

PUERTO RICO’S ACT 60: THE KEY TO ECONOMIC PROSPERITY OR A TOOL FOR COLONIALISM?

ARTICLE

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INTRODUCTION

This article consists of six parts, and it begins by introducing the general idea and the thesis statement that will be further analyzed. Then, it will lay out the foundation of Puerto Rico’s political status, its background, as well as define *Act 60-2019* by exploring the historical and legal context that allows such a program to exist in the first place, the technicalities around federal income taxation exemption, and the evolution of tax incentive programs on the Island. Thirdly, it will dive into the actual provisions of the

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Act, the incentives it promotes, and the requirements to be a beneficiary of it. Fourthly, it will analyze and evaluate the economic effects it has had on Puerto Rico, both positive and negative, as well as explore criticisms it has received, challenges it has faced, and potential exploitation that has arisen from it. Then, it will examine other tax havens in the world and briefly compare the benefits they provide, in contrast with Puerto Rico's Act 60. Lastly, after evaluating all the evidence, this article will conclude on whether the Act has been more positive or negative for Puerto Rico.

I. THESIS STATEMENT

The purpose of the *Puerto Rico Incentives Code*, Act 60-2019, is to encourage foreigners, whether mainland Americans or international investors, to move and become residents of Puerto Rico in exchange for generous tax treatment.¹ The Statement of Motives of this Act lists several reasons for its enactment, among them the damage caused by hurricanes Irma and Maria in 2017.² Another purpose of this Act is to consolidate all pre-existing tax incentives, along with some new ones, into one cohesive and rationalized code.³ It further states that the granting of these tax benefits is a contract between the Government of Puerto Rico and the exempt businesses, and its members, and as such, general contract rules apply as well.⁴

However, this article will explore the implementation of the Act itself, and whether the pros outweigh the cons. Several underlying issues stem from Puerto Rico's territorial status, stagnated economy, crumbling infrastructure, and current political environment. The Act does not expressly address these issues, yet they are important in analyzing the Tax Incentives Code's effectiveness and its impact on Puerto Rico. After exploring all the relevant context, history, legality, and effectiveness, this article will conclude whether the Act is a good or bad policy, and it will explore potential amendments that could be implemented.

A. Overview of Act 60-2019

The *Tax Incentives Code* was enacted in the middle of possibly the most tumultuous period in modern Puerto Rican history.⁵ At the time, the streets of Puerto Rico were flooded with protesters from all sides of the political spectrum, all calling for the resignation of then-governor Ricardo Rosselló Nevares.⁶ This context is crucial because the protests began over a leaked *Telegram* group chat that Rosselló was a part of, as well as ongoing corruption investigations and arrests —some of which were discussed in that group chat.⁷

¹ Statement of Motives, Puerto Rico Incentives Code, Act No. 60-2019, 2019 P.R. Laws 572.

² *Id.*

³ Puerto Rico Incentives Code, Act No. 60-2019, 13 L.P.R.A. §45011 (2021 & Supp. 2024).

⁴ *Id.* §45003(e).

⁵ Act 60-2019 was enacted on July 1st, 2019.

⁶ Nicole Acevedo et al., *Embattled Puerto Rico Gov. Ricardo Rosselló Resigns Amid Public Outcry*, NBC NEWS, (July 24, 2019), <https://www.nbcnews.com/news/latino/embattled-puerto-rico-gov-ricardo-rossello-resigns-amid-public-outcry-n1033241>.

⁷ *Id.*

To add insult to injury, the leaked group chat did not merely expose corruption schemes, it also revealed that Rosselló and his politician allies had joked about and mocked the deaths caused by hurricanes Irma and María.⁸ The casualties from the hurricanes were estimated at 4,645 Puerto Ricans, a number that Gov. Rosselló's administration actively sought to downplay.⁹ It is easy to see why Puerto Ricans became skeptical of the Act. The law incentivizes foreign investors and was enacted just as the governor was caught mocking hurricane victims and downplaying the tragedy.

The Act codifies multiple tax incentives and compiles them into one comprehensive statute while granting very generous tax exemptions to foreigners that the local population cannot benefit from.¹⁰ Some of the most notable ones include Act 20-2012 and Act 22-2012.¹¹ The provisions of these Acts are aimed at promoting the export of services and the relocation of individual investors, respectively.¹² Benefits exemptions from federal income tax, interest and dividend income, and capital gains taxes, as well as a four percent flat corporate tax rate, and an almost complete exemption from municipal and property taxes.¹³

Act 60 also has additional chapters that cater to specific industries, including manufacturing, production, research, real estate, tourism, agriculture, creative industries, financial & insurance services, renewable energy, and Opportunity Zones as designated by the federal government.¹⁴ It is meant to be an overhaul of the Incentives Code to revitalize the local economy,¹⁵ which has been stagnant for over a

8 *Id.*

9 The estimate of 4,645 casualties was revealed in a study conducted by Harvard T.H. Chan School of Public Health, which analyzed the death rate increase in Puerto Rico following Hurricane Maria, finding fourteen and three-tenths deaths per 1,000 people. This figure is still not officially recognized by the Government of Puerto Rico. The study is available at Nishant Kishore, *Mortality in Puerto Rico after Hurricane Maria*, 379 *NEW ENGLAND J. MED.* 162-170 (2018). Governor Rosselló famously told then-President Donald Trump that the death toll following Hurricane Maria was “only 16,” to which President Trump responded that it was not “a real catastrophe like Katrina.” Caitlin Dickson, *Trump Says Puerto Rico Didn't Suffer a “Real Catastrophe” Like Katrina*, *YAHOO! NEWS* (Oct. 3, 2017), <https://www.yahoo.com/news/trump-says-puerto-rico-didnt-suffer-real-catastrophe-like-katrina-174744308.html>.

10 The eligibility requirements vary slightly from chapter to chapter, but generally, the tax exemptions and benefits provided in this section shall be entitle to:

[A]n individual who is a *bona fide* resident of Puerto Rico, as such term is defined in Section 1010.01(a)(30) of the *Internal Revenue Code of Puerto Rico* [and Section 937 of the *U.S. Internal Revenue Code of 1986*, as amended], who did not have their principal residence in Puerto Rico during the six (6) taxable years preceding the effective date of this section, and who becomes a resident of Puerto Rico no later than the tax year ending on December 31, 2035.

Act to Promote the Relocation of Investors to Puerto Rico, Act 22-2012, 13 LPR § 10851(a) (citing *Puerto Rico Internal Revenue Code of 2011*, Act 1-2011, 13 LPR § 30041(a)(30)) (emphasis added) (translation provided). See generally 26 U.S.C. § 937. (Individuals claiming Puerto Rican residency for income tax purposes must be present in Puerto Rico for at least 183 days during the taxable year, must not have a tax home or closer connection to the United States or a foreign country, and must report to the IRS via Form 8898 when they become or cease to be a resident of Puerto Rico).

11 Act to Promote the Export of Services, Act 20-2012, 13 LPR §§ 10831-10844 (codified as amended at 13 LPR §§ 45231-45261 under Act 60, Chapter 3); Act to Promote the Relocation of Investors to Puerto Rico, Act 22-2012, 13 LPR §§ 10851-10855 (codified as amended at 13 LPR §§ 45131-45181 under Act 60, Chapter 2).

12 *Id.*

13 *Id.*

14 Statement of Motives, Puerto Rico Incentives Code, Act No. 60-2019, 2019 P.R. Laws 572.

15 *Id.*

decade.¹⁶ Although the economy has been steadily improving in recent years, it is imperative to analyze whether this growth has translated into a better quality of life, or if the upgrades are disproportionately concentrated among foreign investors.¹⁷ This and more will be explored in later sections.

II. HISTORICAL AND LEGAL CONTEXT

Some background on Puerto Rico itself is necessary for the development of this article. Puerto Rico is an unincorporated territory of the United States that was acquired from Spain following the Spanish-American War of 1898.¹⁸ After more than four centuries of Spanish control, its influence cannot be denied.¹⁹ Puerto Rico is the only U.S. jurisdiction where Spanish is the main language.²⁰ It is also the only other U.S. jurisdiction with a mixed Civil law and Common law system, alongside Louisiana.²¹ Generally, people born in U.S. territories are U.S. citizens by birthright; however, the Immigration and Nationality Act included a specific provision to grant American citizenship to Puerto Ricans born after 1899.²²

Despite being U.S. citizens, inhabitants of territories are not granted the full bundle of rights a citizen from a state would have.²³ The main right denied to Puerto Ricans and citizens of other territories alike is the right to representation in Congress and the right to vote in federal elections.²⁴ Additionally, Congress has imposed several limitations on Puerto Rico's ability to engage in international commerce.²⁵ The only benefit that Puerto Ricans (and other territorial citizens) receive in exchange for their lack of federal representation is an exemption from federal income taxation.²⁶ This exemption is crucial to understanding the provisions of Act 60 and why it has been so controversial yet so attractive for foreigners.

¹⁶ Puerto Rico's economy has stagnated since 2008 and defaulted on its debt in 2015. Alan Gomez, *Puerto Rico Facing Historic Default on Its \$72 Billion Debt*, USA TODAY (June 29, 2015), <https://www.usatoday.com/story/money/2015/06/29/puerto-rico-debt-crisis-default/29458475/>.

¹⁷ Associated Press, *Puerto Rico Formally Exits Bankruptcy Following Largest Public Debt Restructuring*, NBC NEWS (Mar. 15, 2022), <https://www.nbcnews.com/news/latino/puerto-rico-formally-exits-bankruptcy-largest-public-debt-restructurin-rcna20054>.

¹⁸ Luis Muñoz Argüelles, *The 2020 Revision of the Puerto Rican Civil Code: A Brief Explanation of Major Changes*, 15 J. CIV. L. STUD. 393, 395 (2023).

¹⁹ *Id.* at 394-396.

²⁰ *Id.* at 395.

²¹ *Id.* at 393.

²² Nationality at Birth and Collective Naturalization, 8 U.S.C. § 1402 (2007 & Supp. 2021).

²³ These ideas were established by the U.S. Supreme Court in a series of cases called the "Insular Cases." This article will explore these cases in more detail later. The main case is *Downes v. Bidwell*, 182 U.S. 244 (1901).

²⁴ Conn. Advisory Comm., *Voting Rights in U.S. Territories*, U.S. Comm'n on Civ. Rts. (Oct. 4, 2021) (unpublished memorandum).

²⁵ The most renowned of these is the Merchant Marine Act of 1920, more commonly known as *the Jones Act*, codified at 46 U.S.C. §§ 50101-55120. Other relevant statutes include the Foraker Act, 48 U.S.C. §§ 733-740 and the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), 48 U.S.C. §§ 2101-2241.

²⁶ Internal Revenue Code, 26 U.S.C. § 933 (2018); This provision generally allows *bona fide* residents of Puerto Rico to be exempt from having to file federal income tax return. However, it has its caveats, mainly if there is income generated from "federal sources," then a federal tax return will still be required.

