

(H. B. 3968)

(No. 138-2012)

(Approved July 11, 2012)

AN ACT

To add a new Section 3, renumber Sections 3 to 8 as Sections 4 to 9, and amend renumbered Section 5 of Act No. 22-2012, known as the “Act to Promote the Relocation of Individual Investors to Puerto Rico”; amend subsections (f) and (g) of Section 3 and renumber subsections (j), (k), and (l) as subsections (l), (m), and (n) of Act No. 20-2012; add a new Section 6 and renumber Sections 6 to 19 as Sections 7 to 20 of Act No. 20-2012, known as the “Act to Promote the Export of Services,” in order to incorporate technical amendments, clarify definitions and terms, clarify the legislative intent on the issue of decrees, the provisions on the taxes and incentives granted under said laws; and for other related purposes.

STATEMENT OF MOTIVES

With the recent approval of the Act to Promote the Export of Services and the Act to Promote the Relocation of Individual Investors to Puerto Rico we continue executing the plan that we have been fulfilling since 2009, of making the Island an ideal destination for local and foreign business to conduct business transactions. This Administration is committed to constantly reviewing the provisions of incentives in effect and ensuring that they are consistent with the legislative intent and that are not subject to interpretations contrary thereto. For such reason, this Legislative Assembly deems it pertinent to promote these technical amendments to Act No. 22-2012, known as the “Act to Promote the Relocation of Individual Investors to Puerto Rico,” and Act No. 20-2012, known as the “Act to Promote the Export of Services,” in order to clarify their scope and content.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new Section 3 is hereby added to Act No. 22-2012, to read as follows:

“Section 3.- Procedures.-

(a) 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 of Economic Development and Commerce, hereinafter the “Secretary,” who shall issue the tax exemption decree that shall state 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 Government 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 31st, 2035, unless the decree is revoked in accordance with subsection (b) of this Section before the expiration of said effective term.

(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;

(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 regulations, 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 2.- Sections 3, 4, 5, 6, 7, and 8 are hereby renumbered as Sections 4, 5, 6, 7, 8, and 9 of Act No. 22-2012.

Section 3.- Renumbered Section 5 of Act No. 22-2012 is hereby amended to read as follows:

“Section 5.- Special Tax for Resident Individual Investors on Net Capital Gain.-

(a) ...

(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 4.- Subsections (f) and (g) of Section 3 are hereby amended and subsections (j), (k), and (l) are hereby renumbered as subsections (l), (m), and (n) of Act No. 20-2012, to read as follows:

“Section 3.- Definitions.-

For purposes of this Act, the following terms, phrases, and words shall have the meaning and scope stated below, except when it is otherwise clearly indicated, and terms used in the singular form shall also include the plural form, and vice versa:

(a) ...

...

(f) Eligible Business.- Any entity with an office or *bona fide* establishment located in Puerto Rico which carries out, or may carry out, eligible services that are, in turn, considered services for export or promoter services, shall be considered an eligible business.

...

Notwithstanding the provisions of any other law, the licensing requirements in relation to professional services shall not apply to any Eligible Business, or the partners, stockholders, employees or officials thereof, provided that the services are not offered to residents of Puerto Rico. Eligible Businesses shall comply with

the laws and meet the licensing requirements that apply in the jurisdiction where they export their services.

(g) New Business.- An entity that complies with the following parameters:

(i) ...

...

(iv) For a period of two (2) years, counting from the beginning of operations that qualify a promoter for a decree, not more than five percent (5%) of its shares have been owned directly or indirectly by one or more residents of Puerto Rico;

...

(l) Promoter Services.- ...

(m) Services for Export.- ...

(n) Other Terms.- ...”

Section 5.- A new Section 6 is hereby added to Act No. 20-2012, to read as follows:

“Section 6.- Municipal Licenses and Other Municipal Taxes.-

(a) Any exempt business holding a decree under this Act shall enjoy a sixty percent (60%) exemption from the municipal licenses or taxes applicable to the volume of business of said exempt business during the semester of the fiscal year of the Government in which the exempt business begins operations in any municipality and subsequent semesters for the term of the decree, in accordance with the provisions of the ‘Municipal License Act of 1974,’ as amended. Provided, that in the case of an exempt business that has been operating prior to applying for the benefits of this Act, the date of commencement of operations for purposes of municipal licenses shall be the first day of the semester following the date on which the application for tax exemption was filed.

(b) Notwithstanding the provisions of subsection (a) of this Section, an exempt business under this Act operating in a special industrial development zone constituted by the municipalities of Vieques and Culebra shall enjoy a ninety percent (90%) exemption.”

Section 6.- Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 are hereby renumbered as Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of Act No. 20-2012.

Section 7.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 138-2012 (H. B. 3968)** of the **7th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to add a new Section 3, renumber Sections 3 to 8 as Sections 4 to 9, and amend renumbered Section 5 of Act No. 22-2012, known as the “Act to Promote the Relocation of Individual Investors to Puerto Rico”; amend subsections (f) and (g) of Section 3 and renumber subsections (j), (k), and (l) as subsections (l), (m), and (n) of Act No. 20-2012; add a new Section 6 and renumber Sections 6 to 19 as Sections 7 to 20 of Act No. 20-2012, known as the “Act to Promote the Export of Services,” in order to incorporate technical amendments, clarify definitions and terms, clarify the legislative intent on the issue of decrees, the provisions on the taxes and incentives granted under said laws; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 10th day of October, 2014.

Juan Luis Martínez Martínez
Acting Director