



TaxNewsFlash

United States

No. 2017-296
July 21, 2017

Puerto Rico: Package of tax incentives enacted

A package of legislation, signed into law on July 11, 2017, provides new tax incentives with respect to service exports, individual investors, and economic development in Puerto Rico.

The new legislative measures apply to taxes and tax rules under:

- Act 20-2012 (the law to promote the export of services)
- Act 22-2012 (the law to promote the relocation of individual investors)
- Act 73-2008 (economic incentives for the development of Puerto Rico)

R&D incentives

Recently enacted Act 44-2017 allows for “research and development” to be an eligible business activity pursuant to the incentives available under Act 73-2008 (economic incentives).

The term “research and development” is defined as any activity for the improvement of knowledge or abilities in science or technology. However, the act expressly excludes from this R&D definition:

- Improvement of an industrial processes
- Contract research

With respect to the R&D measure, the new law provides that an eligible investment will include a cash investment from a grant or financed by a U.S. federal government entity. Financing from the Puerto Rico government is expressly excluded.

Tax exemption, certain activities

The new measures contained in Act 43-2017 amend Act 20-2012 (export of services) and remove a requirement that the taxpayer must employ five persons. However, the number of employees will be evaluated during the exemption request process, and thus, satisfying the employment requirement may be imposed as a condition in granting the tax exemption.

Act 43-2017 also adds medical tourism and telemedicine facilities to the list of eligible activities. Under this new provision, at least 30% of the doctors in a telemedicine facility must be residents of Puerto Rico, unless the facility can show that there are not sufficiently qualified doctors in Puerto Rico.

Trading companies are also added to the list of eligible activities. In order to qualify as a trading company, at least 80% of the entity's income must be from either: (1) the sale of products, whether or not manufactured in Puerto Rico; or (2) commissions from such sales, provided that the products were sold for use, consumption, or disposition outside Puerto Rico.

Tax exemption application process

Act 45-2017 establishes a tax grant application procedure with the Office of Industrial Tax Exemption (a procedure previously repealed by Act 108-2016).

The new measure clarifies that capital gains attributable to the appreciation in the value of securities, having accrued before the investor became a resident of Puerto Rico, will be considered income from sources outside of Puerto Rico. Thus, investors will be able to claim a foreign tax credit in Puerto Rico for taxes paid to a foreign jurisdiction.

Also, a new requirement provides that an eligible investor must make an annual charitable contribution donation of at least \$5,000 to nonprofit organizations operating in Puerto Rico.

New rules for tax credits

The Puerto Rico Fiscal Agency and Financial Advisory Authority (FAFAA) in March 2017 issued an administrative order (AO-2017-01) granting authority to the Tax Concession Authorization Committee (TCAC) to establish rules to limit the use of tax credits, up to a maximum of four tax years.

The TCAC in June 2017 issued Resolution 2017-05, thereby establishing the rules for taxpayer use of tax credits. Under these guidelines, a tax credit granted and made available in tax year 2017 and subsequent years may be claimed against the income tax liability of the credit-holder—subject to the provisions under which the credit was granted—up to a maximum 25% of the income tax liability.

This limitation applies to tax year 2017 and to each of the three subsequent tax years, for a maximum of four tax years. Any unused amount of the credit will expire. The

TCAC, however, can extend the period of time for using the credit, for up to an additional three years.

The rules under Resolution 2017-05 do not apply to tax credits granted through closing agreements or granted with respect to the alternative minimum credit or the foreign tax credit.

For more information, contact a KPMG tax professional in Puerto Rico:

Rolando Lopez | +1 787-756-6020 | rlopez@kpmg.com

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)