

105TH CONGRESS  
1ST SESSION

# S. 906

To amend the Internal Revenue Code of 1986 to extend the economic activity credit for Puerto Rico, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 16, 1997

Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BREAUX, Mr. HATCH, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to extend the economic activity credit for Puerto Rico, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Puerto Rico Economic Activity Credit Improvement Act  
6       of 1997”.

7       (b) AMENDMENT OF 1986 CODE.—Except as other-  
8       wise expressly provided, whenever in this Act an amend-  
9       ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
 2 shall be considered to be made to a section or other provi-  
 3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. MODIFICATIONS OF PUERTO RICO ECONOMIC**  
 5 **ACTIVITY CREDIT.**

6 (a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—  
 7 Section 30A(a)(2) (defining qualified domestic corpora-  
 8 tion) is amended to read as follows:

9 “(2) QUALIFIED DOMESTIC CORPORATION.—

10 For purposes of paragraph (1)—

11 “(A) IN GENERAL.—A domestic corpora-  
 12 tion shall be treated as a qualified domestic cor-  
 13 poration for a taxable year if it is actively con-  
 14 ducting within Puerto Rico during the taxable  
 15 year—

16 “(i) a line of business with respect to  
 17 which the domestic corporation is an exist-  
 18 ing credit claimant under section  
 19 936(j)(9), or

20 “(ii) an eligible line of business not  
 21 described in clause (i).

22 “(B) LIMITATION TO LINES OF BUSI-  
 23 NESS.—A domestic corporation shall be treated  
 24 as a qualified domestic corporation under sub-  
 25 paragraph (A) only with respect to the lines of

1 business described in subparagraph (A) which it  
 2 is actively conducting in Puerto Rico during the  
 3 taxable year.

4 “(C) EXCEPTION FOR CORPORATIONS  
 5 ELECTING REDUCED CREDIT.—A domestic cor-  
 6 poration shall not be treated as a qualified cor-  
 7 poration if such corporation (or any prede-  
 8 cessor) had an election in effect under section  
 9 936(a)(4)(B)(iii) for any taxable year beginning  
 10 after December 31, 1996.”

11 (b) APPLICATION ON SEPARATE LINE OF BUSINESS  
 12 BASIS; ELIGIBLE LINE OF BUSINESS.—Section 30A is  
 13 amended by redesignating subsection (g) as subsection (h)  
 14 and by inserting after subsection (f) the following new  
 15 subsection:

16 “(g) APPLICATION ON LINE OF BUSINESS BASIS; EL-  
 17 IGIBLE LINES OF BUSINESS.—For purposes of this sec-  
 18 tion—

19 “(1) APPLICATION TO SEPARATE LINE OF  
 20 BUSINESS.—

21 “(A) IN GENERAL.—In determining the  
 22 amount of the credit under subsection (a), this  
 23 section shall be applied separately with respect  
 24 to each substantial line of business of the quali-  
 25 fied domestic corporation.

1           “(B) EXCEPTIONS FOR EXISTING CREDIT  
 2 CLAIMANT.—This paragraph shall not apply to  
 3 a substantial line of business with respect to  
 4 which the qualified domestic corporation is an  
 5 existing credit claimant under section 936(j)(9).

6           “(C) ALLOCATION.—The Secretary shall  
 7 prescribe rules necessary to carry out the pur-  
 8 poses of this paragraph, including rules—

9                   “(i) for the allocation of items of in-  
 10 come, gain, deduction, and loss for pur-  
 11 poses of determining taxable income under  
 12 subsection (a), and

13                   “(ii) for the allocation of wages, fringe  
 14 benefit expenses, and depreciation allow-  
 15 ances for purposes of applying the limita-  
 16 tions under subsection (d).

17           “(2) ELIGIBLE LINE OF BUSINESS.—The term  
 18 ‘eligible line of business’ means a substantial line of  
 19 business in any of the following trades or businesses:

20                   “(A) Manufacturing.

21                   “(B) Agriculture.

