



Tax



Businesses



Amendments

2020 Year-end amendments to the Puerto Rico Incentives Code

January 25, 2021

On December 30, 2020, Acts 169 and 172 of 2020 amended Act 60 of 2019, as amended, known as the Puerto Rico Incentive Code (Incentives Code or Act 60). Act 169-2020 incorporates and extends incentives provided under Act 216 of 2011, as amended, (Act 216-2011) to the Incentives Code related to the acquisition of residential real estate. In addition, Act 172-2020 includes changes in the tax incentives for: Export of Goods and Services, Entrepreneurship, and Tax Credits, as well as new incentives for recycling and transformation of scrap.

I. Act 169-2020

Residential housing acquisition incentives

Act 169-2020 integrates real estate tax incentives established in Act 216-2011 to Subtitle F of the Incentives Code and extends said incentives until December 31, 2030.

Caroline López
Tax Manager

Samira Yassin
Tax Senior

Michelle Vivaldi
Tax Semi-Senior

Collaborated in the preparation of this article.

The purpose of incorporating the provisions of Act 216-2011 is to promote the purchase of eligible residential housing in Puerto Rico by providing incentives such as:

- a. full tax exemptions for long term capital gains derived from the sale of certain residential real property, including alternate basic tax and alternative minimum tax;
- b. extends capital gain loss carryovers from the sale of certain residential real estate to a period of up to 15 years;
- c. provides a 5-year tax exemption from real estate property taxes on property of new construction, as defined in Act 216-2011; and
- d. grants full exemption from internal revenue stamps and vouchers required by law for granting public instruments (excluding notarial tax) on the acquisition of certain residential real estate.



The Secretary of the Department of Economic Development and Commerce (the Secretary) has been granted a term of 90-days as of December 30, 2020 to publish the corresponding regulations and administrative orders to enforce the amendments incorporated by Act 169-2020.

II. Act 172-2020

Export of Goods and Services Tax Incentives

Preferential tax rate for royalty payments

Act 172 of 2020 (Act 172-2020) amends the Export of Goods and Services Chapter (Chapter 3) of the Incentives Code to mirror Act 73-2008's export activities provisions (now Chapter 6 of Act 60) related to the preferential tax rate of 12% for royalty payments made to foreign entities. As a result of the amendment, the Export of Goods and Services Businesses will now benefit from a 12% fixed tax rate for any payment of royalties, rents and license fees by the said businesses to a Foreign Person not engaged in trade or business in Puerto Rico. Note that the legislative intent is to grant the Export Business the same preferential tax rate in place for the following industries: Manufacture (Chapter 6), Visitor Economy (Chapter 5), Infrastructure & Green Energy (Chapter 7) and Opportunity Zones.

Eligible Businesses Definition

In addition, Act 172-2020 amends the eligible activities definition to exclude services rendered as an employee.

Entrepreneurship Tax Incentives

Among other requirements established in the Incentives Code, the amendment clarifies that the business must commence operations on or after the submission of the application for tax incentives grant, as opposed to the current rule that the entrepreneur was prevented from commencing operations until the grant was approved.

Tourism Tax Credits

Act 172-2020 establishes that the Exempt Business (as opposed to the Investor prior to the Act 172-2020 amendment) is the taxpayer that is authorized to transfer the Tourism Tax Credit, except when transferred as garment as set forth in Section 3030.01 of Act 60. Furthermore, it provides that the Secretary may authorize the Exempt Business (Tourism) to transfer the portion of the 30% tax credit in the year in which the Exempt Business obtains financing for the construction of the Project.

Incentives for recycling and transformation of scrap from aluminum profiles or extrusions in Puerto Rico

The Government of Puerto Rico establishes as a public interest the reduction and recycling of waste generated by aluminum products in Puerto Rico by providing cash grants to the transformation of waste into raw materials and the manufacture of aluminum recycled products.

Eligible Manufacturers and benefits:

1. Extrusion plant – any plant that extrudes bright aluminum profiles will receive an incentive of 6.5 cents per pound manufactured in Puerto Rico.
2. Transformation plant – any plant that transforms scrap into aluminum ingots through a smelting process will receive an incentive of 6 cents per pound manufactured in Puerto Rico.

The Secretary has been granted a term of 180 days as of December 30, 2020, to establish regulations regarding the process to request and grant said tax incentives. Said incentives will be funded by the Economic Incentives Fund.

It is important to monitor guidance from the Secretary in connection to the amendments discussed above. As always, we will continue to keep you informed with any new developments.

We are committed to keeping you up to date with all tax-related developments. Please contact our Tax Department should additional information be required regarding this or any other tax issue. We will be glad to assist you.



Lina Morales
Partner Head of Tax
E lina.morales@pr.gt.com



María de los A. Rivera
Tax Partner and IBC Director
E maria.rivera@pr.gt.com



Francisco Luis
Tax Partner
E francisco.luis@pr.gt.com



Isabel Hernández
Tax Partner
E isabel.hernandez@pr.gt.com



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