A. Federal Income Tax Exemptions and the Insular Cases

As previously stated, Puerto Ricans are granted an exemption on federal income taxes that arises from its territorial status.²⁷ Both this status and Puerto Rico's relationship with the United States are born from what is now dubbed the "Insular Cases."²⁸ A series of Supreme Court opinions established that Puerto Rico, unlike any other previously acquired territory, was to remain "unincorporated," and did not necessarily need to become a state in the future.²⁹ The first of these cases, *Downes v. Bidwell*, also held that, because Puerto Rico was to remain unincorporated, the Constitution did not fully apply to its citizens.³⁰ Another one of these cases, *Dooley v. United States*, stated that the U.S. could impose tariffs on goods entering Puerto Rico from the U.S. following its annexation.³¹ Another constitutional right that was limited to citizens of territories is the right to a trial by jury.³² Specifically, the Supreme Court stated: "[t]he power to govern territory, implied in the right to acquire it . . . does not require that body to enact . . . a system of laws which shall include the right to trial by jury, and that the Constitution does not . . . carry such right to territory."³³

It was not until the enactment of the *Jones-Shafroth Act* of 1917 that Puerto Ricans were unequivocally declared to be American citizens and afforded greater protections under the U.S. Bill of Rights.³⁴ However, many of the principles established in the Insular Cases remain binding precedent today. The main one being the doctrine that Puerto Rico is "owned" by, rather than part of, the United States.³⁵ Additionally, the Supreme Court went on to declare that Puerto Rico is "foreign [to the U.S.] in a domestic sense."³⁶ It is this determination specifically, paired with the *Revenue Act* of 1918, that clearly outlines Puerto Rico's exemption from federal income taxation.³⁷

The specific provision within that act is Section 261.³⁸ Through these provisions, Congress essentially gave Puerto Rico free rein to create tax laws with almost no limitation.

²⁷ *Id.*

²⁸ Colleen Walsh, *Reexamining the Insular Cases. Again.*, HARV. L. BULL. (May 3, 2024), <https://hls.harvard.edu/today/reexamining-the-insular-cases-again/>.

²⁹ *Downes v. Bidwell*, 182 U.S. 244 (1901).

³⁰ *Id.* at 287.

³¹ *Dooley v. United States*, 183 U.S. 151, 156 (1901).

³² *Dorr v. United States*, 195 U.S. 138, 149 (1904).

³³ *Id.* at 149.

³⁴ The *Jones-Shafroth Act* of 1917 is not codified into a specific Title of the U.S. Code, however most of its provisions can be found under 48 U.S.C. § 731-755.

³⁵ *Bidwell*, 182 U.S. at 341-42.

³⁶ *Id.* at 341.

³⁷ Revenue Act of 1918, Pub. L. No. 65-254, § 261, 40 Stat. 1057, 1087-88 (1919).

³⁸ *Id.*; Section 261 states:

[E]very individual who is a citizen or resident of Porto Rico . . . or derives income from sources therein . . . shall be taxed in Porto Rico . . . as a nonresident alien individual . . . The Porto Rican . . . Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico.

Id.

The only limitation was that these laws could not violate the U.S. Constitution.³⁹ With this newfound autonomy, the government of Puerto Rico went on to create several different tax incentive programs, all aimed at modernizing and developing Puerto Rico into an economic powerhouse.

B. Evolution of Tax Incentives in Puerto Rico

The Puerto Rican government quickly began developing its own *Internal Revenue Code* and tax incentive programs to promote investments on the Island and the development of its economy.⁴⁰ The first of these programs was the *Industrial Incentives Act* of 1954, a program aimed at developing and improving the manufacturing industry by granting exemptions from corporate income taxes for a certain period, and offering reduced tax rates for eligible companies.⁴¹ This same program was updated every decade or so with amendments, and updates to the sunset date of the incentives.⁴² In the following decades, more and more incentive programs were developed with goals of improving and growing different sectors of the economy, one of these being the *Green Energy Incentives Act of Puerto Rico* of 1991.⁴³ This act aimed at promoting the use of renewable energy sources by offering tax credits to those that used the renewable energy.⁴⁴ Another notable one was the *Economic Incentives Act for the Development of Puerto Rico* of 2008.⁴⁵ This program was aimed at more general economic recovery as a response to the 2008 recession that had just started a few months prior.⁴⁶

During the recession, Puerto Rico was especially affected, experiencing a complete economic halt that led to a mass migration of citizens to the U.S. mainland.⁴⁷ The government's response was to enact additional tax incentive programs, including *the Tourism*

39 48 U.S.C. § 731d (1950); When Puerto Rico first adopted its own Constitution, as enabled by Public Law 600 (1950) (codified at 48 U.S.C. § 731d (1950)), the law stated that: “[t]he President of the United States is authorized to transmit such constitution to the Congress of the United States if he finds that such constitution conforms with . . . the Constitution of the United States.” *Id.* This means that any laws enacted by the government of Puerto Rico, including taxation, must conform with the U.S. Constitution.

40 Puerto Rico enacted its first Internal Revenue Code in 1924. Income Tax Act of 1924, Act No. 74 of August 6, 1925, 13 P.R. LAWS ANN. subtit. 4 (repealed 1954).

41 Puerto Rico Industrial Incentives Act of 1954, Act No. 6 of December 15, 1953, 13 P.R. LAWS ANN. §§ 10001-10011 (2018).

42 The program was continued with the enactment of the Industrial Incentive Act of Puerto Rico of 1963, Act No. 57 of June 13, 1963, 13 P.R. LAWS ANN. §§ 10012-10023 (2018); the Puerto Rico Industrial Incentive Act of 1978, Act No. 26 of June 2, 1978, 13 P.R. LAWS ANN. §§ 10024-10037 (2018); and the Puerto Rico Incentives Act of 1987, Act No. 8 of January 24, 1987, 13 P.R. LAWS ANN. §§ 10038-10052 (2018); all of which have also been codified into Puerto Rico Incentives Code, Act No. 60-2019, 13 P.R. LAWS ANN. §§ 45001-48599 (2018 & Supp. 2024).

43 Green Energy Incentives Act of Puerto Rico, Act No. 83 of July 19, 1991, 13 P.R. LAWS ANN. §§ 10421-10446 (1991 & Supp. 2018).

44 *Id.* § 10422.

45 P.R. Economic Incentives Act, Act 73-2008, 13 P.R. LAWS ANN. §§ 10641-10673 (2018).

46 *Great Recession: What It Was and What Caused It*, INVESTOPEDIA (Mar. 16, 2025), <https://www.investopedia.com/terms/g/great-recession.asp>.

47 U.S. Census Bureau data shows a net migration of almost 400,000 people between 2004 and 2016, as well as another estimated 500,000 between 2017 and 2019 as a result of hurricanes Irma and Maria. Pedro Cabán, *Puerto Rico's Forever Exodus*, NACLA (Feb. 22, 2018), <https://nacla.org/news/2018/02/22/puerto-rico's-forever-exodus>.

Development Act of 2010, the *Renewable Energy Incentives Act of 2010*, the *Puerto Rico Film Industry Incentives Act of 2011*, as well as some aimed at promoting the relocation of wealthy individual investors and the exportation of services, through the now infamous Acts 20 and 22 of 2012.⁴⁸ Other incentive programs developed in the years preceding Act 60 include the *Young Entrepreneurs Act of 2014* and the *Incentive of Medical Professionals Act of 2017*.⁴⁹ The government perceived these incentives as necessary given the Island's economic situation, combined with the sunset of Section 936 of the *U.S. Internal Revenue Code*.⁵⁰

Section 936 was a provision in the *Internal Revenue Code* designed to promote U.S. corporations to establish manufacturing operations in Puerto Rico.⁵¹ It was enacted in 1976 as part of the *Tax Reform Act of 1976* and it sought to build a manufacturing hub in Puerto Rico and reduce unemployment.⁵² The main benefits of Section 936 included the exemption of all federal income taxes on income earned from their operations in Puerto Rico, the deferral of U.S. taxes on income earned in Puerto Rico so long as that income was not repatriated, and the tax exemption on dividends paid to U.S. shareholders from operations in Puerto Rico.⁵³ However, with the passing of the *Small Business Job Protection Act of 1996*, Congress included a sunset provision for Section 936.⁵⁴ A provision which then-governor Pedro Rosselló chose not to lobby against.⁵⁵ The sunset of Section 936, combined with the 2008 recession, Puerto Rico's 2015 default on its debt, the devastation caused by hurricanes Irma and Maria in 2017, and the mass migration of citizens, led the government to develop its most comprehensive and generous tax incentive program to date, Act 60.

III. ANALYSIS OF ACT 60-2019

An overview of the Act reveals a simple structure: six subtitles, A through F.⁵⁶ Subtitle A contains general provisions, Subtitle B covers economic development incentives, Sub-

⁴⁸ Tourism Development Act, Act No. 74-2010, 23 P.R. LAWS ANN. §§ 6339-6355 (2018 & Supp. 2024); Renewable Energy Incentives of Puerto Rico Act, Act No. 83-2010, 13 P.R. LAWS ANN. §§ 10421-10446 (2018); Act to Promote the Export of Services, Act No. 20-2012, 13 P.R. LAWS ANN. §§ 10831-10844 (2018); Act to Promote the Relocation of Investors to Puerto Rico, Act No. 22-2012, 13 P.R. LAWS ANN. §§ 10851-10855 (2018); Puerto Rico Film Industry Incentives Act, Act No. 27-2011, 23 P.R. LAWS ANN. §§ 11001-11008c (2020).

⁴⁹ Young Entrepreneurs Act, Act No. 135-2014, 23 P.R. LAWS ANN. §§ 11192-11199 (2020 & Supp. 2024); Incentive of Medical Professionals Act, Act No. 14-2017, 13 P.R. LAWS ANN. §§ 10871-10887 (2021).

⁵⁰ 26 U.S.C. § 936 (1976) (repealed 2006).

⁵¹ *Id.*

⁵² Tax Reform Act of 1976, Pub. L. No. 94-455, 90 Stat. 1520 (1976).

⁵³ 26 U.S.C. § 936.

⁵⁴ Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1755 (1996); Section 1601 of the Act added subsection (f), the Termination of the 936 Tax Credit. Specifically, subsection (3)(A)(i) provided that “the credit under subsection (a)(1)(A) . . . [will be] ending with the last taxable year beginning before January 1, 2006. *Id.* § 1601(3)(A)(i).

⁵⁵ The main reason for this was ideological. Then-governor Pedro Rosselló was part of the pro-statehood party and believed this provision hurt Puerto Rico's chances at statehood. Sherrie L. Baver, *The Rise and Fall of Section 936: The Historical Context and Possible Consequences for Migration*, XI CENTRO J. 45, 51 (2000); Also, yes, former governor Pedro Rosselló is the father of the aforementioned, ousted governor, Ricardo Rosselló.

