

13 L.P.R.A. § 2271

This Session is current through December 2012

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§ 2271. Definitions

For purposes of this chapter, the following terms shall be defined as follows:

- (1) **Entry.** — Means the taxpayer deficiency or debt as determined by the Company once it has been registered in the Company's accounting system.
- (2) **Supplementary short-term lodging.** — Means every building or part of a building leased for a period of less than ninety (90) days, devoted to the lodging of people by means of payment, which building or part thereof is not a hotel, condohotel, all-inclusive hotel, motel, inn, hostelry, guesthouse and/or apartment hotel. Said term shall include, without limitation, houses, apartments, cabins and villas.
- (3) **Compulsory procedure.** — Means the procedure the Company may use to compel the payment of the tax or the fulfillment of any other obligation including, without limitation, the filing of a civil action, the entry of an attachment order and/or the sale of the debtor taxpayer's property.
- (4) **Audit.** — Means the procedure by which the Company shall have the power to inspect the accounting books and the procedures of a lodging, such inspection to be carried out by a trained accountant, as defined in subsection (22) of this section, in order to verify the precision and integrity of the same.
- (5) **Authority.** — Means the Puerto Rico Convention Center District Authority, a public corporation of the Commonwealth of Puerto Rico created by §§ 6401 et seq. of Title 23, known as the "Puerto Rico Convention Center District Act.
- (6) **Bank.** — Means the Government Development Bank for Puerto Rico, a public corporation of the Commonwealth of Puerto Rico created by §§ 551 et seq. of Title 7.
- (7) **Guesthouse.** — Means every furnished building or part of a building, devoted to the lodging of persons for a fee, with or without meals, which building or part of a building is not a hotel, condohotel, motel or apartment hotel. The term guesthouse shall include, without limitation, a residential club, a furnished guesthouse, a boarding house or a private club.
- (8) **Room occupancy rate.** — Means the rate collected or charged by a hotelier for the occupancy of any room of a lodging, valued in terms of money, whether received in cash or otherwise, including, without limitation, all the income in cash, manager's check or credit. The definition of "room occupancy rate" shall include, without limitation, the money received by the lodging on account of paid but unused rooms, room penalties and any other charge, rate or additional tax ("fees," "resort fees" and/or "taxes") that a hotelier charges for a stay in a lodging.
- (9) **Rate for paid but unused room.** — Means the rate that shall be charged by a hotelier when an occupant does not appear to claim his reservation to occupy the room.
- (10) **Center.** — Means the Puerto Rico Convention Center which shall be developed and operated in the real property owned or leased by the Authority, or by the people or entities designated by the Authority, and which shall be suitable for the following purposes and events: congresses, conventions, conferences, trade shows, exhibitions, meetings and other business, entertainment, public assemblies, social, cultural, historic and scientific events.
- (11) **Room cost.** — Means a reasonable estimate of the operating costs of the occupied room.
- (12) **Company.** — Means the Puerto Rico Tourism Company, a public corporation of the Commonwealth of Puerto Rico created by §§ 671 et seq. of Title 23.

- (13) **National Parks Company.** — Means the Puerto Rico National Parks Company, a public corporation and instrumentality of the Commonwealth of Puerto Rico, created by virtue of §§ 501 et seq. of Title 15.
- (14) **Taxpayer.** — Means an hotelier who is obligated to charge, retain and pay the tax.
- (15) **Declaration.** — Means the tax form that shall be completed and filed by the taxpayer and includes any tax return, declaration, schedule or list, and any amendment or supplement to the same.
- (16) **Deficiency.** — Means a debt, minus the amount paid by the taxpayer.
- (17) **Debt.** — Means the room occupancy rate multiplied by the percentage rate of the applicable tax for the period of occupancy plus any fines, penalties, surcharges or interests owed by the hotelier.
- (18) **Director.** — Means the Executive Director of the Puerto Rico Tourism Company.
- (19) **Mathematical or clerical error.** — Means:
- (a) An error in the addition, subtraction, multiplication or division that appears in the declaration.
 - (b) An entry of an item that is inconsistent with another entry of the same item of a declaration.
 - (c) Any omission of information that must be included in the declaration to evidence an entry in the same.
 - (d) An entry in the declaration of a deduction or credit that exceeds the imposed or authorized statutory limit.
- (20) **Room.** — Means a room or lodging of any type in any part or section of a lodging that is offered or is available for use or possession for any purpose.
- (21) **Hotelier.** — Means any natural or juridical person that operates a lodging in Puerto Rico including, without limitation, the owner, agent, proprietor, operator, lessee, mortgagor sublessee or the holder of the same. For purposes of this chapter, the term agent shall include those individuals including, without limitation, real estate brokers that collect the rent on account of a supplementary short-term lodging for the lodging of guests.
- (22) **Lodging.** — Means every furnished building, commonly used and maintained open for the lodging of guests by means of payment of a rental rate, which derives its revenues from the rental of rooms, and that within its offerings provides rental rates computed daily, weekly, fractionally or by a global rent on account of an all-inclusive concept. The term “lodging” shall also include hotels, condohotels, all-inclusive hotels, motels, inns, short-term rentals, hostleries, guesthouses, apartment hotels and recreational facilities operated by the agencies or instrumentalities of the Commonwealth of Puerto Rico.
- (23) **All-inclusive hotel.** — Means every furnished building, commonly used and maintained for the lodging of guests by means of payment of a rental rate, which derives its revenues from the rental of rooms and within its offerings, solely provides a global and grouped rental Rate, computed daily or weekly, based on the rental of rooms, the complementary services and the food and beverages.
- (24) **Tax.** — Means the tax set forth in § 2271o of this title, unless otherwise provided in this chapter.
- (25) **Bureau.** — Means the Puerto Rico Convention Bureau, the principal nonprofit organization in Puerto Rico devoted primarily and officially to the promotion of Puerto Rico as a destination for the holding of meetings, conventions, congresses, commercial fairs, sporting events and every type of group event.
- (26) **Notification.** — Means the written communication sent by the Company to the taxpayer informing a deficiency or debt on account of the tax.
- (27) **Taxpayer identification number.** — Means the number the Company shall assign to the lodging, and that must be used by said lodging in the declaration, as shall be established by this chapter or the regulations approved hereunder.
- (28) **Occupancy.** — Means the period during which a guest uses or possesses, or has the right to use or possess, any room or rooms of a lodging, or the right to use or possess the services and facilities appertaining to the use or possession of a room.

- (29) **Guest.** — Means every person who, by means of payment of a Rate and by virtue of any lease, concession, permit, right of access, license or under any other agreement or otherwise, uses, possesses, has the right to use or possess a room.
- (30) **Room penalty.** — Means every rate per room charged by a lodging's hotelier for the unused rooms in a contract that requires, as a condition to its perfection, the use of a minimum number of rooms.
- (31) **Review.** — Means the procedure through which the Company shall have the power to examine the accounting books of a lodging as defined in subsection (22) of this section, the purpose of which is to verify the accuracy of the information the taxpayer provided.
- (32) **Rate.** — Means the rate charged by a lodging in daily, weekly, fractional or monthly form, on account of the room occupancy rate and/or any other charge on account of the occupancy of a room, based on a nominal amount expressed in dollars or a percentage rate. Said concept shall include the global and grouped rate charged by an all-inclusive hotel.
- (33) **Daily average rate.** — Means the daily average of a room, measured during a one (1) month period.
- (34) **Assessment.** — Means the procedure through which the Company may determine the amount owed by the taxpayer for a debt or deficiency.

