

Puerto Rico has a New Tax Incentives Code

On July 1st, 2019, the Governor of Puerto Rico signed into law House Bill No. 1635, known as the **"Incentive Code of Puerto Rico"** and enrolled as **Act No. 60-2019 (hereinafter the "Incentives Code")**. The purpose of the bill was to consolidate all tax and monetary benefits conferred through separate statutes into a single code and eliminate tax incentives that were either obsolete or that had little or no real and effective contribution to the economy of Puerto Rico. Before the Incentives Code, approximately 76 different laws and programs created between 1945 to 2019, comprised Puerto Rico's economic incentives legal framework.

With limited exceptions, the final version of the bill retains the majority of existing tax benefits and incentives, makes certain modifications to existing benefits and, finally, adds new tax incentives. Furthermore, the Incentives Code law (Act 60-2019) incorporates into its provisions Act 21-2019 known as the "Puerto Rico Economic Development and Opportunity Zones Act of 2019", as well as certain technical amendments to the Puerto Internal Revenue Code ("Code") as amended by Act 257-2018.

Generally, the Incentives Code provides businesses establishing operations in Puerto Rico in several industry categories a 4% income tax rate, a 100% exemption from dividend distributions, a 75% exemption on property taxes and a 50% exemption from municipal taxes. However, certain industries are granted different and specific tax benefits in the Incentives Code.

The following serves to summarize some of the key provisions of the Incentives Code.

Effective Date of the Incentive Code and Impact on Current Tax Incentives' Grant Holders

The Incentives Code was effective immediately upon being approved on July 1, 2019. However, those seeking an incentives' grant are given the option of either filing an application on or before December 31, 2019, either under the new Incentives Code Act or under the All current tax grants holders (i.e. holders of tax grants under Act 73 of 2008, Act 20 and 22 of 2012, among others) will continue to enjoy the benefits in full, and existing tax grants can be modified or amended under the provisions of the corresponding laws.



Certain Significant Changes in Tax Benefits

New Tax Benefits: The Incentives Code recognizes a new tax benefit afforded to new small and medium-size business ("PYMES", by its acronym in Spanish) in established in Puerto Rico, as well as for businesses establishing operations in Vieques and Culebra or those which require so-called "Difficult Recruitment Professionals".

PYMES are defined as businesses with an average volume of business of 3 million or less during the 3 previous taxable years. This tax benefit includes a 2% special income tax rate and a 100% exemption from property and municipal taxes during the first 2 years of operations. After the initial 2 years, these businesses will enjoy a 4% income tax rate and a 75% and 50% exemption for property and municipal taxes, respectively. On the other hand, "Difficult Recruitment Professionals" are defined as professionals who are residents of Puerto Rico having a specialized knowledge in the operation of an exempted business under the Incentives Code or under a superseded tax incentives act. These individuals will enjoy a 100% income tax exemption on the first \$100,000.00 of their salary per calendar year.

Benefits for Manufacturing, Export Services, Green Energy and Tourism:

The Incentives Code reduces the tax exemption previously conferred for property taxes from a 90% exemption to a 75% one. Moreover, it reduces the tax exemption for municipal license and construction excise taxes from 60% to 50%.

Individual Resident Investors (Act 22): Under the Incentives Code commodities, currencies and any digital asset based on blockchain technology will be subject to



the capital gains treatment currently applicable under Act 22-2012 known as the "Act to Promote the Relocation of Individual Investors to Puerto Rico." Furthermore, the Incentives Code requires that Individual Resident Investors make a donation of at least \$10,000 to a not-for-profit organization in Puerto Rico.

Tourism Activities: Tourism activities are now 100% exempted from income taxes on dividend distributions. Previously these distributions were subject to income tax under the Code.

Doctors: The tax benefits under Act 14-2017, as amended, known as the "The Incentives for the Retention and Return of Medical Professionals Act" ("Act 14-2017") were extended until June 30, 2020 in certain cases.

Tax Benefits under the Incentives Code of Puerto Rico by Classification

Tax Benefits for Individuals: The Incentives Code provides: 1) the tax benefits to Individual Resident Investors which were covered until know by Act 22-2012; 2) the tax benefits for scientists and doctors previously contained in the Code and Act 14-2017, respectively; and 3) a new tax benefit for businesses with "Difficult Recruitment Professionals."

Tax Benefits for Exports: This classification includes the tax benefits for exports of goods and services. This tax benefit was covered by Act 20-2012, known as the "Act to Promote Export of Services."

Tax Benefits for International Financial, Banking and Insurance Activities: This classification includes the tax benefits which were covered in Act 273-2012 "International Banking Center Regulatory", Act 399 of

September 22, 2004 known as the "International Insurers and Reinsurers Act of Puerto Rico" and Act 185-2014 known as the "Private Equity Fund Act."

Tax Benefits for Tourism Activities (Visitor's Economy): This classification includes the tax benefits in Act 74-2010 known as the "Tourism Development Act of Puerto Rico of 2010." Tax Benefits for Manufacturing, R&D and Manufacturing Related Services: This classification includes the tax benefits in Act 73-2018, as amended, known as the "Economic Incentives Acts for the Development of Puerto Rico."

Tax Benefits for Energy and Infrastructure Related Activities: This classification includes the tax benefits in Act 83-2010 "Green Energy Incentives Act of Puerto Rico" and other construction and housing legislation.

New activity: Under this classification the production of "Highly Efficient Energy" is added as a type of business that can obtain a tax grant under the Incentives Code. The Incentives Code defines the production of highly efficient energy as the production of electric power at a minimum of sixty percent (60%) in a highly efficient manner, as established by the Energy Bureau, in accordance with Law 57-2014, as amended.

Tax Benefits for Agriculture: this classification includes the tax exemptions currently available to bonafide farmers under Act 225-1995, as amended.

Tax Benefits for Creative Industries: this classification includes the tax benefits for the film industry included in Act 27-2011 known as the "Puerto Rico Film Industry Economic Incentives Act."

Tax Benefits to Other Industries: this classification includes the tax benefits currently applicable to air transportation and maritime cargo under Act 135-1945, as amended, known as the "Tax Exemption for Public Air Carriers Services" and Act 126-1966, as amended, known as the "Act of Maritime Cargo Transportation."

We intend to provide an in-depth look into some of these classifications and other aspects of the new Incentives Code in future newsletters.

Should you or your company be interested in learning about the benefits of the New Incentives Code and how they may be of application, you may contact the attorneys at Vidal, Nieves & Bauzá, LLC. Vidal, Nieves & Bauzá, LLC is a corporate law firm with a special emphasis in energy and environmental matters, corporate, tax, transactional, real estate and insurance practices.

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