

EXCERPT

ACT NO. 1 OF JANUARY 31, 2011
(Also known as “Internal Revenue Code for a New Puerto Rico”)

EXEMPTION ON CRAFT BEERS
(Sections 5023.04 – 5023.09)

Section 5023.04. – Special Exemptions. (13 L.P.R.A. § 32444)

- (a) In lieu of the tax imposed in paragraph (2) of subsection (c) of Section 5021.01 of this Subtitle on all beer, malt extract, and other fermented or unfermented analogous products with an alcohol content that exceeds one and a half percent (1½%) per volume, referred to in paragraph (2) of subsection (c) of said Section, which are produced or manufactured by persons whose total production, if any, of such products during their most recent taxable year has not exceeded thirty-one million (31,000,000) wine gallons, there shall be collected a tax in a staggered manner, per wine gallon produced, imported, or introduced, as follows:
- (1) Up to nine million (9,000,000) wine gallons – two dollars and fifty five cents (\$2.55);
 - (2) Per each wine gallon in excess of nine million (9,000,000) up to ten million (10,000,000) – two dollars and seventy-six cents (\$2.76);
 - (3) Per each wine gallon in excess of ten million (10,000,000) up to eleven million (11,000,000) – two dollars and ninety-seven cents (\$2.97);
 - (4) Per each wine gallon in excess of eleven million (11,000,000) up to twelve million (12,000,000) – three dollars and eighteen cents (\$3.18);
 - (5) Per each wine gallon in excess of twelve million (12,000,000) up to thirty-one million (31,000,000) - three dollars and thirty-nine cents (\$3.39).
- (b) Subject to the provisions of Sections 5023.05 to 5023.09, the benefits of this Section shall apply to a person in any taxable year following the year in which the total production of the products described in this subsection, if any, has not exceeded thirty-one million (31,000,000) wine gallons.
- (c) The benefits of this Section shall also apply to the importers of the products described in this subsection whose producers meet the requirements established in the previous paragraph.

Section 5023.05. – Rules of Availability for Tax Exemption. (13 L.P.R.A. § 32445)

- (a) Any person who wishes to avail him/herself of the benefits of Section 5023.04 shall file an application for exemption with the Director of the Industrial Tax Exemption Office.
- (1) The Director may require, through regulations, all the information he/she deems necessary and shall, likewise, include upon granting the exemption, those terms and conditions that, in his/her judgment, promote the economic welfare of all sectors of the industry.
 - (2) The exemption shall take effect from the time the application is filed, and shall continue in effect unless it is rescinded by the Director. The concessionaire shall maintain the level of employment established in the exemption, taking as a basis the level of employment prevailing as of May 31, 1978, in applicable cases; otherwise, the concessionaire shall be subject to the following options:
 - (A) In the event the concessionaire is forced to maintain a level of employment that is less than the level required in the exemption, but not less than ninety percent (90%) thereof, he/she shall be required to notify the Director of the Industrial Tax Exemption Office of the fact, stating the reasons that justify such reduction.
 - (B) In the event that the concessionaire is forced to reduce the level of employment to a figure that is less than ninety percent (90%) of the level required in the exemption, he/she shall file a sworn application justifying the reduction, before the Director of the Office of Industrial Tax Exemption, with a copy to the Secretary of the Treasury and to the Secretary of Labor and Human Resources.
 - (3) The Director shall take into consideration the grounds adduced by the concessionaire to justify the need to reduce employment, but not limited to strikes, war, government action, natural causes, or any other reasonable cause that is beyond the control of the concessionaire, and issue his/her determination, in writing, within thirty (30) days following the date of receipt and acceptance of the petition.
 - (4) The Director may cancel the exemption in those cases that the concessionaire fails to comply with the corresponding option, or may reduce the type of exemption in proportion to the ratio between the reduced level of employment and the level of employment established in the concession.
- (b) Nothing provided herein shall be construed as to alter or modify the provisions of a labor-management agreement between any concessionaire and a labor organization.

Section 5023.06. – Rules to Determine Total Production. (13 L.P.R.A. § 32446)

In the case of persons who individually or collectively, directly or indirectly, control enterprises that produce one or more classes of the products described in Section 5023.04, under one or more trademarks, the total annual production of all said classes and marks shall be considered to determine

whether these persons may avail themselves of the benefits of Section 5023.04. In order to determine the total production of the products described in Section 5023.04 of any person during a specific year, not only the direct production of said person shall be taken into account, but also any indirect production thereof made by other persons under franchises, licenses, rights, or similar contracts.

Section 5023.07. – Rules for Controlled Groups. (13 L.P.R.A. § 32447)

In the case of controlled groups of corporations or partnerships, the total of thirty-one million (31,000,000) wine gallons stated in Section 5023.04 shall apply to each controlled group. As used in this Section, the term “controlled group” shall have the same meaning that said term has in Section 1010.04 of Subtitle A of this Code.

Section 5023.08. – Violations. (13 L.P.R.A. § 32448)

Any person who unduly avails him/herself of the benefits of Section 5023.04 shall be subject to the sanctions and penalties provided in Subtitle F.

Section 5023.09. – Administration and Regulations. (13 L.P.R.A. § 32449)

- (a) The Director of the Office of Industrial Tax Exemption is hereby empowered in Section 12 of Act No. 73 of May 28, 2008, as amended, known as “Economic Incentives Act for the Development of Puerto Rico”, or any other analogous or subsequent law, to grant the exemption provided in Section 5023.04 of this Subtitle. The determinations of the Director shall be final, unless it is otherwise provided by regulations.
- (b) The Director is hereby empowered to revoke the exemption granted when the Secretary determines, through an investigation, that the concessionaire has failed to comply with the requirements and conditions thereof.
- (c) The Director of the Office of Industrial Tax Exemption is hereby authorized to approve such rules and regulations that are necessary to enforce the provisions of Section 5023.04, and once said regulations are promulgated, they shall have force of law.

CAVEAT: This document is an excerpt of the official translation of the Act, which can be found at: <http://www.oslpr.org/new/leyesPuertoRico.aspx>. For accuracy, precision and context refer to the original text and official translation of the whole Act, which can be found at: <http://www.oslpr.org/new/leyesPuertoRico.aspx>.