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05-11-2017

Puerto Rico

Fiscal Plan Contemplates $1.2B in Cuts to Private-Sector Subsidies Over 10 Years

A nonprofit pushing for transparency in Puerto Rico's public finances is calling on the commonwealth and the PROMESA oversight board to undertake a full accounting of the tax incentives and other benefits granted to corporate and individual taxpayers each year, given the large spending cuts in critical areas such as health, education and pensions that are proposed under Puerto Rico's fiscal plan.

There are no precise estimates on how much the the tax breaks and other incentives cost the government each year, but the group and government officials have said they add up to billions of dollars annually and could provide the commonwealth with a large source of potential revenue as it looks to restructure its debt and revamp government operations. Puerto Rico's fiscal plan contemplates savings of only about $120 million annually through cuts in such tax incentives.

The group Espacios Abiertos released a report today indicating that the PROMESA board-certified fiscal plan contemplates about $4.225 billion over the next 10 years to cuts in the tax exemptions, deductions, credits and preferential rates that the commonwealth extends each year to corporate and individual taxpayers through about 53 laws and programs. However, figures provided by the administration of Gov. Ricardo Rossello substantially reduce this projection to about $1.2 billion over the 10-year period, or $120 million annually, through cutbacks in the various tax incentive programs. Although creditor groups have attacked the fiscal plan for including a $6.2 billion reconciliation adjustment that would serve as a cushion for budget overruns and funding $7.4 billion in non central government expenses, they have largely been silent on the issue of tax incentives.

The fiscal plan calls for a total $7.826 billion reduction in commonwealth subsidies to the island's 78 municipalities, the University of Puerto Rico and "direct subsidies to the private sector." The municipal subsidies add up to $3.15 billion over the 10-year period, and the group contemplated a cut of only $450 million to the UPR operations over that time frame, saying that the fiscal plan does not specify that the $450 million will be annual. However, Public Affairs and Policy Director Ramón Rosario provided fiscal plan estimates showing that the UPR cut would add up to $3.47 billion over the next 10 years. He said that the PROMESA board had ordered a $450 million fiscal adjustment at the UPR within three years and that the fiscal plan contemplates that the cut would be permanent in subsequent years. The UPR is expected to take only a $64 million budget hit for the next fiscal year, and the Rosselló administration has proposed different alternatives so that the institution faces just a $240 million annual cut down the road, rather than the $450 million cut proposed by the plan, Rosario added.

That means that the fiscal plan contemplates only $1.2 billion in savings from cuts to other direct subsidies to the private sector, which are largely granted through tax incentives to businesses and individuals.

Nuria Ortiz Vargas, the executive director of Espacios Abiertos, said during a press conference today, "In the middle of the economic crisis, there exists these expenditures that are not visible: the hidden budget. Although we know they add up to billions of dollars, nobody knows exactly how much they cost and whether they achieve the benefits for which they were granted." She added, "These fiscal expenditures have no visibility and are not being critically evaluated publicly while decisions are being made to cut spending in critical sectors like the University of Puerto Rico, the health program and pensions."

Espacios Abiertos is not the only group calling for more visibility into the amount of tax incentives the commonwealth grants to the private sector. Congress, in enacting the PROMESA law, required the commonwealth through Section 208 to provide within six months of the establishment of the board a report documenting "all existing discretionary tax abatement or similar tax relief agreements to which the territorial government, or any territorial instrumentality, is a party. …"

"Nothing in this Act shall be interpreted to limit the power of the territorial government or any territorial instrumentality to execute or modify discretionary tax abatement or similar tax relief agreements, or to enforce compliance with the terms and conditions of any discretionary tax abatement or similar tax relief agreement, to which the territorial government or any territorial instrumentality is a party," the PROMESA law reads.

PROMESA board and commonwealth officials did not return requests for comment on whether the report was ever delivered, but Espacio Abierto officials said that board members have told them the plan has not been provided. Ortiz Vargas said the group is drafting a letter to the board today on the matter and would ask that the plan be made public.

PROMESA orders the board's members and staff to not "disclose the contents of the report described in this subsection, and shall otherwise comply with all applicable territorial and Federal laws and regulations regarding the handling of confidential taxpayer information." Ortiz Vargas, however, called taxpayer confidentiality protections a "cheap excuse" to keep the information hidden, arguing that the information could be released in such a manner that business and individual taxpayer information could be protected.

The group also called on the commonwealth to begin producing "tax expenditure budgets" annually, in which revenue for budget purposes is presented on a gross basis rather than a net basis. This would bring visibility to the amount of money the government spends on tax incentives, according to the group.

Former Treasury Secretary Juan Zaragoza championed the idea last year and estimated that commonwealth general fund annual net revenue is about $9 billion and gross revenue about $20 billion. Proponents say that tax expenditure budgets have been the norm in most states and developed countries since the 1970s.

The administration of Gov. Ricardo Rosselló is taking action to quantify and evaluate tax breaks and other subsidies through the development of an "incentives code," which would collect all existing incentives in a single place and evaluate whether they are producing benefits. He said that the government has never measured the benefits of the numerous incentives it has provided over the years, and said the breadth of existing incentives makes their mere codification a big task. Rosselló said every incentive would have to be "justified" in order to make it into the code, and then would be subject to a rigorous evaluation process that is being drawn up that would determine the "return on investment."

In March, Fiscal Agency and Financial Advisory Authority Executive Director Gerardo Portela issued an administrative order under Law 5 of 2017 freezing multiyear special appropriations spending and the authorization of new tax credits.

Espacios Abiertos, or Open Spaces, is a collaboration between the Center for a New Economy, the American Civil Liberties Union of Puerto Rico, the Centro de Periodismo Investigativo and the University of Puerto Rico Legal Assistance Clinic.

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