

GOVERNMENT OF PUERTO RICO

DISBURSEMENT AUTHORIZATION AND TAX CONCESSION COMMITTEE

RESOLUTION 2017-01

MARCH 22, 2017

RESOLUTION OF THE DISBURSEMENT AUTHORIZATION AND TAX CONCESSION COMMITTEE (THE "COMMITTEE") PURSUANT TO THE PROVISIONS OF ADMINISTRATIVE ORDER OA-2017-01 (THE "ORDER"), FOR THE PURPOSES OF ESTABLISHING THE RULES FOR THE USE OF TAX CREDITS GRANTED BEFORE THE DATE OF THE ORDER FOR THE 2016 TAX YEAR.

I INTRODUCTION

Act 2-2017 in Article 8(s) establishes that the Fiscal Agency and Financial Advisory Authority of Puerto Rico (the "Authority") "in collaboration with the Department of Treasury and the Office of Management and Budget can establish its position in a regulation or an administrative order or can establish a commission to coordinate the policies and processes related to liquidity and cash management for any entity of the Government of Puerto Rico."

Act 2-2017 in Article 9(b) establishes that "if a contract is incongruent with the Fiscal Plan approved in accordance with PROMESA, the Authority can take all of the actions that it considers necessary to guarantee that said contract does not adversely affect the Government's compliance with the Fiscal Plan, including the prohibition of its execution, its suspension, or its cancellation."

Act 5-2017 in Section 206(a) establishes that the Governor, together with the Authority, may take the following actions as they deem necessary or advisable to rectify the financial emergency, including but not limited to:

"ii. limit the expenditure of appropriated funds;

[...]

vii. approve or disapprove any executory contract, expenditure, or loan [...];

viii. review and approve payrolls or other claims against a government entity within the Executive Branch before payment;

[...]

x. reject, modify, or terminate one or more terms and conditions of an existing executory contract of a government entity within the Executive Branch."

Act 5-2017 in Section 209 establishes that the Governor may delegate to the Authority any power or duty contained in Act 5-2017, to the extent any such power or faculty has not already been delegated to the Authority under Act 5-2017 or Act 2-2017.

Act 5-2017 in Section 207 authorizes the Authority to: (i) direct a governmental entity within the Executive Branch to reduce expenditures through the implementation of administrative efficiencies; and (ii) impose limits on contractual expenditures by governmental entities.

Pursuant to the foregoing, the Order dated March 7, 2017 issued by the Authority has the purpose of controlling the issuance and utilization of tax credits. The same creates the Committee and designates the Executive Director of the Authority (President), the Secretary of the Department of Treasury and the Executive Director of the Office of Management and Budget as its members.

The Order, among other things, authorizes the Committee to establish limitations on the use of credits already granted and to limit the time of use of such credits up to a maximum of 4 fiscal years.

In addition, the Order orders the Secretary of the Treasury (the "Secretary") to conduct an inventory of the tax credits granted and to require the credit holders to report the amount of credits granted, in the form and manner established by the Secretary, including evidence demonstrating the possession of the reported credits (the "Credit Inventory"). Any credit holder who doesn't comply with any of these requirements will not be able to claim such credits.

The Committee wants to authorize the use of credits granted before the date of the Order for the 2016 tax year.

The Committee therefore resolves as follows:

II. DEFINITIONS

For purposes of this resolution, the following terms have the following meanings:

(A) Granted Credit- a "granted credit" means:

1. tax credits authorized under Law No. 98-2001, Law No. 183-2001, Law No. 212-2002, Law No. 159-2011, Law No. 83-2010, Section 5.A of Law No. 135-1997 and Section 6 of Law No. 73-2008, for which the Secretary has issued, before the date of the Order, an administrative determination to the effect that the applicant of the credit complied with all the requirements of Law and has the right to use the credit in accordance with the conditions and limitations provided by each such law;
2. tax credits authorized under Law No. 78-1993 and Law No. 74-2010, which such grant of exemption and tax credits shall have been approved by the Director of the Puerto Rico Tourism Company as of the date of the Order;
3. tax credits authorized under Law No. 362-1999 and Law No. 27-2011, for which the concessionary has submitted before the date of the Order, the final certification from the Auditor in which the entire credit is certified. In addition, it includes the advance of the credit for which the concessionary has submitted before the date of the Order, the partial certification of the Auditor or has posted the bond designating the Secretary as beneficiary, as required under Article 7.3(f) of Law No. 27-2011;
4. tax credits authorized before the date of the Order under Law No. 140-2001, as amended by Law No. 77-2015, which such credit certification, as required under Article 2.6 of the law, has been issued by the Executive Director of the Puerto Rico Housing Finance Authority before the date of the Order;
5. tax credits authorized before the date of the Order under Section 3(b) and Section 5 of the Law No. 135-1997 and Section 5 of Law No. 73-2008 which have been

generated and duly reported by the exempt business in its income tax return for Tax Year 2016, however, for these purposes tax credits reported in amended tax returns filed after the date of the Order shall not be considered;

6. tax credits authorized under Law No. 302-2012 corresponding to donations made to foundations of ex-governors through calendar year 2016 for the receiving entity has issued a certification before the date of the Order;
7. tax credits authorized under Sections 1051.04, 1051.05, 1051.06, 1051.07, 1051.09, 1051.14, 1113.14 and 4050.10 of Law No. 1-2011, known as the "Internal Revenue Code of Puerto Rico of 2011, as amended" (the "Code") which shall have been generated and duly reported in the income tax return of the taxpayer for Tax Year 2016, excluding tax credits reported in amended returns filed after the date of the Order;
8. tax credits granted by final agreements that have been signed by the Secretary before the date of the Order.

The Granted Credits shall be reported by their respective Holders on the Credit Inventory in the form and manner established by the Secretary.

(B) **Holder**—means any natural or legal person who has generated or acquired by means of purchase, conveyance or transfer a granted credit.

(C) **Tax Year 2016**—means the calendar year 2016. For tax payers with a fiscal tax year, shall be the tax year beginning during calendar year 2016.

III. USE OF GRANTED CREDITS

A Granted Credit, in cases where the corresponding special law allows it, may be sold by its Holder or claimed against the income tax of the Holder for Tax Year 2016, without any further limitations or conditions than those already included in the Code, a corresponding special law relating to the Granted Credit, or any other law valid on the date of the Order.


IV. APPLICABILITY

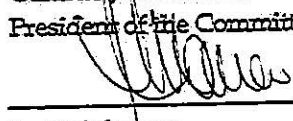
The Order does not apply to a tax credit authorized under Law No. 154-2010 or to a tax credit authorized under the Code that is not expressly included in the definition of a Granted Credit under this resolution.


V. EFFECTIVENESS

This resolution will be in force after its approval.

IN WITNESS WHEREOF, we, members of the Disbursement Authorization and Tax Concession Committee are signing this resolution on the 22nd day of March, 2017


Gerardo José Portela Franco
President of the Committee


José L. Marrero
Member of the Committee


Raúl Maldonado Gautier
Member of the Committee