part of this act [this part] were to be found unconstitutional by a court of competent jurisdiction, the ruling to that effect shall not affect, impair, or invalidate the rest of this act [this part], and its effect shall be limited to the section, subsection, clause, paragraph, item, or part of this act [this part] that was thus found unconstitutional."

APPLICABILITY. Section 19 of Act Dec. 2, 1997, No. 135, provides: "The Puerto Rico Internal Revenue Code shall apply in a manner supplementary to this act to the degree that its provisions are not in conflict with the provisions of this act [this part]."

13 L.P.R.A. § 10102

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10102 (1999)

§ 10102. Fixed tax rate on industrial development income

(a)(1) Fixed tax rate on industrial development income. Exempted businesses that hold a decree granted under this part shall be subject to a fixed income tax rate of seven percent (7%) on industrial development income, excluding income from investments described in § 10101(j) of this title, for the entire corresponding period as provided, and from the date of commencement of operations as determined under § 10105(d) and (j) of this title, respectively, in lieu of any other tax, if any, provided by law. In the absence of any provision to the contrary, said tax shall be paid in the form and manner provided in the Puerto Rico Internal Revenue Code for the payment of income taxes in general. Exempted businesses that hold a decree granted under this part may enjoy a fixed rate of less than seven percent (7%) provided in this clause, which shall not be less than two percent (2%), provided the Secretary of State, after favorable recommendation of the Secretary of the Treasury and the Administrator, determines that said reduced tax rate would be of benefit to the best economic and social interests of Puerto Rico, in consideration of the special nature of the particular exempted business, the technology involved, the substantial number of jobs provided, or any other benefit or factor that in his/her judgment merits such a determination.

(2) Any exempted business holding a decree granted under this part which manufactures textiles, wearing apparel made of cloth or other materials, leather or imitation leather articles and footwear, and/or is engaged in canning fish, shall be subject to a fixed income tax rate of four percent (4%) on its industrial development income, excluding the income from the investments described in § 10101(j) of this title, during the entire corresponding period as provided, and as of the date of commencement of operations as determined under § 10105(d) and (i) of this title, respectively, in lieu of any other tax levied by law, if any. Exempted businesses under this clause may enjoy a fixed rate of less than four percent (4%) provided in this clause, which shall not be less than two percent (2%), provided the Secretary of State, after favorable recommendation of the Secretary of the Treasury and the Administrator, determines that said reduced rate would be of benefit to the best social and economic interests of Puerto Rico, in consideration of the special nature of the particular exempted business, the technology involved, the substantial number of jobs provided, or any other benefit or factor that in his/her judgment merits such a determination.

(3) Industrial development income from eligible investments under § 10101(j) of this title shall be completely exempted from income taxes.

(b) *Credit for stockholders who are individuals.* Stockholders or partners of exempted businesses holding a decree granted under this part who are individuals shall be entitled to a credit on the income tax levied under the Puerto Rico Internal Revenue Code equal to thirty percent (30%) of their proportional share of the fixed tax rate on industrial development income paid by the exempted business under this section. Credit which is not used in a taxable year by stockholders or partners who are individuals may be carried

over to subsequent taxable years, until said credit is exhausted.

HISTORY: Dec. 2, 1997, No. 135, § 3, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See the effectiveness under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10103 (1999)

§ 10103. Special deductions

Payroll deduction.

(1) In addition to any other deduction provided by law, all exempted businesses holding a decree granted under this part which are engaged in manufacture and generate a net income from their exempted operations computed without taking into account the benefit of special deductions provided in this section of less than thirty thousand dollars (\$30,000) per production job, shall be granted a special payroll deduction equal to fifteen percent (15%) of the exempted business production payroll, up to fifty percent (50%) of their industrial development income, computed without the benefit of the special deduction provided in this clause (1), but with the benefit of the other special deductions provided in this section.

For the purposes of this clause, "production payroll" shall include the salary of the personnel directly related to the manufacture of the exempted product, excluding the salaries of executives and any payment for personal services rendered to the exempted business by contracted independent firms. The net income for production jobs shall be obtained by dividing the net industrial development income derived from the exempted operation, computed without the benefit of the special deductions provided in this section, by the number of production jobs that the production payroll reflects.

(2) Any exempted business engaged in manufacture which holds a decree granted under this part and whose industrial development income, computed without the benefit of the special deductions provided under this section, is less than five hundred thousand dollars (\$500,000.00) in any taxable year, and which has maintained an average number of fifteen (15) or more employees during said taxable year, may deduct the first one hundred thousand dollars (\$100,000.00) from said income so that these may be fully exempted from the payment of the fixed industrial development income tax rate provided in § 10102(a) of this title. Any exempted business that avails itself of this provision may not enjoy the deduction provided in clause (1) of this subsection.

Exempted businesses controlled in more than fifty percent (50%) by stockholders or corporations in common, may decide, with the consent of the Secretary of the Treasury, the manner in which all or part of the above one hundred thousand dollars (\$100,000.00) deduction shall be apportioned between one or more of the exempted businesses they control. The sum of the amounts apportioned to the exempted businesses that belong to controlled groups shall not exceed one hundred thousand dollars (\$100,000.00).

The deduction granted under this clause shall not exceed the industrial development income of the taxable year of the exempted business, computed without the benefit of the special deduction provided by this clause, but with the benefit of the other special deductions provided in this section.

The deductions provided in subsection (a) of this section shall be used solely in the taxable year in which the industrial development income is generated from which the deduction is made. The special deductions in excess of the maximum allowed under this subsection may not be carried over to subsequent taxable

years.

(b) Deductions for human resources training and improvement expenses. Any exempted business that holds a decree granted under this Part shall be granted, in addition to any other deduction provided by law, a special deduction equal to the amount of the expenses for training to improve productivity and quality control, promote total quality management, and improve the communication skills of the employees, in excess of the annual average of said expenses incurred during the three (3) taxable years that ended prior to the effective date of this act. Said special deduction may not exceed the industrial development income of the taxable year of the exempted business computed without the benefit of the special deduction provided by this subsection, but without the benefit of the other special deductions provided in this section. The special deduction in excess of the maximum allowed under this subsection may not be carried over to subsequent taxable years.

(c) Deduction for research and development expenses. Any exempted business that holds a decree granted under this part shall be granted a special deduction, in addition to any other deduction provided by law, equal to the amount of the expenses incurred for the research and development of new products or industrial processes, or the improvement thereof, which can be deducted in the taxable year under §§ 8006 of this title also known as the "Puerto Rico Internal Revenue Code," excluding any amount received as a donation, subsidy or incentive from the Government of Puerto Rico for these purposes and excluding any investment in property, plant facilities and equipment that enjoy the deduction provided in subsection (e) of this section. Said special deduction shall not exceed the industrial development income for the taxable year of the exempted business that holds a decree granted under this part, computed without the benefit of the special deduction provided in this subsection, but with the benefit of the other special deductions provided in this section. However, any special deduction that is not allowed because of the above limitation may be carried over indefinitely to be used as a deduction from the industrial development income of the exempted business that holds a decree granted under this Part until said excess is exhausted. Provided, That any special deduction not allowed because of the above limitation which is available on the expiration date of the income tax exemption period of the decree of the exempted business that holds a decree granted under this part, may not be used against taxable operations income. *Deduction and carry-over of net operating losses.*

(1) Deduction for current losses in activities not covered by an exemption decree. If an exempted business which holds a decree granted under this part incurs a net operating loss other than that of the operation which has been declared exempted, said loss shall be deductible and may only be used against income not covered by an exemption decree and shall be governed by the provisions of the "Puerto Rico Internal Revenue Code." The share in losses of special partnerships that own or operate tourist businesses that are exempted under §§ 6001 et seq. of Title 23, may be used against income covered by a tax exemption decree issued under this part or preceding laws.

(2) Deduction for current losses incurred in the operation of an exempted business. If an exempted business that holds a decree granted under this part incurs a net loss, computed without the benefit of the special deductions provided in this part and in the operation declared as exempted under this part, said loss may be deducted from the industrial development income of the operation that incurred the loss, or of operations covered by other exemption decrees under this part or preceding laws.

(3) Deduction for carried-over losses from previous years. A deduction for carry-over of losses incurred in previous years, shall be granted as provided below:

(A) The excess of those losses that are deductible under clause (2) of this subsection may be carried over against the industrial development income of subsequent taxable years. Said losses shall be carried over in the order they were incurred.

(B) Any net loss incurred in a year in which the option of § 10105(f) of this title is in effect, may be carried over solely against the industrial development income generated by the exempted business under the decree whereby the option of § 10105(f) of this title was exercised. Said losses shall be carried over in the order they were incurred.

(C) Once the income tax exemption period has expired, the net losses incurred for the operation declared as exempted under this part, as well as any amount in excess of the deductions allowed under subsection (e) of this section, which the exempted business is carrying over as of the expiration date of said period, may be deducted from any taxable income in Puerto Rico subject to the limitations provided in §§ 8006 of this title also known as Subtitle A of the "Puerto Rico Internal Revenue Code." Said losses shall be deemed as incurred for the last taxable year in which the exempted business enjoyed income tax exemption under the decree. The above notwithstanding, the special deduction granted under § 10103(c) of this title

carried over by the exempted business, may not be deducted from the income of the operations not covered by the decree.

(4) The amount of the net operating loss to be carried over shall be computed pursuant to the provisions of § 8524 of this title, except that in addition to the exceptions, additions and limitations provided in said section, the loss shall be adjusted by the income from eligible activities under § 10101(j) of this title.

(5) *Deduction of losses for capital investments in an exempted business.* When an individual suffers losses for capital investments in an exempted business whose operations have been financed or secured by the Economic Development Bank for Puerto Rico, or in which it has invested funds, said losses shall be allowed as a deduction under the "Puerto Rico Internal Revenue Code," within the taxable year they occur, provided the investment had been authorized by the Economic Development Bank for Puerto Rico, as the latter may provide by regulations. The Economic Development Bank for Puerto Rico shall determine when said investment is lost.

Said deduction may not exceed fifty percent (50%) of the net income of the taxpayer for the taxable year he/she claims the same. The amount of the loss not deducted because of the above limitation may be claimed as a deduction in subsequent taxable years until it is exhausted.