⁵⁶ Puerto Rico Incentives Code, Act No. 60-2019, 13 P.R. LAWS ANN. § 45002 (2021).

title C sets forth tax credit provisions, Subtitle D contains subsidies and other programs, Subtitle E contains provisions governing funds for the granting of benefits, and lastly Subtitle F explains the administrative provisions.⁵⁷ The subtitles that are of most interest for this article are B and C,⁵⁸ which contain the actual tax incentives, exemptions, reductions, and credits, and their respective applicability as well as eligibility rules.⁵⁹

Subtitle B is divided into eleven chapters, each of which covers a different industry's eligibility criteria, tax benefits, requirements, and special provisions.⁶⁰ Subtitle B specifically contains most of the substance of the Act, and is the primary focus of this article.⁶¹ The industries, as organized in the Chapters of Subtitle B, are as follows: General Applicable Incentives, Individuals, Export of Goods & Services, Finance/Investment/Insurance, Visitor Economy, Manufacture Industries, Infrastructure & Green Energy, Agricultural Industries, Creative Industries, Entrepreneurship, and Other Industries.⁶²

Subtitle C is divided into a preliminary *Rules for Granting of Tax Credits* section and five chapters thereafter.⁶³ Each chapter here concerns the specific tax credit provisions of a particular industry.⁶⁴ Except for Chapter 4 that has been reserved (presumably repealed), Chapters 1 through 3, and 5 are organized as follows: Visitor Economy Tax Credit, Manufacturing Industries Tax Credits, Tax Credit for Research & Development, and Tax Credits for Creative Industries, respectively.⁶⁵ The analysis will now shift to specific tax incentive provisions in each chapter of Subtitles B and C, as well as eligibility and compliance rules that are enacted as part of the Act.

A. Subtitle B: Individuals and Businesses

Chapter 1 of Subtitle B establishes that the provisions of that subtitle are only applicable to "Exempt Businesses" under the Code.⁶⁶ Exempt businesses may be either juridical or natural persons.⁶⁷ It then outlines a general set of tax provisions that are applicable to the entirety of Subtitle B.⁶⁸ In general, exempt businesses that fall under these provisions are subject to a four percent preferential flat income tax rate in lieu of any other income tax.⁶⁹ Additionally, for exempt business entities, such as partners or shareholders of partnerships or corporations, there is a full exemption on the payment of income taxes

57 *Id.*

58 *Id.*

59 *Id.* §§ 45031-46053, 47001-47051.

60 *Id.* §§ 45031-46053.

61 *Id.*

62 *Id.*

63 *Id.* §§ 47001-47051.

64 *Id.*

65 *Id.*

66 *Id.* § 48584(a)(21).

67 *Aid & Incentives: Eligibility for Decrees under Act 60-2019*, DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE OF PUERTO RICO <https://www.desarrollo.pr.gov/ayudas-e-incentivos?tab=codigo#incentivos> (last visited Apr. 17, 2025) (in Spanish).

68 13 P.R. LAWS ANN. §§ 45031-45062.

69 *Id.* § 45032.

derived from the distribution of profits or dividends.⁷⁰ It also allows deductions and net operating loss carryovers in the order in which they are accrued, with the limitation that the deduction can only be used against income not exempt under Act 60.⁷¹ Other generous tax incentives under this chapter include a seventy five percent exemption on movable and immovable property taxes, and a fifty percent exemption on municipal taxes.⁷²

One final provision of note is the tax treatment of “Small and Medium-Sized Businesses” (SMBs),⁷³ which provides even more generous incentives for qualifying businesses. Specifically, it states that the exempt income of a new SMB will be subject to a flat income tax rate of two percent for a term of five years, and four percent for the remaining period of the Decree.⁷⁴ Moreover, the new SMB shall enjoy a 100% exemption from movable and immovable property taxes, as well as from municipal taxes for the first five years of the Decree.⁷⁵ For the remaining exemption period, the new SMB will enjoy a seventy five percent exemption from movable and immovable property taxes, and a fifty percent exemption from municipal taxes.⁷⁶

Chapter 2 contains the provisions relating to Individual Resident Investors.⁷⁷ The main benefits it provides for qualifying individuals, is a 100% exemption on income derived from dividends, interests, and capital gains.⁷⁸ Additionally, beneficiaries of this Chapter retain these benefits until December 31, 2035.⁷⁹ Chapter 2 encompasses the main substance of former Act 22-2012.⁸⁰ To be eligible for the benefits, an aspiring beneficiary must first obtain a decree issued by the Secretary of the Department of Economic Development and Commerce of Puerto Rico (DEDC).⁸¹

A requirement to obtaining the decree is demonstrating that the aspiring beneficiary was *not a bona fide* resident of Puerto Rico at any time between January 17, 2006, and January 16, 2012, and that they subsequently became one.⁸² The residency requirement is defined under section 937 of the *Internal Revenue Code*,⁸³ which generally requires an individual to reside in Puerto Rico for at least 183 days during the taxable year, and to not have a tax home with a closer connection to Puerto Rico elsewhere during the taxable year.⁸⁴ Essentially, this requirement means that Puerto Ricans who have lived their whole lives on the Island do not qualify for these incentives.

70 *Id.*

71 *Id.*

72 *Id.* §§ 45033-45034.

73 *Id.* §§ 45041-45042.

74 *Id.* § 45041.

75 *Id.*

76 *Id.*

77 *Id.* §§ 45131-45181.

78 *Id.* § 45141.

79 *Id.* § 45142.

80 *Id.* §§ 45131-45181.

81 *Id.* § 45131.

82 *Aid & Incentives: Eligibility for Decrees under Act 60-2019*, DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE OF PUERTO RICO <https://www.desarrollo.pr.gov/ayudas-e-incentivos?tab=codigo#incentivos> (last visited Apr. 17, 2025) (in Spanish) (emphasis added).

83 Internal Revenue Code, 26 U.S.C. § 937 (2004).

84 *Id.* at § 937(a)(1)-(2).

The chapter also includes provisions regarding long-term capital gains accrued before and after an individual becomes a *bona fide* resident of Puerto Rico.⁸⁵ For long-term capital gains that a resident individual investor generated *before* becoming a resident of Puerto Rico, but recognized at least ten years before establishing residency and before January 1, 2036, the applicable tax rate is five percent, in *lieu* of any other tax imposed under the *Puerto Rico Internal Revenue Code*, including the alternate basic tax provided in this Code.⁸⁶ This five percent tax rate serves as a substitution to federal capital gains tax that would otherwise apply.⁸⁷ Given that the federal tax rate alternative can range from fifteen percent to twenty eight percent for wealthy individuals, this represents an extremely incentivizing tax reduction on capital gains tax.⁸⁸

For the portion of long-term capital gains generated *after* becoming a resident and recognized before January 1, 2036, gains will be fully exempt from taxation,⁸⁹ including an exemption on the alternate basic tax that the Code also provides for.⁹⁰ It goes without mention, that not recognizing such gains in a timely manner will make such gains subject to regular capital gains taxation at the time it is recognized.⁹¹ Any decree holder will be able to reap these tax exemptions so long as they maintain the *bona fide* residency status the Internal Revenue Service (IRS) provides for.⁹² This means that, aside from living on the Island for at least half of the taxable year, individual resident investors have minimum requirements to ensure they continue receiving this benefit. This lack of substantial requirements has made Chapter 2 particularly controversial since its initial enactment as Act 22-2012.⁹³ Thousands of ultra-wealthy individuals have relocated to Puerto Rico under Act 22, based on the theory that these individuals would invest, create jobs and help prop up a Puerto Rican economy in the midst of a decades-long crisis, despite the law having little to no actual investment or job creation requirements.⁹⁴

Other provisions of Chapter 2 that are meant to attract rich individuals, are those pertaining to “difficult to hire employees”, “qualified physicians”, and “researchers and scientists”.⁹⁵ For “difficult to hire employees”, it provides a 100% tax exemption on income in excess of \$100,000.⁹⁶ The only requirement for these employees to obtain the benefits, is that they must hold a full time position at an exempt business with a valid decree.⁹⁷ The only anti-abuse provision pertaining to these individuals is that they cannot *also* be ben-

85 13 P.R. LAWS ANN. § 45142.

86 *Id.* § 45142(a).

87 26 U.S.C. § 1(h).

88 *Id.* § 1(h)(C)-(F).

89 13 P.R. LAWS ANN. § 45142(b).

90 *Id.*

91 *Id.*

92 26 U.S.C. § 937(b).

93 Alberto C. Medina, *Tax Cheats are Taking Advantage of Puerto Rico – the US Government Can Stop Them*, THE HILL, (Nov. 21, 2023), <https://thehill.com/opinion/finance/4319700-tax-cheats-are-taking-advantage-of-puerto-rico-the-us-government-can-stop-them/>.

94 *Id.*

95 13 P.R. LAWS ANN. §§ 45143–45146.

96 *Id.* § 45143.

97 *Id.*

eficiaries under the main provisions of this chapter, that is, that of an individual resident investor under former Act 22-2012.⁹⁸

For qualified physicians, the applicant must have obtain a decree before July 2022; otherwise, this provision is no longer available for non-decree-holders.⁹⁹ Physicians who secured a decree on time will be subject to a four percent preferential income tax in lieu of any other tax provided by the Code.¹⁰⁰ These decree-holders also qualify for an exemption on income taxes earned from dividends during the taxable year up to \$250,000.¹⁰¹ The benefits for decree-holders last for fifteen years, negotiable for up to another fifteen years, so long as they meet the requirements for these benefits during the entire period.¹⁰²

For researchers and scientists, the Code provides a 100% income tax exemption up to either (1) \$195,000 earned in research conducted in higher education institutions, or (2) \$250,000 in research conducted in a sciences district's entity.¹⁰³ The section further explains that a "sciences district's entity" is one of "...activities carried out in the district established in Section 7 of Act No. 214-2004."¹⁰⁴ Act 214-2004 creates a trust fund to support numerous research and scientific projects in Puerto Rico, combined with federal and private funding.¹⁰⁵ Interestingly enough, beneficiaries under this provision are also required to perform at least sixty hours of community service in areas designated by the DEDC, annually.¹⁰⁶

In addition to the aforementioned requirements for eligibility under this chapter, decree applicants are required to pay at least \$10,000 to nonprofit organizations that operate in Puerto Rico, every year.¹⁰⁷ As part of this requirement, the contributions cannot be to entities owned by the decree-holder, his or her ascendants, or descendants.¹⁰⁸ A notable omission in this section is the lack of reference to spouses; one would presume that restriction applies to them as well.

Chapter 1305 addresses the exportation of goods and services across numerous industries.¹⁰⁹ This chapter, as well as several subsequent chapters, provide similar rules, benefits, and eligibility rules because they arise from former Act 20-2012.¹¹⁰ For purposes of brevity, the chapter will be discussed alongside the other chapters relating to the same benefits and rules. The tax incentives provided in this section are intended for eligible businesses as determined by Subchapter A of Chapter 1305.¹¹¹ The main benefits include

98 *Id.*

99 *Id.* § 45144.

100 *Id.*

101 *Id.*

102 *Id.*

103 *Id.* § 45145.

104 *Id.* § 45145(b).

105 Puerto Rico Science, Technology, and Research Trust Act, Act No. 214-2004, 23 LPRA §§ 695-695(i) (2020) (amended by Act No. 107-2017).

106 13 LPRA § 45145(c).

107 *Id.* § 45151 (c).

108 *Id.*

109 *Id.* §§ 45231-45261.

