Provide Equality for Puerto Rico and Puerto Ricans

Puerto Rico is treated like a State in most Federal laws but, because it is an unincorporated territory, it can be treated differently. Most of the treatment different than the rest of the Nation is in tax law and in other programs within the Finance Committee's jurisdiction. In tax law alone, the treatment has been a combination of treatment as a part of the United States, not a part, and different than a State or a nation. Decisions made in different cases at different times have resulted in a mix that together has limited the ability of Puerto Rico to reach its economic potential.

The confused and conflicting treatment arose from the lack of clarity about the ultimate status of the territory: Would it be a permanent part of the U.S. or become a sovereign nation? Puerto Rico answered the question in a plebiscite in November 2012. It petitioned the Congress to transition the territory to full equality within our country.

This act of self-determination should be respected as you reform Federal tax law. The reform should include measures for a transition to full equality, end provisions of law inconsistent with this principle, and not create new disparities. The U.S. citizens of Puerto Rico want, have earned, need, and should have the same rights and responsibilities as our fellow citizens in the States.

Puerto Rico's failed territory economy underscores the need for equality. The current mix does not work. After experiencing impressive growth during the post-War years, it faltered in the Seventies and has been weak since. It has been in recession during eight of the last nine years – with anemic growth in the one year of exception. The economic slowdown is due to reliance on expensive oil for electricity, international free trade agreements, and labor and environmental laws that have benefitted society and individuals but increased the cost of doing business. Unemployment remains more than twice the national average with one-third fewer people in the workforce. Per capita income is a third that of the States and half that of the millions of Puerto Ricans who have moved to a State for the greater opportunities of equal treatment.

A decades long experiment of encouraging job-creating investments by exempting from taxation all or part of the income that a company in the States attributed to Puerto Rico was found to enable too many companies to avoid more in Federal taxes than they paid in wages or otherwise contributed to the territory's economy. In some cases, they shifted patents and trademarks that constituted much of the value of a product developed in the States to their insular operations. Internal Revenue Code Section 936 was repealed but companies are avoiding as much in taxes by operating in our U.S. territory through Controlled Foreign Corporations. A large number of jobs have been lost as sophisticated, capital intensive and increasingly mechanized manufacturing has replaced labor intensive plants that have gone abroad. The rate of job loss has far exceeded the slight reduction in the value of products attributed to the territory – a value that is counted in the territory's GDP but far exceeds the amount of dollars actually in the economy.

At the same time, the U.S. citizens and economy of Puerto Rico have been denied all or significant portions of the benefits of major tax, health, and other social programs. In tax law, this includes investment incentives based on real economic contributions to an underdeveloped community and the Earned Income (EITC), Child (CTC), and American Opportunity Tax Credit (AOTC), all of which generate monies that would circulate in the economy. Puerto Rican workers are ineligible for the EITC and low and middle income Puerto Ricans can only receive the refundable portions of the CTC and AOTC. In the case of the CTC, the refunds based on Social Security taxes, which Puerto Ricans pay, are limited to those with three or more children.

Unequal treatment in refundable tax credits and other programs for low-income individuals and families is particularly illogical and counterproductive. The Puerto Ricans involved generally pay the Federal taxes that they would be required to pay if they lived in a State. They would receive the benefits automatically if they move to a State. The rate of relocation tripled last year to an estimated 140,000. Although the territory's population is rapidly diminishing to 3.4 million, it is large enough that Puerto Rico contributes more to the Treasury than several States.

Puerto Rico needs Federal tax policy that helps Puerto Ricans and our local economy, not treatment that merely allows interests to avoid taxation by relocating from a State in the hope that benefits will trickle down. Federal taxpayers deserve the assurance that policies extended to the territory have been proven effective in the States. The EITC and CTC are such policies.

The United States is a nation founded on equality. Our tax code should reflect that value and grant the residents of Puerto Rico the same opportunities available to our fellow U.S. citizens.