22                   “(C) Forestry.

23                   “(D) Fishing.

24           “(3) SUBSTANTIAL LINE OF BUSINESS.—For  
 25 purposes of this subsection, the determination of

1       whether a line of business is a substantial line of  
 2       business shall be determined by reference to 2-digit  
 3       codes under the North American Industry Classifica-  
 4       tion System (62 Fed. Reg. 17288 et seq., formerly  
 5       known as ‘SIC codes’).”

6       (c) REPEAL OF BASE PERIOD CAP.—

7           (1) IN GENERAL.—Section 30A(a)(1) (relating  
 8       to allowance of credit) is amended by striking the  
 9       last sentence.

10          (2)     CONFORMING     AMENDMENT.—Section  
 11       30A(e)(1) is amended by inserting “but not includ-  
 12       ing subsection (j)(3)(A)(ii) thereof” after “there-  
 13       under”.

14       (d) APPLICATION OF CREDIT.—Section 30A(h) (re-  
 15       lating to applicability of section), as redesignated by sub-  
 16       section (b), is amended to read as follows:

17       “(h) APPLICATION OF SECTION.—

18           “(1) IN GENERAL.—This section shall apply to  
 19       taxable years beginning after December 31, 1995,  
 20       and before the termination date.

21           “(2) TERMINATION DATE.—For purposes of  
 22       paragraph (1)—

23           “(A) IN GENERAL.—The termination date  
 24       is the first day of the 4th calendar year follow-  
 25       ing the close of the first period for which a cer-

1           tification is issued by the Secretary under sub-  
2           paragraph (B).

3           “(B) CERTIFICATION.—

4                   “(i) IN GENERAL.—The Secretary  
5           shall issue a certification under this sub-  
6           paragraph for the first 3-consecutive cal-  
7           endar year period beginning after Decem-  
8           ber 31, 1997, for which the Secretary de-  
9           termines that Puerto Rico has met the re-  
10          quirements of clause (ii) for each calendar  
11          year within the period.

12                   “(ii) REQUIREMENTS.—The require-  
13          ments of this clause are met with respect  
14          to Puerto Rico for any calendar year if—

15                           “(I) the average monthly rate of  
16                          unemployment in Puerto Rico does  
17                          not exceed 150 percent of the average  
18                          monthly rate of unemployment for the  
19                          United States for such year,

20                           “(II) the per capita income of  
21                          Puerto Rico is at least 66 percent of  
22                          the per capita income of the United  
23                          States, and

1 “(III) the poverty level within  
2 Puerto Rico does not exceed 30 per-  
3 cent.”

4 (e) CONFORMING AMENDMENTS.—

5 (1) Section 30A(b) is amended by striking  
6 “within a possession” each place it appears and in-  
7 serting “within Puerto Rico”.

8 (2) Section 30A(d) is amended by striking  
9 “possession” each place it appears.

10 (3) Section 30A(f) is amended to read as  
11 follows:

12 “(f) DEFINITIONS.—For purposes of this section—

13 “(1) QUALIFIED INCOME TAXES.—The qualified  
14 income taxes for any taxable year allocable to non-  
15 sheltered income shall be determined in the same  
16 manner as under section 936(i)(3).

17 “(2) QUALIFIED WAGES.—The qualified wages  
18 for any taxable year shall be determined in the same  
19 manner as under section 936(i)(1).

20 “(3) OTHER TERMS.—Any term used in this  
21 section which is also used in section 936 shall have  
22 the same meaning given such term by section 936.”

23 (f) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 1997.

