PUERTO RICO TOURISM DEVELOPMENT ACT OF 2010
(ACT 74 OF JULY 10, 2010)

The following is a brief summary of Act 74 of July 10, 2010, commonly referred to as the "Puerto Rico Tourism Development Act of 2010". Act 74 amends the previous legislation covering tourism investment and development, i.e. Act 78 of September 10, 1993.

A. EXEMPTION AND ELEGIBILITY

Under Act 74, an eligible business can qualify for a 10-year exemption from various Puerto Rico taxes. This initial 10-year period can be extended for an additional 10-year term.

To be an eligible business, it must be devoted to a Tourism Activity utilizing (i) new facilities; (ii) existing facilities which have not been used in a Tourism Activity for three or more years; or (iii) existing facilities for which there will be substantial renovations or expansions.

Any of the following qualifies as a Tourism Activity:

(1) Ownership and/or management of:

(a) Hotels, Condohotels, Puerto Rican Inns ("Paradores"), Guest Houses, Timeshares and Vacation clubs (subject to certain limitations) but excluding the operation of casinos;
(b) Theme parks, golf-courses operated or associated with an exempt hotel, marinas operated for tourist purposes, entertainment facilities located in port areas which stimulate tourism.

(2) Operation of a business that leases property to an exempted tourism business;

(3) Development and administration of natural resources as a source of active or passive entertainment such as, but not limited to, caves, forests, lakes, etc.

B. RATES OF TAX EXEMPTION

1. Income Tax

The income attributable to the exempt operation (commonly known as "Tourism Development Income"), as well as the dividends distributed by the exempt business, qualify for exemption at the following rates:

- All Tourism Activities not located
  In Vieques or Culebra.....90%

- All Tourism Activities located
  In Vieques or Culebra.....100%

2. **Property Taxes**

The exempt business also qualifies for real and personal property tax exemption at the following rates:

- All Tourism Activities.....90%

3. **Municipal License Taxes**

The exempt business also qualifies for exemption from municipal license taxes at the following rates:

- All Tourism Activities which utilize
  new facilities or facilities which
  have not been used for 3 years 100%

- All Tourism Activities which utilize
  existing facilities for which there
  will be substantial renovation or
  expansion.....90%

4. **Excise Taxes**

All exempt businesses will be entitled to a full exemption from excise taxes on imported articles (except for inventory items) to be used in a Tourism Activity, provided it is established to the satisfaction of the Executive Director that a genuine effort was made to acquire such articles in Puerto Rico, but such acquisition in Puerto Rico was not economically justified taking into consideration quality, quantity, price or availability in Puerto Rico.

5. **Sales and Use Tax**

All exempt businesses will be entitled to a full exemption from sales and use tax on imported articles (except for inventory items) to be used in a Tourism Activity, provided it is established to the satisfaction of the Executive Director that a genuine effort was made to acquire such articles in Puerto

Rico, but such acquisition in Puerto Rico was not economically justified taking into consideration quality, quantity, price or availability in Puerto Rico.

6. **Municipal Construction Tax**

All exempt businesses will be exempt from any construction tax imposed by any municipality.

C. **COMMENCEMENT OF EXEMPTION PERIOD**

The date of commencement for any of the exemptions is fixed pursuant to certain criteria in the law. However, in order to provide the exempt business with some flexibility, the effective dates can be postponed for up to 3 years. Moreover, the exempt business can benefit from a "flexible exemption" for income taxes purposes each year – that is, the exempt business can decide whether its income will be covered by the exemption on a particular taxable year. If it chooses not be covered by the exemption, the exempt business will preserve the exemption for use in a future year.

D. **TAX CREDIT FOR INVESTMENTS**

Any person who acquires an equity interest in a corporation or a partnership that operates an exempt tourism business, or who invests in a Condohotel, will be entitled to an investment tax credit equal to 50% of the cash paid for such equity investment. Land contributed to the corporation or partnership in exchange for an equity interest will also qualify for the investment tax credit.

The 50% credit is to be taken in two installments: half of the credit during the first year of the investment, while the remaining credit may be used in the second year. Any unused tax credits may be carried forward. The tax credits may be assigned, transferred or sold.

The total amount of the investment tax credit which may be taken by all investors cannot exceed 10% of the total cost of the tourist project. If the 10% limitation is exceeded, the equity investors who are the developers of the project (as opposed to passive investors in the project) will be liable for excess investment tax credits taken by them.

E. **APPLICATION PROCEDURE**

Applications for tax exemption under the Tourism Development Act of 2010 are filed with the Executive Director of the Puerto Rico Tourism Company and with the Secretary of the Treasury.