History

—Sept. 9, 2003, No. 272, § 2; Mar. 12, 2008, No. 23, § 1.

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13 L.P.R.A. § 2271a

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§ 2271a. General powers

For purposes of the application and administration of this chapter, and in addition to any other duties and powers established hereunder, the Company shall have the power to:

- (a) Determine, assess, impose, collect, enforce, regulate and distribute the tax.
- (b) The Company shall have the power to enforce, regulate, investigate, intervene and sanction the persons subject to the provisions of this chapter.
- (c) The Company shall have the power to impose administrative fines and other sanctions under this chapter.
- (d) The Company shall have the power to conduct investigations and interventions; to require any type of information necessary for the adequate performance of its powers; to direct or petition the courts to order that activities or acts that attempt against the purposes of this chapter be ceased [sic]; to impose and direct payment of costs, expenses and attorney fees, as well as the payment of costs and fees for other professional and consultative services incurred in the investigation, hearings and procedures conducted before the Company and to direct the performance of any act in compliance with the provisions of this chapter.
- (e) Examine any records, documents, premises, real estate or any other material related with transactions, business, or activities subject to the tax including, without limitation, folios, accounting books, bank statements, income tax returns, room revenue reports and financial statements; Provided, however, That for the Company to examine the income tax returns filed by the taxpayers with the Department of the Treasury, the Company must comply with the requirements established by Secretary of the Treasury in the applicable regulations. Every person in charge of any establishment, premises, real estate or object subject to examination or investigation shall facilitate any examination the Company requires. When the owner or person in charge of an establishment, premises, real estate or object subject to examination or investigation is not present, this fact will not constitute sufficient cause to prevent said examination.
- (f) Require and review the payment and adequacy of the bonds to be provided by the taxpayers pursuant to the provisions of this chapter and the regulations approved thereunder.
- (g) Retain for a period of time as shall be necessary, any documents obtained or provided in accordance with this chapter for use of the same in any investigation or proceeding that may affect the Company, pursuant to the provisions of this chapter or the regulations approved thereunder.
- (h) Certify declarations, tax returns or other documents related to the administration and application of this chapter.
- (i) Draft, approve and adopt any rules and regulations necessary for the administration and application of this chapter, pursuant to the provisions of §§ 2101 et seq. of Title 3, known as the “Uniform Administrative Procedure Act.”
- (j) Delegate on any official, officer or employee of the Company those faculties and duties considered necessary and convenient to carry out any function or authority this chapter confers.
- (k) Appoint examining officials to conduct administrative hearings, who shall have the power to issue orders and resolutions. The functions and adjudicative procedures applicable to these examiners shall be established by the Company through regulation[s] approved for said purposes.

History

—Sept. 9, 2003, No. 272, § 3, eff. 180 days after Sept. 9, 2003.

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§ 2271b. Organizational structure

- (a) The Executive Director of the Company may establish the internal organizational structure deemed adequate regarding the tax on the room occupancy rate and shall have discretion to designate the different work areas, as well as in the operation, quasi-legislative and adjudicative phases.
- (b) The Executive Director of the Company may appoint the officers and employees deemed necessary for the faithful compliance of the provisions of this chapter.
- (c) In order to attain the objectives of this chapter, the Company may subcontract the persons or services it deems necessary.

History

—Sept. 9, 2003, No. 272, § 4, eff. 180 days after Sept. 9, 2003.

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§ 2271c. Faculties and powers

- (a) **Authority to inspect.** — Authorized officials and employees of the Company are hereby authorized to intervene and/or summon to appear before the Company any person who violates any provision of this chapter or the regulations approved thereunder.
- (b) **Authority to initiate legal proceedings.** — The Puerto Rico Tourism Company shall be authorized to initiate any legal proceeding necessary for the collection of the tax.
- (c) **Authority to approve regulations.** — The Company shall have the power to adopt the regulations that it deems necessary for the implementation of this chapter, and the same shall have the force of law. Said regulations shall become effective upon compliance with the applicable provisions of §§ 2101 et seq. of Title 3, known as the “Uniform Administrative Procedures Act.
- (d) **Authority to require bonds.** — The Company may require taxpayers to file credible evidence that they have posted a bond to guarantee timely payment of the obligations imposed by this chapter. The bond shall be required in the amount the Company deems reasonably necessary to guarantee payment of the tax and whatever surcharges, interests, penalties, or administrative fines are imposed on such tax as a result of violations to the provisions of this chapter and/or its regulations.
- (e) **Examination of accounts, registries, books, and premises.** — The Company, through its officials and employees, shall have the right to inspect and review all the information, accounts, registries, entries, and documents related to the payments to be made by the hoteliers with respect to the tax and the distribution of such funds. The Company may enter and examine the premises and documents of any taxpayer. The Company shall also be able to require, access, and/or use any information or document in the possession of any instrumentality of the Commonwealth of Puerto Rico or political subdivision thereof.
- (f) **Audits.** — The Company shall have the power to carry out audits to supervise compliance with this chapter and the regulations approved thereunder related to the payments of the room occupancy rate made by the hoteliers.
- (g) **Reports.** — The Company may require of every taxpayer the filing of the audited financial reports it deems necessary in pursuing the purposes of this chapter.
- (h) **General investigative powers.** —
 - (1) The Company shall have the power and authority to summon and interview witnesses, administer oaths, take statements or compel the presentation of books, papers, and documents that it deems necessary and pertinent, in any proceeding that it may hold for the purpose of exercising its powers and duties.
 - (2) The Company may order the taxpayers to pay for the expenses, costs, and fees for professional and consulting services incurred in the investigations, studies, hearing, or any other proceeding held by the Company relating to the provisions of this chapter.
 - (3) The Company may order any taxpayer to pay any other expense caused by temerity [sic] that the Company is forced to incur due to noncompliance with or violation of this legislation.

History

—Sept. 9, 2003, No. 272, §§ 5—12, eff. 180 days after Sept. 9, 2003.

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§ 2271d. Complaints

The Company, on its own initiative, or any person, government instrumentality, agency, business, or private enterprise that complains of some act or omission carried out or proposed to be carried out by a taxpayer in violation of any provision of this chapter, regulation, or order of the Company, may file a complaint before the Company through a written application. The Company shall establish the procedures for the filing of complaints through regulations approved to such effect.

History

—Sept. 9, 2003, No. 272, § 13, eff. 180 days after Sept. 9, 2003.

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§ 2271e. Adjudicative proceedings

In the exercise of the duties and powers imposed by this chapter and conferred upon the Company, the Company may hold public hearings, summon witnesses, issue orders, resolutions, and decisions and perform any other function of a quasi-judicial character that may be necessary to implement the provisions of this chapter.

The Company shall have the authority to hold adjudicative hearings to consider complaints against any taxpayer, on its own behalf or by petition of an interested party as provided for in this chapter, and may impose sanctions and/or fines in accordance with the regulations promulgated to these effects.

On its own behalf, or in representation of the person who initiated the claim or complaint, the Company shall have the authority to investigate, issue summonses, require documents that it deems pertinent, and settle claims when a taxpayer has:

- (1) Omitted to take an action required by some provision of this chapter or of any regulation approved pursuant to the same, or
- (2) performed an action against that established in a provision contained in this chapter or in any regulation approved hereunder.

History

—Sept. 9, 2003, No. 272, § 14, eff. 180 days after Sept. 9, 2003.

