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GUIDE

Puerto Rico Tax Incentives Act 60

Professional Physicians

Chapter 2 of Subtitle B, formerly Act 14



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Puerto Rico Tax Compliance Guide

By TCG, Torres CPA Group, CifrasPR, Torres & Soto Tax

Torres CPA Group is a Certified Public Accounting Firm that has been offering Audit, Tax, Consulting, and Financial Outsourcing services for over 38 years. If you require any further information or help, please do not hesitate to contact us. We assist in Accounting, Payroll, and Tax Compliance.

Understanding the Puerto Rico tax system and its interrelation with the United States is crucial for individuals and entities doing business in Puerto Rico. Puerto Rico is not a state; it's a territory, with its own business, tax, and Payroll laws and regulations.

The following White Paper is designed to give an insight on Tax Issues in Puerto Rico. It provides relevant background information, which will be of assistance to organizations considering establishing a business in the Island. Nonetheless, it is highly recommended to seek advice and counsel from qualified professional sources before undertaking any business.

Certain exclusions and exemptions may apply, and when specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Puerto Rico and to obtain appropriate accounting and legal advice.

It is understood that the following overview does not constitute any formal rendering of either legal, accounting, tax, or professional services. If legal advice or other assistance is required, an attorney, CPA or tax adviser should be consulted.

In accordance with IRS Circular requirements, you are advised that any discussion of tax issues in these materials is not intended or written to be used and cannot be used to avoid penalties imposed under Internal Revenue Code, as amended or to promote, market, or recommend to another party any transaction or matter addressed herein.

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Professional Physicians

Act 60 Chapter 2 of Subtitle B of the new Code

(formerly known as Act 14)

Qualifies all individual physicians admitted to practice general medicine or any specialty, podiatry, surgeon, dentist or practice any specialty of dentistry and exercises a full-time profession, including those who are studying for residency as part of an accredited program.

Tax benefits

For the Eligible Income earned, a fixed preferential income tax rate of four percent (4%). The Eligible Income will be that generated by offering Professional Medical Services during the entire period of the Decree.

The effective date will be on January 1 of the Tax Year in which the Qualified Physician submits the Decree request.

Eligible Income

Net income derived from providing Professional Medical Services in Puerto Rico for diagnosis and treatment; dedicates at least one hundred (100) hours per month in a public or private hospital, in a federal or state agency, in a Private office or an accredited medical school.

Exemption accrued dividends

Dividends declared by Medical Services Entity to a Qualified Physician will be exempt of withholding and payment of income taxes, including the alternate basic tax, up to a maximum of two hundred fifty thousand dollars (\$250,000) per Tax Year.

A Medical Services Business is any professional services corporation or limited liability company that provides Professional Medical Services in Puerto Rico, either a domestic or a foreign Entity, and that is authorized to do business in Puerto Rico.

Donation Requirement

Qualified Physicians will be exempt from the contribution of ten thousand dollars (\$10,000) to non-profit entities.

Application date

All Qualified Physicians who are residents of Puerto Rico will have until September 30, 2019 to request a Decree. In the case of dentist surgeons who do not practice any specialty in dentistry, they will have until June 30, 2020 to seek a Decree.

A Qualified Physician who is not a resident of Puerto Rico will have until June 30, 2020 to request a Decree, its effective date will be January 1 of the Taxable Year in which the Qualified Physician transfers his medical practice to Puerto Rico and Become a Resident Individual of Puerto Rico.

A Qualified Physician who is a Resident Individual of Puerto Rico and is studying for residency as part of an accredited program as of 7/1/19, the effective date will be January 1 of the Taxable Year in which the Qualified Physician establishes a medical practice in Puerto Rico.

A Qualified Physician who is studying in residency as part of an accredited program that is not a Resident Individual at the date of 7/1/19, qualifies as of January 1 of the Tax Year in which he establishes his practice in Puerto Rico, and become a Resident Individual of Puerto Rico.

Exemption Period

Enjoy the benefits for a period of fifteen (15) years provided that during that term the requirements are met. May request an extension of the Decree for an additional fifteen (15) years, for a total of thirty (30) years.

Dispensation

A Physician may ask for a waiver of compliance during a period never exceeding three (3) years, in which he offers services as an official of agencies or instrumentalities of the Government of Puerto Rico or public corporations, although these are not medical services with the full-time service requirement.

