

ACT NO. 22 OF JANUARY 17, 2012, AS AMENDED

(Contains amendments incorporated by:

Act No. 138 of July 11, 2012;

Act No. 241 of December 22, 2014;

Act No. 187 of November 17, 2015;

Act No. 191 of November 20, 2015.)

To establish the “Act to Promote the Relocation of Individual Investors to Puerto Rico”, with the objective to provide tax exemption for the investment income earned by individuals who become residents of Puerto Rico not later than the year ending on December 31st, 2035.

STATEMENT OF PURPOSE

Since 2006, Puerto Rico has been undergoing an economic crisis that has severely affected different sectors of the local economy. This Administration is committed to promote the Island’s economic development. Thus, it has developed a Strategic Model for a New Economy (MENE, Spanish acronym) and implemented various initiatives geared toward addressing the difficult economic situation that Puerto Rico is facing. MENE recognizes that the banking and financial sectors play a key role in the economy and the importance of attracting foreign capital and generating local capital to strengthen it. This measure constitutes an additional initiative to incentivize and attract foreign capital, and to foster the Island’s economic growth and socioeconomic development.

The purpose of this measure is to encourage individuals who have not been residents of Puerto Rico during the six-year period [previously fifteen-year period] preceding the approval of this Act and who maintain investments within or without the United States to establish residency in Puerto Rico. In order to encourage the relocation of these individuals to Puerto Rico, this Act provides these individuals with a full Puerto Rico tax exemption on the passive income earned from their investments. In the case of long-term capital gains, individuals covered under this legislation shall be exempt from Puerto Rico income taxes on recognized gains after becoming residents of Puerto Rico and during the exemption period provided herein. As an exception, realized but not recognized capital gains from any securities owned by individuals covered under this Act prior to relocating to Puerto Rico shall be subject to taxation in Puerto Rico, if recognized, within ten (10) years after they have become Puerto Rico residents and before the end of the exemption period, at a special five percent (5%) rate. Continental United States Residents who become residents of Puerto Rico and who own, prior to relocating to Puerto Rico, realized but not recognized capital gain, who recognize such gains while they are bona fide resident of Puerto Rico, and ten (10) years after their residency was established in Puerto Rico, shall not be subject to federal taxes on such gains, and shall only be subject to the special five percent (5%) Puerto Rico tax rate. The tax exemption provided herein shall apply when such individual invests directly in bonds, stocks or other investment instruments or when such individual invests through mutual funds of Puerto Rico or through an international banking institution of Puerto Rico.

Even when their investment income is exempt from taxation in Puerto Rico, their presence in the Island shall contribute to our economy, because they acquire goods, products, services, and housing, among others. Moreover, the income earned by said individuals, other than their investment income,

such as income earned on account of wages or rendered professional services, shall be subject to taxation in Puerto Rico.

The tax exemption provided herein shall not be available indefinitely. It shall end on December 31st, 2035. As of January 1st, 2036, said individuals shall be subject to taxation in Puerto Rico as any other taxpayer. To be entitled to claim the tax exemption allowed under this Act, the individual shall become a resident of Puerto Rico prior to the expiration date of the benefit granted under this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1. – Short Title. –

This Act shall be known as the “Act to Promote the Relocation of Individual Investors to Puerto Rico”.

Section 2. – Definitions. –

- (a) “Resident Individual Investor” means a person who is a resident, as defined in Section 1010.01 (a) (30) of the Code, who has not been a resident of Puerto Rico for the last six (6) years prior to the effective date of this Act and becomes a resident of Puerto Rico no later than the taxable year ending on December 31, 2035. In accordance with the definition of resident set forth in Section 1010.01 (a) (30) of the Code, students studying outside Puerto Rico who resided in Puerto Rico before moving to study, staff working outside of Puerto Rico for the Commonwealth of Puerto Rico or its agencies and instrumentalities, and other individuals in similar situations to those described above, shall not be eligible to be considered Resident Individual Investors, as their domicile in these cases continues to be Puerto Rico for the period in which they reside outside our jurisdiction.
- (b) “Code” means Act No. 1-2011 as amended, known as the “Internal Revenue Code for a New Puerto Rico”, or any succeeding law that substitutes it.
- (c) “The Banking Center Act” means Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act”.
- (d) “Secretary” means the Secretary of Economic Development and Commerce.
- (e) “Exemption Office” means the Industrial Tax Exemption Office.
- (f) “Director” means the Director of the Industrial Tax Exemption Office.

