

Tax Alert: Tax incentives approved for medical professionals in Puerto Rico

In keeping with the current Administration's desire to stem the exodus of professionals from Puerto Rico – specifically, physicians –, on February 21, 2017, the Governor of Puerto Rico signed into law House Bill No. 5 (“HR 5”), known as the INCENTIVES ACT FOR THE RETENTION AND RETURN OF MEDICAL PROFESSIONALS (“Act 14-2017”). Please refer to our January 13, 2017 Tax Alert in which we summarize the most important provisions of HR 5.

Who can request the tax benefits under Act 14-2017?

Only *qualified physician* can request and benefit from the preferential tax treatment afforded under Act 14-2017.

Article 2(i) of the Act defines a *qualified physician* as an individual who is admitted to the practice of medicine, podiatry or an odontology specialty in a full-time capacity. The Act further clarifies that the aforesaid term also includes physicians who are doing their residency within a duly credited program.

Tax benefits under Act 14 of 2017

Act 14-2017 states that a *qualified physician* covered by a Tax Exemption Decree issued by the Department of Economic Development and Commerce (“DEDC”) will benefit from a fixed 4% income tax rate on Eligible Income generated in the offering of professional medical services.

Moreover, dividends paid by a *Medical Services Business* to a *qualified physician* will be exempt from withholding at source and from income tax for up to \$250,000.

These fiscal benefits will last for an initial 15-year term, beginning the 1st of January of the year on which the Tax Exemption Decree is granted, so long as the following requirements are met for the totality of the term:

- the physician maintains his/her status as a “qualified physician”;
- practices medicine full-time;
- remains a Puerto Rico resident;
- fully complies with his/her tax responsibilities;
- complies with the prescribed community-service hours as established in the Act; and
- complies with any other requirement imposed by the Tax Exemption Decree.

Regarding the Community Service requirement, the Qualified Physician must meet the equivalent of 180 hours per year without compensation by performing any of the following:

- assist in teaching hospitals and medical schools;
- provide medical services in determined under-serviced regions;
- provide on-call services at determined hospitals;
- deliver seminars on prevention and other health-related matters to the community at-large or to fellow colleagues as part of continued-education program; and
- offer professional medical services to a determined under-privileged population.

As an alternative, the Qualified Physician may meet the requirement by rendering services as



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part of an agreement with the Puerto Rico Government Health Plan. Under this option, the service may not be rendered in gratuitous manner.

In deciding whether a Tax Exemption Decree will be granted to a medical professional, the DEDC will guide its determination on whether the issuance of said Decree results in the best economic and social interests of Puerto Rico by considering the following:

- the economic impact of granting the Decree;
- the specialty field of the requesting physician;
- whether there is a shortage in Puerto Rico of said specialization;
- the geographical area served or to be served by the physician.

Revocation of Decree

Article 13 of the Act states that a Tax Exemption Decree under Act 14-2017 may be revoked if the Grantee:

1. fails to remain a Puerto Rico resident;
2. ceases to be a qualified physician;
3. does not practice medicine in a full-time capacity;
4. does not comply with the community service requirement; or
5. fails to comply with any of the requirements imposed by the Act, its corresponding Regulations or agency pronouncements.

Once a Decree is revoked, the (ex) Grantee must pay the Puerto Rico Treasury Department, within sixty (60) days, an amount equal to the differential in the regular tax rates that would have been applicable in absence of a decree for the last three (3) years prior to the revocation.

Nonetheless, if the Grantee proves to the DEDC's satisfaction that his/her non-

compliance was attributable to disability or illness, the agency may revoke the Decree and only require that unpaid taxes due be satisfied for only the year of revocation.

Administrative Penalties

Any person who willfully provides any false or fraudulent information in the procurement of the tax benefits under Act 14-2017 may be found guilty of a felony and on conviction punished by imprisonment for 8 years, a \$30,000 fine, or both.

Also, the Decree will be retroactively revoked and the physician will be held liable for all the taxes that were total or partially exempted under Act 14-2017. Similarly, the physician will be deemed as having filed a false or fraudulent income tax return and, therefore, will be subject to the criminal dispositions of the 2011 Internal Revenue Code for a New Puerto Rico, as amended.

Effectiveness of the Act

Act 14-2017 will be effective 60 days after its approval – that is, April 22, 2017.

Note: As highlighted in our Tax Alert dated July 1, 2016, the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), seeks to provide Puerto Rico with fiscal and economic discipline through the creation of a control board, among other things. Virtually every fiscal decision by the Government of Puerto Rico will be made or approved by the Oversight Board created by PROMESA. On this regard, the board has authority to prevent the execution or enforcement of a contract, rule, executive order or regulation to the extent that it is inconsistent with the approved fiscal plan.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.