110 *Id.*

111 *Id.* § 45231(a)(1)-45231(a)(19).

a flat four percent income tax rate, an exemption on seventy five percent of property taxes, an exemption on fifty percent of municipal taxes, and a 100% exemption on income from dividends.¹¹² These also apply to eligible businesses and individuals that qualify under Chapters 1306 through 1312, with slight variations across some industries.¹¹³ One such variation is that of private equity funds under Chapter 1306.¹¹⁴ Businesses that buy and sell non-public securities can obtain a ten percent income tax rate on income derived from interest and dividends, a 100% exemption on capital gains taxes, and a tax deduction of thirty or sixty percent of the investment made into the fund.¹¹⁵

For Chapter 1307, titled “Visitor Economy” (i.e. Tourism), eligible businesses receive the general tax benefits mentioned earlier, with additional tax credits that will be discussed in Part III.¹¹⁶ It also provides for deductions and net loss carryovers, deductions on license fees, deductions on construction fees and charges, and a full exemption on fuel, oil by-products, and hydrocarbon blends used involving tourism.¹¹⁷ Eligible business activities include casinos, hotels, condos, hostels, guest houses, bed and breakfasts, hotel golf courses, theme parks, and others.¹¹⁸

As for Chapters 1308 and 1309, the focus is on manufacturing, infrastructure, and green energy business activities.¹¹⁹ Generally, manufacturing, and green energy provides the same tax benefits as those described in Chapter 1305, with the addition of a 100% tax exemption on investments made on raw materials, machinery, and heavy equipment.¹²⁰ For the infrastructure provisions of Chapter 1309, the incentives are notably different. They generally provide a four percent income tax rate, a 100% exemption on property taxes, and a ninety percent exemption on municipal taxes.¹²¹ This infrastructure section is aimed at construction of social interest homes for elderly citizens, assisted living, and local historic districts.¹²²

Chapter 1308, titled “Agro-industries,” has similar provisions to those of Chapter 1309, which concerns infrastructure.¹²³ The main notable differences are that of a ninety percent income tax exemption (instead of a flat four percent income tax rate) and a 100% exemption on investments related to raw materials, machinery, and equipment.¹²⁴

Chapter 1311, titled “Creative Industries,” aims at developing and growing the film industry in Puerto Rico.¹²⁵ The main benefits provided in this chapter are the same as those mentioned in Chapter 1305, with the distinction that, instead of receiving a fifty percent

112 *Id.* § 45241.

113 *Id.* §§ 45331–45973.

114 *Id.* § 45363.

115 *Id.*

116 *Id.* §§ 45451–45457.

117 *Id.*

118 *Id.* § 45441(b).

119 *Id.* §§ 45551–45683.

120 *Id.* §§ 45564(a)(1)–45564(a)(2), 45565(a)(1).

121 *Id.* §§ 45661–45664.

122 *Id.* § 45662.

123 *Id.* §§ 45761–45801.

124 *Id.* §§ 45771–45775.

125 *Id.* §§ 45871–45901.

exemption on municipal taxes, beneficiaries under this chapter receive a seventy five per cent exemption on municipal taxes.¹²⁶ Finally, there are additional tax credits available for production expenses and payments to foreigners that are further discussed in Part III.¹²⁷

Chapter 1312 concerns entrepreneurship, catering to individuals under thirty-six years of age that create new businesses.¹²⁸ Specifically, it provides a 100% exemption on the first \$500,000 of net income derived from the new business and a 100% tax exemption on movable property and municipal taxes.¹²⁹ This decree specifically has a duration of three years from the commencement of operations.¹³⁰

Finally, Chapter 1313, titled “Other Industries,” tackles a wide range of carriers.¹³¹ Its provisions concern air carriers, ocean freight carriers, and cruises.¹³² It offers a full exemption on income, property, and municipal taxes to businesses engaged in air transportation services as carriers.¹³³ It also offers a full tax exemption of income, property, municipal, and dividend taxes for ocean freight carriers engaged in transportation of cargo between Puerto Rico and foreign ports.¹³⁴ Finally, for cruise ships docked in Puerto Rico’s ports, there are contributions and discounts to passenger fares based on visits, passenger numbers, port stay, and more, which shall not exceed \$13.25 per passenger.¹³⁵

The tax incentives provided in Part III encompass nearly every aspect of the Puerto Rican economy, individuals, and businesses, all while offering some extremely generous benefits to all. Part III details the tax credits that Act 60 offers for certain industries, further completing the incentives package that foreigners can take advantage of.¹³⁶

B. Subtitle C: Tax Credits

Part III focuses on tax credits and cash grants on several industries.¹³⁷ It first contains a General Rules section, followed by five chapters, each of which addresses tax credits and cash grants for specific sectors of the economy.¹³⁸ The General Rules section empowers the DEDC to regulate the rules for granting such tax credits by permitting the agency to enter into incentives agreements with the exempt businesses directly.¹³⁹ It also grants a tax exemption on income taxes that may arise from the granting of the tax credits.¹⁴⁰

¹²⁶ *Id.* § 45884.

¹²⁷ *Id.* § 47051.

¹²⁸ *Id.* §§ 45971–45973.

¹²⁹ *Id.* § 45971.

¹³⁰ *Id.* § 45971(b)(4).

¹³¹ *Id.* §§ 46051–46053.

¹³² *Id.*

¹³³ *Id.* § 46051.

¹³⁴ *Id.* § 46052.

¹³⁵ *Id.* § 46053(c).

¹³⁶ *Id.* §§ 47001–47051.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.* § 47001(a).

¹⁴⁰ *Id.* § 47001(c).

Exempt businesses that obtain tax credits also have the option of assigning the credit to the Department of the Treasury of Puerto Rico, in exchange for a cash refund.¹⁴¹ This cash refund can be anywhere from 85% to 90% of the tax credit face value.¹⁴² There are only two limitations to the granting of these tax credits or cash refunds: the fiscal year cap and the limitation on the recognizability of gains or losses.¹⁴³ The Government of Puerto Rico has set up a maximum amount of cash refunds it can grant per fiscal year of \$40,000,000, meaning all the cash refunds the government allows for a single fiscal year cannot exceed this amount.¹⁴⁴ Additionally, an exempt business shall not recognize any gain or loss, taxable income, or volume of business under the *Puerto Rico Internal Revenue Code* or the *Puerto Rico Municipal Code* for the tax credit authorized in this chapter.¹⁴⁵ These tax credits can be used against 100% of the tax liability of the applicable tax year.¹⁴⁶ Subject to some limitations that DEDC regulations can impose, the tax credits can be carried over until they are exhausted.¹⁴⁷ Except for the refund permitted by assigning the credit to the Department of the Treasury, the tax credits are nonrefundable.¹⁴⁸ They are, however, sellable, transferable, or assignable without it constituting a taxable event, for the most part.¹⁴⁹

Chapter 1322 of Part III grants tax credits to exempt businesses engaged in the visitor economy industry.¹⁵⁰ These are available, with prior approval from the DEDC, for businesses investing in eligible tourist projects.¹⁵¹ Businesses can claim thirty percent of their eligible tourism investment as a tax credit, and they can use ten percent upfront once financing is secured, and the remaining credit in three annual installments starting when the project begins operating.¹⁵² In some cases, the credit rises to forty percent, split into three equal annual installments beginning in the second year of operations.¹⁵³

As mentioned previously, these credits can be carried over until fully exhausted, with some limitations.¹⁵⁴ They are likewise capped at thirty or forty percent of the investment project cost, based on the specific investment and subject to the subsections discussed above.¹⁵⁵ The investment asset's basis is adjusted in proportion to the credit amount as well.¹⁵⁶ These credits are also transferable, subject to the same limitations the general provisions establish.¹⁵⁷ Finally, there is a reporting requirement to the government to ensure

141 *Id.* § 47001(d)(1).

142 *Id.*

143 *Id.* § 47001(d)(7)-47001(d)(8).

144 *Id.*

145 *Id.*

146 *Id.* § 47002(a)(2).

147 *Id.* § 47002(a)(4).

148 *Id.* § 47002(a)(5).

149 *Id.* § 47002(a)(6).

150 *Id.* § 47011.

151 *Id.* § 47011(a).

152 *Id.* § 47011(a)(1).

153 *Id.* § 47011(a)(2).

154 *Id.* § 47011(a)(3).

155 *Id.* § 47011(b).

156 *Id.* § 47011(d).

157 *Id.* § 47011(f).

credits align with actual spending.¹⁵⁸ These include an annual submission of an investment report, paired with notices of commencement of construction and operations.¹⁵⁹

Chapter 1323 of Part III focuses on the tax credits granted to businesses purchasing products manufactured in Puerto Rico.¹⁶⁰ Eligible businesses can claim a tax credit of twenty five percent of the value of purchases of these products, including recycled materials or commercial items made from recycled content.¹⁶¹ The regulation of these tax credits is granted to the DEDC, which also requires an annual certification of the businesses claiming these credits to ensure eligible purchases and credit amounts.¹⁶² These credits can also be carried over every year until fully exhausted, subject to some limitations.¹⁶³ The credit cannot be transferred (except in cases of an exempt reorganization) and is non-refundable.¹⁶⁴ Finally, an anti-abuse rule established for this chapter is that businesses with decrees under previous incentive laws cannot claim this credit if they are currently claiming similar credits or deductions under those prior laws.¹⁶⁵

Chapter 1324 provides tax credits for activities related to research and development.¹⁶⁶ It aims at promoting investment into science and technology.¹⁶⁷ Eligible businesses can claim a tax credit for fifty percent of their qualifying investment in Puerto Rico.¹⁶⁸ Businesses must apply for annual certification from DEDC to confirm eligibility and it must be supported by financial documentation prepared by a Puerto Rican CPA.¹⁶⁹ Beneficiaries of this credit can take up to half of the fifty percent credit on the first year, with the rest being usable in one or more years, until fully exhausted.¹⁷⁰

Accordingly, the investment asset's basis is adjusted in proportion to that credit.¹⁷¹ Similar to other credits mentioned previously, an anti-abuse rule established for this chapter is that businesses with decrees under previous incentive laws cannot claim this credit if they are currently claiming similar credits or deductions under those prior laws.¹⁷² This credit in particular is also *ineligible* for the cash refund that has been mentioned previously.¹⁷³ However, an interesting requirement under this chapter is that of the reinvestment of an amount *equal to the tax credit awarded* into research and development activities in Puerto Rico.¹⁷⁴

158 *Id.* § 47011(d)(2)-47011(d)(5).

159 *Id.*

160 *Id.* § 47021.

161 *Id.* § 47021(a)(1).

162 *Id.* § 47021(a)(3).

163 *Id.* § 47021(a)(4).

164 *Id.*

165 *Id.* § 47021(a)(5).

166 *Id.* § 47031.

167 *Id.*

168 *Id.* § 47031(a)(1).

169 *Id.* § 47031(a)(2).

170 *Id.* § 47031(a)(4).

171 *Id.* § 47031(a)(6).

172 *Id.* § 47031(a)(8).

173 *Id.* § 47031(a)(7).

174 *Id.* § 47031(a)(5).