Section 3. – Responsibilities of the Secretary, Certification of Compliance, Procedures. –

(a) Responsibilities of the Secretary, Certification of Compliance –

In the evaluation, analysis, consideration, award, renegotiation, and revision of any incentive or benefit granted under this Act, the Department of Economic Development and Commerce and the Secretary thereof shall be required to oversee and ensure compliance with all the provisions of this Act. The Secretary shall be the official responsible for verifying and ensuring that Resident Individual Investors meet the eligibility requirements provided for in

this Act; however, the Secretary may receive assistance from the Director of the Industrial Tax Exemption Office to carry out this task.

The Secretary shall be responsible for verifying that Resident Individual Investors meet the requirements established in this Act.

The Secretary shall be required and responsible for preparing a Certificate of Compliance annually, once Resident Individual Investors validate, in the judgment of said official, that they have met the requirements set forth in this Act. The Secretary shall verify the information submitted by Resident Individual Investors annually so that the Certificate of Compliance may be issued not later than on the fifteenth (15th) day of the second (2nd) month after the close of the taxable year of the applicant.

The Certificate of Compliance shall include, in turn, the following information regarding Resident Individual Investors: his name and the name of related business, the cadastre number of the property or properties connected to the incentivized activity; the merchant registration number; the related account as required in the “Puerto Rico Internal Revenue Code”; the employer identification number; and the information required by Act No. 216-2014, better known as the “Fiscal Information and Permit Control Act”, as applicable.

The Certificate of Compliance shall be issued by the Secretary through the Interagency Validation Portal for the Granting of Incentives for the Economic Development of Puerto Rico to the agencies, public corporations, and municipalities responsible for granting benefits or incentives under this Act. However, during the period in which the Portal is still not operating, it shall be the duty of the Secretary to issue a Certificate of Compliance to the agencies, public corporations, and municipalities responsible for granting the benefits or incentives under this Act following the ordinary process. The filing of the Certificate of Compliance by a Resident Individual Investor shall be an essential requirement for the agency, public corporation, or municipality to grant the benefit or incentive provided for in this Act.

Actions taken by the Secretary of the Department of the Treasury, the Executive Director of the Municipal Revenues Collection Center (CRIM, Spanish acronym), or any other government official or body, or public corporation concerned, in connection with the qualification process for granting benefits or incentives under this Act, shall be limited to the taxation aspects of the granting of the benefit or incentive in question, upon the issuance of a valid Certificate of Compliance, as provided in this Section. The Secretary shall be responsible, first and foremost, for overseeing eligibility under any and all provisions of this Act. However, the Secretary of the Department of the Treasury, the Executive Director of the Municipal Revenues Collection Center (CRIM), or any other government official or body, or public corporation concerned with any of the benefits or incentives granted under this Act may contact the applicant and the Secretary should further information be needed to validate the data on the Certificate of Compliance, and shall notify and request the applicant to supply such information in order to rectify the situation. The Secretary of the Department of the Treasury or the Executive Director of the Municipal Revenues Collection Center may deny any tax incentives or benefits requested if, in their judgment, the information requested has not been supplied. Moreover, the provisions of this Act shall not preclude in any manner the power conferred to the Secretary of the Treasury under Section 6051.02 of Act No. 1-2011,

as amended, known as the “Puerto Rico Internal Revenue Code of 2011”; and, if necessary, the power to revoke any incentives previously granted by virtue of a Certificate of Compliance, in accordance with the corresponding Act; or the power to refer the case to the appropriate agency or public corporation for the corresponding action.

To benefit from the incentives provided under this Act, any Resident Individual Investor shall request, in accordance with this Act, a tax exemption decree to the Secretary upon filing a duly-sworn application with the Exemption Office. At the time of the filing of the application, the Director shall collect the corresponding processing fees prescribed by regulations. Such fees shall be paid in the manner and form prescribed by the Secretary. Once the Exemption Office issues a favorable recommendation, the Secretary shall issue the tax exemption decree, through a Certificate of Compliance, stating in detail the tax treatment provided in this Act. Decrees under this Act shall be deemed to be an agreement between the grantee and the Commonwealth of Puerto Rico, and such agreement shall be the law between the parties. The decree shall be valid during the effective term of the benefits granted under this Act, but shall never be later than December 31, 2035, unless the decree is revoked in accordance with subsection (b) of this Section before the expiration of said effective term. Decrees are not transferrable.

For applications for decrees filed after December 1, 2015, the Secretary shall require the applicants, as an essential requirement to grant the decrees established herein, that the Resident Individual Investor acquire a residential property in Puerto Rico and to open a personal or business account in a bank or cooperative with a presence in Puerto Rico.

