



TEMPORARY 100% LONG TERM CAPITAL GAINS TAX EXEMPTION FOR MOST PUERTO RICO REAL ESTATE TRANSACTIONS; 10 YEARS OF TAX EXEMPTION FOR RESIDENTIAL RENTAL INCOME; AND OTHER INCENTIVES OF THE PUERTO RICO REAL PROPERTY MARKET STIMULUS ACT (ACT NO. 132 OF SEPTEMBER 2, 2010)

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Act 132 grants various tax incentives to purchasers, sellers and lessors of residential real property located in Puerto Rico, including but not limited to New Construction, and to sellers and purchasers of other types of real property in Puerto Rico (e.g. land, commercial or industrial buildings). The following is a summary of these tax exemptions and incentives.

1. **Acquisition of New Construction Residential Real Property from a Developer between September 1, 2010 and June 30, 2011**

- 100% exemption for all parties involved from the payment of the internal revenue stamps and vouchers required for the execution of deeds of sale, mortgage, and cancellation of mortgage, as well as for their presentation and registration in the Property Registry.
- 100% exemption for the net long-term capital gain realized in the future resale of New Construction residential real property that is acquired during the referred period (including exemption from the basic or minimum alternative tax), irrespective of when the property is resold.
- 100% exemption from all CRIM real property taxes for a period of five years, commencing on January 1, 2011.
- 100% exemption from the temporary special real property tax payable to the Puerto Rico Treasury Department.
- 100% income tax exemption on rental income earned for a period of ten years (2011 to 2020), including exemption from the basic or minimum alternative tax.

2. **Transactions between September 1, 2010 and June 30, 2011 involving Qualified Property (i.e., Non-Residential Real Property, with a purchase price not exceeding \$3,000,000.00, or Residential Real Property that is not of New Construction)**

- 100% exemption for the seller from the payment of the internal revenue stamps and vouchers required for the execution of deeds of cancellation of mortgages that encumber the referred property, even if the deed of cancellation is executed after June 30, 2011.
- 50% exemption for the seller from the payment of the internal revenue stamps and vouchers required for the execution of deeds of sale and their presentation and registration in the Property Registry.
- 50% exemption for the purchaser from the payment of the internal revenue stamps and vouchers required for the execution of deeds of sale, transfer, and mortgage, as well as for their presentation and registration in the Property Registry.
- **100% exemption for net long-term capital gain realized on the sale of between September 1, 2010 and June 30, 2011 (including exemption from the basic or minimum alternative tax). This exemption covers the sale of residential properties possessed as of September 1, 2010, including properties that are not “New Construction,” and all other real property whose purchase price does not exceed \$3,000,000.00, a very broad classification that includes most sales of real property that qualify for long term capital gains treatment in Puerto Rico. To qualify as long term capital gains, the real property being sold must be considered a “capital asset” in the hands of the seller, and the seller must have owned it for more than six (6) months. This exemption is not available for sales between “related parties,” as defined under Section 1024(b) of the Internal Revenue Code.**
- 50% exemption for net long-term capital gain realized on the future resale of property that is acquired during the period between September 1, 2010 and June 30, 2011 (including exemption from the basic or minimum alternative tax), and without a time limitation to sell the property. This exemption does not apply to sales between “related parties,” as defined under Section 1024(b) of the Internal Revenue Code.
- No exemption from municipal or state property taxes.

3. **10 years of 100% income tax exemption for rental income derived from all residential property:**

Act 132 also provides 100% income tax exemption (including exemption from the basic or minimum alternative tax) to the rental income derived during the years 2011 to 2020 from the lease of residential property. This exemption for rental income applies to all residential property located in Puerto Rico (i.e. it does not have to be “New Construction”), as it includes rent income derived from residential property that was leased as of September 1, 2010, that which is leased after said date, and even that which is leased after June 30, 2011.

4. **Obligations of the Seller, the Notary Public and the Treasury Department:**

In order to claim most of these exemptions, the seller of the property must provide to the purchaser a Sworn Certification of “New Construction Property” or “Qualified Property.”

In addition, Act 132 imposes on the notary public, the obligation of: obtaining such certification from the seller; submitting it to the Puerto Rico Treasury Department and the Property Registry; filing an Informative Tax Returns with the Treasury Department and CRIM; and making certain warnings and annotations in the deed.

The Treasury Department also has the obligation, within 30 days from receiving the Informative Tax Return from the notary and the previously described certification by the seller, to certify that the property constitutes a “New Construction” or a “Qualified Property.”

¹ “New Construction” is defined as residential real property that has not been occupied previously and that is acquired from a “Developer.” For these purposes a “Developer” is a person that is duly licensed by the Department of Consumer Affairs as a Developer (“Urbanizador”), who is engaged in the business of constructing as an entrepreneur or principal responsible for the promotion, design, sale, construction of the development works and housing projects. Furthermore, the term “Developer” includes a financial institution or any person that pursuant to a judicial or extrajudicial process, assignment on payment in lieu of foreclosure or similar transaction, becomes a successor in interest to the Developer.

² The benefits of Act 132 are available for all types of taxpayers (individuals, corporations, partnerships, trusts, estates, residents and non-residents of Puerto Rico).

³ Act 132 defines these types of property (i.e., non-residential real property, with a purchase price not exceeding \$3,000,000.00, or residential real property that is not New Construction) as “Qualified Property.”

If you have any questions with respect to the above, you may contact any of our tax attorneys: Ricardo Muñiz, Esq., Fernando Goyco-Covas, Esq., César R. Rosario, Esq., Vanessa I. Raffucci, Esq., or Caridad Muñiz-Padilla, Esq.

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The above summary is intended for information purposes only. It cannot be considered a legal opinion, and it does not intend to consider all the tax and legal considerations that could be relevant to any particular person or entity. It should also be noted that the changes discussed herein were recently enacted, and that the PR Treasury has not yet issued regulations, tax forms or interpretative announcements on such changes.

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