Chapter 1325 of Part III has been reserved, thus there are no provisions under this chapter. Moving on to Chapter 1326, the focus is shifted toward the creative industries.¹⁷⁵ To be eligible for these credits, grantees engaged in film projects need to apply and be approved by the Secretary of the DEDC.¹⁷⁶ The credit amounts vary depending on the production expenses in Puerto Rico.¹⁷⁷ The chapter includes: a forty percent tax credit on production expenses incurred within Puerto Rico, to the exclusion of payments to foreign persons.¹⁷⁸ Additionally, it provides a twenty percent tax credit on expenses relating to the payments to foreign persons.¹⁷⁹ It also includes an additional fifteen percent tax credit for projects whose lead producer is Puerto Rican, capped at \$4,000,000 of maximum credits per film project.¹⁸⁰ Credits can be claimed in multiple installments, with up to fifty percent of the total credits available in the year activities start, with the remaining balance available in subsequent years.¹⁸¹ Credits for domestic expenses can cover up to fifty-five percent of total local production costs.¹⁸²

To obtain the first fifty percent, grantees need to provide a bond or auditor certification confirming that at least half of the expenses were paid, whereas the rest of the credits become available once all production expenses are verified as paid.¹⁸³ Total tax credits are capped at \$100 million each fiscal year, with at least ten percent reserved for Puerto Rican productions and documentaries.¹⁸⁴ These tax credits are exempt from both income taxation and municipal taxation.¹⁸⁵

There are some additional provisions under this chapter that are interesting to note, one of these being that credits can be awarded over multiple years through “competitive bidding” as outlined by the Secretary of DEDC.¹⁸⁶ Another provision requires that grantees contribute one percent of their qualifying expenses (with a cap of \$250,000 per grantee) to the Economic Incentives Fund for promoting the Puerto Rican film industry.¹⁸⁷ Finally, the third provision worth noting under this subsection stipulates that film projects (grantees) cannot apply for additional tax credits beyond the maximum established in their grant.¹⁸⁸

The tax credits that subsection (c) offers, can generally be combined with the other tax incentives that correspond to these creative industries under subsection (b).¹⁸⁹ Additionally, Act 60 provides for subsidies and other programs in subsection (d), and creates an Economic Incentives Fund to provide the resources needed for the incentives offered

175 *Id.* § 47051.

176 *Id.* §§ 47051(a)-47051(b).

177 *Id.* § 47051(c).

178 *Id.* § 47051(c)(1)(A).

179 *Id.* § 47051(c)(1)(B).

180 *Id.* § 47051(c)(1)(C).

181 *Id.* § 47051(c)(2).

182 *Id.* § 47051(c)(3).

183 *Id.* §§ 47051(d)-47051(e).

184 *Id.* § 47051(c)(1)(d) (Supp. 2024).

185 *Id.* § 47051(g).

186 *Id.* § 47051(h).

187 *Id.* § 47051(i).

188 *Id.* § 47051(j).

189 *Aid & Incentives: Eligibility for Decrees under Act 60-2019*, *supra* note 67.

under subsection (e).¹⁹⁰ Finally, subsection (f) contains the Administrative Provisions that are applicable to the entire Code, as well as chapters applicable to each subsection specifically.¹⁹¹ One notable chapter within subsection (f) is Chapter 7, Final Provisions.¹⁹² The portion of this chapter that is necessary to highlight is the one creating the Economic Development Opportunity Zones.¹⁹³

C. Economic Development Opportunity Zones

The *Economic Opportunity Development Zones* provisions under section 48583(a) (1) are designed to attract investments into designated “opportunity zones” across Puerto Rico, especially from those entities that invest in “priority projects.”¹⁹⁴ These projects focus on sustainable economic growth by fostering a continuous inflow of capital into underdeveloped areas.¹⁹⁵ Eligible businesses operating within these zones receive numerous tax incentives, including an 18.5% flat income tax rate on net income generated within opportunity zones, exemptions from municipal and state property taxes up to twenty-five percent for qualifying personal and real property, partial exemptions from municipal license taxes and other local fees, and tax-free distributions of dividends and profits derived from earnings generated in an opportunity zone.¹⁹⁶

Entities must qualify as “Priority Projects,” a status determined based on their expected impact on job creation, contributions to critical sectors like education and healthcare, and its alignment with Puerto Rico’s economic needs.¹⁹⁷ Both local and foreign investors may participate by establishing approved businesses within the specified zones.¹⁹⁸ The provisions outline several eligibility requirements for businesses, such as maintaining local accounting records and reporting annually to ensure compliance, a fifteen-year tax exemption period with possible flexibility regarding the specific years covered, opportunities to renegotiate tax decrees so long as businesses demonstrate significant expansion or new investment, and strict transfer, compliance, and revocation clauses, allowing for penalties or decree cancellations for non-compliance.¹⁹⁹

These provisions were inspired by the *Tax Cuts and Jobs Act of 2017* (TCJA).²⁰⁰ Act 60, builds upon the TCJA and enables more preferential tax treatment for investors of these zones.²⁰¹ After the TCJA was enacted, around ninety-eight percent of Puerto Rico’s

¹⁹⁰ 13 LPRA §§ 47051–48004.

¹⁹¹ *Id.* §§ 48501–48551.

¹⁹² *Id.* §§ 48581–48599.

¹⁹³ *Id.* § 48583–48596.

¹⁹⁴ *Id.* § 48583(a)(1).

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* § 48585.

¹⁹⁷ *Id.* § 48589.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.* §§ 48593–48598.

²⁰⁰ Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

²⁰¹ *Opportunity Zones Program*, DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE OF PUERTO RICO 7 <https://www.novoco.com/public-media/documents/puerto-rico-opportunity-zone-program-presentation-eng.pdf> (last accessed Apr. 18, 2025).

land was classified as an opportunity zone.²⁰² This has sparked controversy around these provisions, specifically on the insufficient impact of these policies.²⁰³ Critics of these laws also point out how the effects of these provisions increased the cost of living in these areas, displacing and “pricing-out” the local residents as a result.²⁰⁴ Consequently, Act 60 is labeled by critics as a tool for modern colonialism.²⁰⁵ Additionally, designating ninety-eight percent of the land as an opportunity zone has brought further criticism that Puerto Rico is being “sold out.”²⁰⁶

As mentioned previously, Puerto Rico’s economy has stagnated for over two decades now.²⁰⁷ Thus, advocates of these provisions, and Act 60 more broadly, claim that the money they receive from the foreign investors is “necessary.”²⁰⁸ Advocates also point to the slow but steady economic recovery Puerto Rico has had in recent years as a consequence of Act 60 and the Economic Development Opportunity Zones.²⁰⁹ It is a heated debate, and the economic effects of these provisions are further explored later in this article. Although this article mostly focuses on Subtitle B and C and the economic and social policies related to them, given the importance of the Economic Development Opportunity Zones, it would not have been prudent to omit the discussion around these provisions.

IV. ECONOMIC AND SOCIAL IMPLICATIONS

Now that a little over five years have passed since Act 60’s enactment, it is a good time to evaluate the law’s impact of such a substantial and far-reaching set of laws on the Puerto Rican economy and society.²¹⁰ The article will first lay out the overall economic impact of Act 60 since its enactment by applying the traditional macroeconomic factors used to analyze economic growth, such as Gross Domestic Product (GDP) and employment rates. Secondly, the article will cover studies that have also focused on the economic impacts of Act 60. Lastly, the article will provide a contrasting overview of both the perceived positive effects and negative effects of Act 60.

A. Economic Impact

Given that Puerto Rico’s economy had been stagnating since 2006, the enactment of Act 60 seemed to be intended as a last-ditch effort to promote any economic growth on the

²⁰² *Id.*

²⁰³ Mariah Espada, *Influencers, Developers, Crypto Currency Tycoons: How Puerto Ricans Are Fighting Back Against the Outsiders Using the Island as a Tax Haven*, TIME (Apr. 19, 2021), <https://time.com/5955629/puerto-rico-tax-haven-opposition/>.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Gomez, *supra* note 16.

²⁰⁸ Adam Wallwork & Gary Hecimovich, *Rebuilding Puerto Rico with Opportunity Zones Incentives*, 56 UIC L. Rev. 27, 70 (2022).

²⁰⁹ Associated Press, *supra* note 17.

²¹⁰ Statement of Motives, Puerto Rico Incentives Code, Act No. 60-2019, 2019 P.R. Laws 572.

Island.²¹¹ A country's GDP is the total monetary value of final goods and services produced by that country or state in a specific time period.²¹² Diving deeper into the economic meltdown, Puerto Rico's GDP went into a freefall in 2005.²¹³ It went from an 8.75% growth in 2004 to a -1.99% decrease in 2005.²¹⁴ Additionally, the growth rate continued to decrease in ranges of -1% to -4% every year until 2018.²¹⁵ Making for a grand total fourteen percent decrease in the same time period.²¹⁶ For every year since 2019, however, Puerto Rico has seen relatively consistent economic growth.²¹⁷ Aside from the economic decline that the COVID-19 Pandemic caused in 2020, the GDP grew in ranges of 0.5% to 3.5% every year, until 2024.²¹⁸ The data here suggests that the general economy grew in the years since the enactment of Act 60.

There is more to an economic analysis than GDP, however. Another key factor determining the impact of a drastic policy change like Act 60 is the unemployment rate. Unemployment is calculated as the percentage rate of the total labor force that is able and willing to work, but that does not have a job.²¹⁹ Starting in 2006, Puerto Rico's unemployment rate was at eleven percent.²²⁰ The highest level of unemployment reached in the past decades was at 16.1% in 2010, following the aforementioned sunset of Section 936 in 2006, and the 2008 economic recession.²²¹ In the following decade, unemployment dropped at a consistent rate and is currently sitting at six percent.²²² However, aside from the slight increase in 2020 due to the COVID-19 pandemic, the unemployment rate has been in a steady decrease since 2010.²²³ This would suggest that Act 60 did not have a significant impact on the unemployment rate in Puerto Rico, since the steady decrease in unemployment had commenced almost an entire decade before.²²⁴

Another important factor to consider is the population size. One intended purpose of Act 60 is to attract foreign investors and workers to help repopulate the Island; therefore, examining migration rates and their impact on the total population could help de-

²¹¹ Gomez, *supra* note 16.

²¹² Tim Callen, *Gross Domestic Product: An Economy's All*, INTERNATIONAL MONETARY FUND, <https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/gross-domestic-product-GDP> (last accessed Apr. 18, 2025).

²¹³ *Puerto Rico GDP 1960-2025* MACROTRENDS, <https://www.macrotrends.net/global-metrics/countries/PRI/puerto-rico/gdp-gross-domestic-product> (last accessed Apr. 18, 2025).

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ Bradley Wendt, *Puerto Rico Fiscal Reform: The End of the Beginning*, LAW360, (June 14, 2017), <https://media.crai.com/sites/default/files/publications/Puerto-Rico-Fiscal-Reform-The-End-Of-The-Beginning.pdf>.

²¹⁷ *Puerto Rico*, WORLD BANK DATA, <https://data.worldbank.org/country/puerto-rico> (last accessed Apr. 18, 2025).

²¹⁸ *Id.*

²¹⁹ *What is the Unemployment Rate?*, INVESTOPEDIA, (Jan. 27, 2025), <https://www.investopedia.com/terms/u/unemploymentrate.asp>.

²²⁰ WORLD BANK DATA, *supra* note 217.