Student Loan Repayment Program

An incentive program aimed at subsidizing student debt of doctors, dentists, veterinary scientists, and researchers with doctoral Degrees in intensive research in the area of health then graduate from the date of after July 1, 2019.

In the case of doctors, dentists and veterinarians must meet the requirements of the United States Medical Licensing Examination or the Revalidation of Dental Medicine or the licensing requirements applicable to veterinarians, as appropriate, who undertake to establish their medical practice, dentistry, veterinary or scientific research in the area of health.

They must remain in Puerto Rico for a period of seven (7) consecutive years. The grant may be up to a maximum of sixty-five thousand dollars (\$65,000) to cover student debt. The award will be payable at the beginning of the seven (7) year period.

The period of seven (7) years may be interrupted while the physician is studying a specialty or subspecialty outside of Puerto Rico.

In case of non-compliance during the first two (2) years with the commitment period of seven (7) years, he must return one hundred percent (100%) of the subsidy received to the Government.

If the breach occurs the third (3rd) year, the penalty will be the return of seventy percent (70%) of the subsidy received; if it happens from the fourth (4th) year onwards, the return percentage reducing will be at a rate of five percent (5%) per year until the end of seven (7) years.

The criteria for eligibility will include, specialties or subspecialties, shortage of doctors, geographic areas with a shortage of primary care and geographical regions of services providing, except pediatrics, were geographical area criterion will not apply.

Requirements for Decree Requests for Physicians

The applicants must maintain their status of Physician, a full-time provider, a resident of Puerto Rico, and comply with his/her responsibility.

Physicians pursuing studies of residence as part of a program accredited whether or not an Individual Resident of Puerto Rico, may request the Decree within twenty (120) days to from the date of obtaining the Decree of specialty or subspecialty in Puerto Rico.

A Physician who is not a Resident Individual of Puerto Rico shall have a term of one hundred twenty (120) days to establish his / her residence in Puerto Rico and begin his or her medical or dental practice and submit his Decree request.

Community Services

The Qualified Physician will comply with the equivalent of one hundred eighty (180) annual hours of community services without remuneration.

Among the services community eligible will include:

- attend or be part of the faculty in hospitals of education and schools of medicine in the education of students of medicine;

- plan intramural practice schools of medicine, medical residents and other professionals of health ;

- provide medical services in regions that the College of Physicians of Puerto Rico or the College of Dental Surgeons of Puerto Rico,

- provide services of guard in hospitals selected ;

- offer seminars on prevention and other issues of health to the community or for training of continued education students and medical or dental professionals of Puerto Rico

- provide Medical Professional services to disadvantaged populations through non-profit entities.

Alternatively, they may enter a contract of service with the Health Plan of the Government of Puerto Rico, comply with percent eighty (80) hours, **but will not have to offer for free.**

Any Research Scientist who benefits will have to provide at least sixty (60) hours of community service annually in areas and tasks designated by the Secretary of the DDEC.

Incentive Program

General Information

The Mission of the Code of Incentives

Convert Puerto Rico in a tourist destination of first order as to a global level, as it promotes the strengthening of municipalities through tourism.

Encourage the promotion and development of Medical tourism and service facilities of physicians in Puerto Rico.

Take intense action to modernize the infrastructure and reduce the costs of energy through the investment in infrastructure and different alternatives of sources of Renewable Energy.

Encouraging the use of technologies that promote the sustainability and production of utilities that are cost-efficient and cleaner than those provided by current infrastructure.

Encourage the service industry to export of all kinds of services and technology.

Develop Puerto Rico as an International Center of Financial Services and Insurance.

Promote Puerto Rico as a unique location for the film industry and related activities, including postproduction.

Offer manufacturing, research, development, and high technology industries incentives so that they can preserve and expand their investment in Puerto Rico.

Promote the exporting of goods and services in a more competitive way to other jurisdictions.

Strengthen the agricultural sector and promote the export and added value of its products.

Strengthen the construction sector to make viable crucial works for the economic recovery and reconstruction of Puerto Rico.

New approach of the Puerto Rico Economic Incentives Act

Leading change to the law of economic incentives is the establishment a Code of Incentives, including the organization by segments and sectors of the industry so that laws can be a group within the same category referred as Chapters.

