

(P. of the C. 3657)

LAW

[Legislation Approval Seal]
16th Legislative Assembly
6th Ordinary Session
Law Num. 22-2012
(Approved on January 17 2012)

To establish the "Law to Encourage the Transfer of Investors to Puerto Rico " with the objective to grant tax exemption in regards to revenue, resulting from investments accrued by individuals who are residents in Puerto Rico , no later than the end of year that finishes on December 31st 2035.

STATEMENT OF PURPOSE

Since 2006, Puerto Rico has been going through an economic crisis that has severely damaged different sectors of the local economy. This Government has a commitment to promote the economic development of the island. For these purposes we have developed: The Strategic Model for a New Economy (SMNE) [*MENE in Spanish*], and implemented several initiatives intended to deal with the difficult economic situation that Puerto Rico has been going through. The SMNE recognizes the fundamental role that plays the banking and financial sectors in the economy and the importance of attracting foreign capital in order to produce and strengthen local capital. This measure represents an additional initiative to the effects of boosting the attraction of foreign capital, economic growth, and promoting the socioeconomic development of the island.

The purpose of this measure is to stimulate residence in Puerto Rico to individuals who have not been residents of Puerto Rico by at least the last fifteen years, prior to the approval of the current law, and who maintain investments in or out of the United States. In order to encourage the transfer of such individuals to Puerto Rico, this Law completely exempts the payment of Puerto Rico taxes from the passive revenue accrued by these individuals, in relation to their investments. In the case of long term earnings, individuals under this legislation will be exempt of Puerto Rico taxes payment on recognized earnings, after becoming residents of Puerto Rico, and by the exemption period here granted. As an exception, the earnings of produced capital before moving to Puerto Rico, but not recognized on any value owned by these individuals under this Law, will be taxed in Puerto Rico to a special rate of 5%, if they are recognized after ten years of becoming Puerto Rico residents, and before the culmination of the exemption period. Residents of the Continental United States that become Puerto Rico residents and who have, prior to moving to Puerto Rico , goods with capital earnings made but not recognized, will have to recognize such earnings while they are bona fide residents of Puerto Rico . After having ten years of residence in Puerto Rico, they will not have a federal taxation on these earnings and only would be subject to the special Puerto Rico taxation of a 5%.

The tax exemption here conferred applies when the individual invests directly in bonds, stocks or other investment tools, like when such individual invests through Puerto Rico mutual funds or through an international bank entity of Puerto Rico.

Even when the income of his (her) investments will be exempt of income tax payments in Puerto Rico, his (her) presence in the island supports our economy, since they acquire goods, products, services, and housing among others. Moreover, the income accrued by these individuals, which is not product of their investments, like for example: the income of wages or by concept of professional services provided, would be subject to income tax payment in Puerto Rico.

The tax exemption here conferred is not indefinitely. It ends on December 31 2035. As from January 1st 2036, these individuals will be subject to the payment of income tax in Puerto Rico, as same as any other taxpayer. In order to have right to claim the tax exemption that is granted through the present legislation, the individual should become a Puerto Rico resident, before the benefit granted by this Law expires.

ENACTED BY THE PUERTO RICO LEGISLATURE:

Article 1. – Abbreviated Title -

This Law will be known as the "Law To Encourage the Transfer of Investors to Puerto Rico".

Article 2.-Definitions.-

- (a) "Resident Individual Investor" means a resident individual as defined in Section 1010.01 (a) (30) of the Code who has not been resident of Puerto Rico during the last fifteen (15) years previous to the effective date of this Law and that becomes resident of Puerto Rico no later than the tax year that ends on December 31st 2035. Pursuant to the definition of resident individual provided in the Section 1010.01 (a) (30) the Code, the students studying out of Puerto Rico that used to reside in Puerto Rico before of leaving to study, Government of Puerto Rico personnel that works temporarily outside Puerto Rico, its agencies and instrumentalities, and people in similar situations to the above described, will not qualify to be considered as Resident Investor Individuals since their domicile in these cases continues to be Puerto Rico for the period residing out of our jurisdiction.