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*

termine Act 60's effect on Puerto Rico's population size.²²⁵ Starting in 2004, the peak population size in Puerto Rico was approximately 3.9 million people.²²⁶ The population size then plummeted to a historical low of approximately 3.1 million people in 2018.²²⁷ It then rose sharply between 2019 and 2020, to a little over 3.2 million people.²²⁸ Total population currently rests at around 3.2 million people, but with a slight downward tendency.²²⁹ In terms of migration, the World Bank defines it as the net total of migrants during a period, or in other words, the number of immigrants minus the number of emigrants, including both citizens and noncitizens.²³⁰ Starting in 2004, the net migration in Puerto Rico was approximately of -30,000, a rate that continued until 2009.²³¹ After that, the migration rate sharply decreased in the following years, to an all-time low of -66,000 in 2016.²³² Net migration rose significantly in the following years, even achieving a positive net migration rate for the first time in decades in 2022.²³³ In 2023, net migration rose to its highest levels in recent years, having a positive migration rate of around 20,000.²³⁴ This data suggests that since 2018, there has been a slow but steady recovery of the population, achieving growth not seen since the last century.

This is in no way an in-depth economic analysis, but a mere overview of some of the most important macroeconomic factors. The initial assessment of the data provides a mixed bag of conclusions. On one hand, there are trends of economic growth based on the recent GDP growth and the population recovery. On the other hand, the unemployment rate does not seem to suggest that there is a correlation between these factors and the implementation of Act 60. A more direct approach is needed to determine the impact of Act 60 on Puerto Rico's economy. The following subsections will analyze the studies conducted on the impacts of Act 60, along with other anecdotal evidence that has begun to develop, to identify both the positive and negative effects.

B. Positive Effects

In May 2024, the DEDC published a study that aimed at evaluating the impact and overall return on investment for Act 60 and its preceding laws.²³⁵ The study went industry-by-industry, and it calculated the return on investment for every chapter within Sub-

²²⁵ Statement of Motives, Puerto Rico Incentives Code, Act No. 60-2019, 2019 P.R. Laws 572, 576-90.

²²⁶ World Bank, *supra* note 218.

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ World Bank, *Net migration*, WORLD BANK DATA, <https://databank.worldbank.org/metadataglossary/africa-development-indicators/series/SM.POP.NETM> (last accessed Apr. 18, 2025).

²³¹ WORLD BANK DATA, *supra* note 217.

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ Notiséis, *DDEC publica estudio sobre el retorno de rendimiento de los incentivos*, WIPR, (May 21, 2024), <https://wipr.pr/ddec-publica-estudio-sobre-el-retorno-de-rendimiento-de-los-incentivos/> (in Spanish).

titles B and C of Act 60.²³⁶ The main finding was that of the \$3.2 billion generated from income taxes, \$2.3 billion of them came from incentivized foreign corporations.²³⁷ It also found that Individual Resident Investors (beneficiaries under the former Act 22-2012) contributed an estimated \$144 million in income taxes in 2022.²³⁸ An amount that increased significantly since the initial enactment of Act 60, the study calculated a total growth of over \$24 million in that same time period.²³⁹

Another important finding was that, when compared to local corporations and individuals, the beneficiaries paid proportionately more taxes.²⁴⁰ The study also found an increase in employment with around 22,000 jobs directly linked to Act 60 activities.²⁴¹ The study noted, however, that a significant amount of the income generated from incentive programs came from decrees granted before the enactment of Act 60 (e.g. Acts 20 and 22).²⁴²

The study provided an analysis of every industry covered under Act 60, reviewing the key datasets, return on investment analysis and determination, and other notable considerations.²⁴³ Starting with Foreign Manufacturing, the study found that this industry generated an estimated \$2.3 to \$2.6 billion annually in taxes.²⁴⁴ It also estimated a cost to the government of around \$1.4 to \$1.8 billion.²⁴⁵ Meaning that the estimated return on investment ranged between forty-five to fifty percent.²⁴⁶ Additionally, it correlates and estimated 41,000 employments to these companies.²⁴⁷ Quite notably, it found that the majority of the return came from Pharmaceutical and Medical Equipment industries.²⁴⁸

When compared to Domestic Manufacturing, the study found a lower overall return on investment.²⁴⁹ The estimated total benefits were only between \$401 to \$504 millions for the same time period.²⁵⁰ Quite interestingly, the study found the return on investment to be neutral, ranging from around 4.7% to 5.5%.²⁵¹ However, it also notes that part of the reason for this is that there are less incentives offered to these local companies.²⁵² As for the employment, the study estimated that approximately 33,000 jobs were correlated to these local companies.²⁵³

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Performance Evaluation of Economic Incentives: Data Assessment and Return on Investment (ROI) Analysis*, DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE OF PUERTO RICO, (May 21, 2024), <http://wipr.pr/wp-content/uploads/2024/05/21may24-Performance-Evaluation-of-Economic-Incentives-digital-Final.pdf>.

²⁴³ *Id.* at 6.

²⁴⁴ *Id.* at 26–27.

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Id.* at 26, 29.

²⁴⁹ *Id.* at 30.

²⁵⁰ *Id.* at 30.

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

In the Export Services Industry–inherited from former Act 20-2012– the results were interesting.²⁵⁴ The study found an increase in direct employment, generating between 11,562 to 22,192 jobs in this same time period.²⁵⁵ Interestingly, it also found a significant increase in decree-holders; from 1,605 in 2020 to 2,725 in 2022.²⁵⁶ Likewise, the return on investment changed drastically since the enactment of Act 60; fluctuating consistently between approximately a sixteen to eighteen percent.²⁵⁷ The reason for this drastic change stems from the significant increase in revenues earned from decree-holders going from \$184 million to \$418 million.²⁵⁸ Thus, the study concluded that these sections specifically showed a strong correlation between significant job creation and the economic activities related to the Act 22-2012 decree-holders.²⁵⁹

Shifting the focus toward the Resident Individual Investors–inherited from former Act 22-2012–the study found that beneficiary individual investors also typically establish businesses that hold Act 22-2012 decrees.²⁶⁰ For this reason, the employment growth associated with the Individual Investor provisions is mainly indirect.²⁶¹ Nevertheless, the study still found that the direct employment associated with these provisions was approximately 5,439 in 2020, which increased to 8,266 in 2022.²⁶² Revenues earned from these individuals during this time period range from \$144 to \$201 million, with a return on investment ranging from 74.9% down to a 9.2%.²⁶³ The return on investment figures decrease significantly because the spending on the program increased drastically, going from \$82 million to \$184.4 million in the same time-frame.²⁶⁴ Part of the reason this provision is so seemingly successful is due to the donation requirements, which increases the social contributions from these individuals.²⁶⁵

The study also dives into additional industries, although with less success. The poor record-keeping, inaccurate tracking, and other data inconsistencies hindered the analysis of the tax incentives in those industries.²⁶⁶ Among these industries are the Creative Industry, Agriculture, Visitor Economy, Private Equity & Finance, and Qualified Physicians.²⁶⁷ The incentives that generated negative results, as well as other, more anecdotal issues, will be addressed in the next subsection.

C. Negative Effects

First, not every industry generated positive revenues for the government of Puerto Rico. Continuing with the study published by the DEDC, one notable industry that saw

²⁵⁴ *Id.* at 32–35.

²⁵⁵ *Id.* at 33.

²⁵⁶ *Id.*

²⁵⁷ *Id.* at 34.

²⁵⁸ *Id.*

²⁵⁹ *Id.* at 33.

²⁶⁰ *Id.* at 36–41.

²⁶¹ *Id.*

²⁶² *Id.* at 37.

²⁶³ *Id.* at 40.

²⁶⁴ *Id.*

²⁶⁵ *Id.* at 36.

²⁶⁶ *Id.* at 50, 55.

²⁶⁷ *Id.* at 42, 44, 53, 58, 60.

significant negative results was the Creative Industry.²⁶⁸ The subsection of Act 60 aimed for the creative industry cost the government approximately \$102 million between 2020 and 2022.²⁶⁹ However, the creative industry generated a mere \$52 million in return from related commercial activities.²⁷⁰ An abysmal, -49.5% return on investment.²⁷¹ The data for this part of the study was based on 45 of the 80 creative projects associated with this subsection of Act 60.²⁷² The study also found that the average creative project generated about 122 temporary jobs.²⁷³ It ultimately concluded that this particular subsection of Act 60 has been so unsuccessful in part because of the lack of permanent filming and production studios.²⁷⁴ Based on the findings, the study suggested that targeting policy development to incentivize the creation of a more permanent solution could potentially change this result.²⁷⁵

The industries analyzed hereafter lack significant amounts of data, thus the results for these should be interpreted cautiously. Starting off with Agriculture, the study found that around 2,100 non-salaried jobs are associated with the incentives provided in Act 60.²⁷⁶ It also found that the program cost the government around \$39.9 million, while only generating around \$10.7 million in revenues.²⁷⁷ This would indicate a return on investment of around -73.2%.²⁷⁸ This could also be the result of the overall decline in agriculture and farming industries in Puerto Rico; the study points to an almost fifty percent decrease in overall agricultural incentives awarded since 2017.²⁷⁹ Although the agricultural industry was already declining long before, the enactment of Act 60 did not seem to mitigate this decline at all.

Another important industry is Tourism and the overall Visitor Economy. The study found that there are around 175 decree-holders under this section of Act 60.²⁸⁰ With a total program cost of around \$136 million and overall revenues of around \$140 million, this industry generated around a 3.2% return on investment.²⁸¹ Additionally, it found direct employment of around 12,000 people.²⁸² Beneficiaries under this section also claimed around \$333.1 million in tax credits during the same period from 2020 through 2022.²⁸³ Though this section of Act 60 was not an outright failure, the overall return on investment is very low for such an important industry. Combined with the lack of complete and accurate data, these numbers should at least be taken with skepticism.

²⁶⁸ *Id.* at 42-46.

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.* at 43, 45.

²⁷⁴ *Id.* at 44.

²⁷⁵ *Id.* at 53.

²⁷⁶ *Id.* at 55.

²⁷⁷ *Id.* at 56.

²⁷⁸ *Id.*

²⁷⁹ *Id.* at 53.

²⁸⁰ *Id.* at 51.

²⁸¹ *Id.*

²⁸² *Id.*

²⁸³ *Id.*

Moving on to Private Equity and Finance, the data collected for the study is also very limited. The study found that close to \$450 million have been invested by Act 60 decree-holders, including beneficiaries from the preceding incentive program.²⁸⁴ Additionally, it found that the valuation of Puerto Rico-based companies with investments from incentivized capital investment funds surpassed \$840 million.²⁸⁵ It also found that almost seventy-five percent of all investments made by these funds have been in Puerto Rico-based companies; more than fifty percent of which is related to Real Estate.²⁸⁶ Once again, the lack of in-depth data and poor record-keeping hinder the reliability of these numbers. Although it may seem like a success at face value, the information available from the study should be considered insufficient.

