

FAOCES



Federal Affairs Chamber Educational Series



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MANUFACTURING in Puerto Rico



Current Situation

i. In 2017 the Tax Cuts and Jobs Act introduced the Global Intangible Low-Tax Income (“GILTI”)

1. A **10.5%** federal income tax is applied to net earnings after deduction 10% of the qualified business asset investment (QBAI)
2. A foreign tax credit is allowed for foreign taxes paid
 - a. Provides for a limitation (Haircut) limited to **80%** of the of the foreign taxes paid related to GILTI (in this case PR income tax paid by the PR entity)
3. A global blending regime for the GILTI computation

ii. Such provision affects operations in Puerto Rico and, in particular, its manufacturing sector



Legislative Device

i. 2021 Reconciliation Bill



Language of the Bill

i. Provides a **20%** credit of eligible salaries

1. Eligible Salaries up to \$50,000
 - a. Maximum Credit per employee is \$10,000
2. This credit will be available for 10 years
 - a. Such short duration may hinder new long-term investment
3. It is a General Business Credit under Section 38 of the IRC

ii. Provides various changes in the GILTI area

1. QBAI is reduced to **5%** for all parties
 - a. Remains the same (i.e., 10%) for territories (resulting in lower GILTI for territories)
2. The Haircut is reduced by the increased of the foreign tax credit from **80%** to **95%** of the foreign tax paid on GILTI
 - a. Increased to 100% in case of territories
3. The global blending regime is replaced for a country-by-country application of the GILTI



Proposed Provisions & Request

i. The provisions recognize the unique tax situation of the territories and provide an adequate tool to promote manufacturing

ii. We should consider increasing the credit

1. Increase the percentage rate from **20%** to **40%**
 - a. Such proposed rates would be very similar to the ones proposed by Sen Menendez and Rep González
2. Increase the salaries limitation
 - a. Could be Social Security Salaries
3. Include local depreciation as a basis for the credit

HEALTH FUNDING



Current Situation

- i. **43%** of PR residents live under the federal poverty level ("FPL")
 1. 1.4 million residents of PR receive Medicaid
 2. Higher rates of hypertension, diabetes, asthma, and HIV/AIDS
- ii. Government estimates that it will need \$5 billion to run its Medicaid Program
- iii. PR's health care system has faced challenges including deferred repairs to hospital facilities and major provider shortage issues.
- iv. PR has usually had two big limitations regarding Medicaid Funding
 1. The funding usually is capped
 2. It has a lower Federal Medicaid Assistance Percentage ("FMAP") than other states
 - a. Historically FMAP for PR has been **55%**
- v. Further Appropriations Act of 2020
 1. Section 1108 increased PR Medicaid funding until September 30, 2021
 - a. Federal Department of Health recently interpreted that such increase in the funding was of a permanent nature
 2. Increased the FMAP for PR to 76% until September 30, 2021
 - a. Drops to **55%** on Oct. 1, 2021



Legislative Devices

- i. Insular Medicaid Parity Act (HR 265)
- ii. Territorial Equity Act of 2021 (HR 2713)
- iii. HR 3371 (from last Congress)



Language of the Bill

- i. Eliminate the funding limitation
- ii. Increase PR's FMAP



Proposed Provisions & Request

- i. Endorse legislative proposals that address the unequal treatment of US citizens residing in PR – end discrimination on the basis of residency
- ii. Support HR 265, HR 2713, or any other legislation that eliminates the funding limitation and that increases PR's FMAP

CHANGE FROM NAP TO SNAP



Current Situation

i. Puerto Rico is still under the Nutrition Assistance Program ("NAP") unlike US, USVI, and Guam that are under the Supplemental Nutrition Assistance Program ("SNAP").

1. Since 1982

2. **25-30%** lower than SNAP

ii. NAP is a capped block grant and is not flexible in the case of extraordinary events such as hurricanes or a pandemic.

iii. Puerto Rico residents are US citizens and have a higher poverty level (**43%**) than US (**10%**). More dramatic in the case of children and seniors.

iv. Puerto Rico currently imports **85%** of its food consumption from the US directly and favorably impacting such industry

1. Approximately \$6.5 billion annually in total food and beverage imports in 2019.

2. Major States that sell food products to Puerto Rico

a. Beef / \$192 million annually – Iowa and Kansas

b. Pork / \$144 million annually – Illinois & Iowa

c. Poultry / \$255 million annually – Georgia & Arkansas

d. Rice / \$44 million annually – Louisiana & Arkansas

e. Cheese / \$188 million annually – CA, FL & Wisconsin



Current Legislative Devices

i. The Puerto Rico Nutrition Assistance Fairness Act ("PRNAF")

1. HR 5220

2. Presented by Rep Gonzalez

ii. Closing the Meal Gap Act ("CMG")

1. HR. 4077/S.2192

2. Supported by 91 House and 4 Senate cosponsors

iii. Territorial Equity Act of 2021 ("TEA") – In Committee

1. Supported by 4 House and 3 Senate cosponsors



Language of the Bill

i. Sets the path to transition Puerto Rico from NAP to SNAP

ii. Language includes an advisory board to design the transition plan.

1. Composed of US Department of Agriculture ("USDA") and the Puerto Rico Department of the Family

iii. Transition can last for up to 5 years

1. Keeps the latest approved plan



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WIRE ACT EXEMPTION



Current Situation

- i. The Wire Act of 1961 is a federal criminal statute that makes illegal to pass gambling information and instruction across state lines using electronic wires
- ii. The Act also restricts communication with foreign countries
- iii. The Act applies to Puerto Rico in the same manner as in US



Legislative Device

- i. 18 US Code Sec. 1084



Language of the Bill

- i. NONE



Proposed Provisions & Request

- i. Exempt Puerto Rico from the Wire Act in the case of parties located in foreign countries
- ii. This exemption could serve as an incentive to establish resort cities that would strengthen the local tourism sector and would serve to attract substantial investment to economically distressed areas in the island.
 1. As an example, a complex of resort hotels with gaming operations could be established in the area known as Roosevelt Roads in the east side of the Island. That area has one of the highest poverty rates and unemployment rates in the island and was particularly devastated by the hurricanes in 2017.



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