1 **SEC. 3. COMPARABLE TREATMENT FOR OTHER ECONOMIC**  
 2 **ACTIVITY CREDIT.**

3 (a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—  
 4 Section 936(j)(2)(A) (relating to economic activity credit)  
 5 is amended to read as follows:

6 “(A) ECONOMIC ACTIVITY CREDIT.—

7 “(i) IN GENERAL.—In the case of a  
 8 domestic corporation which, during the  
 9 taxable year, is actively conducting within  
 10 a possession other than Puerto Rico—

11 “(I) a line of business with re-  
 12 spect to which the domestic corpora-  
 13 tion is an existing credit claimant  
 14 under paragraph (9), or

15 “(II) an eligible line of business  
 16 not described in subclause (I),  
 17 the credit determined under subsection  
 18 (a)(1)(A) shall be allowed for taxable years  
 19 beginning after December 31, 1995, and  
 20 before January 1, 2002.

21 “(ii) LIMITATION TO LINES OF BUSI-  
 22 NESS.—Clause (i) shall only apply with re-  
 23 spect to the lines of business described in  
 24 clause (i) which the domestic corporation is  
 25 actively conducting in a possession other  
 26 than Puerto Rico during the taxable year.



1 “(iii) EXCEPTION FOR CORPORATIONS  
 2 ELECTING REDUCED CREDIT.—Clause (i)  
 3 shall not apply to a domestic corporation if  
 4 such corporation (or any predecessor) had  
 5 an election in effect under subsection  
 6 (a)(4)(B)(iii) for any taxable year begin-  
 7 ning after December 31, 1996.”

8 (b) APPLICATION ON SEPARATE LINE OF BUSINESS  
 9 BASIS; ELIGIBLE LINE OF BUSINESS.—

10 (1) IN GENERAL.—Section 936(j) is amended  
 11 by adding at the end the following new paragraph:

12 “(11) APPLICATION ON LINE OF BUSINESS  
 13 BASIS; ELIGIBLE LINES OF BUSINESS.—For pur-  
 14 poses of this section—

15 “(A) APPLICATION TO SEPARATE LINE OF  
 16 BUSINESS.—

17 “(i) IN GENERAL.—In determining  
 18 the amount of the credit under subsection  
 19 (a)(1)(A) for a corporation to which para-  
 20 graph (2)(A) applies, this section shall be  
 21 applied separately with respect to each  
 22 substantial line of business of the corpora-  
 23 tion.

24 “(ii) EXCEPTIONS FOR EXISTING  
 25 CREDIT CLAIMANT.—This paragraph shall

not apply to a line of business with respect to which the qualified domestic corporation is an existing credit claimant under paragraph (9).

“(iii) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this subparagraph, including rules—

“(I) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a)(1)(A), and

“(II) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (a)(4)(A).

“(B) ELIGIBLE LINE OF BUSINESS.—For purposes of this subsection, the term ‘eligible line of business’ means a substantial line of business in any of the following trades or businesses:

“(i) Manufacturing.

“(ii) Agriculture.

“(iii) Forestry.

1 “(iv) Fishing.”

2 (2) NEW LINES OF BUSINESS.—Section  
3 936(j)(9)(B) is amended to read as follows:

4 “(B) NEW LINES OF BUSINESS.—A cor-  
5 poration shall not be treated as an existing  
6 credit claimant with respect to any substantial  
7 new line of business which is added after Octo-  
8 ber 13, 1995, unless such addition is pursuant  
9 to an acquisition described in subparagraph  
10 (A)(ii).”

11 (3) SEPARATE LINES OF BUSINESS.—Section  
12 936(j), as amended by paragraph (1), is amended by  
13 adding at the end the following new paragraph:

14 “(12) SUBSTANTIAL LINE OF BUSINESS.—For  
15 purposes of this subsection (other than paragraph  
16 (9)(B) thereof), the determination of whether a line  
17 of business is a substantial line of business shall be  
18 determined by reference to 2-digit codes under the  
19 North American Industry Classification System (62  
20 Fed. Reg. 17288 et seq., formerly known as ‘SIC  
21 codes’).”