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§ 2271f. Due process of law

The Company shall establish, through regulations, the provisions to be followed in adjudicative proceedings. Every taxpayer is hereby conceded and guaranteed the due process of law pursuant to §§ 2101 et seq. of Title 3, known as the “Uniform Administrative Procedures Act,” in every appeal for administrative or judicial review of the orders and/or resolutions issued by the Company in the exercise of the powers conferred upon it by this chapter.

History

—Sept. 9, 2003, No. 272, § 15, eff. 180 days after Sept. 9, 2003.

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§ 2271g. Contempt; refusal to act

If any person summoned to appear before the Company fails to obey such summons, or if upon appearing before the Company refuses to take an oath, furnish information, testify or answer any pertinent question, or present any pertinent document when so ordered by the Company, the Company may invoke the aid of the Court of First Instance to compel the appearance, testimony, and presentation of documents.

Any person who fails or refuses to appear and testify, neglects any legitimate request, or refuses to present books, papers, and documents, if it were within their power to do so, in compliance with a validly issued notice or summons by the Company, or any person who conducts himself in a disorderly or disrespectful manner before the Tourism Company or any of its officials or employees presiding over a hearing or investigation, shall be guilty of a misdemeanor, and, if convicted, punished by a maximum fine of five thousand (5,000) dollars, at the discretion of the sentencing court.

History

—Sept. 9, 2003, No. 272, § 16, eff. 180 days after Sept. 9, 2003.

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§ 2271h. Burden of proof

When a hearing is held for a violation of any provision of this chapter or any regulation or order from the Company, the burden of proof shall rest on the taxpayer.

History

—Sept. 9, 2003, No. 272, § 17, eff. 180 days after Sept. 9, 2003.

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§ 2271i. Authority to sanction, impose, and collect fines

The Company is hereby authorized to impose sanctions and administrative fines for infractions to the provisions of this chapter and to the regulations approved thereunder, committed by the taxpayers; as well as the penalties contained in §§ 2272i—2272l of this title. The Company may establish, through regulations, the applicable sanctions which shall be proportionate to the infraction involved.

The Company may, when the provisions of this chapter are infringed, impose the administrative fine, penalty, surcharge, or sanction that, in accordance with the act or regulation, corresponds [sic] or permanently suspend or revoke the promotional and tax benefits granted by the Company.

The infraction of any provision of this chapter or of the regulations approved thereunder may entail the permanent revocation of such benefits, as the case may be, as well as the subsequent ineligibility of the taxpayer to qualify for the promotional benefits and the tax benefits that the Company grants pursuant to §§ 6001 et seq. of Title 23, known as “Puerto Rico Tourism Development Act of 1993”.

An action against a taxpayer in accordance with the provisions of this chapter shall not prevent the Company from taking any other additional action authorized by this chapter or the regulations approved thereunder.

History

—Sept. 9, 2003, No. 272, § 18, eff. 180 days after Sept. 9, 2003.

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§ 2271j. Criminal penalties for infractions

Any taxpayer who infringes any provision of this chapter or its regulation, omits, neglects, or refuses to obey, observe, or comply with any order, resolution, rule, or decision of the Company, fails to comply with a sentence from any court, incites, helps to infringe, omits, neglects, or fails to comply with the provisions of this chapter, shall be guilty of a misdemeanor, with a maximum fine of up to five thousand (5,000) dollars at the discretion of the sentencing court.

An action against a taxpayer pursuant to the provisions of this section shall not prevent the Company from taking any other additional action authorized by this section or the regulations approved thereunder.

History

—Sept. 9, 2003, No. 272, § 19, eff. 180 days after Sept. 9, 2003.

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§ 2271k. Criminal penalty for noncompliance with the payment of the tax

In those cases in which a person collects the tax but fails to remit to the Company the corresponding payment with respect to the same within the period provided by this chapter or the regulations approved thereunder, thus misappropriating public property or funds belonging to the Commonwealth of Puerto Rico or its public corporations, such person shall be guilty of the felony of aggravated misappropriation, punishable by imprisonment for a fixed term of ten (10) years.

An action against a taxpayer pursuant to the provisions of this chapter shall not prevent the Company, from taking any other additional action authorized by this chapter or the regulations approved thereunder.

History

—Sept. 9, 2003, No. 272, § 20, eff. 180 days after Sept. 9, 2003.

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§ 2271I. Additional penalty

Every time a provision of this chapter, rule, order, or decision of the Company, or a sentence from a court is violated shall constitute a separate and different offense.

History

—Sept. 9, 2003, No. 272, § 21, eff. 180 days after Sept. 9, 2003.

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§ 2271m. Judicial action

The Company shall refer to and petition the Secretary of the Department of Justice to initiate, on behalf of the Commonwealth of Puerto Rico, those criminal proceedings that may be necessary to punish the acts committed in violation of the provisions of this chapter.

History

—Sept. 9, 2003, No. 272, § 22, eff. 180 days after Sept. 9, 2003.

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§ 2271n. No limitation on powers

The enumeration of the powers conferred to the Company by virtue of this chapter shall not be construed as a limitation of its powers for the effective pursuit of the objectives established in the same.

History

—Sept. 9, 2003, No. 272, § 23, eff. 180 days after Sept. 9, 2003.

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§ 2271o. Tax

- (a) The tax shall be a mathematical calculation resulting from the multiplication of the rate provided by subsection (b) of this section by the room occupancy rate, and the period of occupation of the room.
- (b) The Company shall levy, charge, and collect a general tax of nine percent (9%) over the room occupancy rate. When dealing with lodgings authorized by the Commissioner of Financial Institutions to operate casinos, the tax shall be equal to eleven percent (11%). When dealing with lodgings authorized by the Company to operate as inns, the tax shall be equal to seven percent (7%). Motels shall pay a tax of nine percent (9%) when such rates exceed five (5) dollars daily. In the case of an all-inclusive hotel, as defined in subsection (23) of § 2271 of this title, the tax shall be equal to five percent (5%) of the global and grouped charge that guests are charged. In the case of supplementary short-term lodging, the tax shall be equal to seven percent (7%). In the case of recreational facilities operated by agencies or instrumentalities of the Commonwealth of Puerto Rico, the tax shall be equal to five percent (5%), with the exception of the facilities of the National Parks Company.
- (c) With the exception of the rates charged by an all-inclusive hotel, when the room occupancy [rate] is grouped with the cost of meals or other services that are complementary to the room and that, in reality, should not be subject to payment of the tax, the Company may use as its basis the total room occupancy rate collected by the hotelier to determine the tax to be paid. In case the hotelier does not provide a trustworthy breakdown of the reasonable cost of each and every one of the services rendered, the Company may calculate and apply the same on the basis of the greater of the average rate, the room cost, or the cost of such services using as a basis the experience in the industry.
- (d) The tax shall be applicable when a lodging provides a room free of charge to any player and/or any visitor to any casino for the benefit or promotion of such casino, regardless whether or not the lodging directly bills the proprietor and/or owner of the gambling hall. The Company may calculate and apply the occupancy rate on the basis of the greater of the average rate, the room cost, or the cost of such services using as a basis the experience in the industry.
- (e) Any agency or instrumentality of the Commonwealth of Puerto Rico that is a proprietor and operator of any lodging shall not be exempt from the provisions of this chapter.
- (f) The tax shall not be applicable to rooms occupied by members of the artistic or technical personnel of cinematography companies that use the facilities of a lodging as a result of the production of a film project for distribution in movie theaters, television, or cable television systems. The exemption established herein shall be solely applicable when, at the time of liquidating charges billed with respect to the occupation of the room, the members of the artistic or technical personnel of cinematography companies present to the hotelier a certification duly issued by the Company.
- (g) The tax levied in this section shall not be applicable to the sums paid for the acquisition of timeshare rights or for the maintenance of properties covered by owners of timeshare or vacation club rights, constituted as a special type of property rights pursuant to §§ 1251 et seq. of Title 31. For purposes of this subsection, lease contracts registered in the Property Registry shall not be considered a special type of property right.
- (h) With the exception of § 2271a of this title, no hotelier may levy or charge its guests charges denominated as a “contribution”, “right”, “tax”, or “rate” that would otherwise indicate or lead to the belief that such charge is established by the Commonwealth of Puerto Rico when the charge has not been levied nor will be charged by the Commonwealth of Puerto Rico. The hotelier shall be responsible for breaking down such charges in paragraphs in the bills, separate and independent from the charge with respect to the tax. This prohibition of combining the

