

# *Export Activities*

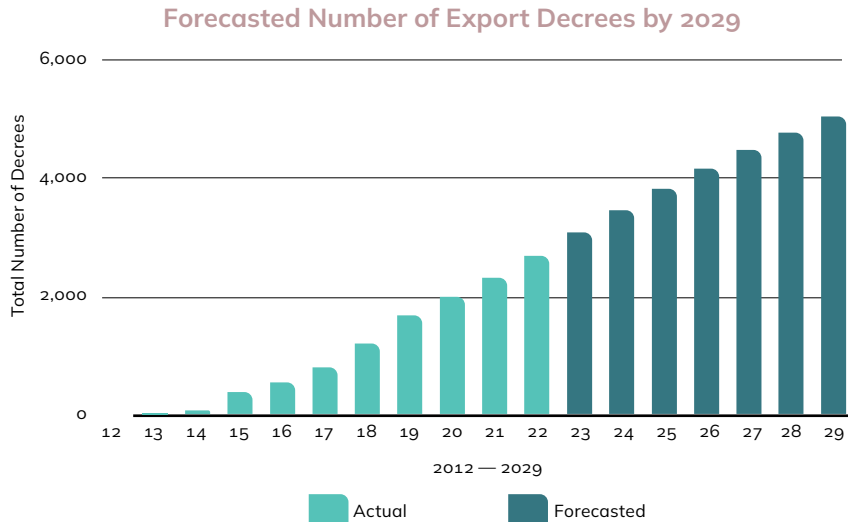


This chapter is for businesses that export services or goods with value added from Puerto Rico to the world. The export incentive is divided into three branches: (1) Export of Services, (2) Export of Goods, and (3) Qualified Promoters. The incentive arose in the aftermath of the Great Recession of 2007–2009 and in the complete phase-out of the IRS Tax Exemptions known as Section 936 in 2006.<sup>1</sup> The intent was to aid and catalyze the transition of the island's economy from a manufacturing-centered economy to a services-led economy.<sup>2</sup>

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- 1 Scott Greenberg and Gavin Ekins, "Tax Policy Helped Create Puerto Rico's Fiscal Crisis," Tax Foundation, last modified June 30, 2015, <https://taxfoundation.org/blog/tax-policy-helped-create-puerto-rico-fiscal-crisis/>.
  - 2 Estudios Técnicos, Inc., 2016 *UPDATE: Economic Assessment Act 20/22*, <https://www.estudios tecnicos.com/projects/act2022update/Presentacion-update-DDEC-20-22-final.pdf>.



In the first 10 years of this incentive, almost 3,000 corporations obtained the tax decree.<sup>1</sup> In 2021, there were 45,541 registered Puerto Rican businesses, and nearly 6.5% of those businesses have obtained this tax benefit.<sup>2</sup> A recent study by Estudios Técnicos, Inc. (see the diagram below) highlights the growth of local businesses adopting economic development incentives and the continued increase of these decrees in the last 10 years.<sup>3</sup>



In Estudios Técnicos' 2019 forecasts, the estimated number of companies leveraging the Export of Services and Goods incentive is set to increase to 5,026 by the end of this decade.<sup>4</sup> At the same time, the number of jobs created is expected to rise from 13,000 in 2023 to over 24,000 in 2029.<sup>5</sup> On this current trajectory, growth will be driven primarily by five key sectors: (1) consulting work, (2) financial and investment banking services, (3) professional services, (4) centralized management systems, and (5) advertising and public relations.<sup>6</sup>

1 Estudios Técnicos, Inc., 2019 UPDATE: Economic Assessment Act 20/22, <https://www.estudiostecnicos.com/projects/act2022update2019/2019-Summary-results.pdf>.

2 United States Census Bureau, U.S. Census Bureau QuickFacts: Puerto Rico, n.d., <https://www.census.gov/quickfacts/fact/table/PR/BZA010221>.

