

Congress of the United States

Washington, DC 20515

December 12, 2017

The Honorable Kevin Brady
Chairman
Committee of Conference on H.R. 1
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Orrin Hatch
Vice-Chairman
Committee of Conference on H.R. 1
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman and Mr. Vice-Chairman:

As you negotiate the House and Senate versions of H.R. 1, we request that you act to help Puerto Rico and any other state or territory in a similarly desperate economic condition catch up to the prosperity enjoyed by the rest of the country. We believe that as you debate serious issues that could affect all citizens of this nation, you must ensure that your proposed changes help, not hurt, Puerto Rico. In particular, we urge you to take action on several provisions that will incentivize direct economic activity in the local economy of Puerto Rico, rather than simply allowing corporations to attribute income there for tax purposes. Attributing income to an area for tax purposes has for too long enabled companies to save far more in taxes than they contribute to the local economy. The proposals have precedent in recent law, and are consistent with longstanding, bipartisan tax policy and the bill's tax fairness and avoidance prevention provisions.

Over the past couple of years, it has become painfully obvious to the Nation that the territory of Puerto Rico is underdeveloped and in severe economic distress. Contributing to this fiscal distress has been the disparate treatment between the territories and the states—both in tax treatment and in many other programs. In short, Congress should give the territories equal treatment that is similar in nature to the 50 states. Unfortunately, both tax bills as currently drafted fail in this regard. For instance, the House version includes a 20 percent excise tax on payments to foreign subsidiaries. Because some corporations in Puerto Rico are organized as foreign entities, their parent companies would be subject to this tax. This tax is problematic and does not address the economic situation in the island, thereby leading Puerto Ricans to look for better opportunities in the 50 states. The simplest, and best, solution would be to treat corporations in Puerto Rico as domestic for tax purposes and eliminate this problem. We believe the conference should work towards that goal.

While this is a necessary change, it—by itself—is not sufficient. Puerto Rico should also be included in tax incentives that are available for both low-income and economically distressed areas in both states and territories.

In particular, there are provisions in both the House and Senate bill that are worth adopting here. The House bill would extend tax credits for payroll and capital investments in one territory, American Samoa, based on programs that have been enacted for low-income communities in the states. The Senate bill would exclude capital gains due to investments in very low-income areas—known as Opportunity Zones—from taxable income in both states and territories. However, in areas with poverty levels similar to those of Puerto Rico, Opportunity Zones should also offer a tax credit for local payroll and full expensing of investments in plants and equipment for the period of H.R. 1. We believe that the Senate provisions should be adopted, with the addition of the

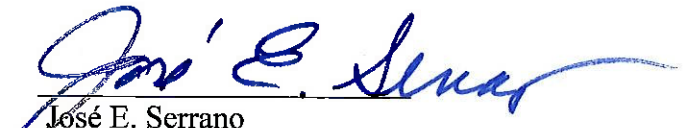
measures that we have suggested for Puerto Rico and other U.S. jurisdictions with comparable poverty levels. This recommendation would have the overwhelming support of the people of Puerto Rico because it would create jobs, opportunities, and economic growth for all.

Many of us have also written in the past to House and Senate leadership encouraging the inclusion of additional provisions before final passage. These include making permanent the rum excise tax cover-over and granting equal treatment for purposes of the Section 199 domestic manufacturing production credit and the child tax credit to Puerto Rico as well as extending the benefits of the earned income tax credit. We believe these provisions provide the territorial government with much-needed liquidity, businesses with incentives to invest in the island, and residents with direct economic assistance at a time of crisis post-Hurricane Maria.

While those of us who are Democrats have serious and deep problems with H.R. 1, we believe that it is important for the conference committee to better understand the impact of these changes on Puerto Rico and our nation's other territories. Puerto Rico's economy has been in depression for more than 11 years and is projected to continue to decline. With the devastation of Hurricane Maria still causing severe economic dislocation on the island, this bill should be used as part of the recovery process in order bring jobs, investments and opportunities to Puerto Rico.

Sincerely,


Jennifer González-Colón
Member of Congress


José E. Serrano
Member of Congress









CC: Speaker of the House, The Honorable Paul D. Ryan
Senate Majority Leader, The Honorable Mitch McConnell
House Democratic Leader, The Honorable Nancy Pelosi
Senate Democratic Leader, The Honorable Charles Schumer
Members of the Conference Committee on H.R. 1
