

112TH CONGRESS
1ST SESSION

S. 986

To amend the Internal Revenue Code of 1986 to regulate the subsidies paid to rum producers in Puerto Rico and the Virgin Islands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2011

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to regulate the subsidies paid to rum producers in Puerto Rico and the Virgin Islands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Investing in U.S. Ter-
5 ritories, Not Corporations Act of 2011”.

6 **SEC. 2. LIMITATION ON GOVERNMENT ASSISTANCE TO RUM**
7 **PRODUCERS.**

8 Subsection (e) of section 7652 of the Internal Rev-
9 enue Code of 1986 (relating to shipments of rum to the

1 United States) is amended by redesignating paragraphs
2 (3) and (4) as paragraphs (4) and (5), respectively, and
3 by inserting after paragraph (2) the following new para-
4 graph:

5 “(3) LIMITATION ON GOVERNMENT ASSISTANCE
6 TO RUM PRODUCERS.—

7 “(A) IN GENERAL.—If the amount of di-
8 rect and indirect government assistance paid or
9 incurred by any covered government during any
10 calendar year to persons producing rum within
11 the jurisdiction of such government exceeds the
12 limitation under subparagraph (B), the amount
13 which would (but for this paragraph) be covered
14 into the treasury of such government under this
15 subsection shall be reduced for each of the 2
16 succeeding calendar years by the amount of
17 such excess.

18 “(B) LIMITATION.—The limitation under
19 this subparagraph is the amount equal to 15
20 percent of the amount which would (but for this
21 paragraph) be covered into the treasury of such
22 government under this section for the calendar
23 year.

24 “(C) SEPARATE APPLICATION TO EACH
25 PRODUCER.—The provisions of subparagraphs

1 (A) and (B) shall also be applied separately to
2 each rum producer, taking into account only the
3 assistance paid or incurred by any covered gov-
4 ernment to such producer and only such pro-
5 ducer's production to which subsection (a)(3) or
6 (b)(3) applies, whichever is applicable.

7 “(D) GOVERNMENT ASSISTANCE.—For
8 purposes of this paragraph—

9 “(i) DIRECT GOVERNMENT ASSIST-
10 ANCE.—The term ‘direct government as-
11 sistance’ includes any transfer of funds,
12 grant, subsidy (other than any generally
13 available tax subsidy), loan, equity invest-
14 ment, loan guarantee, production or mar-
15 keting incentive, income or price support,
16 provision of goods or services (other than
17 generally available infrastructure and pub-
18 lic services), and such other assistance pro-
19 vided by a covered government as the Sec-
20 retary identifies as consistent with the pur-
21 poses of this paragraph.

22 “(ii) INDIRECT GOVERNMENT ASSIST-
23 ANCE.—The term ‘indirect government as-
24 sistance’ includes any amounts expended
25 by a covered government—

1 “(I) to promote, market, or oth-
2 erwise support the rum industry with-
3 in the jurisdiction of such govern-
4 ment,

5 “(II) to pay principal and inter-
6 est on, and expenses related to, in-
7 debtedness incurred, the proceeds of
8 which are used to provide rum sub-
9 sidies, or

10 “(III) for any other purpose
11 identified by the Secretary as con-
12 sistent with the purposes of this para-
13 graph.

14 “(iii) CERTAIN DEBT-FINANCED PAY-
15 MENTS EXCLUDED.—The terms ‘direct
16 government assistance’ and ‘indirect gov-
17 ernment assistance’ shall not include any
18 payment made by a covered government to
19 a rum producer out of funds raised
20 through a loan (including the issuance of a
21 debt instrument), but shall include any
22 payment of principal and interest on the
23 loan (or debt instrument).

24 “(E) ANNUAL REPORTS.—Each covered
25 government shall, for each calendar year, sub-

1 mit a report to the Secretary detailing the
 2 amount and type of direct and indirect govern-
 3 ment assistance provided by such government
 4 to each rum producer during such calendar year
 5 and to rum producers in the aggregate during
 6 such year. Such report shall be submitted at
 7 such time, and in such form, as is prescribed by
 8 the Secretary.

9 “(F) COVERED GOVERNMENT.—For pur-
 10 poses of this paragraph, the term ‘covered gov-
 11 ernment’ means the government of Puerto Rico
 12 and the government of the Virgin Islands.”.

13 **SEC. 3. MAXIMUM AND MINIMUM ALLOCATIONS OF RUM**
 14 **EXCISE TAXES BETWEEN PUERTO RICO AND**
 15 **THE VIRGIN ISLANDS.**

16 Section 7652 of the Internal Revenue Code of 1986
 17 is amended by inserting after subsection (h) the following
 18 new subsection:

19 “(i) LIMITATIONS ON ALLOCATION OF RUM EXCISE
 20 TAXES BETWEEN PUERTO RICO AND THE VIRGIN IS-
 21 LANDS.—

22 “(1) IN GENERAL.—Notwithstanding sub-
 23 sections (a), (b), and (e), if, without regard to this
 24 subsection and subsection (e)(3)), the Secretary de-
 25 termines that the respective shares of Puerto Rico

1 and the Virgin Islands of the aggregate amount to
 2 be covered into their treasuries under this section
 3 for any calendar year are not within the parameters
 4 of paragraph (2), the Secretary shall increase or de-
 5 crease such shares to the extent necessary to bring
 6 them within such parameters.

7 “(2) PARAMETERS.—The parameters of this
 8 paragraph are that—

9 “(A) Puerto Rico’s share shall be at least
 10 65 percent but not more than 70 percent of
 11 such aggregate amount, and

12 “(B) the Virgin Island’s share shall be at
 13 least 30 percent but not more than 35 percent
 14 of such aggregate amount.

15 “(3) APPLICATION WITH SUBSECTION (e)(3).—
 16 This subsection shall be applied before subsection
 17 (e)(3).”.

18 **SEC. 4. DENIAL OF COVER OVER FOR RUM REDISTILLED**
 19 **INTO CANE NEUTRAL SPIRITS.**

20 Section 7652 of the Internal Revenue Code of 1986
 21 is amended by inserting after subsection (i) the following
 22 new subsection:

23 “(j) DENIAL OF COVER OVER FOR RUM REDIS-
 24 TILLED INTO CANE NEUTRAL SPIRITS.—No amount shall
 25 be covered over under subsection (a) or (b) with respect

1 to rum which is redistilled into cane neutral spirits after
2 being brought into the United States. The Secretary shall
3 prescribe such information reporting as the Secretary de-
4 termines necessary to carry out the preceding sentence.”.

5 **SEC. 5. EFFECTIVE DATE.**

6 (a) IN GENERAL.—Except as provided in subsection
7 (b), the amendments made by this section shall apply to
8 calendar years after 2011.

9 (b) DENIAL OF COVER OVER FOR RUM REDISTILLED
10 INTO CANE NEUTRAL SPIRITS.—The amendment made
11 by section 4 shall apply to rum brought into the United
12 States after the date of the enactment of this Act.

○