

(H. B. 3657)

(No. 22-2012)

(Approved January 17, 2012)

AN ACT

To establish the “Act to Promote the Relocation of Individual Investors to Puerto Rico,” in order to provide a tax credit for the investment income earned by individuals who become residents of Puerto Rico not later than the year ending on December 31st, 2035.

STATEMENT OF MOTIVES

Since 2006, Puerto Rico has been undergoing an economic crisis that has severely affected different sectors of the local economy. This Administration is committed to promote the Island’s economic development. Thus, it has developed a Strategic Model for a New Economy (MENE, Spanish acronym) and implemented various initiatives geared toward addressing the difficult economic situation that Puerto Rico is facing. MENE recognizes that the banking and financial sectors play a key role in the economy and the importance of attracting foreign capital and generating local capital to strengthen it. This measure constitutes an additional initiative to incentivize and attract foreign capital, and to foster the Island’s economic growth and socioeconomic development.

The purpose of this measure is to encourage individuals who have not been residents of Puerto Rico during the fifteen-year period preceding the approval of this Act and who maintain investments within or without the United States to establish residency in Puerto Rico. In order to encourage the relocation of these individuals to Puerto Rico, this Act provides these individuals with a full Puerto Rico tax exemption on the passive income earned from their investments. In the case of long-term capital gains, individuals covered under this legislation shall be

exempt from Puerto Rico income taxes on recognized gains after becoming residents of Puerto Rico and during the exemption period provided herein. As an exception, realized but not recognized capital gains from any securities owned by individuals covered under this Act prior to relocating to Puerto Rico shall be subject to taxation in Puerto Rico, if recognized, within ten (10) years after they have become Puerto Rico residents and before the end of the exemption period, at a special five percent (5%) rate. Continental United States Residents who become residents of Puerto Rico and who own, prior to relocating to Puerto Rico, realized but not recognized capital gain, who recognize such gains while they are *bona fide* resident of Puerto Rico, and ten (10) years after their residency was established in Puerto Rico, shall not be subject to federal taxes on such gains, and shall only be subject to the special five percent (5%) Puerto Rico tax rate. The tax exemption provided herein shall apply when such individual invests directly in bonds, stocks or other investment instruments or when such individual invests through mutual funds of Puerto Rico or through an international banking institution of Puerto Rico.

Even when their investment income is exempt from taxation in Puerto Rico, their presence in the Island shall contribute to our economy, because they acquire goods, products, services, and housing, among others. Moreover, the income earned by said individuals, other than their investment income, such as income earned on account of wages or rendered professional services, shall be subject to taxation in Puerto Rico.

The tax exemption provided herein shall not be available indefinitely. It shall end on December 31st, 2035. As of January 1st, 2036, said individuals shall be subject to taxation in Puerto Rico as any other taxpayer. To be entitled to claim the tax exemption allowed under this Act, the individual shall become a resident of Puerto Rico prior to the expiration date of the benefit granted under this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Short Title.-

This Act shall be known as the “Act to Promote the Relocation of Individual Investors to Puerto Rico.”

Section 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 a resident of Puerto Rico during the fifteen (15) years preceding the effective date of this Act and becomes a Resident of Puerto Rico not later than the tax year ending on December 31st, 2035. According to the definition of the term resident individual provided in Section 1010.01(a)(30) of the Code, students pursuing an education outside of Puerto Rico who were residents of Puerto Rico prior to leaving to study abroad, personnel working outside of Puerto Rico on a temporary basis for the Government of Puerto Rico, its agencies and instrumentalities, and persons in situations similar to those described above, shall not be eligible to be considered as Resident Individual Investors, since they continue to be domiciled in Puerto Rico for the period they reside outside of our jurisdiction.

(b) “Code” means Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” or any other succeeding law that substitutes it.

(c) “Banking Center Act” means Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act.”

Section 3.- Tax Exemption Applicable to Income Derived from Interest and Dividends Earned by a Resident Individual Investor.-

Income derived from all sources by a Resident Individual Investor after becoming a resident of Puerto Rico, but before January 1st, 2036, consisting of interest and dividends, including but not limited to interest and dividends from

a registered investment company described in Section 1112.01 of the Code, shall be fully exempt from income taxes in Puerto Rico, including the alternate basic tax provided in the Code. In addition, the income derived by a Resident Individual Investor after becoming a resident of Puerto Rico, but before January 1st, 2036, consisting of interest, financing charges, dividends or partnership interest received from international banking institutions duly authorized under the “Banking Center Act,” shall be fully exempt from income taxes in Puerto Rico, including the alternate basic tax provided in the Code.

Section 4.- Special Tax for Resident Individual Investors on Net Long-term Capital Gain.-

(a) Appreciation before becoming a Resident of Puerto Rico.-

The total net long-term capital gain generated by a Resident Individual Investor related to the appreciation of the securities owned by such Resident Individual Investor before becoming a Resident of Puerto Rico, which appreciation is recognized ten (10) years after he/she became a resident of Puerto Rico and before January 1st, 2036, shall be subject to a five percent (5%) tax, in lieu of any other tax imposed under the Code. If such appreciation is recognized at any other time, the net long-term capital gain with respect to said securities shall be subject to the payment of income taxes in accordance with the tax treatment provided by the Code. The amount of the net long-term capital gain shall be limited to the portion of the gain related to the appreciation of the securities while the Resident Individual Investor resided outside of Puerto Rico.

(b) Appreciation after becoming a Resident of Puerto Rico.-

The total net long-term 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 long-term 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 long-term 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 5.- Waiver of the Personnel Requirement under the Banking Center Act.-

Notwithstanding the provisions of the Banking Center Act, in the event that the total stocks, interest or shares in the capital of an international banking institution established in accordance with the Banking Center Act are owned by a Resident Individual Investor (or by more than one of said individuals), the minimum number of personnel requirement shall not be imposed.

Section 6.- Rulemaking Authority.-

The Secretary of the Treasury shall prescribe by regulations, circular letter, or administrative determination the guidelines for the interpretation and implementation of the provisions of this Act. Any regulatory provisions that are amended or adopted in accordance with this Act shall not be subject to the applicable provisions of the Uniform Administrative Procedure Act, as amended.

Section 7.- Separability.-

If any article, section, subsection, paragraph, subparagraph, clause, phrase or part of this Act were held to be unconstitutional by a Court of competent jurisdiction, the holding to such effect shall not affect, impair, or invalidate the remaining provisions thereof. The effect of such holding shall be limited to the article, section, subsection, paragraph, subparagraph, clause, phrase, or part of this Act thus held to be unconstitutional.

Section 8.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 22-2012 (H. B. 3657)** of the **6th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to establish the “Act to Promote the Relocation of Individual Investors to Puerto Rico,” in order to provide a tax credit for the investment income earned by individuals who become residents of Puerto Rico not later than the year ending on December 31st, 2035.

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

In San Juan, Puerto Rico, on this 28th day of August, 2014.

Juan Luis Martínez Martínez
Acting Director