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ACT NO. 60 INDIVIDUAL INVESTORS DISPOSITIONS



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Act No. 60 of 2019, as amended, provides tax exemption on qualified passive income (interest, dividends, capital gains) to eligible individuals residing in Puerto Rico.

Eligibility

The benefits of Chapter Two from Sub-Chapter D of Act No. 60 are available to individuals who become bona-fide Puerto Rico residents on or before December 31, 2035, provided that such individuals were **not** bona-fide residents of Puerto Rico between January 17, 2006 and January 17, 2012.

Bona-fide Residents of Puerto Rico

An individual is considered to be a bona-fide resident of Puerto Rico if he or she:

- * Was present for at least 183 days during the taxable year in Puerto Rico¹;
- * Does not have a tax home outside of Puerto Rico during the taxable year; and
- * Does not have a closer connection to the United States or a foreign country other than to Puerto Rico during the taxable year.

¹An individual is considered to meet the presence test if one of these conditions is met: the individual was present in Puerto Rico for at least 183 days during the taxable year; the individual was present in Puerto Rico for at least 549 days during the 3-year period consisting of the current taxable year and two immediately preceding years, provided the he (she) was present for at least 60 days during each of said years; the individual was present in the United States for no more than 90 days during the taxable year; the individual had earned income of less than \$3,000 and was present for more days in Puerto Rico than in the United States during the taxable year; or the individual had no significant connection to the United States during the taxable year.

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Tax Incentives

The Act provides the following incentives to new Puerto Rico bona-fide residents on qualified investments:

- * 100% tax exemption from Puerto Rico income taxes on all dividends;
- * 100% tax exemption from Puerto Rico income taxes on all interest; and
- * 100% tax exemption from Puerto Rico income taxes on certain long-term capital gains for investment appreciation accrued after the individual becomes a bona-fide resident of Puerto Rico (recognized prior to January 1, 2036).

Built-in Capital Gains

Capital gains attributable to the increase in value prior to the individual becoming a bona-fide resident of Puerto Rico will be subject to preferential Puerto Rico income tax rate, as follows:

- * If such gain is realized and recognized within 10 years after the date residence is established in Puerto Rico, it will be taxed at the income tax rate for capital gains applicable for the tax year in which the gain is realized. ²
- * If such gain is realized and recognized after said 10-year period, it will be taxed at a 5% income tax rate.

Pursuant to U.S. income tax regulations, built-in capital gains accrued before the individual became a bone-fide resident of Puerto Rico, and which are realized within 10 years of the individual becoming a bona-fide Puerto Rico resident, are subject to US federal income tax. ³ However, Puerto Rico income tax may be creditable against such federal income tax.

² For calendar year 2021, the capital tax rate is 15%.

³ In general, the portion of the gain that is treated as built-in gain is determined based upon the relative holding period of the asset.

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Tax Exemption Decree

The individual investor must submit an application⁴ with the Office of Industrial Tax Exemption of Puerto Rico to obtain a tax exemption decree. Once approved, the benefits granted will be secured during the term of the decree, irrespective of any changes in the applicable Puerto Rico tax laws. The individual investor must file an Annual Report, on or before November 15 following the closing of the prior taxable year, if Grantee's taxable year is calendar or, on or before the 15th day of the 11th month following the closing of the prior taxable year, if Grantee's taxable year is a fiscal year. The report will include information reflecting compliance with the provisions of the grant, including evidence of an annual contribution of \$10,000 to a non-profit, non-related entity operating in Puerto Rico, and verified under Section 1101.01(a)(2). It should also include evidence of the acquisition of a residential property within the first two years of obtaining the decree. Also, a \$5,000 annual fee will be required at the time of filing the Annual Report.

The term of the decree may not go beyond **December 31, 2035**. After this date, the individual will be taxed as any other Puerto Rico resident.

⁴ The applicant will be charged a service fee of \$5,000 at the time of request of the grant.

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