(e) *Special deduction for investment in buildings, structures, machinery and equipment.* Any exempted business that holds a decree granted under this Part shall be granted the option of deducting its total expenses incurred after the effective date of this act in the taxable year these are incurred, in lieu of any capitalization of expenses required by the "Puerto Rico Internal Revenue Code," for the purchase, acquisition or construction of buildings, structures, machinery and equipment, provided that said buildings, structures, machinery and equipment (i) have not been previously used or depreciated by any other business or person in Puerto Rico and (ii) are used to manufacture the products or render the services for which the benefits provided under this part were granted. The deduction provided under this subsection shall not be in addition to any other deduction provided by law, but merely an acceleration of the deduction of the expenses described above. Provided, That in the case of machinery and equipment previously used outside of Puerto Rico, but not previously used or depreciated in Puerto Rico, the investment in said machinery and equipment shall qualify for the special deduction provided in this subsection (e) only if said machinery and equipment still have, as of the date of the acquisition thereof by the exempted business, at least fifty percent (50%) of their useful life as determined according to the "Puerto Rico Internal Revenue Code." The exempted business that holds a decree granted under this part may deduct all expenses incurred after the effective date of this part for remodeling or repairing buildings, structures, machinery and equipment, in the taxable year these are incurred, in lieu of any capitalization of expenses required under the "Puerto Rico Internal Revenue Code," in cases in which said buildings, structures, machinery and equipment have been acquired or constructed before or after the effective date of this part, as well as in cases in which these have or have not been used or depreciated by another business or person prior to being acquired by the exempted business that holds a decree granted under this part. The amount of eligible investment for the special deduction provided in this subsection in excess of the industrial development income of the exempted business that holds a decree granted under this part in the investment year, may be claimed as a deduction in subsequent taxable years until such an excess is exhausted. No deduction shall be granted under this subsection with regard to the investment in buildings, structures, machinery and equipment which enjoy the special deduction provided in subsection (c) of this section. *Special rules.*

(1) In those cases in which an expense item qualifies for benefits under one or more of the above subsections, the exempted business may choose under which subsection it shall avail itself of the benefit.

(2) In those cases in which an exempted business is entitled to claim more than one of the special deductions provided in subsections (a), (b), (c) and (e) above, of this section, the sum of which, after determining the amount which said exempted business would be entitled to before taking into account the limitation based on industrial development income, exceeds the industrial development income for said specific year, or results in preventing said exempted business from taking the total benefit thereof for the same year, said exempted business shall determine the limit (based on its industrial development income) to be deducted from each of the special expense items in the following order:

(A) It shall first determine the special deduction under subsection (a) without taking into account the benefits of that or other special deductions provided in this section;

(B) it shall then determine the special deduction under subsection (b) without taking into account the benefits of that deduction, but taking into consideration the benefits of the special deduction provided in subsection (a);

(C) it shall then determine the special deduction under subsection (c) without taking into account the

benefits of that deduction but taking into consideration the benefits of the special deductions provided in subsections (a) and (b), and

(D) finally, it shall determine the special deduction under subsection (e) without taking into account the benefits of that deduction but taking into consideration the benefits of the special deductions provided in subsections (a), (b), and (c). The sum of the special deductions thus determined shall by no means exceed the industrial development income for the specific year of said computation.

(3) In the case of businesses exempted under preceding laws that have availed themselves of the benefits of the renegotiation provided in § 10107(a) of this title, the deductions provided in this section shall be applied in their entirety to the industrial development income in excess of the base period income subject to the fixed industrial development income tax rate provided in § 10102(a) of this title, subject to the conditions and limitations imposed for the deduction thereof in the respective subsections.

HISTORY: Dec. 2, 1997, No. 135, § 4, eff. Jan. 1, 1998.

NOTES:

TEXT REFERENCES. The reference to the "effective date of this act" in the text is Act Dec. 2, 1997, No. 135, effective Jan. 1, 1998.

CODIFICATION. The clauses of subsection (f)(2), (i)-(iv) have been redesignated as (A)-(D) to conform with L.P.R.A. style.

EFFECTIVENESS. See effectiveness note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10104 (1999)

§ 10104. Credits

(a) Credit for losses of the parent company. An exempted business that holds a decree granted under this part which is a subsidiary of a United States parent company, which, after consolidating the income of the exempted business shows a loss on their consolidated Federal income tax return (applying the amount of any operating loss carry-over through an accounting method acceptable to the Secretary of the Treasury) for a specific taxable year, or has availed itself of a bankruptcy procedure under applicable Federal statutes, may be granted an incentive in the form of a credit against the payment of the fixed income tax rate applicable to the industrial development exceed the amount of the corresponding tax for the specific year of the loss. This shall be calculated by multiplying the corresponding tax by a fraction, whose numerator shall be the average number of jobs of the specific taxable year, and whose denominator shall be the number of jobs required in order to be granted the tax exemption.

For the purposes of this subsection:

- (i) The consolidated loss must be a loss which has been actually incurred;
- (ii) The debts of the parent company must exceed the fair market value of its assets for the last three (3) years, for which financial statements audited by a Certified Public Accountant must be submitted which include as supplementary information the market value of the assets, and
- (iii) The exempted business shall post bond to be fixed by the Secretary of the Treasury, which shall include the conditions that ensure its collection.

The tax credit incentive to be recognized shall be limited to the amount of the losses in the operations consolidated at Federal level. In case said losses are covered in a specific taxable year by the consolidated operations, the exempted business that holds a decree granted under this part shall be liable for the payment of the corresponding tax in the proportion that these exceed the amount of said losses.

The exempted business that holds a decree granted under this part that wishes to avail itself of the provisions of this subsection, shall apply for the incentive from the Secretary of the Treasury through the Exemption Office, by means of a sworn petition, and shall have to show that the granting of the incentive is meritorious and in the best interests of Puerto Rico. Before granting the incentive, the following factors, among others, shall be taken into consideration:

- (1) The history of the exempted business in Puerto Rico, including its investments, the number of jobs and its location.
- (2) The losses of the parent company, including the amount thereof; the manner in which said losses occurred and the projected time it will take the parent company to absorb said losses.

- (3) Taxes paid in Puerto Rico in the past and projected for the future; and
- (4) The possibility that the incentive may be recaptured by Puerto Rico.

The Secretary of the Treasury shall have the power to approve and administer the regulations necessary to achieve these purposes and shall include provisions for the benefits of this incentive to be recaptured by Puerto Rico within a period of not more than five (5) years once the parent company begins to obtain profits and pay taxes thereon.

The above notwithstanding, the Secretary of State may, after recommendation of the Secretary of the Treasury and the Administrator, release the exempted business that holds a decree granted under this part from the requirement to return the incentive granted in this subsection, in whole or in part, subject to those terms and conditions he/she deems convenient, in benefit of the best interests of Puerto Rico. In granting this waiver, the Secretary of State shall take into consideration the favorable recommendations of the Administrator and the Secretary of the Treasury, and the history of said exempted business in terms of jobs, capital investment in the industrial plant, the estimated amount of the tax credit to be returned and the time it will take to do so, as well as the financial situation of the parent company and the commitments the exempted company may make with regard to future jobs, additional investments in the plant facilities, machinery and equipment, and investments in research and development activities in Puerto Rico.

(b) Credit for the purchase of products manufactured in Puerto Rico. If an exempted business that holds a decree granted under this part, buys products manufactured in Puerto Rico, including components and accessories, it may earn a credit against the fixed industrial development income tax provided in § 10102 of this title, equal to ten percent (10%) of the purchase of said products during the taxable year in which said credit is earned, reduced by the average of the purchase of said products for the three (3) previous taxable years, or that portion of said period that is applicable, up to a maximum of ten percent (10%) of said tax; which credit shall be granted solely for the purchase of products that have been manufactured by firms not related to the exempted business, and said purchases shall be excluded from the total purchases of products manufactured in Puerto Rico by the exempted business, for the purposes of the above calculation.

In the event that the exempted business that holds a decree granted under this part buys products transformed into commercial articles made from recyclable materials or with raw materials from recyclable material from exempted businesses which have been granted a tax exemption decree under § 10101(e)(24) of this title, or preceding laws, the credit granted hereby shall be equal to fifteen percent (15%) of the total purchases of said products during the taxable year for which the credit is claimed.

The credit provided in this subsection which is not used by the exempted business may be carried over to subsequent taxable years, until said credit is exhausted.

Provided, That in the case of businesses exempted under preceding laws that have availed themselves of the renegotiation benefits provided in § 10107(a) of this title, the credit provided in this subsection shall be prorated between the base period income described in said subsection of § 10107, and the incremental industrial development income excluding the income derived from the investments described in § 10101(j) of this title. Both incomes shall be computed under the provisions of law applicable to each pursuant to § 10107 of this title. In the case of the base period income, the credit provided herein may only be claimed during the remainder of the exemption period of the decree in effect as of the date of the application for the renegotiation. The credit attributable to the base period income may only be used against the tax on distributions of industrial development dividends or profits of the exempted business levied under §§ 10024-10052 of this title and under the "Puerto Rico Internal Revenue Code," as applicable. The credit attributable to incremental industrial development income may be used as a credit against the fixed industrial development income tax rate provided in § 10102(a) of this part, as provided, and subject to the limitations of this subsection.

HISTORY: Dec. 2, 1997, No. 135, § 5, eff. Jan. 1, 1998.

NOTES:

CODIFICATION. Clauses (A)-(D) of subsection (a) have been redesignated as clauses (1)-(4) to conform with L.P.R.A. style.

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10105 (1999)

§ 10105. Exemptions

(a) Exemption on municipal and commonwealth real and personal property taxes. The real and personal property of the exempted business that holds a decree granted under this part used for the development, organization, construction, establishment or operation of the activity that motivates the exemption, as well as the property intended for industrial development, shall enjoy an ninety percent (90%) exemption on municipal and Commonwealth property taxes for the corresponding period, as provided in subsection (d) of this section.

The property of an exempted business that holds a decree granted under this part shall also be fully exempted during the period authorized by the decree for the construction or establishment of said exempted business and during the first fiscal year of the Government of Puerto Rico in which the exempted business would have been subject to taxation on property for having been in operation as of the 1st of January preceding the commencement of said fiscal year except for the exemption provided herein. Once said full exemption period expires, the partial exemption provided in this subsection shall commence. Likewise, the property of said exempted business which is directly related to any expansion of the exempted business shall be fully exempted from property taxes during the period authorized by the decree for carrying out said expansion.