various charges shall also apply to the publications, promotions and any offers of the lodgings regardless of the method used. The Company may impose such sanctions it deems necessary including, without limitation, the imposition of penalties, administrative fines, the permanent suspension or revocation of the promotional benefits granted by the Company, or the suspension or revocation of the tax exemption decree granted by the Company in accordance with §§ 6001 et seq. of Title 23, to any hotelier who violates the provisions of this subsection. If deemed proper, the Company may charge the tax over these charges.

History

—Sept. 9, 2003, No. 272, § 24; Mar. 30, 2007, No. 29, § 1; Mar. 12, 2008, No. 23, § 2.

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13 L.P.R.A. § 2271p

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§ 2271p. Obligation of guest

The tax levied in § 2271o of this title shall be paid by the guest at the time of paying the room occupancy rate to the hotelier.

History

—Sept. 9, 2003, No. 272, § 25, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271q

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§ 2271q. Tax identification number

Every lodging subject to the provisions of this chapter shall apply for and obtain a tax identification number from the Company, and for this purpose shall follow the procedures adopted by the Company through regulation[s] approved to such effect.

History

—Sept. 9, 2003, No. 272, § 26, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271r

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§ 2271r. Responsibility of the hotelier

- (a) Every hotelier shall be obligated to collect, withhold, and remit to the Company the tax established by § 2271o of this title.
- (b) Every hotelier shall pay a bond to guarantee timely payment of tax and other surcharges, interests, penalties, or administrative fines imposed on it as a result of violations of the provisions of this chapter and/or its regulations.
- (c) The payment of the bond as a guarantee of payment, shall be in the amount and pursuant to the terms established by the Company through regulations approved to such effect. Such bond shall be paid at the Company by means of a cash deposit, letter of credit, or through a company duly authorized to do business to post bonds pursuant to the laws of the Commonwealth of Puerto Rico.
- (d) The hotelier's omission or noncompliance with the payment of the bond within the term required by the Company shall entail the imposition of administrative fines, surcharges, penalties, and the suspension or revocation of the promotional or tax benefits granted by the Company.
- (e) The Company may withhold from lodgings that operate casinos, the proportion of the proceeds for slot machines that corresponds monthly to the concessionaire of a license to operate casinos under the "Games of Chance Act," §§ 71 et seq. of Title 15, for the sole purpose of liquidating any debt that the concessionaire has accumulated and is pending payment, with respect to the tax.

History

—Sept. 9, 2003, No. 272, § 27, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271s

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§ 2271s. Term to remit the tax

- (a) *Term.* — Every hotelier that, in accordance with § 2271r of this title, is obligated to collect and withhold the tax shall remit the total amount of tax collected during the period between the first and last day of each month to the Company every month. This remittance shall be made no later than the tenth (10th) day of the month following the collection of such tax.
- (b) *Declaration.* — Every hotelier shall be required to declare its revenues with respect to the room occupancy rate using the declaration provided by the Company for this purpose. The revenues with respect to room occupancy rate shall be declared on a monthly basis on or before the tenth (10th) day of the month following the collection of such tax. The declaration shall accompany the monthly amount referred to in the previous section.
- (c) *Receipt.* — A hotelier that makes a payment to the Company for tax, or any penalties, fines, surcharges, or interests, shall have the right to petition the Company for a formal, written, or printed receipt for the amount corresponding to the payment.

History

—Sept. 9, 2003, No. 272, § 28, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271t

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§ 2271t. Manner in which to make a payment of the tax

- (a) The tax established by this chapter shall be paid by means of postal or bank money order, check, cashier's check, cash, electronic transfer, or any other form of payment that the Company authorizes.
- (b) The Company, through regulation, shall establish the place and procedures applicable to the payment.

History

—Sept. 9, 2003, No. 272, § 29, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271u

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§ 2271u. Responsibility of the hotelier

If the hotelier, in violation of the provisions of this chapter, fails to make the required withholding, the Company shall have the power to charge the hotelier the amount that should have been collected and withheld by it, as calculated through the mechanisms provided in this chapter.

History

—Sept. 9, 2003, No. 272, § 30, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271v

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§ 2271v. Disposition of funds

The Company shall distribute all funds collected from the tax imposed under § 2271o of this title, as follows:

- (a) Before the beginning of each fiscal year, the Bank shall determine and certify to the Company and to the Authority, the amount necessary for the Authority to make, during such fiscal year and the first day of the following fiscal year:
 - (1) Full and timely payment, or the amortization of the principal and interest on the obligations incurred by the Authority with the Bank or the bonds, notes or other obligations issued, assumed or incurred by the Authority, pursuant to Act No. 142 of October 4, 2001, as amended, with the prior written authorization of the Company, to exclusively carry out the development and construction of a new convention center and its related infrastructure;
 - (2) full and timely payment of the obligations of the Authority under any bond related financing agreement, as this term is defined at the end of this subsection, entered into by the Authority with the prior written authorization of the Company;
 - (3) the deposits required to replenish any reserves established to ensure the payment of the principal and the interest on such bonds, notes and other obligations issued, assumed or incurred by the Authority, or obligations under any bond related financing agreement, and
 - (4) any other expenses incurred in connection with the issuance of such bonds, notes or other obligations assumed or incurred by the Authority, or with any other bond related financing agreement.

The prior written approval of the Company shall specifically authorize the amortization schedule of the principal of the bonds, notes or other obligations to be issued, assumed or incurred by the Authority and the final terms and conditions of any bond related financing agreement to be entered into by the Authority. The sum determined and certified by the Bank, as indicated above, shall be deposited in a special account to be maintained by the Bank in the name of the Authority for the benefit of the bondholders, noteholders or the holders of other obligations of the Authority or for the benefit of the other contracting parties under any bond related financing agreement. The Bank shall transfer the amounts deposited in such special account to the trustees of the bondholders, noteholders or the holders of other obligations of the Authority or to the other contracting parties under any bond related financing agreement, in accordance with the written instructions provided to the Bank by the Authority.

Each fiscal year, the Company shall transfer to the Bank, for deposit in such special account, the sum established in the immediately preceding paragraph through monthly transfers, commencing on the month immediately succeeding the month in which this act is enacted and on the first month of every succeeding fiscal year, of an amount equal to one tenth (1/10) of the amount determined and certified by the Bank as necessary for the payments to which the first part of this subsection refers; Provided, however, That for the fiscal year in which this act is enacted, the amount of each monthly transfer shall be a fraction, determined by dividing the number one (1) by the number of months remaining in such fiscal year after the month in which this act is enacted, of the amount determined and certified by the Bank as necessary for the payments to which the immediately preceding paragraph refers. Provided, further, That if in any given month of the fiscal year, the funds collected by reason of such tax are not sufficient to comply with the monthly transfers provided herein, the Company shall correct such a deficiency by transferring to the Bank, for deposit in such special account, the amount of such deficiency using to cover such deficiency, the excess of the tax collected

in subsequent months over the amount to be deposited monthly in such subsequent months in accordance with the first sentence of this paragraph. Each month, after making the transfer of movies to the Bank as provided in this subsection, the Company shall distribute any remaining amount as established in subsection (b) of this section.

