

# Act 73

ECONOMIC INCENTIVES FOR THE DEVELOPMENT OF PUERTO RICO  
PABLO SERRANO

# Act 73

## Economic Incentives for the Development of Puerto Rico

One of the most effective programs in promoting the economic development of Puerto Rico has been the industrial development incentives laws. **Act No. 73 of 2008**, as amended, known as the "Economic Incentives for the Development of Puerto Rico Act" (the "Act"), is the current industrial development incentives law in effect.

The Act provides economic incentives, tax exemptions and tax credits to businesses engaged in eligible activities in Puerto Rico. To avail from such benefits, a business needs to become an exempt business by applying for a tax concession and obtaining a tax exemption decree.

### Eligibility

Eligible activities that may qualify for the benefits of the Act include the following:

- Industrial units dedicated to the manufacture on a commercial scale;
- Subcontracted services rendered in Puerto Rico that are essential to a manufacturing unit that belongs to "a high economic impact cluster," as designated by the Puerto Rico Industrial Development Company's Executive Director in consultation with the Puerto Rico Planning Board;
- Services rendered in Puerto Rico by key suppliers of exempt businesses;
- Owners of property, real or personal, used by an exempt business in its exempt operations, such as a lessor of real estate used in operations of an exempt business;
- Operations engaged in the breeding of animals for experimental use in laboratories for scientific and medical research, and other similar uses;
- Recycling activities that involve: (i) a transformation of recyclable materials into raw material or ingredients used for the elaboration of a product (partial recycling), (ii) the preparation of such recycled raw material for local sale or use or for exportation, or (iii) the transformation of recycled materials mainly collected in Puerto Rico into commercial articles (total recycling);
- Operations engaged in the planting and cultivation through the process of hydroponics;
- The development of licensed or patented software that may be reproduced on a commercial scale;
- Operation of certain specified strategic projects;
- The licensing of intangible property, whether developed or acquired by the exempted business that has a decree under the Act;

- An industrial unit that produces bottled purified water;
- The construction of social interest housing and planning and development of self-sustainable or partially sustainable communities; and
- Certain research and development activities conducted in laboratories.

## Tax Exemptions

The Act provides the following tax exemptions:

- 4% fixed income tax rate;
- 1% fixed income tax rate for innovative firms introducing “pioneer” activities or operations in Puerto Rico;
- A reduction of 0.5% in the fixed income tax rate, when the business is located in an industrial area of low or intermediate development (as determined by the Office of Industrial Tax Exemption);
- 12% fixed income tax rate, withheld at source, on royalties paid to foreign entities with respect to intangible property used in the exempt business;
- 100% tax exemption on dividend distributions;
- 4% fixed income tax rate on gains derived from the sale of ownership interests or substantially all the assets of the exempt business, in lieu of any other Puerto Rico income tax imposed on such gains;
- 90% tax exemption from personal property taxes. The taxable portion will be subject to the regular tax rate, that currently can be up to 8.83%; therefore, after considering the 90% exemption, the effective tax rate would be up to 0.883%;
- 90% tax exemption from real property taxes. The taxable portion will be subject to the regular tax rate, that currently can be up to 10.83%; therefore, after considering the 90% exemption, the effective tax rate would be up to 1.083%;
- 60% tax exemption on municipal license taxes, with the first 3 semesters being 100% exempt. Any taxable portion will be subject to the regular tax rate, that currently can be up to 0.5%; therefore, after considering the 60% exemption, the effective tax rate would be up to 0.02%; Economic Incentives ACT 73 for the Development of Puerto Rico
- 100% tax exemption on municipal construction taxes;
- 100% tax exemption on excise taxes and sales and use tax on raw material and certain machinery and equipment used in the production process; and
- Accelerated depreciation – 100% first-year bonus depreciation, with ability to carry over to subsequent tax years until exhausted.

## Tax Credits

The Act provides various tax credits, including:

- 25% tax credit on purchases of products manufactured in Puerto Rico;
- 35% tax credit on purchases of products manufactured in Puerto Rico made from recycled materials;
- Tax credit for job creation during the first year of operations that ranges from \$1,000 per job created in an industrial area of intermediate development (as determined by the Office of Industrial Tax Exemption) to \$2,500 for jobs created in an industrial area of low development. In the case of businesses established in the municipalities of Vieques and Culebra, this tax credit is \$5,000 per job;
- 50% tax credit on eligible research and development activity costs; and
- 12% tax credit for royalties paid to foreign entities with respect to intangible property used in the exempt business.

## Puerto Rico Income Taxes

An exempt business operating in Puerto Rico under the Act by means of a Puerto Rico entity should not be subject to any taxes (such as a dividend tax, tollgate tax or other similar taxes) on its income from its eligible activities in Puerto Rico, other than the Puerto Rico fixed income tax rate established in the tax decree, regardless if said income is distributed or retained by the entity.

Upon repatriation, the distributed income would be subject to the tax imposed by the jurisdiction in which the owners of the Puerto Rico entity reside, if any.