Notwithstanding what is provided herein, the intangible personal property whose nature is that of a patent or production license, or a trademark acquired by an exempted business that holds a decree granted under this part and used in its exempted operations, as well as the personal property used by service units such as stocks, bonds and other assets issued by juridical persons organized under the laws of Puerto Rico; stocks, bonds and other assets issued by juridical persons organized outside of Puerto Rico and belonging to juridical persons engaged in the business of investing, selling or brokering assets in Puerto Rico that enjoy exemptions under this part; and the stocks, bonds and other assets that belong to foreign entities or natural persons that enjoy exemptions under this part, shall be ally exempted from the payment of taxes on personal property.

Taxes on real and/or personal property shall be assessed, levied, notified and administered according to the provisions of the Property Tax Act in effect on the date of the assessment and levy of the tax.

Exemption from municipal licenses, municipal excises and other municipal taxes.

(1) Exempted businesses that hold a decree granted under this part shall enjoy a sixty percent (60%) exemption on municipal license taxes, municipal excises and other municipal taxes levied by any municipal ordinance during the periods provided in subsection (d) of this section.

The exempted businesses described in § 10102(a)(2) of this title shall enjoy a seventy-five percent (75%) exemption on said municipal licenses, municipal excises and other municipal taxes.

The taxable portion under this subsection shall be subject to the tax rate in effect on the date the decree is signed, during the term of the decree, regardless of any subsequent amendment to the decree to cover operations in any other municipality or municipalities.

(2) The exempted businesses described in § 10101(i)(18) of this title that have been qualified by the Administrator as trading companies, shall enjoy an eighty percent (80%) tax exemption on municipal licenses, municipal excises and other municipal taxes.

(3) The exempted business that holds a decree granted under this part shall enjoy full exemption on municipal taxes or municipal licenses that apply to the volume of business of said exempted business during the semester of the fiscal year of the Government of Puerto Rico in which the exempted business commences operations in any municipality, pursuant to the Municipal License Tax Act in effect. In addition, the exempted businesses that hold a decree granted under this part shall be fully exempt from the municipal taxes or licenses on their volume of business for the two (2) semesters of the fiscal year or years of the Government of Puerto Rico following the semester in which their operations commence.

(4) Exempted businesses that hold a decree granted under this part and their contractors and subcontractors shall be fully exempt from any tax, levy, fee, license, excise, rate or tariff imposed by any municipal ordinance on the construction of works to be used by said exempted business within a municipality, without it being understood that said taxes include the municipal license tax levied on the volume of business of the contractor or subcontractor of the exempted business during the term authorized under the tax exemption decree.

(c) Exemption from Commonwealth excises. In addition to any other excise tax exemption granted under §§ 9001 et seq. of this title of the "Puerto Rico Internal Revenue Code," as amended, full exemption shall also be granted on excises levied under said Subtitle B of the "Puerto Rico Internal Revenue Code" during the corresponding period provided in subsection (d) of this section, on the following articles introduced or acquired directly or indirectly by a business that holds a decree granted under this part:

(1) Any raw material to be used in Puerto Rico for manufacturing finished products, excluding hydraulic cement, crude oil, partially and ally processed oil products, and other hydrocarbon products. For the purposes of this subsection and the applicable provisions of §§ 9001 et seq. of this title of the "Puerto Rico Internal Revenue Code," the term "raw material" shall include:

(A) Any product in its natural state derived from agriculture or mining.

(B) Any by-product, residual product, or partially processed or finished product.

(C) Sugar in bulk or in units of fifty (50) pounds or more to be used exclusively in the manufacture of products.

(2) Machinery, equipment and accessories thereof; used exclusively in the manufacturing process or in the construction or repair of vessels within or outside the confines of a manufacturing plant; machinery, trucks or lifts used exclusively and permanently in hauling raw material within the periphery of the exempted business; machinery, equipment and accessories used to carry out the manufacturing process or those that the exempted business is bound to acquire by requirement of Federal or Commonwealth laws or regulations for the operation of an industrial unit.

The above notwithstanding, the exemption shall not cover machinery, devices, equipment or vehicles used in whole or in part in the administrative or commercial operations of the exempted business, except in those cases in which these are also used in at least ninety percent (90%) in the manufacturing process or in the construction or repair of vessels, in which case they shall be deemed as being used exclusively in said manufacturing process.

(3) Machinery, equipment, parts and accessories used in research laboratories, including the preliminary phase of region exploration geared to the mineralogical development of Puerto Rico, and the dry docks and shipyards for the construction or repair of vessels.

(4) Fuel used by the exempted business in the cogeneration of electric power as well as the chemicals used by the exempted business in sewage treatment.

(5) Exceptions. The following articles of use and consumption used by the exempted business, regardless of the area or place where they are located, or their use, shall not be deemed as raw material, machinery or equipment for the purposes of clauses (1), (2), and (3) of this subsection:

(A) All construction materials and prefabricated buildings.

(B) All electrical materials and water pipes installed in the buildings.

(C) Lubricants, grease, waxes and paints not related to the manufacturing process.

(D) Lamp posts or spotlights installed in parking areas.

(E) Treatment plants and electric power substations.

(d) Tax Exemption Periods. An exempted business that holds a decree granted under this part shall enjoy the following tax exemption periods according to its location:

- | | |
|--|-----------|
| (1) High industrial development zone | 10 years. |
| (2) Intermediate industrial development zone | 15 years. |
| (3) Low industrial development zone | 20 years. |
| (4) Vieques and Culebra | 25 years. |

Exempted businesses engaged in the activities described in 10101(d)(10) and (e)(24) of this title shall enjoy tax exemption for a period of twenty (20) years, regardless of the location of the business. Those eligible activities involving airport and seaport facilities shall enjoy tax exemption for a period of four (4) years regardless of the location of the business.

(e) *Designation of industrial development zones.* The Governor shall designate, from time to time and by Executive Order, the geographic areas to be included in the various industrial development zones after recommendation of the Secretary of State, the Administrator, the Chairperson of the Planning Board, the Secretary of the Treasury and the Secretary of the Department of Labor and Human Resources. This designation shall be based on the need for establishing industrial operations in a particular area, taking into consideration the nature and geographic location of the area, the availability of manpower, the existing infrastructure and any other factors that affect the economic and social development of the area or zone to be designated. The Governor may also reclassify any geographic area from one zone to another after recommendation of the officials mentioned above, when the factors that justified the inclusion of the area in the former zone have changed, including those eligible activities geared to airport and seaport facilities. The reclassification shall not affect the exemption of the exempted businesses already established in that area.

(1) A business that has applied for a tax exemption decree for its establishment in a specific area, but has not yet been established, or has obtained the exemption prior to the date said area was reclassified from one zone to another which qualifies for less years of exemption, shall be entitled to enjoy the exemption period established prior to reclassification if it becomes established therein within one (1) year from the date on which the area was reclassified. For the purposes of this part, the date of the first training or production payroll shall be deemed as the date of establishment of the business.

(2) The Governor shall designate the geographic areas to be included in the industrial development zones provided by this part before December 31, 1998. Until then, those designations in effect as of the effective date of this part as established by the provisions of §§ 10038 through 10052 of this title, shall be applicable to the exemption decrees granted under this part.

(f) *Flexible tax exemption.* Exempted businesses that hold a decree granted under this part shall have the option of choosing the specific taxable years to be covered under their decrees with regard to their industrial development income when they notify the Secretary of the Treasury, the Administrator and the Director not later than the date provided by law to file their income tax returns for said taxable year, including the extensions granted for said purpose. Once the exempted business opts for this benefit, the exemption period corresponding to said exempted business shall be extended at the will of said exempted business for the number of taxable years it did not enjoy said benefit under the exemption decree.

Provisions that apply to tax exemption on businesses using property intended for industrial development.

(1) The period during which a property intended for industrial development belonged to any political subdivision, agency or instrumentality of the Government of Puerto Rico shall not be deducted from the periods referred to in subsection (d) of this section and said property shall be deemed, for the purposes of this part been previously intended for industrial development, as if it had not been previously intended for industrial development.

(2) When the exempted business that holds a decree granted under this part is using property intended for industrial development, the period to which reference is made in subsection (d) of this section shall not cover those periods in which the property intended for industrial development is in the market to be leased to an exempted business, or is vacant, or is leased to a nonexempted business, except as provided below. Said period shall be computed on the basis of the total period during which the property was at the disposal of an exempted business, provided that the total number of years is not greater than that provided under said subsection (d) of this section, and the exempted business (property intended for industrial development) informs the Secretary of the Treasury, the Administrator and the Director, in writing, of the date on which the property is leased to an exempted business for the first time, and the date on which the property is vacated and is again occupied by another exempted business.

(3) When the exempted business that holds a decree granted under this part is using property intended for

industrial development, the period to which reference is made in subsection (d) of this section shall not cover those periods in which the property intended for industrial development is in the market to be leased to an exempted business, or is vacant, or is leased to a nonexempted business, except as provided below. Said period shall be computed on the basis of the total period during which the property was at the disposal of an exempted business; Provided, That the total number of years is not greater than that provided under said subsection (d) of this section, and the exempted business (property intended for industrial development) informs the Secretary of the Treasury, the Administrator and the Director, in writing, of the date on which the property is leased to an exempted business for the first time, and the date on which the property is vacated and is again occupied by another exempted business.

(h) Interruption of the exemption period. In the event that an exempted business which holds a decree granted under this part has ceased operations and later wishes to resume operations, the time during which no operations were conducted shall not be deducted from the corresponding exemption period, and the exempted business may enjoy the remaining exemption period while the tax exemption decree is in effect, provided that the Secretary of State determines that the ceasing of operations was justified and that reopening said exempted business shall be for the best social and economic interests of Puerto Rico. *Fixing of the date for commencing operations and the exemption periods.*

(1) The exempted business that holds a decree granted under this part may select the date to commence operations for the purposes of § 10102(a) of this title by filing a sworn statement with the Director, with copies to the Secretary of the Treasury, and the Administrator, together with the filing of a sworn statement stating the unconditional acceptance of the grant approved for the exempted business under this part. The date of the commencement of operations for purposes of § 10102(a) of this title may be the date of the first training or production payroll of the exempted business that holds a decree granted under this part, or any date within a period of two (2) years after the date of the first payroll.

(2) The exempted business that holds a decree granted under this part may postpone the application of the fixed rate provided in § 10102(a) of this title for a period which shall not be greater than two (2) years from the date of commencement of operations fixed under clause (1) of § 10105(i) of this title. During the postponement period, said exempted business shall be subject to the applicable tax rate under Subtitle A of the Puerto Rico Internal Revenue Code.