Chapters:

1. Incentives of general application
2. Individuals
3. Export (Goods and Services)
4. Financial and Insurance Services
5. Visitor Economy
6. Manufacturing, including the component of Research and Development
7. Infrastructure
8. Farming
9. Creative Industries
10. Entrepreneurship
11. Air and sea transport service activities
12. Other

Clause of Validity

The changes established by the new Code of Incentives are of prospective application and do not affect the companies or individuals with Decrees, credits, or incentives granted before its approval.

This Act shall enter into force immediately after for its approval on July 1, 2019. They will receive applications for new Decrees under the previous law of incentives until December 31, 2019.

The impositions provided by this Act shall remain in force during the term in which the Decrees issued remain valid.

Bill Of Rights For Decree Holders

The Decrees constitute a contract between the Government of Puerto Rico, the Exempt Business and its shareholders. The terms and conditions to be agreed upon in the contract will be honored during the validity of the Decree of exemption tax subject to complying with its terms and conditions.

The Decrees are valid in all Puerto Rico, including its municipalities. When one Business starts operations in a new municipality, they do not need to request an amendment to the Decree to perform the activities covered by the Decree.

When a new law is approved, or regulations are adopted, which provides much favorable terms and conditions, the Business may request an amendment that reflects the benefits or better terms for the Business and its shareholders.

Every Exempt Business and its Shareholders will have the right to:

Receive a worthy treatment, considered an impartial by part of all the officials and employees of the DDEC in any management issues.

Negotiate with the Secretary of DDEC in the matters of economic development and Decrees concerning matters of tax and accounting nature, you will need the endorsement of the Secretary of the Treasury.

A clear and expedient process for obtaining a Decree.

Guarantee the confidentiality of the information they submit to the DDEC.

The Business and its Shareholders have the right to know the purpose for the requesting of the information, how it will be used and the consequences of not providing it.

That they may be assisted by any person authorized to represent them, except that in the case of Professional Certificates, these will have to be licensed lawyers or public accountants authorized in Puerto Rico.

They will be notified by letter of any amendment to Decree made by DDEC as a result of any audit that demonstrates non-compliance. The DDEC will inform the nature of the modification of the Decree and the grounds for the changes, allowing to be heard within the framework of the due process of law.

Administration of the Decrees

The Office of Incentives for Businesses in Puerto Rico (“Office of Incentives”), attached to the DDEC, will be responsible for processing, evaluating, and supervising requests for incentive Decrees, Decrees granted and requests for amendments.

Nature of the Decrees

The Decrees grants are considered a contract between the DDEC, its shareholders, and the Government of Puerto Rico, the contract is the law between the parties.

It shall be the obligation of any government agency or instrumentality, public corporation or municipality, to honor and respect such contractual obligations in any administrative or judicial forum.

The contract is construed liberally, in a way consonant to promote the socioeconomic development of Puerto Rico.

A Business that possesses a Decree will perform its operations as represented in its application unless a request for change is filed and approved by the DDEC.

The date of effectiveness of the Decree shall be the date of submission of the request or a time later agreed.

Creation of Jobs Requirements

Businesses with an annual volume, actual or projected, more than three million dollars (\$3,000,000.00) need to hold at least for Export of Services & Goods, one (1) employee full-time equivalent; Manufacturing, three (3) employees full-time equivalent; Other activities will not require the creation of jobs.

A qualifying employee is any individual resident of Puerto Rico that the Business hires as an employee, whether full- time, part-time or temporary, to participate directly in the activities covered by the Decree.

For purposes of determining the number of direct employees equivalent maintained during the year, the entity must add the total hours worked by all the direct employees during the year and divide by two thousand eighty (2,080).

Vacation hours and other authorized working licenses may be taken into account as hours worked. However, hours of time extra, over 40 hours per week, will not be considered.

An employee resigns and dismissal

In cases in which a regular employee resigns or is dismissed, the Business will have a period of ninety (90) days to hire a new employee. If the Exempted Business hires a new employee during that period, the days on which the vacancy took place will be considered hours worked in the computation of two thousand eighty (2,080) hours.

Reaching Threshold Volumes

In cases in which the requirement of employment is imposed as a result of reaching the current annual volume of more than three million dollars (\$3,000,000.00), after the granting of the Decree:

During the first six (6) months, you should keep twenty five percent (25%);

then after six (6) months but before the twelve (12) months, you must keep fifty percent (50%);

then after twelve (12) months but before the eighteen (18) months, you must comply with seventy-five percent (75%);

then after the eighteen (18) months, you must abide by a hundred percent (100%) of the arranged requirement.