The Authority is hereby authorized, with the prior written consent of the Company, to pledge or otherwise encumber the revenues product of the fixed tax collected which is to be deposited in a special account as required by the first paragraph of this subsection, as security for the payment of the principal and interest on the bonds, notes or other obligations issued, assumed or incurred by the Authority, as described in the first paragraph of this subsection, or for the payment of its obligations under any bond related financing agreement, as described in said paragraph. Such a pledge or obligation shall be subject to the provisions of Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico. The product of the collection of the tax shall be used solely for the payment of the interest and the amortization of the public debt, as provided in Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico, but only to the degree to which the other available resources to which reference is made in said Section are insufficient for such purposes. Otherwise, the product of said collection, in the amount necessary, shall be used solely for the payment of the principal and interest on the bonds, notes or other obligations and the obligations under any bond related financing agreement contemplated herein, and to comply with any stipulations agreed to with the bondholders, noteholders or holders of other obligations or the providers under bond related financing agreements.

In case the total product of the tax presently assigned or to be assigned in the future to the Authority, in accordance with this subsection, is used to service payments of the public debt and applied to cover the deficiencies in the amounts needed to make such payments, the amounts of this tax used to cover said deficiency shall be reimbursed to the Authority out of the first revenues received in the next fiscal year or subsequent fiscal years by the Commonwealth of Puerto Rico proceeding from any remaining portion of the tax then in effect, subject to the provisions of Section 8 of Article VI, of the Constitution of the Commonwealth of Puerto Rico.

The Commonwealth of Puerto Rico hereby agrees and makes a commitment with any person, firm or corporation or with any agency of the United States of America or of any state or the Government of the Commonwealth of Puerto Rico, who subscribes or acquires bonds, notes or other obligations, or enters into bond related financing agreements for the payment of which the product of the tax is pledged, as authorized by this section, that it will:

- (1) Not reduce such tax and not decrease its rates, as fixed in § 2271o of this title in effect as of date of approval of this act;
- (2) not eliminate or reduce the tax to an amount lower than that established in § 2271o of this title, or eliminate or reduce the rates of the tax fixed in § 2271o of this title;
- (3) make sure that the amounts that must be deposited in the special account as provided in this subsection, are deposited in such special account as provided in this section, and
- (4) not alter or limit the rights acquired hereby by the Authority to encumber or pledge the collections from the tax required to be deposited in the special account according to the first paragraph of this subsection and comply with the terms of any agreement entered into with, or for the benefit of the bondholders, noteholders or holders of other obligations of the Authority or the other subscribing parties under any bond related financing agreement, until such time as such bonds, notes or other obligations issued, assumed or incurred at any time, including the interest thereon and any obligation under any bond related financing agreement, have been paid in full. The Authority, as an agent of the Commonwealth of Puerto Rico, is hereby authorized to include the commitment and agreement with the Commonwealth of Puerto Rico, as set forth in this paragraph, in any contract with the bondholders, noteholders or the holders of other obligations of the Authority or any subscriber of a bond related financing agreement. For purposes of this subsection, a “bond related financing agreement” means any interest rate exchange agreement or

similar agreement, any bond insurance policy, letter of credit or other credit enhancement, liquidity agreement or similar agreements, arrangements or contracts.

- (b) The Company shall make monthly distributions of the excess over the amounts needed for each monthly transfer to the Bank as provided in subsection (a) of this section, of the tax imposed in § 2271o of this title, that is collected each fiscal year, in accordance with the following order of priority:
- (1) Two percent (2%) of the total tax collected shall enter monthly into the general funds of the Company to cover expenses related to the operation, management, and distribution of the tax collected, or for any other use as determined by the Company.
 - (2) Five percent (5%) of the total tax collected shall be covered monthly into the General Fund of the Department of the Treasury for Fiscal Years 2005-2006 and 2006-2007, into the funds of the National Parks Company for Fiscal Years 2007-2008 and 2008-2009, and into the funds of the Company as of Fiscal Year 2009-2010. As of the year in which the Authority certifies to the Department of the Treasury and to the Company, the commencement of the operation of the Convention Center, and during the ten (10) subsequent years, this five percent (5%) shall be available to cover any deficit, if any, arising from the operations of the facilities operated by the Convention Center District Authority in a reserve to be maintained by the Company, as provided in clause (4) of this subsection. Provided, however, That for each fiscal year and/or each time the Convention Center District Authority intends to propose a budget which exceeds the deficit of two million five hundred thousand dollars (\$2,500,000), the budget of the Convention Center District Authority shall be presented to the Board of Directors of the Authority, the Board of Directors of the Company, and the Secretary of the Treasury for Fiscal Years 2005-2006 and 2006-2007, and to the Board of Directors of the National Parks Company for Fiscal Years 2007-2008 and 2008-2009 at a meeting held specifically for such a purpose, and to the Board of Directors of the Authority and the Board of Directors of the Company as of Fiscal Year 2010-2011 henceforth. This five percent (5%) shall be available during each fiscal year in a special reserve account maintained by the Company to cover any deficit in excess of two million five hundred thousand dollars (\$2,500,000), arising from the operation of the facilities of the Convention Center District Authority. For each fiscal year, any surplus after covering such operational deficit, if any, shall be released from the special reserve and shall be available for use by the Department of the Treasury for Fiscal Years 2005-2006 and 2006-2007, by the National Parks Company for Fiscal Years 2007-2008 and 2008-2009, and by the Company as of Fiscal Year 2010-2011.
 - (3) Nine percent (9%) of the total tax collected shall be covered monthly into the general funds of the Company to cover the expenses of the Convention Center Bureau. Provided, however, That after Fiscal Year 2003-2004, the amount of the collections on account of the tax to be remitted by the Company under this clause shall not be less than four million five hundred thousand dollars (\$4,500,000) annually. The Company shall transfer to the Convention Center Bureau the corresponding amount in monthly installments of three hundred seventy-five thousand dollars (\$375,000). In case the amount deposited for any month is less than three hundred seventy-five thousand dollars (\$375,000), the Company shall correct such deficiency by depositing the funds that become available in subsequent months of the same fiscal year.
 - (4) Up to two million five hundred thousand dollars (\$2,500,000) shall be kept available during each fiscal year, in a special reserve account maintained by the Company for the operations of the Convention Center District Authority. Provided, however, That for each fiscal year and/or each time that a modified budget is to be presented, the budget of the Convention Center District Authority shall be presented jointly to the Board of Directors of the Authority and to the Board of Directors of the Puerto Rico Tourism Company, at a meeting held specifically for such a purpose. The Company shall maintain this amount in said reserve in monthly amounts of two hundred eight thousand three hundred thirty-three dollars and thirty-three cents (\$208,333.33). This amount shall be reserved as of the year in which the Authority certifies in writing to the Company that the Convention Center has commenced operations, and for a period of ten (10) years.

- (5) The remainder available after the payments provided in clauses (1)-(4) of this subsection shall be allocated to the Company. The funds appropriated to the Company shall be used by the latter for promoting, marketing, developing and strengthening the tourist industry in Puerto Rico.

The Company shall submit a monthly breakdown of the revenues collected from the tax to the Authority and the Convention Center Bureau.