(3) The partial tax exemption period provided in § 10105(a) of this title on property intended for industrial development shall commence on the first day of the fiscal year of the Government of Puerto Rico following the last fiscal year in which the exempted business was fully exempted pursuant to the provisions of § 10105(a) of this title; the partial exemption for said fiscal year shall correspond to the tax on the property owned by the exempted business on the 1st of January which precedes the beginning of said fiscal year.

(4) The partial exemption period provided in § 10105(b) of this title for the purpose of exemption from municipal licenses and municipal taxes, shall commence on the first day of the first semester of the fiscal year of the Government of Puerto Rico following the expiration of the full-exemption period provided in § 10105(b)(3) of this title.

(5) In the case of exempted businesses that hold a decree granted under this part which have been operating on a commercial scale before applying for the benefits of this part, the date of commencement of operations for the purposes of the fixed rate provided in § 10102(a) of this title shall be the date of filing an application with the Exemption Office, but the commencement date may be postponed for a term of not more than two (2) years from said date.

(j) Agricultural income not eligible for exemption. For the years during which an exempted business that holds a decree granted under this part enjoys tax exemption under §§ 10401 et seq. of this title, known as the "Puerto Rico Agricultural Tax Incentives Act," the exempted business may not avail itself of the provisions of this part on income derived from an agricultural activity exempted under said "Agricultural Tax Incentives Act," or on the real or personal property used intensively in said agricultural business.

(k) Royalties, revenues and license fees. Any legal provisions notwithstanding, in the case of payments made by exempted businesses that hold a decree granted under this part to nonresident corporations, partnerships or persons, for the use or the privilege to use patents, copyrights, formulas, technical skills and other similar property in Puerto Rico, they shall be subject to a ten percent (10%) tax which shall be levied and collected in lieu of any other tax levied by law, if any. The exempted business which makes said payment shall deduct and withhold said tax and report and remit the same to the Secretary of the Treasury pursuant to the provisions of §§ 8001 et seq. of this title, known as the "Puerto Rico Internal Revenue Code."

(1) Exemption on interest on loans to small and medium businesses. Interest earned by financial institutions on loans of fifty-thousand dollars (\$50,000) or less to small or medium businesses for their establishment or expansion, shall be fully exempted from income taxes, provided the loan meets the requirements established in the "Community Reinvestment Act of 1977," as amended, Pub. L. 95-128, 91 Stat. 1147, and those requirements established by the Commissioner of Financial Institutions by regulations.

HISTORY: Dec. 2, 1997, No. 135, § 6, eff. Jan. 1, 1998.

NOTES:

TEXT REFERENCES. The reference to "this act" is to Act Dec. 2, 1997, No. 135, effective Jan. 1, 1998.

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10106 (1999)

§ 10106. Distributions; sale or exchange of stock

(a) Stockholders or partners of a corporation or partnership which is an exempted business that holds a decree granted under this part, shall not be subject to income taxes on distributions of industrial development dividends or profits of the exempted business.

Subsequent distributions of industrial development income of any corporation or partnership shall also be exempt from all taxes.

Profits on the sale, exchange, or other disposition of corporate stock or shares in partnerships that are or have been exempted businesses; shares in joint ventures and similar entities constituted by several corporations, partnerships, individuals or combinations thereof; that are or have been exempted businesses, and corporate stock or shares in partnerships that in some way own the entities described above, shall be subject to the provisions of subsection (c) of this section when said sale, exchange or other arrangement, and any subsequent distribution of said profits, whether as dividends or distributions upon liquidation, shall be exempted from any additional taxation.

(b) *Designation of exempted distributions.* The distribution of dividends or profits made by an exempted business that holds a decree granted under this part, even after the expiration of its tax exemption decree, shall be deemed as made from its industrial development income if upon its distribution date it does not exceed the undistributed balance of its accrued industrial development income, unless said exempted business chooses, at the time of its statement, to distribute the dividends or profits wholly or partially, from other gains or profits. The amount, year of accrual and nature of the distribution of the industrial development income shall be that designated by said exempted business through a notice sent jointly with the payment thereof to the stockholders or partners and to the Secretary of the Treasury, through an informative statement, not later than the 28th of February following the distribution year.

In the case of corporations or partnerships which, on the date they commence operations as exempted businesses have obtained profits or gains, the distributions of dividends or profits made as of said date shall be deemed to be made from the undistributed balance of said profits or gains, but once this balance is exhausted as a result of said distributions, the provisions of the first clause shall apply. *Sale or exchange of stock.*

(1) *During the exemption period.* Profits from the sale or exchange of stock of an exempted business which holds a decree issued under this part made during its exemption period and that would have been subject to the payment of income taxes under §§ 8001 et seq. of this title, known as the "Puerto Rico Internal Revenue Code," shall be subject to a four percent (4%) tax on the amount of the profits, if any, in lieu of any other tax levied by said Code.

Any losses through the sale or exchange of said stock shall be recognized in accordance with the provisions of the "Puerto Rico Internal Revenue Code."

(2) *After the exemption period termination date.* In the event that said sale is made after the termination date of the exemption, the profits shall be subject to the tax provided in clause (1), above, but only up to the book value of the corporate stock as of the termination date of the exemption period (after subtracting by the amount of the exempted distributions received on the same stock after said date), minus the base of said stock. Any remainder of the profits or any loss, if any, shall be recognized according to the provisions of the "Puerto Rico Internal Revenue Code" in effect on the date of the sale or exchange.

(3) *Exempted exchanges.* Any exchanges of stock not resulting in taxable events due to their being corporate reorganizations, shall be treated according to the provisions of the "Puerto Rico Internal Revenue Code" in effect on the date of the sale or exchange.

(d) *Determination of the base in the sale or exchange of stock.* For businesses exempted under this act, the base of the stock in the sale or exchange shall be determined pursuant to the applicable provisions of the "Puerto Rico Internal Revenue Code" in effect at the time of the sale or exchange, after adding the amount of industrial development income accrued under this part.

(e) The Secretary of the Treasury shall establish the regulations needed to enforce the provisions of this section.

HISTORY: Dec. 2, 1997, No. 135, § 7, eff. Jan. 1, 1998.

NOTES:

TEXT REFERENCES. The "first clause" at the end of the second paragraph of subsection (b) may be referring to the first paragraph of said subsection.

EFFECTIVENESS. See the effectiveness under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10107 (1999)

§ 10107. Renegotiations, conversions and extensions

(a) Renegotiation of decrees in effect. Any exempted business may request that the Secretary of State consider renegotiating its grant in effect if said exempted business is able to show that it will increase the average employment it has had during the past three (3) taxable years prior to the date of filing the request, by twenty-five percent (25%) or more; or that it will make a substantial investment in its existing operation to help maintain the economic and job stability of the industrial unit, which represents an increase of twenty-five percent (25%) or more in the investment of property intended for industrial development in existence on the effective date of this part. If the exempted business shows to the satisfaction of the Secretary of State that it is unable to meet the requirement of increasing the average number of jobs or investment described above, the exempted business shall submit the pertinent evidence to the Tax Exemption Office. The Secretary of State, after favorable recommendation of the Secretary of the Treasury and the Administrator, and after the recommendation of the agencies that issue tax exemption reports, may, at his/her discretion, consider the renegotiation, taking into account any other factor or circumstance that will reasonably show that the renegotiation of the decree will be for the best social and economic interests of Puerto Rico.

For the purposes of this section, the number of jobs of an exempted business shall consist of the number of individuals residing in Puerto Rico who work at least twenty (20) hours a week in the exempted business as employees, even if they are not directly on the payroll of the exempted business (such as persons working under personnel leasing contracts, but not including persons such as consultants or independent contractors).

For the purposes of this section, the investment of the exempted business in its existing operation shall be computed according to the book value of the property intended for industrial development, computed with the benefit of the allowable depreciation under the straight-line depreciation method, taking into account the user life of said property determined according to §§ 8401 et seq. of this title in lieu of any other accelerated depreciation allowed by law.

In agreeing to the requested renegotiation, the Secretary of State, after recommendation of the agencies that issue reports on tax exemption, shall take into account the number of jobs of the exempted business, the place in which it is located, investment and additional jobs, as well as the remaining term of its decree, the tax benefits already enjoyed and its financial capacity, so that the exempted business may obtain a new decree with tax benefits adjusted under this part.

The Secretary of State shall establish the terms and conditions he/she deems necessary and convenient for the best interests of Puerto Rico, within the limits provided for by this part, and may,

at his/her discretion, after recommendation of the agencies that issue reports on tax exemption, impose special job requirements, limit the term and percentage of the exemption, limit the taxes to be exempted, levy a fixed tax rate on industrial development income higher than that provided in § 10102(a) of this title, and require and provide any other term or condition needed for the industrial and economic development purposes proposed in this part.

When the exempted business fails to meet the requirements of an increase in jobs or investments provided in this subsection, the Secretary of State, after the favorable recommendation of the Secretary of the Treasury and the Administrator and the agencies that issue reports on tax exemption, may levy a fixed tax rate on industrial development income greater than that levied in § 10102 of this title, for up to a maximum of ten percent (10%).

The Secretary of State may not grant a fixed tax rate on industrial development income under this subsection that is less than seven percent (7%) without the approval of the Secretary of the Treasury. In no case may a fixed rate be granted which is less than two percent (2%) on the industrial development income.

(2) Except in the case of those businesses described in § 10102(a)(2) of this title, the fixed rate provided in clause (1) of subsection (a) of this section shall be applicable only with respect to annual industrial development income computed under this part, excluding such income from the investments described in § 10101(j) of this part which exceeds the base period income.

For the purposes of this clause, "base period income" means the highest amount resulting from a comparison between the industrial development income for the last taxable year prior to the date of the application for renegotiation, but excluding income earned from the investments described in § 10101(j) of the applicable preceding law, and the average annual industrial development income computed under the act that is applicable to the decree issued under preceding laws for the three (3) taxable years with greater industrial development income, excluding the income from the investments described in § 10101(j) of said preceding laws, of the five (5) taxable years prior to the date of the renegotiation application under this section, or the shorter applicable period. In the case of exempted businesses that have been in operation for a period of three (3) years or less as of the date of the renegotiation application, the base period income shall be the annual average industrial development income (excluding the income from the investments described in § 10101(j) of said preceding laws) earned during said period, computed under the law that applies to the previous decree.

