



August 8, 2014

**Tax Alert 2014-06**

**Summary of the Adjustments to the Tax System - Act No. 77 of July 1, 2014**

On July 1, 2014, the Governor of Puerto Rico signed Act No. 77- 2014. The following is a summary of the most significant changes to the 2011 Puerto Rico Internal Revenue Code (PRIRC), as amended, the Economic Incentives for the Development of Puerto Rico Act (Act 73-2008), the Green Energy Incentives Act (Act 83-2010), and the Game of Chance Act (Act 11-1933).

Changes to the PRIRC

**Corporations**

- ✓ Gross Income Additional Tax (GIAT) will no longer be a part of the Alternative Minimum Tax (AMT). For tax year 2014 it will be an additional tax to the regular or AMT paid.
- ✓ New GIAT tax rates for 2014

If gross income is:	Tax will be:
From \$3,000,000 to less than \$100,000,000	.35%
From \$100,000,000 to \$300,000,000	.50%
Over \$300,000,000 to \$600,000,000	.70%
Over \$600,000,000 to \$1,500,000,000	.80%
In excess of \$1,500,000,000	1.00%

- ✓ Changes the Alternative Tax on Net Long - Term Capital Gains for corporations from 15% on transactions made until June 30, 2014 to 20% on transactions after June 30, 2014.
- ✓ Imposition of Gross Income Additional Tax in the case of UNPREPARED FOOD retailers for tax years beginning after December 31, 2013 with gross income of less than \$400,000,000 is amended as follows:

If gross income is:	Tax will be:
From \$3,000,000 to \$300,000,000	.20%
Over \$300,000,000 but not over \$400,000,000	.28%

- ✓ Entities engaged in the development of land and structures shall be considered as having income from long - term contracts, thus, eligible for the use of the completed contract method.

- ✓ Limitation on the credit for AMT paid in prior years against regular tax up to 25% of the regular tax liability reduced by the credit for foreign taxes paid on the tentative minimum tax for the taxable year.

## Individuals

- ✓ Changes to the Alternate Basic Tax (ABT) for Individuals for tax year 2014

If income subject to ABT is:	Tax will be:
From \$150,000 to \$200,000	10%
Over \$200,000 but less than \$300,000	15%
In excess of \$300,000	24%

- ✓ Changes the way the ABT credit from prior years is applied for individuals.
- ✓ Increases the Net Long - Term Capital Gains rates to 15% on transactions made after June 30, 2014 (10% on transactions until to June 30, 2014).
- ✓ Special tax on dividend distributions is increased from 10% on distributions received until June 30, 2014 to 15% on dividends received after June 30, 2014.

## Corporations and Individuals

- ✓ Provisions for the prepayment of tax on (a) accrued and undistributed amounts on Life Insurance Contracts (b) increase in the accumulated value of certain assets held by individuals, estates and trusts (c) increase in the accumulated value of certain capital assets, and (d) individual retirement accounts. Special tax rates and specific due dates to make the prepayment are established.
- ✓ The definitions of short - term and long - term capital gains or losses are modified to change the holding period to one year (previously 6 months) if the sale or exchange occurred after June 30, 2014.
- ✓ Limitation on the offset of capital gains with capital losses of up to 90% of such capital gains. Individuals will also be limited to a 90% deduction of the capital gains, plus the individual's net income or \$1,000 allowed against ordinary income, whichever is lower.
- ✓ The carryover of a capital loss changes to 5 years for capital losses on transactions made after June 30, 1995; 10 years for those losses that occurred from December 31, 2005 to December 31, 2012 and 7 years for losses after December 31, 2013.
- ✓ A service provider subject to a withholding of 7% for services rendered may elect a withholding of 10% or 15%.
- ✓ For tax years beginning after December 31, 2013 a tax of 10% will apply on the deemed dividend amount considered as being received by any person who is not a resident of Puerto Rico, or is not engaged in trade or business in Puerto Rico, and has at least 50% of the direct or indirect ownership interest in a corporation for a taxable year.

## Economic Incentives for the Development of Puerto Rico Act (Act 73-2008)

The following sections to Act 73-2008 were amended or added:

- ✓ Section 2 (i) – it defines a small or medium size business (known as “PYMES” for its Spanish acronym) as those businesses possessing a tax decree granted under the Act 73-2008 with average gross income of less than ten million dollars (\$10,000,000) during the 3 previous periods.
- ✓ Section 5 (c)(1) – any exempt business under the Act or under previous incentives tax acts may claim a maximum credit for investment in research and development of fifty percent (50%) of the eligible investment against income tax and/or costs related to electricity, water and sewerage. It is required to request each year a certificate from the Puerto Rico Industrial Development Company endorsing the activities in order to claim the credit.
- ✓ Section 5(c) (8) – the maximum amount of research and development credits authorized per fiscal year will be three hundred million dollars (\$300,000,000).
- ✓ Section 6(e)(2) – an exempt business that has claimed a credit for industrial investment and ceases operations before the ten- year period from the eligible investment date will owe as income tax the credit amount claimed computed in proportion to the elapsed years.

## Green Energy Incentives Act (Act 83-2010)

- ✓ Article 2.2 (a) – it creates and establishes the Green Energy Fund that will be financed with revenues from the Puerto Rico Treasury Department on motor vehicles and motorcycles excise taxes. The Fund will receive such revenues beginning in fiscal year 2011-2012 and will run until fiscal year 2020.

## Games of Chance Act (Act 11-1933)

The following sections of the Gaming Act are amended:

- ✓ Section 3A; Definitions
- ✓ Section 4; Authorization and control of the introduction, distribution, purchase, sale, leasing, transportation, location, placement, operation, maintenance, operation, use, custody and possession of the machines for adult entertainment business establishments operating in the Commonwealth of Puerto Rico
- ✓ Section 5A; Violations, fines and penalties

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