- (b) Revocation. – The Secretary may revoke any decree issued under this Act if:
- (i) the grantee fails to meet any of the obligations imposed under this Act or the regulations thereunder, or the terms of the decree; or
 - (ii) the grantee fails to comply with his/her tax responsibilities under the Code and other taxation laws of Puerto Rico; or
 - (iii) the decree has been obtained through false or fraudulent representation of material facts or circumstances that, in whole or in part, gave rise to the issue of the decree.
- (c) Revocation Procedure. – In the event a decree issued under this Act is revoked, the grantee shall have the right to a hearing, in accordance with the procedure established by the Secretary of the Treasury by regulation, circular letter, or administrative determination, after which the official designated to such purposes shall report his/her findings and conclusions to the Secretary.
- (d) Penalties. – In the case of revocation, any net income computed, previously reported as exempt income under this Act, shall be subject to the taxes imposed under the provisions of the Code. Thus, it shall be understood that the grantee has filed a false or fraudulent return with the intent to evade tax; and therefore, such grantee shall be subject to the criminal provisions of the Code. The tax owed in such case as well as any other taxes heretofore exempt and not paid, shall become due and payable with interest from the date on which such

taxes would have become due, if it were not for the decree, and shall be assessed and collected by the Secretary of the Treasury in accordance with the provisions of the Code.

Section 4. – Tax Exemption Applicable to Income Derived from Interest and Dividends Earned by a Resident Individual Investor. –

Income derived from all sources by a Resident Individual Investor after becoming a resident of Puerto Rico, but before January 1st, 2036, consisting of interest and dividends, including but not limited to interest and dividends from a registered investment company described in Section 1112.01 of the Code, shall be fully exempt from income taxes in Puerto Rico, including the alternate basic tax provided in the Code. In addition, the income derived by a Resident Individual Investor after becoming a resident of Puerto Rico, but before January 1st, 2036, consisting of interest, financing charges, dividends or partnership interest received from international banking institutions duly authorized under the “Banking Center Act,” shall be fully exempt from income taxes in Puerto Rico, including the alternate basic tax provided in the Code.

Section 5. – Special Tax for Resident Individual Investors on Net Long-Term Capital Gain. –

(a) Appreciation Before Becoming a Resident of Puerto Rico. –

The total net long-term capital gain generated by a Resident Individual Investor related to the appreciation of the securities owned by such Resident Individual Investor before becoming a Resident of Puerto Rico, which appreciation is recognized ten (10) years after he/she became a resident of Puerto Rico and before January 1st, 2036, shall be subject to a five percent (5%) tax, in lieu of any other tax imposed under the Code. If such appreciation is recognized at any other time, the net long-term capital gain with respect to said securities shall be subject to the payment of income taxes in accordance with the tax treatment provided by the Code. The amount of the net long-term capital gain shall be limited to the portion of the gain related to the appreciation of the securities while the Resident Individual Investor resided outside of Puerto Rico.

(b) Appreciation After Becoming a Resident of Puerto Rico. –

The total net capital gain generated by a Resident Individual Investor related to any appreciation of securities after said Resident Individual Investor becomes a Resident of Puerto Rico that is recognized before January 1st, 2036, shall be fully exempt from income taxes in Puerto Rico, including the alternate basic tax provided in the Code. If such appreciation is recognized after December 31st, 2035, the net capital gain with respect to said securities shall be subject to income taxes in accordance with the tax treatment provided by the Code. The amount of this net capital gain means the portion of the gain related to the appreciation of both the securities owned by the Resident Individual Investor at the time of becoming a resident of Puerto Rico and those acquired by him/her after becoming a resident of Puerto Rico.

Section 6. – Reports Required to Resident Individual Investors. –

Any Resident Individual Investor who holds a decree issued under this Act shall file annually an authenticated report with the Exemption Office and a copy thereof with the Secretary of the Treasury thirty (30) days after filing of the income tax return with the Department of the Treasury, including any

extension thereof. The Executive Director of the Exemption Office may grant a thirty (30) day extension if so requested in writing before the term to file the Report expires; provided, that there is just cause therefore and it is so stated in the request. Said report shall include a relation of data showing compliance with the conditions under the decree for the taxable year immediately preceding the filing date, his name and the name of related business, the cadastre number of the property or properties connected to the incentivized activity; the merchant registration number; the related account as required in the “Puerto Rico Internal Revenue Code”; the employer identification number; and the information required by Act No. 216-2014, better known as the “Fiscal Information and Permit Control Act”, as applicable, as well as any other information required by Regulations, including the payment of annual fees. Fees shall be paid in the manner prescribed by the Secretary through Regulations. The information provided in said annual report shall be used for statistical purposes and economic analyses. Likewise, the Exemption Office shall conduct an audit annually to ascertain compliance with the terms and conditions of the decree issued under this Act.