22 (c) REPEAL OF BASE PERIOD CAP FOR ECONOMIC  
23 ACTIVITY CREDIT.—

24 (1) IN GENERAL.—Section 936(j)(3) is amend-  
25 ed to read as follows:

1           “(3)    ADDITIONAL    RESTRICTED    REDUCED  
2   CREDIT.—

3           “(A) IN GENERAL.—In the case of an ex-  
4   isting credit claimant to which paragraph  
5   (2)(B) applies, the credit determined under sub-  
6   section (a)(1)(A) shall be allowed for any tax-  
7   able year beginning after December 31, 1997,  
8   and before January 1, 2006, except that the ag-  
9   gregate amount of taxable income taken into  
10   account under subsection (a)(1)(A) for such  
11   taxable year shall not exceed the adjusted base  
12   period income of such claimant.

13           “(B) COORDINATION WITH SUBSECTION  
14   (a)(4)(B).—The amount of income described in  
15   subsection (a)(1)(A) which is taken into ac-  
16   count in applying subsection (a)(4)(B) shall be  
17   such income as reduced under this paragraph.”

18           (2)    CONFORMING    AMENDMENT.—Section  
19   936(j)(2)(A), as amended by subsection (a), is  
20   amended by striking “2002” and inserting “2006”.  
21   (d) APPLICATION OF CREDIT.—

22           (1) IN GENERAL.—Section 936(j)(2)(A), as  
23   amended by this section, is amended by striking  
24   “January 1, 2006” and inserting “the termination  
25   date”.

1           (2) SPECIAL RULES FOR APPLICABLE POSSES-  
2       SIONS.—Section 936(j)(8)(A) is amended to read as  
3       follows:

4           “(A) IN GENERAL.—In the case of an ap-  
5       plicable possession—

6           “(i) this section (other than the pre-  
7       ceding paragraphs of this subsection) shall  
8       not apply for taxable years beginning after  
9       December 31, 1995, and before January 1,  
10      2006, with respect to any substantial line  
11      of business actively conducted in such pos-  
12      session by a domestic corporation which is  
13      an existing credit claimant with respect to  
14      such line of business, and

15          “(ii) this section (including this sub-  
16      section) shall apply—

17           “(I) with respect to any substan-  
18      tial line of business not described in  
19      clause (i) for taxable years beginning  
20      after December 31, 1997, and before  
21      the termination date, and

22           “(II) with respect to any sub-  
23      stantial line of business described in  
24      clause (i) for taxable years beginning

1 after December 31, 2006, and before  
 2 the termination date.”

3 (3) TERMINATION DATE.—Section 936(j), as  
 4 amended by subsection (b), is amended by adding at  
 5 the end the following new paragraph.

6 “(13) TERMINATION DATE.—For purposes of  
 7 this subsection—

8 “(A) IN GENERAL.—The termination date  
 9 for any possession other than Puerto Rico is  
 10 the first day of the 4th calendar year following  
 11 the close of the first period for which a certifi-  
 12 cation is issued by the Secretary under sub-  
 13 paragraph (B).

14 “(B) CERTIFICATION.—

15 “(i) IN GENERAL.—The Secretary  
 16 shall issue a certification for a possession  
 17 under this subparagraph for the first 3-  
 18 consecutive calendar year period beginning  
 19 after December 31, 1997, for which the  
 20 Secretary determines that the possession  
 21 has met the requirements of clause (ii) for  
 22 each calendar year within the period.

23 “(ii) REQUIREMENTS.—The require-  
 24 ments of this clause are met with respect  
 25 to a possession for any calendar year if—

1 “(I) the average monthly rate of  
2 unemployment in the possession does  
3 not exceed 150 percent of the average  
4 monthly rate of unemployment for the  
5 United States for such year,

6 “(II) the per capita income of the  
7 possession is at least 66 percent of  
8 the per capita income of the United  
9 States, and

10 “(III) the poverty level within the  
11 possession does not exceed 30 per-  
12 cent.”

13 (e) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by  
15 this section shall apply to taxable years beginning  
16 after December 31, 1997.

17 (2) NEW LINES OF BUSINESS.—The amend-  
18 ment made by subsection (b)(2) shall apply to tax-  
19 able years beginning after December 31, 1995.

○