An amount equal to the base period income shall be taxable each taxable year under the provisions of the decree issued under the preceding law, renegotiated under this subsection, including, but not limited to the tax on distributions of industrial development dividends or profits, and the liquidation tax that applies under said preceding law, for the remainder of the exemption period of the previous renegotiated decree; Provided, That the industrial development income (excluding income from the investments described in § 10101(j) of this title) for the taxable year computed under this part is greater than the base period income. If the industrial development income (excluding the income from the investments described in § 10101(j) of this title) for any taxable year computed under this part is less than the base period income, the industrial development income (excluding income from the investments described in § 10101(j) of this title) shall be computed for said year pursuant to the provisions of the law under which the previous renegotiated decree was approved, and this amount shall be taxed under the provisions of the preceding law; Provided, That it does not exceed the base period income.

The industrial development income from the investments described in § 10101(j) of this title ("2(j) income") shall also be subject to the provisions of the preceding law that apply to the decree renegotiated under this subsection for the remainder of the exemption period of the renegotiated previous decree for up to an amount that shall not exceed the 2(j) income of the base period, including, but not limited to the tax on distributions of industrial development dividends or profits and the liquidation tax applicable to the distributions of said 2(j) income.

For the purposes of this clause, 2(j) income of the base period means the annual average industrial development income from the investments described in § 10102(j) of this title that applies to the decree issued under preceding laws, for the three (3) taxable years with the highest income from said 2(j) investments, of the five (5) taxable years prior to the date of the renegotiation application under this section, of the shortest applicable period. In the case of exempted businesses that have been operating for a period of three (3) years or less on the date of the renegotiation application, the

2(j) income of the base period shall be the annual average income earned from said 2(j) investments during said period, computed under the law that applies to the previous decree.

If upon the date of the renegotiation application, the exempted business had an option in effect under § 10041 of this title, or if the investment income described in subsection (j) of § 10101 of the preceding applicable law was subject to taxation on said income, for the purposes of this clause, the 2(j) income, up to an amount that shall not exceed the 2(j) income of the base period, shall be subject (for the remainder of the exemption period of the previous renegotiated decree) to the rate that applies to the base period income under the previous applicable law, and said 2(j) income, as well as the base period income, shall not be subject to the tax on distributions of industrial development dividends or profits to the liquidation tax, as provided in § 10041 of this title, or as provided in the previous renegotiated decree.

Once the exemption period under the previous decree expires, the fixed rate provided in clause (1) of subsection (a) of this section shall apply to all industrial development income earned by the exempted business, excluding income from the investments described in subsection (j) of § 10101 of this title, which shall be fully exempted from taxes.

(3) Exempted businesses that renegotiate their decree under the provisions of this subsection and which on the renegotiation date were operating under §§ 10012-10052 of this title may distribute the profits obtained before the effectiveness of the renegotiation at any later date, but such distributions shall be made according to the tax treatment provided in the decree granted by each of said laws under which said profits were obtained.

(4) Exempted businesses that renegotiate their decrees under this subsection shall be taxed on total liquidation with regard to their industrial development income, according to the tax treatment provided in each of the laws under which said profits were obtained.

(5) The remaining terms, conditions and benefits contained in this Part which are not in contravention of the provisions of this subsection shall apply to the exempted businesses covered thereby.

(b) Conversion of businesses exempted under preceding laws. Any of the following businesses exempted under preceding laws may apply to avail themselves of the provisions of this part, subject to the limitations provided below, provided they show that they comply with all the applicable legal provisions.

(1) Exempted businesses that have not commenced operations as of the effective date of this part may request that these be converted for the remainder of the term granted originally, in which case their exemption shall be adjusted as provided in §§ 10102 and 10105 of this title.

(2) Exempted businesses whose decrees were granted on or after August 25, 1997, and have not been enjoying the exemption before said date, except under said decrees, may request that these be converted for the remainder of the term granted originally, in which case their exemption shall be adjusted as provided in §§ 10102 and 10105 of this title.

(3) The Secretary of State, after the recommendation of the agencies that issue reports on tax exemption, when considering any conversion application under this subsection, shall establish the terms and conditions that he/she deems necessary and convenient for the best interests of Puerto Rico, within the limits provided by this part, impose special job requirements, and/or limit the percentage of the exemption and the taxes to be covered under the decree, provide a fixed tax rate on industrial development income higher than that provided in subsection (a) of § 10102 of this title (but never higher than ten percent (10%)), and/or require and provide any other term or condition necessary and convenient for the purposes of this part.

(4) Exempted businesses that convert their decrees under the provisions of this subsection, and that have been operating under §§ 10038 through 10052 of this title, as of the effective date of the conversion, may distribute the profits obtained before the effective date of the conversion at any later date, but said distributions shall be made according to the tax treatment provided in the law under which said profits were obtained.

(5) Exempted businesses that avail themselves of the provisions of this subsection shall be taxed on their total liquidation with regard to their industrial development income, according to the tax treatment provided in each of the laws under which said profits were obtained.

(6) The benefits of this subsection may be applied for within twelve (12) months from the date of approval of this part and the effectiveness of its provisions may be fixed from the first day of the taxable year in which they are applied for, but never before January 1, 1998, and until the first day

of the next taxable year, at the option of the exempted business.

(7) The remaining terms, conditions and benefits contained in this Part which are not in contravention of the provisions of this subsection shall be applicable to the exempted businesses covered thereby.

(c) *Extension of tax exemption.* Any exempted business may apply for an extension of its decree for ten (10) additional years under the provisions of this subsection. The application shall be made within eighteen (18) months ending on the date prescribed by law for filing the last income tax return corresponding to the year in which the decree would expire. The same shall include such information, data and evidence showing that it has met and shall continue to meet all applicable legal provisions, including the terms and conditions of its decree.

(1) Any exempted business that has availed itself of this provision, except those exempted businesses described in § 10102(a)(2) of this title, shall pay a fixed tax rate on their industrial development income of ten percent (10%) for the term of the extension provided by this subsection in lieu of any other tax levied by law. Exempted businesses described in clause (2) of subsection (a) of § 10102 of this title shall be subject to a fixed tax rate on industrial development income of five percent (5%) for the term of the extension provided in this subsection. However, income derived from the investments described in subsection (j) of § 10101 of this title shall continue to be fully exempt for the exemption period provided in this subsection. Distributions of industrial development dividends or profits obtained during the term provided in this subsection shall not be subject to income taxes.

(2) Any exempted business that has availed itself of this provision, except those exempted businesses described in clause (2) of subsection (a) of § 10102 of this title, shall enjoy a fifty percent (50%) exemption on the corresponding real and personal property taxes, as well as on municipal license taxes, municipal excises, and other municipal taxes. Exempted businesses described in clause (2) of subsection (a) of § 10102 of this part shall enjoy a seventy-five percent (75%) exemption on the corresponding real and personal property taxes, as well as on municipal licenses, municipal excises, and other municipal taxes. The municipal license tax rate that applies during the term of the extension provided in this clause shall be the rate in effect as of the date the original decree was signed.

(3) An exempted business that avails itself of this provision shall maintain an average number of jobs equal to not less than eighty percent (80%) of the average number of jobs for the three (3) taxable years prior to the extension of the decree under this subsection. This requirement shall also be extended to the successor business of the exempted business.

The Secretary of State may adjust, waive or change the average employment condition after consultation with the Secretary of the Treasury and the Administrator when the exempted business that avails itself of this provision is reasonably able to show that there are extraordinary circumstances to adjust, waive or change the same.

(4) Exempted businesses that have availed themselves of the provisions of this subsection and that on the effective date of the extension period have been operating under §§ 10038 through 10052 of this title, §§ 10024-10037 of this title, or §§ 10012-10023 of this title, shall distribute the profits obtained prior to the effective date of the extension period at any later time, but such distributions shall be made according to the tax treatment provided in each of said laws under which said profits were obtained.

(5) Exempted businesses that have availed themselves of the provisions of this subsection shall be taxed on total liquidation with regard to their industrial development income according to the tax treatment provided in each of the laws under which said profits were obtained.

(6) The provisions of this subsection may be extended for ten (10) additional years if the Secretary of State, after recommendation of the Secretary of the Treasury and the Administrator, determines that said extension is necessary and convenient for the social and economic advancement of Puerto Rico.

(7) The remaining terms and conditions in this part that are not in contravention of the provisions of this subsection shall apply to the exempted businesses covered thereby.

HISTORY: Dec. 2, 1997, No. 135, § 8, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10108 (1999)

§ 10108. Transfer of exempted business

(a) General rule. The transfer of a tax exemption grant or the stock, property or other interest on property of an exempted business that holds a decree granted under this part must be previously approved by the Secretary of State. If the same is carried out without previous approval, the exemption grant shall be rendered null and void as of the date the transfer occurred, except in those cases listed in subsection (b) of this section. The above notwithstanding, the Secretary of State may retroactively approve any transfer made without his/her approval when in his/her judgment the circumstances of the case so justify, taking into consideration the best interests of Puerto Rico and the economic and industrial development purposes of this part.

(b) *Exceptions.* The following transfers shall be authorized without the need of previous consent:

- (1) The transfer of the assets of a decedent to his/her estate or the transfer by bequest or inheritance;
- (2) the transfer under the provisions of § 10109 of this title;
- (3) the transfer of stock or any shares in a partnership when such a transfer does not directly or indirectly result in a change in the ownership or control of an exempted business;
- (4) the transfer of stock of a corporation that owns or operates an exempted business that holds a decree granted under this part, when the same occurs after the Secretary of State has determined that any transfer of the stock of said corporation shall be allowed without his/her prior approval after considering the extent to which the availability of investment capital may depend on the fact that there are assets that are freely transferable, the nature of said exempted business and its importance to the industrial development of Puerto Rico, the integrity and financial situation of the stockholders, the paid-in capital and the number of stockholders that the corporation expects to have as of the date the exempted business commences operations. The Secretary of State shall also consider the recommendations submitted by the agencies that issue reports on tax exemption applications before making his/her determination;
- (5) the pledge granted or mortgage executed in the normal course of business with the exclusive purpose of providing security for bonafide indebtedness. Any transfer of control, title or interest by virtue of said contract shall be subject to the provisions of subsection (a) of this section;
- (6) the transfer by legal procedure, court order, or by a bankruptcy judge to a receiver or trustee. Any subsequent transfer to a third person other than the same debtor or former bankrupt, shall be subject to the provisions of subsection (a) of this section;
- (7) the transfer of all assets of an exempted business that holds a decree issued under this part to an affiliated business. For the purposes of this clause, affiliated businesses are those whose

stockholders or partners hold eighty percent (80%) or more of the common stock or voting stock, issued and outstanding.