In those cases in which the requirement of employment is imposed as a result of the annual projected volume, the provisions will be applied in the year following the taxable year in which the Business reached the amount of more than three million dollars (\$3,000,000.00).

Other Business Employee

The Secretary will take into consideration the employees at full-time equivalent of the entity providing services to the employees who have been hired by another Business that provides services directly related to the activities covered by the Decree, including those working under a lease of employee's contract.

Compliance Flexible

A business that fails to comply with the requirement of employment provided for a year tax:

If met with at least eighty percent (80%) of the jobs required, it is deemed in compliance. This exception will not be able to be used in more than three (3) occasions during the validity of the Decree.

If the Business has not complied with at least the eighty percent (80%) of the jobs required, it must request the Secretary to allow complying with the requirement during following year. The request shall contain the reasons for the failure, the corrective measures to adhere to for the fulfillment of the provision of jobs. This cannot be used more than two (2) times during the validity of the Decree.

Employee require amendment

Any Exempt Business with a Decree granted under Law 73, Manufacturing; Law 20, the exportation of Services & Goods, or Law 135 Young Entrepreneur, may request one amendment to the Decree.

Filing of Reports & Compliance

Reports Required for Exempt Businesses and their Shareholders:

Businesses must file and pay income tax return annually, regardless of the amount of their income gross or net income.

All Shareholders must file and pay the annual income tax return.

Businesses will comply with the obligation to maintain in Puerto Rico, accounting segregating their exempt operations, as well as all supporting records and files.

Businesses and Shareholders will comply, pay, and submit all require declarations, rules, and regulations in force concerning the taxation and collection of all kinds of contributions.

Businesses, will annually file electronically with the Office of Incentives, no later than thirty (30) days after the date prescribed by law for the filing form of tax on income, including the extensions granted by a report of compliance.

All Shareholders under a Decree, must annually file electronically with the Office of Incentives, not later than thirty (30) days after the date prescribed by law for the filing form of tax on income, including the extensions granted by a report of compliance.

The Office of Incentives will create an audit of compliance concerning the terms and conditions of the Decree granted every two (2) years or less.

Payment subject to withholdings

Business payments in excess of \$500 for services performed within Puerto Rico are subject to a ten percent (10%) withholding. The amount withheld should be deposited at the Puerto Rico Treasury Department on or before the tenth (10) day of the month following the close of the month in which the tax was deducted which may be subject to specific exclusions and exemptions. The amount withheld or deposited will be credited against their income tax liability.

Non-compliance with the Obligation to Withhold

If the withholding agent does not withhold the tax imposed, unless the person receiving the income has satisfied his or her tax liability, the withholding agent will be impose.

Tax Responsibility

Any Person obliged to deduct and withhold the tax imposed, must respond to the Secretary of the Treasury for the payment and will not have to answer any other Person as to any payment.

Accounting Records

The Exempt Business will have an obligation to maintain, in Puerto Rico, separately, the accounting related to its exempt operations, as well as the supporting records and necessary files.

System of Compensation for Accidents of Work Fund Insurance, Workers' Compensation

The exemptions and tax benefits will not include fees payable under the Law System of Compensation for Accidents of Work Fund Insurance.

Administrative Fines

The Director may impose an administrative fine of ten thousand (\$10,000) dollars on any exempt business that fails to file any of the reports that the Secretary or the Director may require, or if file them after the expiration date.

The filing of an incomplete report will be considered as not filed, if the agency concerned notifies the business exempt from any omission in the required report and the exempt business does not submit the missing information within fifteen (15) days of being notified, or does not reasonably justify the lack thereof.

Investor Resident Individual Trusts

Trusts for Benefits of the Trustee

A Resident Investor Individual with Decree may establish trusts under the laws of Puerto Rico and may elect that the trusts be treated as trusts for the benefit of the trustor ("grantor trust") for purposes of income tax in Puerto Rico.

The election will be made in accordance with the rules established, irrespective of whether the trust is not considered for the benefit of the trustor under the applicable income tax rules.

The nature of income, gain, loss, deduction or credit included in the income attributable to the settlor shall be determined as if was made directly from the source as if trust made it, or accrued in the same way the trust earned it. An election made, once made, may only be revoked by the procedure established by the Secretary of the Treasury.

