H. R. 3020

To amend the Internal Revenue Code of 1986 to allow certain Puerto Rico corporations to elect to be treated as domestic corporations.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2011

Mr. PIERLUISI (for himself, Mr. YOUNG of Alaska, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow certain Puerto Rico corporations to elect to be treated as domestic corporations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Puerto Rico Investment Promotion Act of 2011”.
SEC. 2. CERTAIN PUERTO RICO CORPORATIONS MAY ELECT TO BE TREATED AS DOMESTIC CORPORATIONS.

(a) In General.—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 (relating to possessions of the United States) is amended by inserting after section 933 the following new section:

"SEC. 933A. ELECTION BY PUERTO RICO CORPORATIONS TO BE TREATED AS DOMESTIC CORPORATIONS.

"(a) In General.—A qualified Puerto Rico corporation for which an election under this section is in effect for any taxable year shall be treated for such year as a domestic corporation for purposes of this title.

"(b) Qualified Puerto Rico Corporation.—For purposes of this section, the term ‘qualified Puerto Rico corporation’ means any corporation if—

"(1) the corporation is incorporated under the laws of Puerto Rico, and

"(2) at least 50 percent of its gross income (determined without regard to subsection (e)) for the taxable year is derived from sources within Puerto Rico.

"(c) Exclusion of Puerto Rico Source Income.—"
“(1) In General.—In the case of a qualified Puerto Rico corporation for which an election under this section is in effect for any taxable year, gross income for such year shall not include income derived from sources within Puerto Rico.

“(2) Denial of Certain Foreign Tax Credits.—No credit shall be allowed for the amount of taxes paid or accrued to a foreign country or possession of the United States to the extent such taxes are properly allocable to amounts excluded from gross income under paragraph (1).

“(d) Rules Relating to Election.—

“(1) Period Election in Effect.—

“(A) In General.—Except as otherwise provided in this paragraph, an election under this section shall apply to the taxable year for which made and all subsequent taxable years.

“(B) Revocation.—

“(i) Revocation by Corporation.—

A corporation may revoke an election under this section for any taxable year only if the election has been in effect for at least the 3 most recent preceding taxable years.
“(ii) Ceasing to be Qualified.—An election under this section shall be revoked by the Secretary for any taxable year for which the corporation fails to meet the requirements of subsection (b).

“(iii) Effect of Revocation.—Except as provided in subparagraph (C), a revocation under this subparagraph shall apply to the taxable year for which revoked and all subsequent taxable years.

“(C) Election after Revocation.—An election under this section may be made after a revocation under subparagraph (B), but the election may not apply to any taxable year before the 4th taxable year following the most recent preceding taxable year for which the election was in effect.

“(2) Effect of Making and Terminating Election.—

“(A) Making Election.—For purposes of section 367, any qualified Puerto Rico corporation making an election under this section shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation
in connection with an exchange to which section 354 applies.

“(B) Effect of Termination.—For purposes of section 367, if an election is made by a corporation under this section for any taxable year and such election ceases to apply for any subsequent taxable year, such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

“(C) Intangibles.—For purposes of section 367(d) and the second sentence of section 482, any election made under this section shall be disregarded.

“(e) Denial of Inclusion in Consolidated Return.—A qualified Puerto Rico corporation for which an election under this section is in effect for any taxable year may not be included in any consolidated return under chapter 6.”.

(b) Clerical Amendment.—The table of sections for such subpart D is amended by inserting after the item relating to section 933 the following new item:

“Sec. 933A. Election by Puerto Rico corporations to be treated as domestic corporations.”.
(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after September 30, 2011.