Section 7. – Trusts. –

(a) Grantor Trusts.-

Any Resident Individual Investor to whom a tax exemption decree is granted under this Act, may establish trusts under the laws of Puerto Rico, and by doing so could choose to treat those trusts as grantor trusts for income tax purposes in Puerto Rico. This election shall be made in accordance with the rules established by the Secretary of the Treasury, regardless of whether said trust is not otherwise considered a grantor trust under the applicable income tax rules under the Code.

In such case, the nature of any item of income, capital gain, financial loss, deduction or credit included on the income attributable to the grantor under the Code shall be determined as if such item was made directly from the source from which it was made by the trust, or accrued in the same manner it was accrued by the trust.

Once the election under this subsection is made it can only be revoked by the procedure established for that purpose by the Secretary of the Treasury.

(b) Revocable Trusts.-

Any Resident Individual Investor to whom a tax exemption decree is granted under this Act, may establish a revocable or irrevocable trust under the laws of Puerto Rico, according to the provisions established by the settlor in the deed of incorporation; provided that lacking a provision to this respect, the trust shall be presumed irrevocable. Revocable trusts established under this provision may only be revoked by the settlors, or by that settlor who retains such faculty in the deed of incorporation.

(c) Trusts Granted Outside of Puerto Rico.-

The provisions of any Trust validly executed outside of Puerto Rico by a Resident Individual Investor to whom a tax exemption decree has been granted under this Act may not be challenged by any person based on any Puerto Rico Law or Regulation that is contrary or inconsistent with the provisions of the Trust. This Article will continue to be valid to those Trusts even after the termination of the exemptions granted under this Act; provided that the decree has not been revoked pursuant to subsection (b) of Article 3.

(d) Any Resident Individual Investor to whom a tax exemption decree is granted under this Act may freely transfer or donate in life, and at its sole discretion, all or part of its assets to trusts described in this Article, irrespective of whether the assets are real or personal, tangible or intangible, of the location of such property, and any legal or regulatory provision in Puerto Rico that is contrary or inconsistent with such transfer, donation, testamentary disposition between the flow rate and/or the terms and conditions of such trusts, including but not limited to the provisions of the Puerto Rico Civil Code. This Article shall continue to be valid upon such individuals after the termination of exemptions granted under this Act; provided that the decree has not been revoked pursuant to subsection (b) of Article 3.

Section 8. – Fees. –

In addition to the fees established for the transactions established in Section 3 of this Act, every grantee shall pay to the Secretary, by purchasing an internal revenue voucher at any Internal Revenue Collection Center of the Department of the Treasury, certified check or postal money order, fees equal to five thousand (\$5,000) dollars. The Secretary of the Treasury shall create a special fund, denominated as the “Special Fund under the Act to Promote the Relocation of Individual Investors to Puerto Rico”, where all the funds generated as a result of the fees collected under this Act shall be deposited. The Secretary shall administer such funds as an independent treasury and shall use such funds to defray any expenses incurred in the promotion, administration, and implementation of this Act. The Secretary may also use such funds to promote the relocation of individual investors to Puerto Rico. The Secretary shall require grantees one hundred percent (100%) of said fees upon issuance of the decree.

Section 10. – Rulemaking Authority. –

The Secretary shall prescribe by regulations, circular letter, or administrative determination the guidelines for the interpretation and implementation of the provisions of this Act. Any regulatory provisions that are amended or adopted in accordance with this Act shall not be subject to the applicable provisions of the “Uniform Administrative Procedure Act”, as amended.

Section 11. – Severability. –

If any article, section, subsection, paragraph, subparagraph, clause, phrase or part of this Act were held to be unconstitutional by a Court of competent jurisdiction, the holding to such effect shall not affect, impair, or invalidate the remaining provisions thereof. The effect of such holding shall be limited to the article, section, subsection, paragraph, subparagraph, clause, phrase, or part of this Act thus held to be unconstitutional.

Section 12. – Effectiveness. –

This Act shall take effect immediately after its approval.

CAVEAT: This document was translated and compiled by staff of the Department of Economic Development and Commerce of Puerto Rico. While we have made every effort in preparing it, this is not an official translation and compilation and may not be error-free. To facilitate your inquiry, all the amendments made to the Act have been incorporated to this document. For accuracy and precision, refer to the original texts and official translations of the Act, which can be found at: <http://www.oslpr.org/new/leyesPuertoRico.aspx>.