Revocable Trusts

An Investor Resident Individual may establish a revocable or irrevocable trust under the laws of Puerto Rico, as determined by the trustor in the articles of incorporation; in the absence of a provision in this regard, it shall be presumed irrevocable. Revocable trusts established following this provision may only be revoked by the trustors, or by the trustor who retains this power in the articles of incorporation.

Trusts granted outside of Puerto Rico

The provisions of any Trust validly granted outside of Puerto Rico, by an Investor Resident Individual to which a Decree is issued, may not be challenged by any person based on any Puerto Rico Law or Regulation that could be contrary to or inconsistent with the provisions of said Trust. This will continue to be applicable after the termination of the exemptions granted provided that the Decree has not been revoked.

A Resident Investor Individual to whom a Decree is issued may freely transfer or donate in life, and in its sole discretion, all or part of their assets to the trusts, irrespective of whether they are tangible or intangible movable or immovable property, of the location of said assets, and of any legal or regulatory provision in Puerto Rico that is contrary or inconsistent with said transfer, donation, testamentary disposition of the flow and/or the terms and conditions of said Trusts.

Other Benefits

Flexible Tax Exemption

The entities will have the option to choose the specific years to be effective under their Decrees and will notify the DDEC no later than the filing income tax date, including the extensions granted. An Exempted Entity that opts for this benefit, will have the period of exemption extended for purposes of the tax on income by the number of taxable years they have not enjoyed a Decree.

Automatic benefit Application

The other terms, conditions, and benefits contained in the new Code that do not conflict with the current Decree will apply to the Exempt Business without needing to file an amendment.

Businesses with previous eligible activities

If by the date of submission of the application of Decree, the Entity is dedicated to an activity eligible through any time during the period of three (3) tax years prior to the date of submitting the application, the "time base", the entity can enjoy the fixed rate on income only in regard to the increase of net income of the activity. The base period requirement will include any operation under another legal name, or with other owners.

The net income of time base shall be subject to the ordinary rates, which will be adjusted by twenty five percent (25%) annually, until reduced to zero (0) at the fourth year.

Conversion of exempted businesses under Laws of Previous Incentives

Businesses exempted under Laws of Previous Incentives may apply to the new provisions, provided that they can demonstrate that they comply with all the legal applicable requirements. The benefits granted in the converted Decrees may not be greater than those provided under the new law.

Businesses that as of July 1, 2019, have not begun operations, may apply to convert the remainder of the period of the Decree, to adjust its Decree according to the benefits granted under the new Code.

Businesses whose Decrees were granted on or before July 1, 2019, and have begun enjoying the exemption may apply to convert it according to the benefits granted under the new Code.

The conversion will have to be requested within a term of twelve (12) months from July 1, 2019, and can be reset to the first day of the taxable Year but never before July 1, 2019.

Revenues accrued for the business until the date of effectiveness of the conversion, which is distributed after the date effective of the conversion, will be subject to treatment tax which is arranged in the law under which they were accumulated.

The other terms, conditions, and benefits contained in the new Code which do not represent a conflict will apply to Exempt Businesses automatically.

Exempt Business Ownership Transfers

The transfer of the Decree, or the Shares or majority ownership of an Exempt Business to another person who, in turn, will continue to devote himself to the Activity to which he was previously engaged in a substantially similar manner, will require the prior approval of the Secretary of the DDEC.

Making a transfer without prior approval will void the Decree at the time of the transfer. Notwithstanding the preceding, the Secretary of the DDEC may approve any transfer made without its approval with retroactive effect.

Any transfer request must be approved or denied within sixty (60) days following its filing. The denial of a transfer request must be made in writing and will detail the reasons why it is rejected. Any transfer request that is not authorized or denied within this period will be considered approved.

The following transfers will be authorized without prior consent:

The transfer of the assets of a descendant to his estate or the assignment by legacy or inheritance;

The transfer of Shares of the Exempt Business when the said transfer does not directly or indirectly result in a change in the domain or Control of the Exempt Business;

The pledge or mortgage granted in the ordinary course of business to provide a guarantee of a bona fide debt does not prevent any transfer of Control, title or interest under the said contract, however, this shall be subject to notification;

The transfer by operation of law, by order of a court or a bankruptcy judge to a trustee. Any subsequent transfer to a third person other than the same debtor or bankrupt above will be subject to the notification provisions.

The Exempt Business will report any transfer of the exceptions to the Secretary of the DDEC within thirty (30) days of being made.