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## AMENDMENTS TO VARIOUS TAX INCENTIVES ACTS

Year 2017 Issue #3

As part of the continuous research to empower the businesses in Puerto Rico, the Government recently approved various amendments to tax incentives acts to promote the development of current businesses in the Island and the establishment of new ones by modifying the requirements to comply and obtain tax benefits.

### *Amendments to Act 20-2012, Tax Incentives to Promote Export Services in Puerto Rico*

#### **Employment Requirement**

Act No. 43 of July 11, 2017 ("Act 43-2017") amended Article 10(a)(i) to eliminate the minimum employment requirement to be eligible for the benefits under Act 20-2012. Previously, as established by Act No. 187 of 2015 ("Act 187-2015"), any tax grant request filed on or after December 1, 2015 was required to comply with at least five (5) direct employees.

As part of the changes to the employment requirement, the Secretary of Economic Development and Commerce ("Secretary") is required to establish by regulation or administrative determination the criteria to evaluate the concession of grants under Act 20-2012, which pillars must follow the: (i) job creation, (ii) capital investment, or (iii) direct or indirect contributions to the Puerto Rico's economy.

Those businesses with approved tax exemption grants or tax grant applications, that already have an employment requirement, may not use the amendments established by Act 43-2017 to dismiss such employees and reduce their current level.

#### **Eligible Services**

Act 43-2017 amended Article 3(k) of the Act 20-2012 to include as "Eligible Service" medical and laboratory services including medical tourism services and telemedicine facilities. In the case of telemedicine services, at least thirty percent (30%) of its contracted physicians must be Puerto Rico residents. If the company is unable to contract the required personnel in Puerto Rico, it may contract the personnel from another jurisdiction.

In addition, the amendments expand the definition for "international trading companies". Previously, to qualify as a "international trading company" the entity was required to have at least eighty percent (80%) of gross income from its trading activities. Now the 80% of gross income may be derived from trading activities *and* any other eligible export services included within Act 20-2012.

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# AMENDMENTS TO VARIOUS TAX INCENTIVES ACTS (CONTINUED)

## Compliance Requirements

Act 43-2017 eliminates the requirement of the "certificate of compliance" established in accordance with the Interagency Validation Portal, pursuant Act 187-2015, for those companies covered by a tax exemption grant under Act 20-2012. Now the Act promotes the establishment of an electronic database between the Puerto Rico Industrial Development Company ("PRIDCO") and the Puerto Rico Treasury Department ("PRTD").

In addition, the Secretary, in coordination with the Office of Industrial Tax Exemption ("OITE"), will initiate every two (2) years an audit procedure to evaluate the compliance of the companies with each tax grant.

## *Amendments to Act 22-2012, Act to Promote the Transfer of Individual Investors to Puerto Rico*

Act No. 45 of 2017 ("Act 45-2017") established additional requirements to Individual Investors who obtain a tax grant under Act 22-2012. As part of Grantee's Exempt Annual Report, they are now required to submit the following:

- For its first year as *bona fide* residents, submit prove of filing of Form 8898 or the equivalent document if it was not a US possession, to notify the intention to become a Puerto Rico *bona fide* resident;
- Evidence of a minimum annual contribution of five thousand dollars (\$5,000) to an Non-for-profit entity certified under Section 1101.01 of the Puerto Rico Internal Revenue Code.

## *Amendments to Act 73-2008, Economic Incentives Act for the Development of Puerto Rico*

As part of the intentions to promote the establishment of new businesses, specifically in the areas of small and medium companies, Act No. 44 of 2017 ("Act 44-2017") amended Section 2(d)(G) of Act 73-2008 to redefine the research and development industries. The amendment states that *any* business that works on industrial and scientific R&D for the development of new products, or improvements of new products, and the design of new industrial services and processes through basic or applied research, will be considered an Eligible Business.

Act 44-2017 also amends Section 5(c) related to the R&D Credit to include within the definition of "eligible investment" the investments made with proceeds from federal grants, aid or any other type of financing.

At RSM Puerto Rico we are ready to help you with these matters. If you have any questions or comments related to the content of this Tax Alert, please feel free to contact your Tax Advisor at RSM Puerto Rico.