Puerto Rico Act 60: How To Reduce Your Capital Gains Tax

Continuing from last month's article on Puerto Rico residency and the tax advantages it offers, this article will explore Act 60 and the additional local tax incentives individuals receive once they establish Puerto Rico residency.

As previously established, Internal Revenue Code § 933 provides that a bona fide resident of Puerto Rico for the entire taxable year may exclude from U.S. gross income all income derived from Puerto Rico sources. I.R.C. § 937(a) and the accompanying regulations set forth the rules for establishing bona fide residency in Puerto Rico.

In 2019, Puerto Rico passed Act 60, which consolidated several tax incentive programs into a single framework. Act 60 offers several tax benefits, particularly for individual investors, by allowing qualifying new Puerto Rico residents to obtain a 100 percent Puerto Rico tax exemption on certain interest, dividends, and capital gains after becoming residents. That local exemption can become even more powerful when paired with I.R.C. § 933 and, in the right case, can create a combined Puerto Rico and U.S. tax benefit that can dramatically reduce the investor's effective tax burden.

This year, Puerto Rico passed Act 38-2026, extending the incentive program through December 31, 2055. However, Act 38-2026 amended the tax rate on interest and dividends for new Puerto Rico residents. Effective January 1, 2027, new applicants will no longer be entitled to a 100 percent exemption on interest, dividends, and capital interest and will instead be subject to a 4 percent tax. Despite this change, Act 60 remains an exciting opportunity for individual investors.

The most significant investor advantage usually involves post-move appreciation. If an investor acquires property after becoming a bona fide resident of Puerto Rico and remains a bona fide resident through the year of sale, gain on the sale generally should be Puerto Rico source gain that is excluded from U.S. tax under section 933 and may also be exempt from Puerto Rico tax under Act 60. This is why Act 60 has been especially appealing to high-net-worth individuals and investors expecting substantial future appreciation.

However, this tax advantage has limitations. Moving to Puerto Rico does not automatically exempt all investment income from U.S. taxation. I.R.C. § 933 applies only to Puerto Rico source income, and sourcing remains governed by detailed federal rules and regulations. U.S. source dividends, for example, generally remain taxable by the United States even if the investor lives in Puerto Rico. Likewise, gains accrued before the move to Puerto Rico generally do not become fully exempt merely because the taxpayer later establishes residency.

This limitation has become a major enforcement focus. Recent IRS guidance and enforcement actions reflect a strong view that taxpayers cannot simply relocate, sell highly appreciated pre-move assets, and treat the entire gain as Puerto Rico source. Despite this, the combination of I.R.C. § 933 and Act 60 for post-move appreciation and source income is a viable tax strategy that can yield substantial tax savings. For those interested in implementing this strategy, it is advisable to consult a tax professional to ensure that all activities are properly documented and comply with the I.R.C. and Act 60.