



GOVERNMENT OF PUERTO RICO

Department of the Treasury

November 8, 2022

INTERNAL REVENUE INFORMATIVE BULLETIN NO. 22-11 (“BI RI 22-11”)

ATTENTION: TAXPAYERS SUBJECT TO SECTIONS 3A OF ACT 135-1997 AND 73-2008 AND SECTIONS 2062.01(a)(3) AND (b)(4) OF ACT 60-2019

MATTER: IMPACT OF THE INFLATION REDUCTION ACT ON THE NEW INCOME TAX FRAMEWORK ESTABLISHED UNDER ACT 52-2022

On June 30, 2022, Act 52-2022 (“Act 52”) was signed by the Governor of Puerto Rico, to among others, amend Act 135-1997 (“Act 135”), Act 73-2008 (“Act 73”) and Act 60-2019 (“Act 60”) to allow exempt businesses engaged in manufacturing or other similar activities in Puerto Rico (“Exempt Business”) that have been subject to the Act 154-2010 excise tax regime (Act 154 Tax Regime”) to transition into a new income tax framework (“New Income Tax Framework”). This New Income Tax Framework provides that an Exempt Business electing the new framework will be subject to a 10.5% income tax rate on industrial development income (“IDI”), in lieu of any other tax.

Act 52 also provides that the 10.5% income tax rate on IDI will increase to 15% if Section 250(a)(3), Section 11(b), Section 951A, or any other Section of the United States Internal Revenue Code of 1986, as amended (“U.S. Code”) were to be amended to impose an income tax of at least 15% on all or part of the income of a controlled foreign corporation (“CFC”). This provision was intended to be activated, or be triggered in the event of any change in the CFC Global Intangible Low-Taxed Income (“GILTI”) rules or other CFC rules that could occur under the U.S. Code in response to changes in policy concerning the taxation of this type of income or changes that could occur in reaction to the implementation of the global minimum tax of at least a 15% being proposed by the Organization for Economic Co-operation and Development (“OECD”) agreements and the Pillar II model rules.

On August 16, 2022, President Biden signed the Inflation Reduction Act, P.L. 117-69 (“IRA”), which amended certain provisions of the U.S. Code, including Sections 55 and 59 of the U.S. Code and added a new Section 56A to impose a 15% alternative minimum tax on the “adjusted financial statement income” of certain corporations with profits that exceed a certain threshold (the “15% AFSI AMT”) for taxable years beginning after December 31, 2022. As enacted, the 15% AFSI AMT is not intended to be imposed on all CFCs.

The 15% AFSI AMT is not automatically imposed in a taxable year as it will apply only if it exceeds the regular tax liability of the corporation for the taxable year. In addition, the 15% AFSI AMT is based on the “adjusted financial statement income” of a corporation and not on the regular tax rules of the U.S. Code under which the GILTI and CFC rules operate.



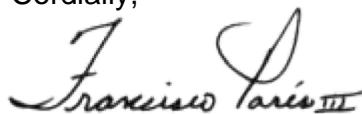
Moreover, the 15% AFSI AMT paid on a certain tax year can be claimed as a tax credit in subsequent taxable years against the taxpayers' regular tax liability. Finally, the 15% AFSI AMT is not an income inclusion rule and does not seem to have a relationship with the global minimum tax rules being proposed by the OECD agreements and the Pillar II model rules.

Based on the above, the Department issues this Informative Bulletin to notify that the amendments to the U.S. Code enacted through the IRA do not activate the 15% income tax rate on IDI under the New Income Tax Framework established in the new Sections 3A of Act 135 and Act 73-2008 and Sections 2062.01(a)(3) and (b)(4) of Act 60, respectively.

The provisions of this Informative Bulletin are effective immediately.

For additional information regarding the provisions of this Informative Bulletin, you may send an email to consultasespecializadas@hacienda.pr.gov.

Cordially,



Francisco Parés Alicea
Secretary