History

—Sept. 9, 2003, No. 272, § 31; Mar. 12, 2008, No. 23, § 3; July 10, 2010, No. 74, § 16.

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13 L.P.R.A. § 2271w

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§ 2271w. Assessment procedure

- (a) The Company shall have the power to initiate a proceeding to determine the debt or deficiency of a taxpayer on account of the tax or of any surcharges, administrative fees and penalties, and which should be paid to the Company.
- (b) The assessment may be initiated by the Company, among other instances, when a taxpayer has failed to make any monthly payment on account of the tax, or to comply with its obligation to present the declaration required by law, when there is a deficiency in the payment made or when there is a deficiency attributable to a mathematical or clerical error of the taxpayer.
- (c) The Company may conduct the assessment by calculating the greater amount of the average rate, the room cost or the cost of such services on the basis the industry practice and multiplying it by the percentage of the tax applicable to a lodging and the occupancy period.
- (d) The Company shall notify the taxpayer if, due to a mathematical or clerical error evident from the face of the declaration, it owes a tax in excess of what is disclosed in such declaration. Any notification under this section shall specify the nature of the alleged error and the reasons for it.
- (e) A taxpayer will not have a right to appear before the Company for a notification based on a mathematical or clerical error.

History

—Sept. 9, 2003, No. 272, § 32, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2271x

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§ 2271x. Notification

- (a) In the case that any taxpayer has incurred a debt or deficiency with respect to the tax imposed by this chapter, the Company shall notify the taxpayer of such deficiency by certified mail with return receipt requested.
- (b) The notification with respect to a tax will be sufficient for purposes of this chapter if mailed by certified mail with return receipt requested to the taxpayer to its last known address, even when such taxpayer had died or is legally handicapped, or in the case of a corporation or a partnership, even when they no longer have legal existence.
- (c) The Company shall have the right to make an entry to commence a distraint procedure, and/or to present an action against the bond or surety given by the taxpayer, if the deficiency is not paid by the taxpayer within the term allowed for in the notification to make the payment or appear before the Company.
- (d) If once the Company has commenced an action against the bond or surety, a portion of the debt or deficiency not covered by the bond or surety remains outstanding, any uncovered portion shall be paid by the taxpayer upon request by the Company. The taxpayer shall, in addition, pay the interest associated with such deficiency, computed at ten percent (10%) annually from the date of the entry to the date of total payment.

History

—Sept. 9, 2003, No. 272, § 33, eff. 180 days after Sept. 8, 2003.

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13 L.P.R.A. § 2271y

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§ 2271y. Notification—Taxpayer’s rights

- (a) Any taxpayer who disagrees, in whole or in part, with the notified deficiency, with the exception of those taxpayers who are notified of a deficiency based on a mathematical or clerical error, may request an administrative hearing in accordance with the adjudicative procedures established by the Company through regulation approved to such effect. Provided, however, That the taxpayer shall pay the portion of the deficiency with which it agrees.
- (b) Any taxpayer who disagrees with the order or final resolution of the agency, may request review of the same, pursuant to the provisions of §§ 2101 et seq. of Title 3, known as the “Uniform Administrative Procedure Act”, and Act No. 1 of July 28, 1994, as amended, known as the “Puerto Rico Judiciary Act”.
- (c) The Company shall not make an entry, nor commence or conduct a distraint procedure, nor present an action against the bond or surety provided by the taxpayer until the expiration of the term provided to the taxpayer to appear before the Company or, if the taxpayer appeared before the Company, until a resolution or order issued by the Company or by any court with jurisdiction becomes final.

History

—Sept. 9, 2003, No. 272, § 34, eff. 180 days after Sept. 9, 2003.

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§ 2271z. Jurisdiction and powers

The examining official or the General Court of Justice shall have the power to redetermine the correct amount of a debt or deficiency, even if the amount so determined is higher than the original amount of the deficiency notified by the Company, and to determine the payment of any corresponding additional amount such as interests, as long as the Company establishes a claim to such effect at any time before the issuance of a resolution or order.

When considering a debt or deficiency with respect to any taxable year, the examining official or the General Court of Justice may consider such facts related to the tax for other taxable years as may be necessary to correctly determine the amount of such debt or deficiency. However, in doing so, they shall not have the power to determine if a tax for any other taxable year has been overpaid or underpaid.

History

—Sept. 9, 2003, No. 272, § 35, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272

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§ 2272. Entry, administrative collection, or bond or surety by reason of tax in jeopardy

- (a) If the Company believes that the collection of a debt or deficiency is in jeopardy, the Company may, without prior notice to the taxpayer, proceed immediately with the entry, commence a distraint procedure, or present an action against the bond or surety provided by the taxpayer, notwithstanding the provisions of § 2271w of this title.
- (b) If the Company shall take action under subsection (a) of this section, without prior notice to the taxpayer, the Company shall, within the twenty (20) days following the date of such action, notify the taxpayer of the debt or deficiency in accordance with, and subject to, the provisions of § 2271x of this title.
- (c) If once the Company has commenced an action against the bond or surety, a portion of the debt or deficiency not covered by the bond or surety remains outstanding, any uncovered portion shall be paid by the taxpayer upon request by the Company. The taxpayer shall, in addition, pay the interests related to such deficiency, computed at ten percent (10%) annually from the date of the entry to the date of its payment in full.
- (d) If under subsection (a) of this section, the Company notified a taxpayer after taking action in accordance with subsection (a) of this section, the rights of the taxpayer, as set forth in § 2271x of this title, shall not be affected.

History

—Sept. 9, 2003, No. 272, § 36, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272a

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§ 2272a. Bankruptcy and receivership

- (a) *Immediate assessment.* — The adjudication in favor of a taxpayer in a bankruptcy proceeding or the appointment of a trustee in a judicial proceeding, requires that any deficiency in the determination of the tax (and any related amount) determined by the Company for such taxpayer be assessed immediately, notwithstanding the provisions of §§ 2271w and 2271x of this title. In such cases, the trustee shall notify the Company in writing of the adjudication of the bankruptcy or the receivership. The term to conduct the assessment shall be suspended for the period commencing with the adjudication of the bankruptcy, or since the beginning of the receivership, and extending for thirty (30) days following the date in which the trustee's notification was received by the Company. Claims for deficiencies in the determination of the tax (and any related amounts) may be presented, before the court in which the bankruptcy or receivership is being heard.
- (b) *Unpaid claims.* — Any portion of a claim allowed in a bankruptcy proceeding or receivership that is not paid, shall be paid by the taxpayer, upon notification and request by the Company, after the determination of such proceeding, and may be collected by means of a distraint procedure within a period of ten (10) years after the termination of the bankruptcy proceeding or receivership.

History

—Sept. 9, 2003, No. 272, § 37, eff. 180 days after Sept. 9, 2003.

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§ 2272b. Statute of limitations—Assessment

Considering that the hotelier becomes a collection agent for the Commonwealth of Puerto Rico, the Company shall not be subject to any statute of limitations to conduct an assessment of a particular debt or deficiency.

History

—Sept. 9, 2003, No. 272, § 38, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272c

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§ 2272c. Statute of limitations—Collection

- (a) If the Company shall have conducted an assessment which reflects that a taxpayer has a deficiency or debt, the tax may be collected through a distraint procedure, provided that it is commenced: (1) within a period of ten (10) years following the date of the assessment; or (2) before the expiration of any period, in excess of the ten (10) year period agreed in writing by the Company and the taxpayers. The period agreed on in the manner described above may be extended by subsequent written agreements entered into before the expiration of the period previously agreed on.
- (b) Notwithstanding the provisions of §§ 283—283p of Title 3, also known as the “Commonwealth of Puerto Rico Accounting Act”, the Company shall proceed to eliminate Taxpayers’ records and shall be prescribed [sic] from collecting the debts imposed by this chapter or prior acts when ten (10) years have passed since the date of the assessment or since the expiration of any period agreed on between the Company and the taxpayer. Provided, That any interruption of such period shall be taken into consideration, for purposes of the determination of the statute of limitations.

