

# Legal Update

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## Temporary Tax to Manufacturing Companies

On October 25, 2010, Act Number 154 was enacted into law in order to provide the means for a tax reform that will mitigate citizen's tax contributions while imposing a temporary tax to certain individuals, corporations and/or non-resident entities that carry out certain transactions, such as manufacturing or partially manufacturing products, with affiliated corporations located in Puerto Rico. This temporary tax will prevail for a period of six (6) years and will become effective on transactions made on or after January 1, 2011, where the sum of gross receipts from sales of personal property manufactured or produced and the services related to gross receipts exceeds seventy-five million (75,000,000) dollars.

The temporary tax reform establishes that when a non-resident corporation or individual engages in transactions with personal property manufactured or produced in Puerto Rico (partially or entirely), such non-resident corporation or individual will contribute:

At least ten percent (10%) of the total amount of commissions or other fees earned from similar transactions for the taxable year or for any of the three preceding taxable years; or

At least ten percent (10%) of the total amount of profits coming from personal property and services acquired by the non-resident corporation or individual.

A portion of these sources of income from manufactured personal property produced entirely or partially inside or outside of Puerto Rico, will be considered as sources of income inside of Puerto Rico given that they are related to the industry in Puerto Rico.

In order to determine what income will be considered as “Puerto Rico income”, a formula has been established considering sales, purchase, personal property and income. The percent will be calculated by adding these fractions, divided by four (4), and multiplying it with the total income:

- purchases made in Puerto Rico, divided by the total of purchases; sales in Puerto Rico, divided by the total of sales;
- personal property in Puerto Rico, divided by the total of properties; income in Puerto Rico, compared with the total income.

On another note, an excise tax will operate after December 31, 2010 for a period of six (6) years, to the acquisition of non Puerto Rico affiliate of products or manufacturing services produced or distributed in Puerto Rico. Such tax will be deposited with the Secretary of the Treasury on or before the fifteenth (15th) day of the month after the acquisition. Meanwhile, the Puerto Rico affiliate must file a quarterly tax return on April 30th, July 31st, October 31st and January 31st.

The excise tax applicable rates will be:

- 4% for periods beginning after December 31, 2010 and ending on or before December 31, 2011;
- 3.75% for periods beginning after December 31, 2011 and ending on or before December 31, 2012;
- 2.75% for periods beginning after December 31, 2012 and ending on or before December 31, 2013;
- 2.5% for periods beginning after December 31, 2013 and ending on or before December 31, 2014;
- 2.25% for periods beginning after December 31, 2014 and ending on or before December 31, 2015; and
- 1% for periods beginning after December 31, 2015 and ending on or before December 31, 2016.