



Tax



Business



Employer

Individual resident and the exportation of goods/services

July 10, 2019

The new Puerto Rico Incentives Code, referred to as the “Act”, codifies all the incentives granted throughout decades with the objective of adopting a comprehensive tool of economic development

This article turns our attention to:

- **Individual Resident Investors** requesting a Grant under the Act, previously included in Act No. 22 of January 17, 2012; and
- **Entities engaged in the exportation of goods and services**, previously contained within Act No. 20 of January 17, 2012.

Tax incentives for individual resident investors

Act 22- 2010	New Code
Individual should not have been a resident of Puerto Rico six years prior to January 17, 2012.	Individual should not have been a resident of Puerto Rico ten years prior to July 1, 2019.
Did not have a definition of “Securities” or “Other Assets”.	Capital gain exemption is applicable to “Securities” and “Other Assets”, which are defined terms under the Act. “Securities” means any note, bond, promissory note, debt evidence, options, futures contracts, forward contracts, stock, and any other similar instrument or with similar characteristics, including derivative instruments adopted by circular letter, administrative determination, regulation or any other pronouncement made jointly by the Secretary of the Department of Economic Development and Commerce (“DEDC”) and the Secretary of Treasury. “Other Assets” means commodities, coins, and digital assets based on blockchain technology.

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Tax incentives for individual resident investors (cont'd)

Act 22- 2012	New Code
Individual Resident Investor was required to make annual contributions of at least \$5,000 to non-for-profit organizations operating in Puerto Rico, duly certified as such by the Puerto Rico Department of Treasury.	Individual Resident Investor is required to make annual contributions of at least \$10,000 to non-for-profit organizations operating in Puerto Rico, duly certified as such by the Puerto Rico Department of Treasury. \$5,000 of said amount should be destined to non-profit entities that work with the eradication of child poverty included in a list published by the Joint Special Commission of Legislative Funds for Community Impact. The Individual Resident Investor is required to provide evidence to the Office of Incentives in its annual report that the entity offers direct services to the community.
Individuals were not required to purchase residential real property.	Requires the individual to evidence the acquisition of residential real property by purchase as a sole owner or with his or her spouse, from an unrelated person, within 2 years after effectiveness of the Grant. The Grantee shall demonstrate in the annual report that he or she has exclusive and complete domain of a real property for residential use throughout the term of the Grant.

Tax incentives for the exportation of goods and services

Act 20- 2012	New Code
60% exemption on municipal taxes, including municipal license taxes applicable to volume of business.	50% exemption on municipal taxes, including municipal license taxes applicable to volume of business.
90% exemption on real and personal property taxes on property used for the export, promotion and/or trade services.	75% exemption on real and personal property taxes on property used for the export, promotion and/or trade services.
N/A.	An employment commitment of one employee required when annual projected or actual volume of business is more than \$3,000,000. The Act allows current grantee holders under Act 20-2012 to submit a grant amendment to request the employment requirement set forth in the Act. The Secretary of the DEDC has the authority to approve said amendments to pursue the objectives of the Act.



Tax incentives for the exportation of goods and services (cont'd)

Act 20- 2012	New Code
No reference was made to the place where the services were rendered.	Eligible activities include service activities within or without Puerto Rico.
N/A.	Adopts the distribution in physical form, network, cloud computing or blockchain and income derived from subscription, licensing or fees as a new eligible activity.
Regulation 8874 of December 19, 2016 issued by the DEDC adopted the Qualified Promoter Program.	Adopts incentives to qualified promoters that renders promotion services to new businesses. Income derived by the qualified promoter is subject to regular tax rates in accordance with the Puerto Rico Internal Revenue Code
Creative industries were excluded from the application of the base period income.	<p>In connection to creative industries:</p> <ul style="list-style-type: none"> • expands the activity to include sale of tickets outside of Puerto Rico or the purchase of said tickets by tourists in Puerto Rico, as well as revenues related to the transmission or the sale of recording rights for audiences outside of Puerto Rico, of shows, musical productions, eSports and Fantasy Leagues events taking place in Puerto Rico. • are subject to the base period income limitations.
<p>Trading companies had to derive at least 80% of gross income from:</p> <p>(i) sale outside of Puerto Rico, for use, consumption or disposal outside of Puerto Rico, of products manufactured in or outside of Puerto Rico and purchased by the trading company for resale;</p> <p>(ii) commissions from the sale of products for use, consumption or disposal outside Puerto Rico; provided, that no part of the income derived from the sale or resale of products for use, consumption or disposition in Puerto Rico was considered industrial development income and that the property used for the realization of income was not used for other activities outside those authorized; and</p> <p>(iii) other eligible export services provided in Act 20-2012</p>	<p>The activity related to trading companies was altered to include Persons with physical presence in Puerto Rico that derive not less than 80% of gross income from:</p> <p>(i) sale of products purchased by the trading company for resale to Foreign Persons for use, consumption or disposal outside of Puerto Rico;</p> <p>(ii) commissions derived from the sale of products for use, consumption or disposal outside Puerto Rico;</p> <p>(iii) sale of manufactured or grown to order products to Foreign Persons, for use, consumption and disposal outside of Puerto Rico;</p> <p>(iv) sale or distribution to outside markets of intangible products (i.e. patents, copyrights, digital content, trademarks);</p> <p>(v) storage, transportation and distribution of products and articles owned by third parties (i.e. hubs);</p> <p>(vi) commercial and mercantile distribution to outside markets of products manufactured or grown in Puerto Rico;</p> <p>(vii) assembly, bottling and packaging operation of products for outside markets; and</p> <p>(viii) any other international commercial traffic activity provided by Regulation.</p>

The Act is mainly effective from July 1, 2019. Changes incorporated by the Act will not affect current grantee holders. Applicants may elect to file under previous laws or under the Act until December 31, 2019. Commencing on January 1, 2020, all applications will have to be submitted under the Act. However, the Secretary of the DEDC may implement by regulation provisions of the Act before January 1, 2020 to further the objectives of the Act.

Our next alert will discuss the noteworthy changes to the tax incentives in the **tourism industry**.

Please contact our Tax Department should you require additional information regarding this or any other tax issue. We will be glad to assist you.



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