(c) Notice. Any transfer included in the exceptions of subsection (b) of this section shall be notified to the Director by the exempted business, with a copy to the Secretary of the Treasury, within thirty (30) days of the transfer, except those included under clause (4) of subsection (b) that do not convert the stockholder into a holder of ten percent (10%) or more of the outstanding corporate capital, and those included under clause (7) of subsection (b), which shall be notified by the exempted business to the Director, with a copy to the Secretary of the Treasury, prior to the transfer.

HISTORY: Dec. 2, 1997, No. 135, § 9, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

13 L.P.R.A. § 10109

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10109 (1999)

§ 10109. Liquidation

(a) General rule. No income tax shall be levied on or collected from the transferor or transferee with regard to the total liquidation of an exempted business which has obtained a decree under this part, on or before the expiration date of the decree, provided the following requirements are met:

(1) All property distributed in liquidation was received by the transferee in accordance with a liquidation plan on or before the expiration date of the decree, and

(2) the distribution upon liquidation by the transferor, whether in a lump sum or in installments, was made by the transferor in cancellation or in full redemption of its entire capital stock.

The base of the transferee in the property received in liquidation shall be equal to the adjusted base of the exempted business in said property immediately before the liquidation.

A corporation or a partnership holding shares in a partnership that is an exempted business shall in turn be deemed to be an exempted business for the purposes of this section.

(b) *Liquidation of transferors with revoked decrees.* If the decree of a transferor is revoked before its expiration, the surplus industrial development income accrued on the date the revocation becomes effective may be transferred to the transferee at any later time, subject to the provisions in subsection (a) of this section, except in cases of mandatory revocation under clause (2) of subsection (c) of § 10111 of this title, whereby the accrued surplus industrial development income shall be taxable as provided in the revocation order.

(c) *Liquidations after the expiration of the decree.* After the decree of the transferor has expired, the latter may transfer to the transferee the accrued surplus industrial development income earned during the effectiveness of the decree, subject to the provisions of subsection (a) of this section.

(d) *Liquidation of transferors with exempt and nonexempt activities.* In case the transferor carries out exempt and nonexempt activities, the latter may transfer to the transferee the surplus industrial development income accrued under this part and the property intended for industrial development under this part as part of its total liquidation, subject to the provisions of subsection (a) of this section. The accrued surplus that is not industrial development income and the property that is not intended for industrial development shall be distributed according to the provisions of §§ 8001 et seq. of this title, known as the "Puerto Rico Internal Revenue Code."

HISTORY: Dec. 2, 1997, No. 135, § 10, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10110 (1999)

§ 10110. Successor business

(a) General rule. A successor business may avail itself of the provisions of this part, provided that:

(1) The predecessor business has not ceased operations for more than six (6) consecutive months before filing the exemption application of the successor business, or during the exemption period of the successor business, unless this is due to extraordinary circumstances.

(2) The predecessor business maintains its annual average number of jobs for the three (3) taxable years that end with the close of its taxable year prior to the filing of the exemption application of the successor business, or the applicable part of said period while the decree of the successor business granted under the provisions of this part is in effect, unless, due to extraordinary circumstances, said average cannot be maintained.

(3) The number of jobs of the successor business after its first year of operations is greater than twenty-five percent (25%) of the average annual number of jobs of the predecessor business referred to in clause (2) above.

(4) The successor business does not use the physical facilities, including land, buildings, machinery, equipment, inventory, supplies, trademarks, patents, and marketing outlets, having a value of \$25,000.00 or more and which have been previously used by the exempted predecessor business. The foregoing shall not apply to additions to property intended for industrial development, even when said additions constitute physical facilities with a value of \$25,000.00 or more and which are being or have been used by the main unit or exempted predecessor business. The above notwithstanding, the Secretary of State may determine, after recommendation of the agencies that issue reports on tax exemption, that the use of the physical facilities or the acquisition of any industrial unit of an exempted predecessor business that is or was in operation will be for the best economic and social interests of Puerto Rico, in view of the nature of said facilities, the number of jobs, the payroll, the investment, the location of the project, or other factors that in his/her judgment merit said determination.

(b) *Exceptions.* Notwithstanding the provisions of subsection (a) of this section, the conditions of the same shall be deemed as complied with, when:

(1) The successor business assigns to the exempted predecessor business such a portion of its annual number of jobs as may be necessary so that the annual number of jobs of the exempted predecessor business is maintained at or is equivalent to the annual number of jobs that said exempted predecessor business must maintain. The assignment provided herein shall not be covered by the decree of the successor business, but it shall enjoy the benefits provided under this part, if any, with respect to the portion so assigned which the exempted predecessor business would have enjoyed thereon, as if such a portion had been its own annual production. If the exemption period of the exempted predecessor business has expired,

the successor business shall pay the corresponding taxes on such a portion of its annual production assigned to the exempted predecessor business.

(2) The successor business declares as not covered by its decree, for property tax purposes, such a portion of its facilities as may be necessary so that the investment in physical facilities of the exempted predecessor business is maintained at or is equivalent to the total investment in physical facilities at the close of the taxable year of such an exempted predecessor business prior to the filing of the application for exemption of the successor business, minus depreciation thereon and minus any decrease in the investment in physical facilities that may have occurred as of the date the provisions of this clause are applied as a result of an authorization to use the same under the provisions of subsection (a)(4) of this section. In those cases in which the tax exemption period of the exempted predecessor business has not expired, the successor business shall enjoy the benefits provided by this Part which the exempted predecessor business would have enjoyed with respect to the portion of its investment in said physical facilities that for the purposes of this clause it declares as not covered by its decree, if the said facilities had been used in producing its industrial development income.

(3) The Secretary of State determines, after recommendation of the agencies that issue reports on tax exemption, that the operation of the successor business is for the best economic and social interests of Puerto Rico, in view of the nature of the physical facilities, the number of jobs, the amount of the payroll, the investment, the location of the project or any other factors that in his/her judgment merit said determination, including the economic situation of the particular exempted business, and waives its full or partial compliance with the provisions of subsection (a) of this section, with authority to condition the operations as may be convenient and necessary for the benefit of the best interests of Puerto Rico.

HISTORY: Dec. 2, 1997, No. 135, § 11, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

13 L.P.R.A. § 10111

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10111 (1999)

§ 10111. Denial, revocation and limitation of tax exemption

(a) Denial if not for the benefit of Puerto Rico. If not for the benefit of Puerto Rico. The Secretary of State may deny any application if he/she determines that the exemption is not for the best social and economic interests of Puerto Rico after considering the nature of the physical facilities, the number of jobs, the amount of the payroll and the investment, the location of the project, the environmental impact, or other factors which in his/her judgment merit such a determination, as well as the recommendations of the agencies that issue reports on tax exemption.

After being notified of the denial, the applicant may request that the Secretary of State reconsider said denial within ninety (90) days after receipt of the notice presenting the facts and arguments regarding its application, which it believes to be pertinent, including offering any consideration for the benefit of Puerto Rico it believes will render its request for reconsideration meritorious.

In the event the application is reconsidered, the Secretary of State may accept any consideration offered for the benefit of Puerto Rico and may require and impose any other term or condition that may be necessary to ensure that said exemption is for the best interests of Puerto Rico and for the industrial and economic development purposes of this part.

(b) *Denial for conflict with the public interest or due to substitution of or competition with established businesses.* The Secretary of State may deny any application when he/she determines from facts submitted for his/her consideration and after the applicant has been afforded the opportunity to make a thorough presentation of the issues in dispute, that the application is in conflict with the public interest of Puerto Rico on any of the following grounds:

(1) That the applicant business has not been organized as a bona fide business of a permanent nature, in view of the reputation of the persons who constitute the latter, the plans and methods for raising funds for the distribution and sale of the product to be manufactured or the services to be rendered, the nature or intended use of such a product or such services, or any other factor that may indicate the existence of a reasonable possibility that granting the exemption will be prejudicial to the interests of Puerto Rico, or

(2) that the product to be manufactured by the applicant will substitute or compete at a substantial advantage by reason of the benefits provided by this part, with products manufactured by industries established in Puerto Rico that are not eligible businesses. The foregoing notwithstanding, the Secretary of State may grant the exemption when he/she determines that the applicant eligible business shall be of substantial benefit to the general economy of Puerto Rico due to anticipated increases in production to supply markets outside of Puerto Rico, or to supply a substantial existing demand in Puerto Rico that has not been previously supplied, and in view of the investment, technology and new job opportunities involved.

If the exemption is granted to any industry under such circumstances, the Secretary of State, at the request of an interested party, may also grant exemption to existing industries manufacturing such commercial articles that, in his/her judgment, may incur substantial damages by reason of such a substitution or competition.

(c) *Procedures for permissive and mandatory revocations.* The Secretary of State may revoke any exemption granted under this part after the grantee has had the opportunity to appear and be heard before the Director or before any Special Examiner of the Tax Exemption Office appointed for such a purpose, who shall report his/her conclusions and recommendations to the Secretary of State, after recommendation of the agencies that issue reports on tax exemption, as provided below. *Permissive revocation.*

(A) When the grantee fails to comply with any of the obligations imposed by this part or its regulations or by the terms of the exemption granted.

(B) When the grantee fails to commence or to complete the construction of the facilities needed to manufacture the products the latter intends to manufacture or to render the services it intends to render, or fails to commence the production thereof or to render such services within the period fixed for such purposes in the exemption.

(C) When the grantee discontinues production on a commercial scale or suspends its operations for more than thirty (30) days without the authorization of the Secretary of State. The Secretary of State shall authorize such suspensions for periods of more than thirty (30) days when they occur as a result of causes beyond the control of the grantee.

(D) When the grantee fails to comply with its tax responsibility under §§ 8001 et seq. of this title and other tax laws of Puerto Rico.

(2) *Mandatory revocation.* The Secretary of State shall revoke any exemption granted under this part if it was obtained by false or fraudulent representations concerning the nature of the eligible business, or the nature or extent of the manufacturing process or of the production achieved or to be achieved in Puerto Rico, or the use that has been given or shall be given to property intended for industrial development, or any other facts or circumstances which wholly or partially motivated the granting of the exemption.