History

—Sept. 9, 2003, No. 272, § 39, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272d

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§ 2272d. Statute of limitations—Tolling

The statute of limitations provided by § 2272c of this title shall be interrupted with respect to any debt or deficiency, for the period during which the Company is impeded from commencing a distraint procedure, and, in every case, if they appeal to any of the courts of Puerto Rico, until the court's decision is final and firm and for the subsequent sixty (60) days.

History

—Sept. 9, 2003, No. 272, § 40, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272e

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§ 2272e. Credits—Tax paid in excess

- (a) Every taxpayer who believes he/she has wrongly paid or been charged a debt or deficiency with respect to the tax, shall be able to request in writing to the Company that the payment paid in excess be credited to the future amounts to be paid with respect to the tax. In relation to any payment in excess of that owed, the Company shall certify the excess to the taxpayer as a credit for the following month's payment.
- (b) The taxpayer shall request such credit within the term and in accordance with the procedures established by the Company through regulation approved to such effect.
- (c) The Company may, on its own initiative, determine that the taxpayer has made an excess payment with respect to the tax, and concede them a credit of any amount that in its judgment was paid wrongly or in excess of the amount owed. In relation to any payment in excess to that owed, the Company shall certify the excess to the taxpayer as a credit for the next month's payment.
- (d) When the Company approves an application for credit, or when the Company itself determines that the taxpayer has made a payment in excess of that owed, it shall investigate if the taxpayer has any enforceable debt or deficiency pursuant to this chapter, in which case the Company shall credit to such debt the amount that, as a credit, would have corresponded to the taxpayer with respect to payments in excess of that owed.
- (e) If a claim for credit filed by a taxpayer were denied in whole or in part by the Company, the Company shall notify the taxpayer of its decision by certified mail with return receipt requested. The taxpayer may appeal such denial following the adjudicative procedure that may be approved by the Company.
- (f) When the Company adjudicates or grants credits that do not correspond, the Company may reconsider the case and reinstate the tax rejecting the credit and notifying the taxpayer of a debt or deficiency in the form and pursuant to the procedure established in § 2271w of this title.
- (g) The Company may adopt those regulations it deems necessary and convenient to comply with the procedures provided in this section.

History

—Sept. 9, 2003, No. 272, § 41, eff. 180 days after Sept. 9, 2003.

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§ 2272f. Credits—Statute of limitations

A taxpayer shall not have the right to apply nor obtain a credit unless the taxpayer files an application for credit with the Company within the term of four (4) years from the date on which the taxpayer presents a declaration along with the corresponding payment or within the term of three (3) years from the date on which the tax was paid, if a declaration was not filed. In case the taxpayer presents a declaration prior to making the corresponding payment, said term of three (3) years shall begin on the date on which the payment was made.

History

—Sept. 9, 2003, No. 272, § 42, eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272g

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§ 2272g. Credits—Determination of excess

If an examining official or a court with jurisdiction were to determine that no debt or deficiency existed in the payment made by the taxpayer; that a taxpayer has made a payment in excess of the tax corresponding to the taxable year in which the Company determined the deficiency and/or that a deficiency exists but the taxpayer made a payment in excess of the tax corresponding to the taxable year, the examining official or the court shall have the power to determine the sum of the excess payment, which should be credited to the taxpayer when the court's decision becomes final and firm. The credit will be denied unless the examining official or the court with jurisdiction expressly determines in their decision that the taxpayer filed an application for credit before the Puerto Rico Tourism Company:

- (1) Within the term of four (4) years from the date in which the taxpayer presented a declaration along with the corresponding payment, or
- (2) within the term of three (3) years from the date in which the tax was paid, if a declaration was not filed;
- (3) in case the taxpayer presents a declaration prior to making a corresponding payment, said term of three (3) years shall begin on the date on which payment was made.

History

—Sept. 9, 2003, No. 272, § 43, eff. 180 days after Sept. 9 2003.

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§ 2272h. Credits—Statute of limitations for requesting credits

Any taxpayer interested in receiving a credit for a tax paid under any room occupancy rate exemption authorized by the provisions of this chapter, shall submit a petition of credit supplemented by the appropriate documents within one hundred eighty (180) days following the date the taxpayer paid the tax.

History

—Sept. 9, 2003, No. 272, § 44; eff. 180 days after Sept. 9, 2003.

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13 L.P.R.A. § 2272i

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§ 2272i. Penalties—Generally

Any person obligated under this chapter to retain and pay the tax, submit a declaration, preserve any evidence or document, or supply any information for purpose of calculation, assessment or collection of any tax, and voluntarily or involuntarily fails to comply with said obligation shall be subject to the penalties, charges, or fines as indicated in §§ 2272j—2272m of this title.

History

—Sept. 9, 2003, No. 272, § 45, eff. 180 days after Sept. 9, 2003.

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§ 2272j. Penalties—Additional charges

- (a) *Interest.* — When the taxpayer does not pay the tax levied by this chapter, on or before the due date for payment, the Company as part of the tax, shall collect an interest on the unpaid amount, at a ten percent (10%) annual rate, from the due date of the payment until the date of the final payment.
- (b) *Charges.* — In every case where the imposition of interest applies pursuant to the preceding subsection (a), the Company may additionally collect the following charges:
- (1) For a payment delay of thirty (30) days or less, the taxpayer may be imposed a charge equivalent to five percent (5%) of the principal.
 - (2) For a payment delay in excess of thirty (30) days, the taxpayer may be lev[ied] a charge equivalent to ten percent (10%) of the principal in addition to the allowed five percent (5%) of clause (1) of this subsection.

History

—Sept. 9, 2003, No. 272, § 46, eff. 180 days after Sept. 9, 2003.

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§ 2272k. Penalties—Failure to submit the declaration

If any person fails to submit the declaration required by this chapter during the prescribed term, an additional fine in the amount of five hundred (500) dollars, for each infraction may be imposed on the taxpayer, which shall be paid as part of the tax, in addition to any other penalties, charges or interests that are levied pursuant to this chapter. It shall be understood that every day the infraction endures shall be considered a separate violation up to a maximum of twenty-five thousand (25,000) dollars.

History

—Sept. 9, 2003, No. 272, § 47, eff. 180 days after Sept. 9, 2003.

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§ 2272I. Penalties—False documents

Any taxpayer who submits to the Company documents, which are not authentic or where the amounts represented are incorrect or false in relation with the received room occupancy rate, may be subject to an administrative fine in the amount of five hundred (500) dollars for each infraction, in addition to the tax and applicable charges and interest. Also, the Company may suspend or revoke the promotional and tax benefits granted by the Company. It shall be understood that every day the infraction endures shall be considered a separate violation up to a maximum of twenty-five thousand (25,000) dollars.

In any situation where a taxpayer demonstrates contempt in the performance or continuing performance of acts for which an administrative fine was imposed or contempt in the noncompliance with any order or resolution issued by the Company, at its discretion, may levy an administrative fine up to a maximum of one thousand (1,000) dollars for each infraction. Also, the Company may suspend or revoke the promotional and tax benefits granted by the Company. It shall be understood that every day that the infraction endures shall be considered a separate violation up to a maximum of fifty thousand (50,000) dollars.