Finally, another industry that had scarce amounts of data was the Qualified Physician incentives.²⁸⁷ As of 2020, around 4,000 tax decrees had been granted under this section.²⁸⁸ The study recognizes that this specific program is one of the costliest programs to the government since these individuals have a very high net income of over \$270,000 annually, on average; with a very low income tax rate of four percent.²⁸⁹ However, it also explains that calculating a return on investment from this specific program is inconsistent with the legislative intent for the incentives.²⁹⁰ Furthermore, the purpose of this program is to promote the long-term relocation of medical professionals and not to stimulate economic growth overall.²⁹¹

Another aspect of Act 60 that is important to address is the public perception of this policy. Generally, there is a divide between those who support statehood and those who support the commonwealth status and/or independence for Puerto Rico. Those that support statehood also tend to support these provisions, while the opposite is generally true for those who tend to support commonwealth status and/or independence for Puerto Rico. Most of the criticisms toward these provisions come from the people who argue that these beneficiaries are only coming to take advantage and exploit the tax incentives without *actually* benefiting the people of Puerto Rico.²⁹²

Part of the criticism also stems from the idea that these policies, mainly aimed at benefiting foreign investors, are tools for perpetuating colonialism and designed to exploit Puerto Ricans.²⁹³ The U.N. Special Committee on Decolonization approved a draft of a resolution that affirms Puerto Rico's right to self-determination and calls upon the United States to promote a process to those ends.²⁹⁴ As part of this resolution, the U.N., heard

²⁸⁴ *Id.* at 58–59.

²⁸⁵ *Id.*

²⁸⁶ *Id.*

²⁸⁷ *Id.* at 60.

²⁸⁸ *Id.*

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² Medina, *supra* note 93.

²⁹³ Press Release, General Assembly, *Special Committee on Decolonization Approves Resolution Reaffirming Puerto Rico's Inalienable Right to Self-determination, Independence*, U.N. PRESS RELEASE GA/COL/3372, (June 22, 2023), <https://press.un.org/en/2023/gacol3372.doc.htm>.

²⁹⁴ *Id.*

testimony from around fifty-one petitioners with ties to Puerto Rico.²⁹⁵ Among these, a few of them criticized the enactment of Act 60.²⁹⁶ One of these petitioners claimed that Act 60 “was imposed by ‘the colonizer and its puppets’ to create a tax haven in favor of Anglo-Saxons, displacing the Puerto Rican community for Anglo-Saxon investors’ benefit.”²⁹⁷ Another petitioner claimed that “the tax haven shows the colonial aberration by the colonizer and its puppets to control the Puerto Rican people and destroy their nation.”²⁹⁸ He also went on to state that “[t]his destruction is something that we will not allow,” whilst urging the international community to adopt the resolution.²⁹⁹

Opponents of Act 60 generally cite an increase in housing prices that is allegedly causing displacement of the local residents.³⁰⁰ Analyzing the real estate market, and specifically, the average sales price of homes in Puerto Rico, the prices have been steadily increasing since 2017.³⁰¹ The average sales price of houses in Puerto Rico fluctuated between \$150,000 and \$163,000 from 2011 to 2016.³⁰² Following a decade-low in 2017 of \$132,000, housing prices have sharply increased since then and continue to increase annually by an average of 28%.³⁰³ In 2022, the average price was at around \$248,000.³⁰⁴ In 2023, it was \$319,000.³⁰⁵ Even though this increase can be attributed to a wide array of factors, the impact Act 60 has had on real estate prices cannot be denied. Although it has not been established that Act 60 is the direct cause of this increase, the data would certainly indicate that it had some impact on the housing market. Perhaps the most renowned critic of Act 60, and its effect on real estate in Puerto Rico, is Puerto Rican artist, Benito A. Martínez Ocasio, also known by his stage-name “Bad Bunny.”³⁰⁶

Bad Bunny, in the musical video for “*El Apagón*”, includes a short documentary that covers testimonies from different people that suffered displacements caused by some Act 60 beneficiaries.³⁰⁷ The documentary also goes on to explain how Act 60 is a new colonial tool that mimics “the plantation economy.”³⁰⁸ He then explains Puerto Rico’s current territorial, colonial-like status, is being exacerbated by these tax policies.³⁰⁹ On the topic

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ Nicole Acevedo, *Do Puerto Rico Tax Breaks Displace Locals to Benefit the Wealthy? Here Are 5 Things to Know*, NBC NEWS, (Sep. 13, 2023), <https://www.nbcnews.com/news/latino/tax-breaks-puerto-rico-wealthy-displacement-five-things-to-know-rcna104683>.

³⁰¹ Iván Zavala, *Comportamiento del mercado inmobiliario en Puerto Rico*, INREALTA GRUPO INMOBILIARIO, <https://camarapr.org/wp-content/uploads/PP-Ivan-Zavala.pdf> (last accessed Nov. 19, 2024), (in Spanish).

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Cada vez es más difícil comprar una vivienda en Puerto Rico*, EL NUEVO DÍA (May 17, 2024), <https://www.elnuevodia.com/negocios/bienes-raices/notas/en-picada-la-asequibilidad-de-vivienda-en-puerto-rico/> (in Spanish).

³⁰⁵ *Id.*

³⁰⁶ Bad Bunny, *El Apagón – Aquí Vive Gente (Official Video) | Un Verano Sin Ti*, YOUTUBE, (Sep. 16, 2022), https://www.youtube.com/watch?v=iTCX_Aqz004.

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ *Id.*

of policies, he also criticizes the Puerto Rican government for creating these policies, and for handing Puerto Rico out “on a silver platter” to these wealthy foreign investors.³¹⁰ As a final note, he takes aim at specific beneficiaries of Act 60, among them Logan Paul, Brock Pierce, and Brian Tenenbaum.³¹¹

Brian Tenenbaum, one of the beneficiaries of Act 60, is the largest donor of political candidates in Puerto Rico.³¹² Bad Bunny particularly criticizes Tenenbaum for encouraging foreign investors to take advantage of the Act 60 benefits and going as far as calling it a “no-brainer.”³¹³ He is also infamous for buying up and closing schools in the San Juan area to turn them into all sorts of real estate projects.³¹⁴

Logan Paul is also a beneficiary of Act 60 and a famous YouTuber, podcaster, and boxer who announced in 2021 that he was moving to Puerto Rico.³¹⁵ He used to live in Los Angeles, but among the reasons he cited for moving to Puerto Rico, were the tax benefits.³¹⁶ At first he explained that it was he was moving to train for his upcoming boxing match against Floyd Mayweather, but later admitted that the main reason for moving were the tax benefits.³¹⁷

Another Act 60 beneficiary, Brock Pierce, is a *crypto billionaire* that moved to Puerto Rico in 2017.³¹⁸ However, when he first moved to Puerto Rico he was a beneficiary of the former Act 22-2012, as Act 60 had not been enacted.³¹⁹ The main reason for his relocation to Puerto Rico was also due to the generous tax incentives offered to individuals like him.³²⁰ Crypto gains are taxed under capital gains provisions of the tax code, thus Act 60 offering some of the lowest capital gains taxes in the world meant Mr. Pierce could cash in significantly more money than he would have been able to in the U.S.³²¹ He initially promised to use his new-found wealth to “revive the local economy,” by building hotels and establishing businesses, as well as trying to get his crypto-buddies to move to Puerto Rico with him.³²² However a lot of these promises have not materialized.³²³

Another reason Act 60 receives a lot of opposition is based on the criticism that some of the beneficiaries do not respect the law and are committing tax evasion and other crimes.³²⁴ Part of this has to do with the Puerto Rican government failing to ad-

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Id.*

³¹⁵ ImPaulsive Clips, *Why Logan Paul is Moving to Puerto Rico (Full Video)*, YOUTUBE, (Feb. 17, 2021), <https://www.youtube.com/watch?v=gBy4Hp3Klgg>.

³¹⁶ *Id.*

³¹⁷ Espada, *supra* note 203.

³¹⁸ David Yaffe-Bellany & Laura N. Perez Sanchez, *The Unraveling of a Crypto Dream*, THE NEW YORK TIMES, (Aug. 14, 2024),

<https://www.nytimes.com/2024/08/13/technology/brock-pierce-crypto-puerto-rico.html>.

³¹⁹ *Id.*

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*

³²⁴ Medina, *supra* note 93.

equately prosecute decree-holders who benefit from the provisions of Act 60 without fully meeting the requirements established by the Code.³²⁵ Some studies have suggested that the government is simply not doing anything about “tax cheats.”³²⁶ They cite, among other things, that the government has barely attempted to revoke decrees from those failing to meet the requirements.³²⁷ They specifically found that the government had only attempted to revoke 311 decrees in 2022, and had not taken any further action since.³²⁸

Additionally, there has been a lot of anecdotal evidence developing over the years supporting the idea that Act 60 beneficiaries simply do not respect the local laws.³²⁹ The most famous of these incidents was the story of Salil Zaveri.³³⁰ Mr. Zaveri, an Act 60 beneficiary, was found guilty of animal abuse after fatally shooting a dog, that he was chasing down with his golf cart for no apparent reason.³³¹ He also recorded himself doing it.³³² He was ultimately sentenced to one year and one day of prison followed by three years and one day of house arrest.³³³

The lack of prosecution for tax evasion and abuse has gotten to such a degree, that Congress has been urging the IRS to step in and “crack down” on these individuals.³³⁴ The U.S. House of Representatives sent a letter to the IRS directly addressing and criticizing around 100 cases of suspected tax fraudsters.³³⁵ Some of the members of Congress that sent the letter include Rep. Nydia Velázquez, Rep. Rashida Tlaib, Rep. Barbara Lee, and Rep. Alexandra Ocasio-Cortez.³³⁶ The letter also stated that Act 22, now Act 60, “lacks adequate oversight mechanisms, making it even more crucial that the IRS ensures adequate oversight at the federal level,” since the DEDC in charge of overseeing such tax decrees admitted not having enough resources to enforce compliance.³³⁷

³²⁵ Luis J. Valentín Ortiz, *Mas de \$21 millones de contribuciones en jaque por falta de fiscalización a beneficiarios de la Ley 22*, CENTRO DE PERIODISMO INVESTIGATIVO, (Sep. 28, 2023),

<https://periodismoinvestigativo.com/2023/09/mas-de-21-millones-de-contribuciones-en-jaque-por-falta-de-fiscalizacion-a-beneficiarios-de-la-ley-22/> (in Spanish).

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Puerto Rico judge finds man guilty in fatal dog shooting*, ASSOCIATED PRESS, (Feb. 16, 2023),

<https://apnews.com/article/crime-caribbean-puerto-rico-dogs-bd2e93d44e06151d2c2d82d441fb60of>.

³³⁰ *Id.*

³³¹ *Pueblo v. Zaveri*, KLAN202300386, 2023 PR App. WL 9419390 at *1 (Dec. 15, 2023).

³³² *Id.*

³³³ Valeria María Torres Nieves, *Salil Zaveri es sentenciado a un año en prisión por matar un perro en un campo de golf de Río Grande*, EL NUEVO DIA, (Apr. 14, 2023), <https://www.elnuevodia.com/noticias/tribunales/notas/salil-zaveri-es-sentenciado-a-pasar-un-ano-en-prision-por-matar-un-perro-en-un-campo-de-golf/> (in Spanish).

³³⁴ Nicole Acevedo, *House Democrats Press IRS On Probe into Puerto Rico Tax Breaks for Wealthy Investors*, NBC NEWS, (Nov. 21, 2023),

<https://www.nbcnews.com/news/latino/democrats-press-irs-probe-puerto-rico-tax-breaks-rcna126182>.

³³⁵ Letter from Rep. Nydia M. Velázquez et al. to Daniel Werfel, Comm’r, Internal Revenue Serv. (Nov. 17, 2023), https://velazquez.house.gov/sites/evo-subsites/velazquez.house.gov/files/evo-media-document/final-letter-urging-the-irs-to-expedite-foia-re-auditing-efforts-on-act-22-beneficiaries-rep.-velazquez-002_o.pdf.

