



Puerto Rico Medical Defense Insurance

MD *LEARNING*

SYMPOSIUM **ABSTRACT**

Overview of Act No. 14-2017 Incentives Act
for the Retention and Return of Medical Professionals

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Effective Date of ACT no. 14-2017

Act No. 14-2017, approved on February 21, 2017, effective 60 days after its approval on April 22, 2017 (Article 16 regarding regulations under the Act is effective immediately).

Definitions

- **"Qualified Physician"**: individual admitted to the practice of medicine, podiatry or a specialty of odontology and a full-time practitioner. This definition includes doctors who are studying their residency as part of a duly accredited program.
- **"Full-time"**: Qualified Physician works at least one hundred (100) hours per month to offer professional medical services in a public or private hospital, a federal or state agency, a private office dedicated to providing professional medical services or Duly accredited medical school.
- **"Medical Services Business"**: any professional services corporation or limited liability company that provides diagnostic and medical treatment services in Puerto Rico, whether it is a domestic entity or a foreign entity, and is authorized to do business In Puerto Rico.
- **Eligible Dividends**: dividends issued by a Medical Services Business in favor of a Qualified Physician for professional medical services rendered.
- **Eligible Income**: income derived from professional medical services offered in Puerto Rico

Who can qualify?

- Qualified Physicians
- Practices medicine full time (100 hours or more per month)
- Must me a residence of Puerto Rico or willing to move

- Responsible tax payer in good-standing with Hacienda (no debts and have filed tax returns if required)
- Provide 180 hours annually of community service, as required in Article 8 of this Act
- Must comply with any other requirement established in the decree

Tax Benefits

- A fixed income tax rate of 4% on “eligible income”
- 100% exemption (including Alternative Minimum Tax –AMT) on up to \$250,000 received from “eligible dividends”, per year
- Eligible to voluntarily contribute up to 25% of the net income, to a qualified individual retirement plan (Keogh Plan) or up to 25% of the salary to a qualified Corporate Retirement Plan, if applicable
- Tax benefits will last 15 years, that can be extended by another 15 if physician can demonstrate that said extension is in the social and economic benefit of Puerto Rico

How do I apply for the Decree?

- Qualified Physician must do a sworn request to the **Secretary of Department of Commerce and Economic Development** through the **Office of Industrial Tax Exemption**, and pay the corresponding filing fees.
- Once the decree is approved, you must pay a \$1,000.00 acceptance fee.

Deadline to request the Decree

- The Qualified Physician shall have a term of two (2) years from the effective date of this Act to submit his application to the Department of Commerce and Economic Development.
- Be advise that any request submitted to the Department after that date will not be accepted or evaluated.

On March 23, 2017 - The REPORT

The Secretary of Health shall submit to the Secretary of Economic Development a report on medical specialties for which there is a shortage of physicians and shall specify geographical areas with a shortage of primary physicians. The Secretary shall ensure that this information is available to individuals interested in requesting the benefits of this Act and the general public. Art. 16

180 hours community service

- The Act provides various options as to comply with 180 hours:
 - Provided medical services to non-profits
 - Assist as a professor in university hospitals, medical schools, resident doctor;
 - Offer seminars to the public community or continuing education courses
 - Among others
- Alternatively the physician can get paid through a services contract with the Government Health Plan of Puerto Rico

Factors to be considered prior to the granting of the DECREE REQUEST

- Specialty or sub-specialty that the Qualified Physician holds or is an accredited residency program;
- If there is a shortage of doctors with the Qualified Physician specialty and/or sub-specialty currently providing their services in Puerto Rico;
- The geographic areas in which the Qualified Physician is providing the services; and
- In the case of general practitioners, special consideration will be taken to (i) the geographic area in which their services are being provided; and (ii) evaluation of the sufficiency of general practitioners in that area.
- Economic impact for Puerto Rico of approving the decree

NOTE: the decision of whether or not to approve a decree is final and not subject to judicial review. Art. 11

Advantages vs. disadvantages

- Before deciding to apply:
 - Is there a economic benefit – tax saving versus opportunity cost
 - Professional fees related to the transaction
- Must be willing to comply annually with required reports

Revocation of the DECREE

- **Ceases** to be a resident of Puerto Rico
- **Ceases** to comply with the requirement to be considered a Qualified Physician
- **Ceases** to perform Medical Services on a full time basis
- **Ceases** to comply with the Community Service Requirements
- **Ceases** to comply with any of the requirements established by the Act or any regulation

Annual Reports

The medical professional must annually file a Report with the Tax Exemption Office of the Puerto Rico Department of Commerce and Economic Development and the Puerto Rico Treasury Department, within 30 days after filing their Income Tax Return, including any extension filed.

Remedies available after a notice of revocation

- Medical professional affected by the cancellation of the decree will be given the opportunity to be heard by an examining officer.
- 30 days after a final determination by the Secretary can file a judicial review in PR Courts of Appeals.
- Lastly, upon the decision PR Courts of Appeals a certiorari can be filed before PR Supreme Court.

Tax effects of the revocation

- The Qualified Physician will be required to pay to the Department of Treasury an amount equal to all the taxes not paid for any Eligible Income or Qualified Dividends for the prior three (3) years or the duration of the decree, whichever is smaller. The payment must be remitted within sixty (60) days after the effective date of the revocation.
- If the Qualified Physician demonstrates that the non-compliance was due to sickness or disability of: himself/herself, spouse, children or parents, the Grant may still be revoked by Secretary of Department of Treasury, but the Qualified Physician will only be required to pay an amount equal to all the taxes not paid for any Eligible Income or Qualified Dividends for the last year.

Penalties

- Any person that commits or attempts to commit on their behalf or on behalf of another a fraudulent or false representation in the request for a decree may be accused and convicted of felony, which may be punishable with up to 8 years of incarceration, a fine of \$30,000 or both. In addition, the decree will be revoked and the Qualified Physician will be responsible for the payment of all taxes which were partially or totally exempted under the Act.
- The taxpayer will also be considered to have filed a false or fraudulent return with the intention of avoiding the payment of contributions and, therefore, will be subject to the penal provisions of the Internal Revenue Code of Puerto Rico. The contribution owed in such a case, as well as any other contributions previously exempt and unpaid, shall be due and payable from the date on which such contributions have expired and have been payable other than by decree, and shall be charged and collected by the Secretary of Department of Treasury, in accordance with the provisions of the Internal Revenue Code of Puerto Rico.

CAVEAT

As of today we are still pending PR agencies (Hacienda and Salud) will issue the necessary forms, regulations and guidelines for the implementation of the Act.

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