

Provisions to Halt the Exodus of Physicians from Puerto Rico: 4% Tax Rate

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In a quest to halt the exodus of physicians (doctors in medicine) from Puerto Rico, the Government of Puerto Rico recently enacted Act No. 14 of February 21, 2017 with the intent to offer these health professionals an attractive tax regimen that will incentivize their stay in the Island and attract those that are not currently living in Puerto Rico to move or return to the Island (“Act No. 14.”)

I. Who is eligible: Any individual admitted to the practice of medicine, podiatry or any specialty related to odontology who is practicing medicine full-time, including physicians who form part of a duly accredited residency program, will be eligible to request the benefits under Act No. 14 (hereinafter a “Qualified Physician.”)

Practicing medicine full-time will be considered as rendering professional medical services for at least 100 hours per month in a: (i) public or private hospital, (ii) state or federal agency, (iii) private office dedicated to the offering of professional medical services, or (iv) duly accredited school of medicine.

Due to the impact that Act No. 14 could have on the Puerto Rico treasury’s tax revenues, the granting of these benefits will be adjusted to the needs of medical services in Puerto Rico. The Puerto Rico Secretary of Health will issue regulations on these regards taking into consideration the number of doctors specialized in a particular field of medicine and the availability of medical services per geographical area.

II. Benefits: Qualified Physicians who request and obtain a tax grant under Act No. 14 will be subject to a 4% flat income tax rate on all their eligible income, in lieu of any tax imposed by the Puerto Rico Internal Revenue Code of 2011, as amended (the “PR Code”) or any other law during a 15-year period. These benefits will commence the 1st day of January of the year in which the tax decree is granted. Eligible income is defined by Act No. 14 as the net income derived from the rendering of professional medical services in Puerto Rico determined based on the provisions of the PR Code.

Qualified Physicians will also be able to make after-tax contributions to Keogh plans in amounts up to 25% of their net income, or up to 25% of their salary if contributions are made into qualified retirement plans sponsored by their employers.

Furthermore, “eligible dividends” received by Qualified Physicians will be exempt from Puerto Rico income tax withholding and the alternative basic tax up to an amount of \$250,000 per taxable year. “Eligible dividends” are those dividends paid by a Business of Medical Services (as such term is defined below) to a Qualified Physician

that is attributable to professional medical services rendered, calculated pursuant to the provisions of the PR Code. A Business of Medical Services is any corporation or limited liability company, domestic or foreign, duly authorized to do business in Puerto Rico that renders medical treatment and diagnostics services in Puerto Rico.

In order to maintain the benefits of the tax grant throughout the terms thereof, the Qualified Physician must continue to be: (i) admitted to the practice of medicine, podiatry or any specialty related to odontology, including those physicians who form part of a duly accredited residency program; (ii) practicing medicine full time; (iii) a resident of Puerto Rico for tax purposes as the term is defined in the PR Code; (iii) up-to-date with all of his/her tax responsibilities in Puerto Rico; (iv) render the hours of community service required by Act No. 14; and (iv) in compliance with any other requirement established in the tax grant.

A Qualified Physician must render 180 hours of community service without pay per year. However, Act No. 14 provides that in the alternative, such physician can comply with this requirement by offering at least 180 hours of remunerated services to patients covered by the Government of Puerto Rico's Health Plan (commonly referred in Puerto Rico as "La Reforma.")

A Qualified Physician that throughout the entire exemption period of 15 years complies with all the requirements and conditions established in the tax grant and is able to demonstrate to the Secretary of Economic Development (the "Secretary") that an extension of such benefits will be in the best economic and social interests of Puerto Rico, may request an extension of an additional 15 years of benefits once the original term expires.

III. When to apply: Qualified Physicians will have a 2-year period after April 22, 2017, which is the date of Act No. 14's effectiveness, to apply for a tax grant. The law is clear in that any application filed with the Department of Economic Development and Commerce after the expiration of such 2-year period will not be accepted or evaluated.

IV. Special case of physicians who are nonresidents of Puerto Rico: When a physician applying for these services is not a resident of Puerto Rico for income tax purposes, if the Secretary approves the application, the tax grant could be issued and the Qualified Physician will have 120 days to move his/her practice to Puerto Rico and be a Puerto Rico resident for income tax purposes.

Please note that physicians who were not residents of Puerto Rico at any time during the 6-year period that ended on January 17, 2012 could also benefit from other tax legislation applicable to individuals who move their residency to Puerto Rico.

V. Penalties for noncompliance with the requirements of Act No. 14 or the tax decree: If a Qualified Physician: (i) who is a nonresident of Puerto Rico does not move his practice within the period mentioned above; (ii) ceases to be a Qualified Physician; (iii) ceases to render medical services on a full-time basis; (iv) does not comply with the hours of yearly community service; (v) fails to comply with any other requirement included in Act No. 14, or any applicable regulation or administrative pronouncement, the tax grant will be revoked and will be rendered without effect.



If a tax grant is revoked, the physician will be responsible for the payment of all unpaid taxes on all income and dividends corresponding to the lesser of the 3 taxable years prior to the year of the revocation of the grant or the duration of the tax grant.

However, if the physician proves that such noncompliance was due to his/her incapacity or health issues, or those of his/her spouse, children or parents, the physician will only be required to pay all taxes not paid on income and dividends corresponding to taxable years following the taxable year of revocation.

Final comments: We understand that the above is a very attractive and unique tax benefit which all physicians who may qualify, based on Act No. 14 and the regulations to be issued, should strongly consider. Also, it should be noted that due to the nature of the tax grant being a contract with the government, their effectiveness should not be subject to change due to future Puerto Rico legislation.

Finally, due to the short period available to apply for these benefits, and the fact that the effectiveness of these tax grants will be at the commencement of the year when granted, physicians who are considering applying for these benefits should consider engaging in these procedures as soon as the regulations determining eligibility are issued.



The above summary is intended for information purposes only. It cannot be considered a legal opinion, and it does not intend to consider all the tax and legal considerations that could be relevant to any particular person or entity

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