³³⁶ *Id.*

³³⁷ *Id.*

Since then, the IRS has begun cracking down on decree-holders abusing of the Act 60 provisions.³³⁸ However, it would seem that their efforts have been interpreted to yield mixed results.³³⁹ Specifically, reports from a whistleblower inside the IRS that stated that their investigation into Act 60 tax abusers was “woefully unproductive” and a “clown show.”³⁴⁰ Furthermore, this whistleblower added that, because of this lackluster effort, the IRS was allowing a tax evasion of epic proportions.³⁴¹ Because of this seemingly lazy prosecution on both at a state and federal level, tax cheats essentially did the bare minimum to maintain their tax benefits.³⁴² Following the letter sent by the whistleblower, the Senate Finance Committee Chair, Sen. Ron Wyden, stated that:

‘It appears that a significant number of wealthy tax cheats decided they’d buy some property up in the mountains or on the beach outside of San Juan, visit every once in a while, and abuse Act 22 [now Act 60] in a way that rips off taxpayers both in Puerto Rico and on the mainland U.S. . . . To this point, they’ve gambled that they could stay ahead of any big enforcement effort, and that approach has paid off for them.’³⁴³

Overall, the impacts under Act 60 provide a mixed bag of positive and negative results. On the one hand, there is evidence that these policies had some impact on the revival and growth of Puerto Rico’s economy. On the other hand, the failure to adequately regulate the benefits, the low efforts to investigate tax cheaters, and the overall increase in prices, have led some to believe that the policies have brought mostly negative results. Failures to regulate from both a state and federal level point to a major underlying issue. That is, the conflict of interests that clashes when either state or federal entities want to exercise their power over the tax policies and regulations. Both the Puerto Rico Department of Treasury and the IRS, have an interest in collecting revenue earned from the same economic activities. Likewise, the IRS has an interest in ensuring that wealthy people do not use Puerto Rico’s tax laws to shelter money they would otherwise be entitled to. However, the Puerto Rican Government has an incentive not to prosecute these tax cheaters out of fear that it would “scare away” these individuals and entities from making valuable investments. This means that the United States and its Island colony have been engaged in a struggle over capital—the very resource that Puerto Rico needs most, but for which it

³³⁸ Michael A. Villa, Jr. & R. Damon Rowe, *IRS Targets High-Income Individuals Illegally Claiming Puerto Rico’s Tax Benefits*, THE MEADOWS COLLIER TAX BLOG (Aug. 30, 2023), <https://www.meadowscollier.com/irs-targets-highincome-individuals-illegally-claiming-puerto-ricos-tax-benefits>.

³³⁹ Michael J. Bologna & Chris Cioffi, *IRS Launches Last-Minute Audits Aimed at Puerto Rico Tax Abuses*, BLOOMBERG TAX, (June 7, 2024), <https://news.bloombergtax.com/daily-tax-report-state/irs-launches-last-minute-audits-aimed-at-puerto-rico-tax-abuses>.

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² *Id.*

³⁴³ *Id.*

³⁴⁴ Diane Lourdes Dick, *U.S. Tax Imperialism in Puerto Rico*, 65 Am. U. L. Rev. 68 (2015).

is left wholly reliant on the United States to obtain.³⁴⁴ To better understand the controversies associated with Act 60, it would be prudent to briefly look into other tax havens and compare them to Puerto Rico.

V. GLOBAL COMPARISONS

As a final, comparative approach to this article, it will explore some of the most notable tax havens around the world that wealthy U.S. citizens tend to prefer. This section will specifically compare the tax policies of countries like Singapore, Switzerland, Malta, Hong Kong, the Cayman Islands, and others.³⁴⁵ Factors such as territorial tax systems, ease of obtaining citizenship, and other financial-planning advantages can make these countries attractive alternatives to Puerto Rico. However, the lack of U.S. citizenship in those countries could be a major drawback for many investors.

A. Comparison to Other Tax Havens

According to an article from Josh Katz, founder and CEO of Universal Tax Professionals, some of the top tax havens around the world include Singapore, Switzerland, The Cayman Islands, Hong Kong, and Malta. Katz breaks down the key characteristics for each of these tax havens:

Singapore is considered a tax haven for U.S. citizens due to its attractive tax policies and business-friendly environment. The city-state boasts a relatively low personal income tax rate, with a progressive scale of about 22%. Additionally, Singapore follows a territorial tax system, meaning income earned *outside the country* is not subject to taxation. This makes it an enticing destination for expatriates seeking to minimize their tax liabilities.

Moreover, Singapore offers various incentives for foreign professionals and entrepreneurs, including the Global Investor Programme (GIP) and the Financial Sector Incentive (FSI) scheme, further solidifying its reputation as a favorable tax haven for U.S. expats.³⁴⁶

The main challenge potential beneficiaries could face here is obtaining Singaporean citizenship. Additionally, the twenty-two percent tax rate can be higher than the U.S. in some situations.³⁴⁷ In the case of Switzerland, the article states the following:

Switzerland offers a favorable tax regime for high-income expatriates. The country's personal income tax rates vary by canton, with some jurisdictions imposing notably lower rates than in the U.S.

³⁴⁵ Josh Katz, *10 Best Tax Haven Countries for US citizens in 2024*, UNIVERSAL TAX PROFESSIONALS, <https://universaltaxprofessionals.com/10-best-tax-havens-for-us-citizens/> (last accessed Apr. 18, 2025).

³⁴⁶ *Id.*

³⁴⁷ Travis Lynk, *Top Tax Havens Around the World*, PRELOCATE, (Feb. 16, 2023), <https://relocatepuertorico.com/top-tax-havens-around-the-world/>.

Additionally, Switzerland has a reputation for stringent financial privacy laws, attracting individuals seeking to safeguard their wealth. Its stable economy and strong banking system further contribute to its appeal as a tax-friendly destination for U.S. citizens looking to optimize their financial situation.³⁴⁸

While Swiss citizenship is generally not required to take advantage of these benefits, a downside to consider for wealthy expats is the wealth tax that Switzerland imposes on the total wealth a person has every year.³⁴⁹ Additionally, strict housing laws and really high cost of living can potentially drown out some of the tax benefits.³⁵⁰ As for The Cayman Islands, the article explains that:

The Cayman Islands stands out as a tax haven for U.S. citizens owing to its complete absence of direct taxes. Regardless of nationality, individuals do not face personal income, capital gains, or corporate tax. This policy fosters an exceptionally conducive environment for wealth management, investments, and international business operations.

Furthermore, the Cayman Islands have stringent financial privacy laws, providing a secure platform for individuals to safeguard their assets. These factors, combined with a stable political and economic climate, make the Cayman Islands an alluring choice for U.S. citizens aiming to optimize their financial positions.³⁵¹

However, a notable downside to keep in mind is that fees for doing business, as well as cost of living in The Cayman Islands tends to be relatively high.³⁵² Regarding Hong Kong and Malta, the article details the following key features for each:

Hong Kong is a compelling tax friendly country for U.S. citizens due to its simple and low tax system. The city imposes a progressive tax rate, capping at 17%, significantly lower than many Western counterparts. Moreover, it operates on a territorial tax basis, meaning only income earned within the city is subject to taxation. This creates an advantageous environment for expatriates looking to minimize their tax liabilities.

In addition, Hong Kong also has no capital gains tax or value-added tax, further enhancing its appeal. Its stable economy, robust financial infrastructure, and strategic location in the heart of Asia solidify Hong Kong's reputation as a prime destination for U.S. citizens seeking tax efficiency.

³⁴⁸ Katz, *supra* note 345.

³⁴⁹ Marina Hernandez, *Top Ten Tax Considerations for Swiss Nationals Moving to the USA*, SWISS AMERICAN WEALTH ADVISORS, (Aug. 16, 2021), <https://swissamericanwealth.com/educational-videos/financial-education-videos/top-ten-tax-considerations-for-swiss-nationals-moving-to-the-usa>.

³⁵⁰ Lynk, *supra* note 347.

³⁵¹ Katz, *supra* note 346.

³⁵² Lynk, *supra* note 347.

Malta is favored as a tax haven for U.S. citizens due to its advantageous tax regime. The country offers a flat personal tax rate of 15%, attracting high-net-worth individuals seeking to optimize their financial position. Additionally, Malta has an extensive network of double taxation treaties, providing further opportunities for tax efficiency.

The absence of wealth tax, no inheritance tax, and no net worth tax make Malta an attractive destination for those looking to safeguard their assets. Moreover, its stable economy, strategic location in Europe, and high quality of life contribute to its status as a sought-after tax-friendly jurisdiction for U.S. citizens.³⁵³

Finally, Malta allows for obtaining citizenship through investment: this usually requires buying a property and holding it for around five years.³⁵⁴

These are all extremely competitive tax havens for U.S. citizens; however, the main advantage Puerto Rico has over the others is its territorial status and by extension U.S. citizenship. In the case of Puerto Rico, you do not need to “leave” the U.S. to receive these benefits. Additionally, the four percent flat income tax rate, little to no capital gains tax, and little to no property tax, makes Puerto Rico one of the better options for U.S. citizens. The territorial tax regime, however, is a policy that Puerto Rico could presumably not implement even if it wanted to. There are pros and cons to all these tax havens, but generally Puerto Rico is one of the best, if an individual or entity qualifies for the benefits and complies with the local and federal laws.

CONCLUSION

Given the economic situation of Puerto Rico in the past couple of decades, it is understandable why the government of Puerto Rico turned to tax policies like Act 60 to promote economic growth. Desperation, combined with a collapsing economy, failing infrastructure, and natural disasters being the cherry on top, can provoke drastic changes like the ones implemented under Act 60. Despite the benefits and notable economic recovery that can be attributed partly due to the policies of Act 60, there are a lot of downsides that cannot be ignored. The granting of decrees without strict record-keeping, poor planning, and mediocre enforcement of policies, easily makes this a bad overall policy. Promoting the reckless use of the very limited land that Puerto Rico has, with little to no regard for locals and no alternative provided to them. This approach means that disaster is bound to happen.

There are some merits to policies like this one; however, their aim should be to benefit Puerto Ricans. Puerto Ricans, who are generally far less wealthy than Act 60 beneficiaries, still have shoulder much of the tax burden every year. It is recognized, however, that

³⁵³ Katz, *supra* note 346.

³⁵⁴ *Malta Citizenship by Direct Investment*, CSB GROUP,

<https://www.csbgroup.com/citizenship-by-investment/malta-citizenship-by-investment/> (last visited Apr. 18, 2025).

with the austerity measures that the Government of Puerto Rico has been forced to adopt, an alternative policy seems hard to engineer. By promoting local investment, along with the ease of business development, Puerto Rico could encourage both locals and foreign entrepreneurs to invest in the Island, potentially reducing the number of Puerto Ricans migrating.

To summarize, the benefits of Act 60 may have good intentions, however, the poor execution and lack of regulatory enforcement have pushed aside poor local residents in favor of the rich, Anglo-Saxon investors and entrepreneurs. Thus, Act 60, and Congress enabling it, has been turned into a tool for modern colonialism.