An additional cause for revocation under this clause arises when a person commits or attempts to commit, per se or on behalf of any other person, a violation of the provisions regarding successor businesses or exempted predecessor businesses.

(d) *Limitation of benefits due to special circumstances.* If the Secretary of State, while considering an application filed under clause (1) of subsection (d) of § 10101 of this title, determines that a previous exemption covering the same product, granted under the same section or similar provisions under preceding laws was granted incorrectly, the Secretary of State, after further consideration of available pertinent data, may grant such an application for a term whose expiration date shall be similar to the expiration date of any exemption in effect for the same product granted under such preceding laws, and may include the benefits provided in this Part. None of what is provided herein shall, however, prevent the Secretary of State from determining that the application is eligible or ineligible on other grounds.

(e) *Limitation of benefits to production for export.* The Secretary of State, from time to time, and after consulting with agencies that issue reports on tax exemption, may designate from eligible products, those products to which the benefits of this part shall be granted only if produced for export, when he/she determines that the following factors exist:

(1) The production in Puerto Rico of products for the local market meets the existing demand and the local capacity of production is able to meet the demand foreseen for a period of five (5) years, and

(2) there is active competition in the production and marketing of the particular product in Puerto Rico. Those products which, although similar in name, appearance and use, are different with regard to their quality, size, price or other factors which affect the marketing of the product, and as a result, its demand, shall be deemed as separate, distinct manufactured products which require a separate designation.

When the above mentioned conditions no longer exist, the Secretary of State may, after consultation with the agencies that issue reports on tax exemption applications, cease the imposition of said limitation or resume their designation when the stated conditions reappear.

This limitation shall apply to the tax exemption applications that have not been granted as of the effective date of said limitation.

HISTORY: Dec. 2, 1997, No. 135, § 12, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10112 (1999)

§ 10112. Administration, granting of tax exemption

(a) *Industrial tax exemption office.* The Industrial Tax Exemption Office shall be attached to the Department of State. Said Tax Exemption Office shall be directed by a Director, who shall be appointed by the Secretary of State, with the approval of the Governor. The Director shall exercise the powers, perform the duties and comply with the obligations imposed by this part. The Secretary of State shall appoint the necessary personnel and shall administer this Office.

(b) *Sworn statements required by the industrial tax Exemption Office.* The Tax Exemption Office shall require all tax exemption applicants to present whatever sworn statements concerning the pertinent or required facts are needed to determine whether the operations or intended operations of said applicants qualify under the provisions of this part.

(c) *Hearings.* The Director may hold such public and/or administrative hearings as he/she may deem necessary and shall require the applicants for tax exemption decrees to present any evidence that will justify the requested tax exemption.

The Director, or any Special Examiner of the Tax Exemption Office thus designated by the Secretary of State, may receive the evidence presented in connection with any application for a tax exemption decree, and shall have the power to summon witnesses and take their statements with regard to the alleged facts or of those facts otherwise related to the tax exemption decree requested, take the oath of any person who makes a statement before him/her, and submit a report to the Secretary of State regarding the evidence presented, together with his/her recommendations on the case.

(d) *Penalties.* Any person who makes or attempts to makes, per se or on behalf of another person, any false or fraudulent representation with regard to any tax exemption application or grant, or commits or attempts to commit any violation of the provisions regarding exempted, predecessor or successor businesses, shall be deemed to be guilty of a felony and upon conviction thereof shall be punished with a fine not to exceed ten thousand dollars (\$10,000.00), or by imprisonment for a term of not more than five (5) years, or both penalties, plus fees, at the discretion of the court.

(e) *Tax exemption applications; fees to be collected, review of rates.* Any person who has established or intends to establish an eligible business in Puerto Rico, shall apply to the Secretary of State for the benefits of this part by filing the corresponding duly sworn application with the Tax Exemption Office.

At the time of filing, the Director shall collect the following fees for the applications filed, which shall be paid by certified check, or postal or bank money order, issued to the Secretary of the Treasury.

(1) For filing original cases, five hundred dollars (\$500.00).

(2) For filing cases to be renegotiated, consolidations, applications for special waivers and for additional exemptions, three thousand dollars (\$3,000.00).

(3) For filing transfers of stock and control, or of assets of exempted businesses between corporations or affiliated entities as this term is defined in clause (7) of subsection (b) of § 10108 of this title, five hundred dollars (\$500.00).

(4) For filing transfers of stock and control, or of assets of exempted businesses to businesses that are not affiliated businesses, as this term is defined in clause (7) of subsection (b) of § 10108 of this title, three thousand dollars (\$3,000.00).

(5) For filing applications for amendments and extensions of various types, three hundred dollars (\$300.00).

(6) For filing or issuing any certificate, sworn statement or any document for which different fees are not distinctly stated, twenty-five dollars (\$25.00).

(7) For the presentation of documents in opposition to the tax exemption applications, twenty-five dollars (\$25.00).

The fees established in this subsection and other sections of this part shall be subject to review every three (3) years from its date of approval. The increases in the cost of living shall be taken into account for said review. The Tax Exemption Office shall be responsible for submitting the recommendations for amendments to this subsection.

(f) Nature of the grants. The tax exemption granted under this part shall be deemed to be in the nature of a contract between the grantee, its stockholders, partners or owners, and the Government of Puerto Rico, and shall include those terms and conditions that are consistent with the purposes of this part and that will promote the creation of jobs for the social and economic development of Puerto Rico, taking into consideration the nature of the petition or action requested, as well as the related facts and circumstances that may apply to each particular case.

(g) Obligation to comply with the representation made in the application. All exempted businesses shall conduct their exempted operations substantially as represented in the application, except when these have been changed under amendments authorized by the Secretary of State as requested by the grantee, pursuant to the provisions of this part.

(h) Commencement of operations. The exempted business shall commence operations on a commercial scale within the term of one year from the date the grant was signed. Said term may be extended at the request of said business, for just cause, but no extension shall be granted that will extend the date to commence operations for a term greater than five (5) years from the date the grant was approved.

(i) Regulations under this act. The Director shall draft, in consultation with the Secretary of the Treasury and the Administrator, those regulations needed to enforce the provisions and purposes of this part. Said regulations shall also be subject to the provisions of §§ 2101 et seq. of Title 3, known as the "Commonwealth of Puerto Rico Uniform Administrative Procedures Act."

(j) Interagency consideration of the applications. Upon receipt of any application under this part by the Tax Exemption Office, the Director shall remit a copy thereof to the Secretary of the Treasury and the Administrator within a term of five (5) days from the date the application is filed. The latter shall issue an eligibility report on the manufactured product or the designated service, as the case may be, and on other facts related to the application. Upon evaluation of the application for exemption, the Secretary of the Treasury shall verify the compliance of the stockholders or partners who hold twenty-five percent (25%) or more of the stock or shares of the exempted business with their tax responsibility under the §§ 8006 et seq. of this title, known as "Puerto Rico Internal Revenue Code" or any similar preceding law. Noncompliance with said tax responsibility shall be taken into account by the Secretary of the Treasury when issuing his/her recommendation for exemption on the application of the exempted business. In the case of applications for exemption under clause (10) of subsection (d) of § 2 and clause (24) of subsection (e) of § 10101 of this title, the Director shall remit a copy of the application to the Executive Director of the Solid Waste Authority within a term of five (5) days as of the date the application was filed. The Administrator shall remit his/her recommendation to the Director and the Secretary of the Treasury within forty (40) days after the Director remits a copy of said application, provided it contains all the information needed for the corresponding evaluation. Should the Administrator fail to submit his/her recommendation to the Director within the term of forty (40) days from the date the Director remitted a copy of the application, it shall be deemed that the Administrator has favorably recommended the application. Any unfavorable recommendation shall include the reasons for said recommendation.

(1) The Director shall remit a copy of the application to those agencies that, in the judgment of the Secretary of State, should have copies thereof; in view of the nature of the industry.

(2) Once the eligibility report from the Administrator is received, or the term of forty (40) days has

elapsed without the recommendation of the Administrator having been received, the Director shall draw a draft decree to be circulated among the agencies concerned, including the Secretary of the Treasury, within a term of twenty (20) days after all the documentation needed to handle the case has been received, or unless a petition in opposition thereof has been filed, so that the agencies may submit a report with their recommendations. Copies shall also be sent to the municipality concerned and to the Municipal Revenues Collection Center (CRIM, Spanish acronym), for the corresponding economic and fiscal evaluation. Any unfavorable recommendation shall include the grounds for such a recommendation. Should any of said agencies or municipalities fail to submit the corresponding report or opinion within a term of thirty (30) days after having been notified of said draft decree, said draft decree shall be deemed to have received a favorable recommendation from the agencies or municipalities notified, and the Secretary of State shall take corresponding action with regard to the application for exemption.

In the case of amendments to grants approved under this part, the term for the agencies and municipalities concerned to submit a report or opinion to the Director shall be reduced to twenty (20) days.

The Director shall also remit an informative copy of the draft decree to the Secretaries of Justice and of Labor and Human Resources.

(3) Once the reports have been received, and in no case more than ninety-five (95) days after the application has been duly filed, the Director shall submit the draft decree and his/her recommendation to the consideration of the Secretary of State within the following ten (10) days.

(4) The Director may rely on the recommendations furnished by those agencies or municipalities that issue reports or opinions and may ask them to supplement these.

(5) The Secretary of State shall issue a final determination in writing within a term not to exceed five (5) days from the day the draft decree was submitted for his/her consideration.

(6) The Secretary of State may delegate to the Director those functions which in his/her discretion he/she deems convenient in order to expedite the administration of this part, except the function of approving or denying the original applications for tax exemption, and excepting the exemptions granted under subsection (b) and clause (5) of subsection (d) of § 10101 of this part.

(k) *Periodic reports to the Governor and the Legislature.* The Director and the Administrator shall render a yearly report to the Governor and the Legislature on the activities and achievements of the economic development program which shall include the tax exemption applications submitted and approved, the businesses established, their compliance with the commitments contracted by exempted businesses, the jobs committed to and created, and the effects of the tax exemption on the reduction of the unemployment rate, as well as any other matters needed to inform the Governor and the Legislature as to the scope and effects of implementing this part. These reports shall include an analysis and evaluation of the factors related to the industrial development of Puerto Rico, such as the government processing of permits, licenses, authorizations, grants and any other similar matters, the availability of land for industrial purposes, the availability of skilled manpower and infrastructure, and the manner in which said factors promote or affect the industrial development of the country. These reports shall also encompass the dynamics of the progress of the economic development program from the perspective corresponding to each official, and to this effect, shall include an analysis of the relative competitiveness of Puerto Rico, taking into account all of the factors that are evaluated by industrialists to establish their businesses on the Island.