(b) "Code" means Law 1-2011 as amended, known as the "Internal Revenue Code for a New Puerto Rico" or any subsequent law that replaces it.

(c) " The Banking Center Law" means Law No. 52 of August 11 1989, as amended, known as the "Regulatory Law of the International Banking Center ".

Article 3. - Tax Exemption Applicable to the Interests and Dividends Income Earned by a Resident Individual Investor.-

The income of all earnings accrued by a Resident Individual Investor after becoming resident of Puerto Rico before January 1st 2036, consisting of interests and dividends including but not limited to interests and dividends from of a investments registered company as described in Section 111 2. 01 of the Code will be fully exempt of Puerto Rico income tax payments, including the alternate basic tax provided in the Code. In addition, the income obtained by a Resident Individual Investor after becoming resident of Puerto Rico before January 1st 2036, that consists of interests, finance charges, dividends, or participation in society benefits received from duly authorized international bank entities in accordance with the Banking Center Law, will be fully exempt of income tax payments from Puerto Rico, including the alternate basic tax provided in the Code.

Article 4.- Resident Individual Investor Special Tax on Net Income from Long Term Capital. -

(a) Appraisal before becoming a resident of Puerto Rico

The entire long term capital net income generated by a Resident Investor Individual, related to any appraisal him (her) might have on goods possessed prior to becoming a resident of Puerto Rico, which is recognized after ten (10) years of becoming resident of Puerto Rico, and before January 1, 2036, will be subject to a tax payment of a five (5) percent, in lieu of all other taxes imposed by the Code. If such appraisal is recognized at any other time, the net long term capital in relation to those goods will be subject to the payment of income tax in accordance to the tax treatment provided in the Code. The amount of the long term capital net income will be limited to a portion of the earning that relates to the appraisal of the goods while the Resident Individual Investor was living outside Puerto Rico.

(b) Appraisal after becoming a resident of Puerto Rico

The entire long term capital net income generated by a Resident Investor Individual, related to any appraisal him (her) might have on goods possessed after becoming a resident of Puerto Rico, which is recognized before January 1 2036, will be completely exempt of Puerto Rico income tax payments, including the alternate basic tax provided in the Code. If such appraisal is recognized after December 31st 2035, the long term capital net income, in regards to these goods, will be subject to income tax payments in accordance to the tax treatment provided in the Code. The amount of this long term capital net income refers to the earnings portion related to the appraisal obtained, not only for the goods the Resident Individual Investor possessed when becoming a Puerto Rico resident, but also for the goods he (she) acquires after becoming a Puerto Rico resident.

Article 5.- Requirement for Employment waiver under the Banking Center Law

In the case that all the stocks, interests or shares on the capital of an international bank entity, established under the Banking Center Law, belong to a Resident Individual Investor (or more than one of such individuals), a minimum requirement of employees will not be imposed, regardless of what is provided in the Banking Center Law

Article 6. - Regulation .-

The Secretary of the Treasury will establish by: regulation, circular letter or administrative determination, the necessary guidelines for the interpretation and implementation of the present Law provisions. The regulations amended or adopted pursuant to this Law shall not be subject to the applicable provisions of the Uniform Administrative Procedure Act, as amended.

Article 7.- Severability .-

If any article, section, portion, paragraph, subsection, clause, phrase or part of this Law is declared unconstitutional by a court of competent jurisdiction, the ruling to that effect will not affect, impair or invalidate the remainder of this Law, leaving its limited effects to the article, section, portion, paragraph, subsection, clause, phrase or part of this Law as may be so declared unconstitutional.

Article 8. - Term. -

This Law will become effective immediately upon its approval.

Speaker of the House of Representatives

President of the Senate