

106TH CONGRESS
1ST SESSION

S. 212

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

JANUARY 19, 1999

Mr. MOYNIHAN (for himself and Mr. SCHUMER) 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 1999”.

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
10 to, or repeal of, a section or other provision, the reference

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

3 **SEC. 2. MODIFICATIONS OF PUERTO RICO ECONOMIC AC-**
 4 **TIVITY CREDIT.**

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

8 “(2) QUALIFIED DOMESTIC CORPORATION.—
 9 For purposes of paragraph (1)—

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

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

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

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

1 is actively conducting in Puerto Rico during the
2 taxable year.

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

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

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

18 “(1) APPLICATION TO SEPARATE LINE OF BUSI-
19 NESS.—

20 “(A) IN GENERAL.—In determining the
21 amount of the credit under subsection (a), this
22 section shall be applied separately with respect
23 to each substantial line of business of the quali-
24 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 by striking “January 1, 2006” and
 17 inserting “January 1, 2009”.

18 (e) CONFORMING AMENDMENTS.—

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

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

24 (3) Section 30A(f) is amended to read as fol-
 25 lows:

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

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

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

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

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 1998.

15 **SEC. 3. COMPARABLE TREATMENT FOR OTHER ECONOMIC**
16 **ACTIVITY CREDIT.**

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

20 “(A) ECONOMIC ACTIVITY CREDIT.—

21 “(i) IN GENERAL.—In the case of a
22 domestic corporation which, during the
23 taxable year, is actively conducting within
24 a possession other than Puerto Rico—

1 “(I) a line of business with re-
 2 spect to which the domestic corpora-
 3 tion is an existing credit claimant
 4 under paragraph (9), or

5 “(II) an eligible line of business
 6 not described in subclause (I),
 7 the credit determined under subsection
 8 (a)(1)(A) shall be allowed for taxable years
 9 beginning after December 31, 1995, and
 10 before January 1, 2002.

11 “(ii) LIMITATION TO LINES OF BUSI-
 12 NESS.—Clause (i) shall only apply with re-
 13 spect to the lines of business described in
 14 clause (i) which the domestic corporation is
 15 actively conducting in a possession other
 16 than Puerto Rico during the taxable year.

17 “(iii) EXCEPTION FOR CORPORATIONS
 18 ELECTING REDUCED CREDIT.—Clause (i)
 19 shall not apply to a domestic corporation if
 20 such corporation (or any predecessor) had
 21 an election in effect under subsection
 22 (a)(4)(B)(iii) for any taxable year begin-
 23 ning after December 31, 1996.”

24 (b) APPLICATION ON SEPARATE LINE OF BUSINESS
 25 BASIS; ELIGIBLE LINE OF BUSINESS.—

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

3 “(11) APPLICATION ON LINE OF BUSINESS
4 BASIS; ELIGIBLE LINES OF BUSINESS.—For pur-
5 poses of this section—

6 “(A) APPLICATION TO SEPARATE LINE OF
7 BUSINESS.—

8 “(i) IN GENERAL.—In determining
9 the amount of the credit under subsection
10 (a)(1)(A) for a corporation to which para-
11 graph (2)(A) applies, this section shall be
12 applied separately with respect to each
13 substantial line of business of the corpora-
14 tion.

15 “(ii) EXCEPTIONS FOR EXISTING
16 CREDIT CLAIMANT.—This paragraph shall
17 not apply to a line of business with respect
18 to which the qualified domestic corporation
19 is an existing credit claimant under para-
20 graph (9).

21 “(iii) ALLOCATION.—The Secretary
22 shall prescribe rules necessary to carry out
23 the purposes of this subparagraph, includ-
24 ing rules—

1 “(I) for the allocation of items of
 2 income, gain, deduction, and loss for
 3 purposes of determining taxable in-
 4 come under subsection (a)(1)(A), and

5 “(II) for the allocation of wages,
 6 fringe benefit expenses, and deprecia-
 7 tion allowances for purposes of apply-
 8 ing the limitations under subsection
 9 (a)(4)(A).

10 “(B) ELIGIBLE LINE OF BUSINESS.—For
 11 purposes of this subsection, the term ‘eligible
 12 line of business’ means a substantial line of
 13 business in any of the following trades or busi-
 14 nesses:

15 “(i) Manufacturing.

16 “(ii) Agriculture.

17 “(iii) Forestry.

18 “(iv) Fishing.”

19 (2) NEW LINES OF BUSINESS.—Section
 20 936(j)(9)(B) is amended to read as follows:

21 “(B) NEW LINES OF BUSINESS.—A cor-
 22 poration shall not be treated as an existing
 23 credit claimant with respect to any substantial
 24 new line of business which is added after Octo-
 25 ber 13, 1995, unless such addition is pursuant

1 to an acquisition described in subparagraph
 2 (A)(ii).”

3 (3) SEPARATE LINES OF BUSINESS.—Section
 4 936(j), as amended by paragraph (1), is amended by
 5 adding at the end the following new paragraph:

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

14 (c) REPEAL OF BASE PERIOD CAP FOR ECONOMIC
 15 ACTIVITY CREDIT.—

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

18 “(3) ADDITIONAL RESTRICTED REDUCED CRED-
 19 IT.—

20 “(A) IN GENERAL.—In the case of an ex-
 21 isting credit claimant to which paragraph
 22 (2)(B) applies, the credit determined under sub-
 23 section (a)(1)(A) shall be allowed for any tax-
 24 able year beginning after December 31, 1998,
 25 and before January 1, 2006, except that the ag-

gregate amount of taxable income taken into account under subsection (a)(1)(A) for such taxable year shall not exceed the adjusted base period income of such claimant.

“(B) COORDINATION WITH SUBSECTION (a)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4)(B) shall be such income as reduced under this paragraph.”

(2) CONFORMING AMENDMENTS.—

(A) Section 936(j)(2)(A), as amended by subsection (a), is amended by striking “2002” and inserting “2006”.

(B) Section 30A(e)(1), as amended by section 2(c)(2), is amended by striking “subsection (j)(3)(A)(ii)” and inserting “the exception under subsection (j)(3)(A)”.

(d) APPLICATION OF CREDIT.—

(1) IN GENERAL.—Section 936(j)(2)(A), as amended by this section, is amended by striking “January 1, 2006” and inserting “January 1, 2009”.

(2) SPECIAL RULES FOR APPLICABLE POSSESSIONS.—Section 936(j)(8)(A) is amended to read as follows:

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

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

12 “(ii) this section (including this sub-
 13 section) shall apply—

14 “(I) with respect to any substan-
 15 tial line of business not described in
 16 clause (i) for taxable years beginning
 17 after December 31, 1998, and before
 18 January 1, 2009, and

19 “(II) with respect to any sub-
 20 stantial line of business described in
 21 clause (i) for taxable years beginning
 22 after December 31, 2006, and before
 23 January 1, 2009.”

24 (e) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 1998.

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

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