History

—Sept. 9, 2003, No. 272, § 48, eff. 180 days after Sept. 9, 2003.

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§ 2272m. Penalties—Suspension and revocation of benefits

- (a) When a taxpayer does not comply with its obligation to pay the tax, any debt, deficiency or any interest, fine, charge or penalty levied by the Company, during three (3) or more times (not necessarily consecutive) during the same fiscal year, the Company may suspend and/or revoke the taxpayer's benefits granted under §§ 6001—6038 of Title 23. It may also suspend or revoke any other tax and/or promotional benefit granted by the Company.
- (b) Those taxpayers to whom subsection (a) is applicable shall be granted and guaranteed due process pursuant to the provisions of this chapter.
- (c) Once the debt has been satisfied, the taxpayer to whom the tax benefits were revoked may initiate the process indicated in §§ 6001—6038 of Title 23, to request and enjoy tax benefits. The request will be processed pursuant to the procedures established by §§ 6001—6038 of Title 23, for the processing of new petitions. The Company shall have full discretion in the evaluation of said petition.
- (d) When the tax benefits have been suspended for lack of payment of the tax, the ten (10) year term renewable for an additional ten (10) year term provided by §§ 6001—6038 of Title 23, shall be understood to continue during the suspension term. The Company shall establish by regulation approved to such effect, the provisions that regulate the revocation or suspension of the tax benefits.

History

—Sept. 9, 2003, No. 272, § 49, eff. 180 days after Sept. 9, 2003.

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§ 2272n. Penalties typified as crime

In relation with any activity in the exercise of this chapter that involves any activity typified by the Commonwealth of Puerto Rico Penal Code including, without limitation, crimes against public service, public revenue and public faith, it shall be the Company's responsibility to refer said activity to the Secretary of the Department of Justice so he/she may conduct, in the name of the Commonwealth of Puerto Rico, the criminal proceedings that may be necessary to punish the committed acts.

History

—Sept. 9, 2003, No. 272, § 50, eff. 180 days after Sept. 9, 2003.

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§ 2272o. Payment commitment

- (a) The Director is empowered to formalize with the taxpayer a written payment agreement whereby the he/she can commit to waive any tax due including, without limitation, civil or criminal penalties, interests, fines, or charges applicable to a specific situation pursuant to any tax prior to its referral to the Department of Justice for the formulation of charges.
- (1) **General requirements.** — Any payment commitment pursuant to the provisions of this section shall be authorized by the Director, or his/her authorized representative, who shall justify the reasons for the concession of the payment commitment and shall provide the following information:
- (A) Amount of tax due;
 - (B) amount of interest, charges, fines, or additional penalties pursuant to the tax due;
 - (C) amount to be actually paid, pursuant to terms of the payment commitment;
 - (D) financial analysis of the taxpayer's situation that demonstrates that the taxpayer has the payment capacity with respect to the present payment that shall be paid pursuant to the payment commitment, and
 - (E) any other document or evidence that shall be required by the Director, pursuant to any rule or regulation approved by him/her.
- (2) **In the absence of resources.** — If the taxpayer does not possess[s] and/or presents sufficient resources for the payment of the tax and the applicable fines, charges, interests or penalties, the Director, or his/her authorized representative, shall evaluate and determine if the payment commitment is an appropriate method for the debt or deficiency collection, in the absence of resources to guarantee its collection.

History

—Sept. 9, 2003, No. 272, § 51, eff. 180 days after Sept. 9, 2003.

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§ 2272p. Confidentiality

- (a) The declaration submitted pursuant to the provisions of this chapter is a public document. Notwithstanding, and except as provided in this section, it may only be inspected by a third party pursuant to the rules and regulations adopted by the Company. The Company may require that, as a minimum inspection requirement, the petitioner be an interested party.
- (b) No Company official or employee shall divulge or provide under any circumstance, except as stated in this chapter, the information provided by the declaration, books, records, or other documents submitted by the taxpayer, nor shall it permit the examination or inspection of them by a person that is not legally authorized.

History

—Sept. 9, 2003, No. 272, § 52, eff. 180 day after Sept. 9, 2003.

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§ 2272q. Requirement to preserve and provide documents

- (a) The Company shall establish, by means of regulation, the norms for the conservation by the hotelier of reports, dockets, records, declarations, statistics or any other document, related to the tax.
- (b) Any report, docket, record, declaration, statistic or any other document related to the tax fixed pursuant to this chapter or to the room occupancy rate shall be preserved by the hotelier for a term not less than ten (10) years beginning from the date of the tax assessment.
- (c) When such documents are being reviewed, audited, intervened with or examined by the Company at the time the ten (10) year period expires, the taxpayer shall assure its preservation for the additional time necessary for the Company to finalize the review, audit, examination or intervention.

History

—Sept. 9, 2003, No. 272, § 53, eff. 180 days after Sept. 9, 2003.

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§ 2272r. Tax collection

Within a term that shall not exceed the date of performance of the transfer provided in this chapter, the Secretary of the Treasury shall review the registries at the Department of the Treasury, with regard to the lodgings subject to the tax, and shall apply or credit the deposits pending registration. Similarly, the Secretary of the Treasury shall adjust said registries in relation to any error detected during the process or transaction related to the tax collection that has not been accounted for. Once this has been accomplished, the Secretary of the Treasury shall transfer to the Company the lodging registry related to the tax, the registry of all account receivables and the complete files of all pending transactions, which, once they are processed, could change the accounts receivable. The Company shall carry out all acts necessary to conclude the collection process of the transactions pending payment.

History

—Sept. 9, 2003, No. 272, § 54, eff. 180 days after Sept. 9, 2003.

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§ 2272s. Administrative determinations

The administrative determinations issued by the Secretary of the Treasury prior to the effectiveness of this act related to the tax shall not be applicable to future tax events that occur after this act's effective date. Notwithstanding the above, the administrative determinations issued by the Secretary of the Treasury prior to this act's effective date, and in relation with tax events that occurred prior to this act's effective date, shall be final and firm even for periods, if any, after this new act becomes effective.

History

—Sept. 9, 2003, No. 272, § 57, eff. 180 days after Sept. 9, 2003.

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§ 2272t. Final agreements

The final agreements entered into by and between a taxpayer and the Secretary of the Treasury prior to the effectiveness of this act, and under the provisions of the Internal Revenue Code, shall not apply to future tax events occurring after this act's effective date. Notwithstanding the above, the final agreements entered into by the Secretary of the Treasury prior to the effective date of this act, and with regard to taxable events that occurred prior to this act's effective date, shall be final and binding, even if they cover periods, if any, after this new act becomes effective.

History

—Sept. 9, 2003, No. 272, § 58, eff. 180 days after Sept. 9, 2003.

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§ 2272u. Interpretations of law

- (a) The Company may issue administrative determinations to clarify and interpret provisions of this chapter and the regulations approved pursuant thereto, in accordance with its purposes and objectives established herein and with the public policy of the Commonwealth of Puerto Rico.
- (b) No provision in this chapter shall be interpreted as a restriction or limitation to the general or inherent powers of the Company.

History

—Sept. 9, 2003, No. 272, § 60, eff. 180 days after Sept. 9, 2003.

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§ 2272v. Personnel

The Company, its officials, and employees shall be attentive to the compliance of the provisions of this chapter.

History

—Sept. 9, 2003, No. 272, § 61, eff. 180 days after Sept. 9, 2003.

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