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## Proposed IRS Code Sec. 933A

Carlos J. Bonilla, Esq.  
Counsel, Tax & Government Affairs  
Lilli del Caribe, Inc.

# Historical Background



IRS Code sec. 936

- US domestic corporation doing business within a territory (i.e. PR) and having 80% of its income from PR sources
- Granted a tax credit for 40% of PR source income (income: .40 exempt, .60 taxable)
- Direct labor requirements (direct labor test)
- PR income subject to US federal taxes enjoyed a 21% ETR ( $35\% \times .60 = 21\%$ )
- Eliminated on 1/97 with transition clause up to 2006

# Sec. 933A Proposal



- Conforms the federal tax treatment of PR corporations to the treatment of bona fide PR residents
- Electing (is volunteer) PR corporation that earn at least 50% of their income in PR would be treated as US corporation for federal tax purposes
- However, as in the case of individual PR residents, income from PR sources will not be subject to federal taxes (although, income from **outside PR** sources, would be)
- IRS Code sec. 243 ( and its Dividend Received Deduction i.e. “DRD”) would be available to those electing to be treated as US domestic corporation
- To the extent that an electing 933A corporation has income from outside PR sources, it will be subject to US federal taxation; but any available federal deductions & credits can be used against such income

# Historical Challenges



- Corporate welfare
- CFCs do not pay taxes
- PR does not pay federal taxes
- PR residents do not agree as to what they want
- PR wants preferential treatment
- Etc., etc., ....

# Benefits of the Proposal



- Promotes dividend payments to US parent companies, making available a constant cash flow for the creation of jobs in US, R&D expenditures, corporate infrastructure, etc..
- Promotes federal tax payments being deferred by CFCs
- Creation of economic development in US and PR (“american jobs”)
- Keeps the development of critical and important technologies within american soil
- Promotes the protection of sensitive products for national security within american soil
- Provides access to tax and financial information to US Treasury

# Economic Impact



- Additional incentive for CFCs to reorganize as a PR corporation
- Establishment of middle size to large (non CFCs) corporations in PR
- Establishment of US non-multinational suppliers and vendors of the manufacturing industries in Puerto Rico
- IRS Code sec. 936 economic impact as reference (@1995)
  - 40% GNP
  - 30% of Total Employment (300K)
  - \$600 MM procurement of goods & services in PR
  - Significant demand for Superior Education degree holders
  - Over \$10B invested in financial institutions in PR



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