The Secretary of State, in consultation with the Administrator and the Secretary of the Treasury, shall submit a report to the Legislature on the economic and fiscal impact of this part within ninety (90) days following the close of each fiscal year.

The Secretary of the Treasury shall likewise render a report to the Legislature indicating the manner in which the exempted businesses have filled their tax obligations, including a comparison with the previous year and a projection of said conduct for the next three (3) years following the year to which the report corresponds.

HISTORY: Dec. 2, 1997, No. 135, § 13, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10113 (1999)

§ 10113. Reports required from exempted businesses and their stockholders or partners

(a) All exempted businesses shall file an income tax return each year with the Secretary of the Treasury, regardless of their gross or net income, apart from any other tax return which these are otherwise under the obligation to file with regard to the operations of the industry covered by the benefits provided in this part, and pursuant to the Puerto Rico Internal Revenue Code in effect.

(b) All stockholders or partners of an exempted business shall file an income tax return each year with the Department of the Treasury pursuant to the provisions of the Puerto Rico Internal Revenue Code; Provided, That they have the obligation under said Code to do so.

(c) The exempted businesses shall also be bound to maintain a separate accounting system regarding their operations, as well as the necessary records and files. They shall also provide and submit those sworn statements and comply with the rules and regulations in effect so as to fulfill the purposes of this part so that the Secretary of the Treasury may prescribe from time to time those matters regarding the levy and collection of all types of taxes.

(d) All exempted businesses shall file a report each year with the Tax Exemption Office, with a copy to the Secretary of the Treasury, not later than thirty (30) days after the date prescribed by law for filing the corresponding income tax return, including the extensions granted for this purpose, authenticated with the signature of the President, managing partner, or authorized representative, which shall contain a breakdown of data reflecting their compliance with the conditions established in the decree for the taxable year immediately preceding the filing date, including the following, without it being construed as a limitation: the average number of jobs; the products manufactured or services rendered; the investment in property intended for industrial development; the amount invested in any of the activities qualified by this part and § 8615 of this title, part of Puerto Rico Internal Revenue Code; the date of the investment and terms thereof; the income taxes, property taxes and municipal licenses paid; the amounts and types of investments in eligible funds; and any other related information. This report shall include a postal or bank money order or a certified check for three hundred dollars (\$300.00) issued to the Secretary of the Treasury. The information provided in this annual report shall be used for statistical purposes and economic studies, as provided in this part.

(e) All exempted business shall file the duly completed reports required by the Commissioner.

(f) After being duly informed by the concerned agency, the Director shall impose an administrative fine of one hundred dollars (\$100.00), in the case of a first infraction for each calendar month in which any exempted business fails to file any of the reports required by the Secretary of the Treasury, the Administrator, the Director or the Commissioner, pursuant to the provisions of subsections (a) through (e) of this section, or in which the reports are filed after their due date. Should the exempted business again

incur the same fault, the fine may be of two hundred and fifty dollars (\$250.00) for each month in the case of a second infraction, and of one thousand dollars (\$1,000.00) for each month in case of a third and subsequent infractions. The Tax Exemption Office may file a civil suit for the collection of said administrative fines at the General Court of First Instance of Puerto Rico, Superior section, San Juan Part, which shall have exclusive jurisdiction over said proceeding, or may consider the case for the corresponding sanction pursuant to the provisions of § 10111(c)(1)(A) of this title. The filing of an incomplete report shall be deemed as not filed, if the agency concerned notifies the exempted business of any omission in the required report and said exempted business fails to submit the missing information within fifteen (15) days of notice thereof; or fails to provide a reasonable justification for not doing so.

HISTORY: Dec. 2, 1997, No. 135, § 14, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

13 L.P.R.A. § 10114

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10114 (1999)

§ 10114. Administrative decisions; finality

(a) All decisions and determinations of the Secretary of State under this part shall be final and no judicial or administrative review or any other recourse shall proceed, unless otherwise specifically provided.

(b) Any grantee adversely affected or damaged by any action taken by the Secretary of State to revoke and/or cancel a tax exemption grant pursuant to § 10111(c)(2) of this title, shall be entitled to a judicial review by filing an appeal for review with the Puerto Rico Circuit Court of Appeals within thirty (30) days from the final decision or adjudication of the Secretary of State. During the process of the judicial review, the Secretary of State is hereby authorized to postpone the effective date of any action taken by him/her when, in his/her judgment, justice so requires, under those conditions required and to the extent needed to prevent irreparable damage. When said postponement is requested and denied, the court before which the review is requested through a certiorari, including the Supreme Court of Puerto Rico, may decree any procedure necessary and appropriate to postpone the effective date of any action taken by the Secretary of State, or to preserve the status or rights of the parties until the termination of the review proceedings, after posting bond in favor of the Secretary of the Treasury for the amount of the unpaid taxes to date, plus interest and penalties, plus interest computed for the period of one (1) year at the prevailing legal rate. Any ruling or judgment of the Circuit Court of Appeals of Puerto Rico shall be subject to review by the Supreme Court of Puerto Rico by means of a certiorari requested by any of the parties in the manner prescribed by law.

HISTORY: Dec. 2, 1997, No. 135, § 15, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10115 (1999)

§ 10115. Special accounts and funds

(a) Special Account of the Industrial Tax Exemption Office. The fees, charges and penalties prescribed in § 10112(e) of this title, and subsections (d) and (f) of § 10113 of this part, shall be covered into a Special Account created for such a purpose in the Department of the Treasury in order to defray the regular operating expenses of the Tax Exemption Office. Before using the resources deposited in the Special Account, the Tax Exemption Office shall submit a yearly budget of expenses chargeable to said funds for the approval of the Office of Management and Budget of the Government of Puerto Rico. The resources of the Special Account set aside to defray the regular operating expenses of the Tax Exemption Office may be completed with appropriations from the General Fund of the Government of Puerto Rico.

(b) *Special Account of the Office of the Commissioner of Financial Institutions.* Fifty percent (50%) of the fines that the Tax Exemption Office collects from the unfiled reports of the exempted businesses shall be deposited by request of the Commissioner into the Special Account of the Commissioner at the Department of the Treasury.

(c) *Special Economic Development Fund.* The Secretary of the Treasury shall establish a special fund denominated as the "Special Economic Development Fund," into which five percent (5%) of the income tax paid by businesses exempted under this part shall be covered. Also to be covered into this special fund shall be the special surtax levied on exempted businesses under the Tax Incentives Act of 1987, §§ 10038 through 10052 of this title, which shall no longer be covered into the special fund created under said Tax Incentives Act of 1987. The moneys of the special fund established herein shall be used exclusively for the following purposes:

(1) Support for scientific and technical research and development of new products and industrial processes, which may be carried out directly or in agreement with government agencies or with public or (private universities, or with any natural or juridical persons with knowledge and experience to support the programs covered by the Excellence in Public Teaching Fund of Puerto Rico and the Annual Awards for Excellence for the Members of the Puerto Rico Police Corps Program, and the Industrial Incentives Program administered by the Industrial Development Company of Puerto Rico in support of the industrial promotion efforts of the Economic Development Administration.

(2) The development and implementation of special programs leading to counteract the problems facing those persons or families that because of chronic unemployment or for any other reason, have suffered economic deprivation or have been dispossessed and for whose rehabilitation, government action beyond the traditional services of the Executive Branch is required to integrate them to the mainstream of modern socioeconomic development.

(3) To provide special incentives for the establishment in Puerto Rico of industries of strategic

importance to the Government of Puerto Rico, including investments in capital investment ends that promote this type of industry.

(4) To provide assistance for the acquisition of exempted businesses by their management.

(5) To assist in establishing programs to share the risks to which small businesses are prone.

The Secretary of Economic Development and Commerce is hereby empowered with the necessary and sufficient discretion to use the moneys of the Special Fund, provided said use leads to the achievement of the purposes provided above.

The Secretary of Economic Development and Commerce shall establish the criteria to be used for the disbursement of the Special Economic Development Fund moneys through regulations.

HISTORY: Dec. 2, 1997, No. 135, § 16, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

13 L.P.R.A. § 10116

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10116 (1999)

§ 10116. Payment of fees

The payment of fees and charges proscribed in subsection (e) of § 10112 and subsection (d) of § 10113 of this title shall apply to the applicants and grantees covered by decrees granted under the provisions of the various tax incentive laws, to wit: this part, and §§ 10038 through 10052 of this title, §§ 10024 through 10037 of this title, and §§ 10012 through 10023 of this title as amended.

HISTORY: Dec. 2, 1997, No. 135, § 17, eff. Jan. 1, 1998.

NOTES:

EFFECTIVENESS. See effective note under § 10101 of this title.

13 L.P.R.A. § 10117

LAWS OF PUERTO RICO ANNOTATED
Copyright © 1955-2001 by The Secretary of State of Puerto Rico
and LEXIS-NEXIS of Puerto Rico, Inc.
All rights reserved.

*** THIS SECTION IS CURRENT THROUGH DECEMBER 1999 ***
*** ANNOTATIONS CURRENT THROUGH DECEMBER 1999 ***

TITLE 13. TAXATION AND FINANCE
SUBTITLE 15. PUERTO RICO INDUSTRIAL INCENTIVES GENERALLY
PART II. TAX INCENTIVES ACT OF 1998
CHAPTER 905. TAX INCENTIVES ACT OF 1998

◆ [GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION](#)

13 L.P.R.A. § 10117 (1999)

§ 10117. Decrees granted under preceding laws

No applications for exemption under §§ 10038 through 10052 of this title shall be received after the effective date of this act. However, the decrees granted thereunder or under similar preceding laws may be amended in accordance with their respective provisions. Applications for new decrees filed under said law which have not been granted prior to the effective date of this act may be processed under the present part, at the option of the applicant.

HISTORY: Dec. 2, 1997, No. 135, § 18, eff. Jan. 1, 1998.

NOTES:

TEXT REFERENCES. The reference to the effective date of "this act" is to Act Dec. 2, 1997, No. 135, effective Jan. 1, 1998.

EFFECTIVENESS. See effective note under § 10101 of this title.