

## Proposed Incentives Code of Puerto Rico Under Legislative Scrutiny

Public hearings to evaluate the new Incentives Code for Puerto Rico, House Bill 1635 (the "Bill") of May 29, 2018, are now under way. On June 11, 2018, officials from the Department of Treasury ("Treasury"), the Department of Economic Development and Commerce ("DEDC"), and the Puerto Rico Fiscal Agency and Financial Advisory Authority ("FAFAA") appeared before the House of Representatives in support of the Bill. The Bill aims to simplify the Island's economic development proposition for the creation of jobs and attraction of investments by compiling around 50 statutes adopted over a 60-year period into one single tax incentives code. Incentives are organized by type, including those applicable to individuals, exports, finance, insurance and investments, visitor's economy, manufacture, infrastructure, agroindustry, creative industries, and entrepreneurship. Exempt businesses would enjoy a uniform set of tax incentives, including a 4% income tax rate, tax free dividends, 60% municipal tax exemption and 90% property tax exemption.



In its presentation, the DEDC clarified that the Bill does not affect current holders of tax exemption grants.

The FAFAA ensured that the Bill complies with the Fiscal Plan adopted under PROMESA because it provides a more transparent system of incentives, which contributes a measurable return on investment. The FAFAA also stated that the savings generated by the Bill makes the proposed tax reform viable because of the neutral impact they both would have on the Puerto Rico budget.

Treasury pointed out that the Bill would eliminate the bureaucracy of the incentives approval process because the DEDC would be the centralized agency responsible for the process of issuance of tax incentives. In turn, Treasury would focus on the oversight of the Internal Revenue Code, which is expected to result in increased tax collections.

Some changes proposed in the Bill include:

1. **Tax Credits:** elimination of tax credits generally and adoption of a framework of cash grants tied to the annual budget administered by the DEDC.

2. **Individual Investors:** limited to individuals who become residents of Puerto Rico before tax year 2035 who were not residents of Puerto Rico from January 12, 1997 to the date of approval of the Bill.

3. **Energy:** elimination of the exemption to the payment of excise taxes to equipment for the collection, accumulation, generation, distribution and application of renewable energy.

4. **Industrial and Manufacturing Incentives:** Tax credits codified in Act 73-2008 and related laws are eliminated. Cash grants of up to 50% of the eligible investment in research and development are adopted.

5. **Conservation Easements:** elimination of the 50% tax credit granted in respect to the value of a conservation easement or donated land parcel, and its substitution with a 30% cash grant.

The existing tax incentives framework which applies to international insurers, their holding companies and protected cells operating under the Puerto Rico International Insurance Center created pursuant to Act 399 of 2004 remains unchanged under the Bill.

You may contact the attorneys at **Vidal, Nieves & Bauzá, LLC** should you have any questions regarding the Bill.

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