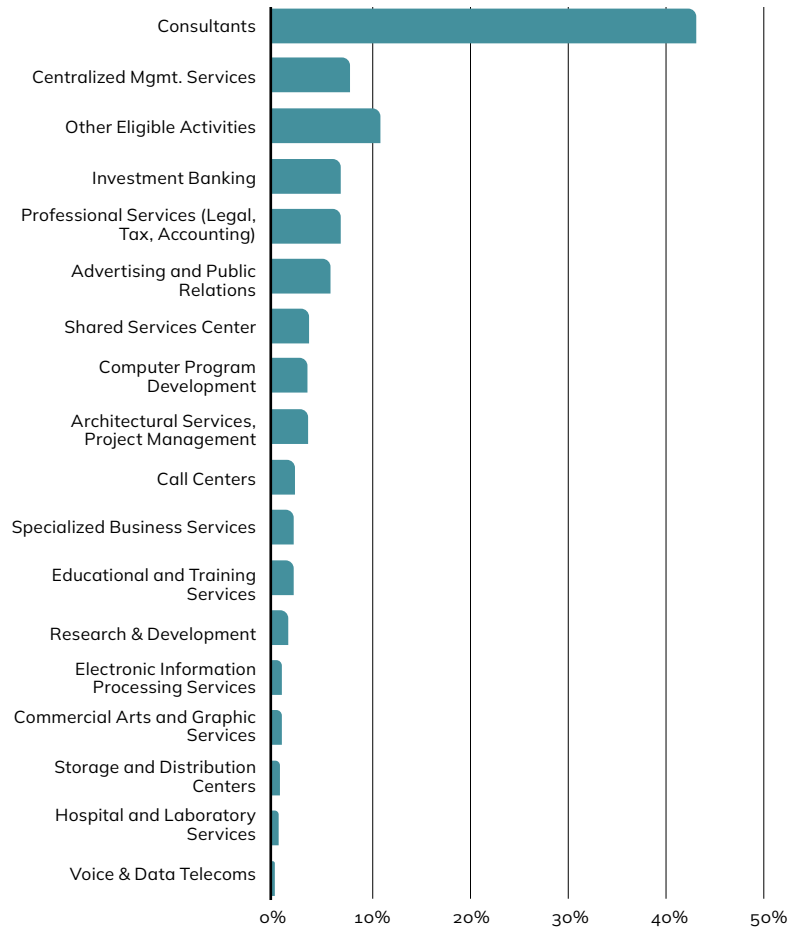
3 Estudios Técnicos, Inc., 2019 UPDATE: Economic Assessment Act 20/22, <https://www.estudiostecnicos.com/projects/act2022update2019/2019-Summary-results.pdf>.

4 Estudios Técnicos, Inc., 2019 UPDATE: Economic Assessment Act 20/22, <https://www.estudiostecnicos.com/projects/act2022update2019/2019-Summary-results.pdf>.

5 Estudios Técnicos, Inc., 2019 UPDATE: Economic Assessment Act 20/22, <https://www.estudiostecnicos.com/projects/act2022update2019/2019-Summary-results.pdf>.

6 Estudios Técnicos, Inc., 2019 UPDATE: Economic Assessment Act 20/22, <https://www.estudiostecnicos.com/projects/act2022update2019/2019-Summary-results.pdf>.

### Composition of Export of Services Decreases



### 3.1

## → Eligible Export of Services Businesses<sup>7</sup>

### 1. Research and Development

This designation is meant for any corporation engaged in providing scientific research or development that leverages human capital to solve or produce a technological breakthrough. It can include activities such as producing new software products, vaccine research, biomedical device creation, or clinical research.

<sup>7</sup> Puerto Rico Incentives Code, 13 L.P.R.A. § 45231 (2023). <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2-ingles/6o-2019.pdf>



## 2. Advertising and Public Relations

Any corporation that provides advertisement creation, placement, and bid management is eligible under this designation. Additionally, companies aiding individuals or brands to improve or maintain a positive public image may qualify.

## 3. Consulting Services

This designation includes any economic, environmental, technological, scientific, managerial, marketing, human resources, computer, and auditing consulting services. These services may be provided by an individual or a team.

## 4. Consultancy for Trade or Businesses

Any business engaged in trading commodities, goods, or materials is eligible under this designation. The knowledge provided ensures that each trade reaches completion. Providing consulting or trade services with other businesses owned by the decree-holder outside of Puerto Rico may be eligible, but a transfer pricing study may be required to determine eligibility.

## 5. Creative Industries

This designation includes design (graphic, industrial, fashion, interiors), arts (music, events, some publications), media (mobile app development, video game development, online media, digital content, multimedia), creative services (pre-production, production, post-production), and tickets bought by tourists in Puerto Rico. The incentive extends to broadcasting or the sale of copyrights for a recording of shows and music productions intended for audiences outside of Puerto Rico. Additionally, it includes e-sports and fantasy leagues events to be brought to Puerto Rico.

**6. Drafting of Construction Plans and Engineering, Architectural, and Project Management Services**

This designation includes architectural and construction design, plans and drawings, the creation of construction schedules, and the day-to-day management of construction projects and other similar services.

**7. Voice, Video, Audio, and Data Telecommunications**

This designation includes services rendered to persons located outside of Puerto Rico that leverage voice, video, audio, and data telecommunications to deliver a product or service. Moreover, companies that manage live streams for corporations or events may also be eligible.

**8. Call Centers**

This designation includes centralized offices where customer service representatives place and receive calls from or to current or potential consumers, clients, or donors. The primary purpose of these centers is to efficiently manage and address customer inquiries, provide support, handle complaints, and assist with various types of customer interactions.

**9. Shared Service Centers**

Accounting, finance, tax, auditing, marketing, engineering, quality control, human resources, communications, electronic data processing, and other centralized management services fall under this designation.

**10. Educational and Training Services**

This designation includes education and training, such as distance courses, seminars, and conferences, among others, that use (a) the internet, (b) other telecommunications infrastructure, (c) online conferences, and (d) video cassette, DVD, and CD-ROM in order to instruct students or participants who are in spaces different from that of the instructor. The programming must regularly and substantively support the interaction between students or participants and the instructor, either synchronously or asynchronously.

**11. Hospital and Laboratory Services**

This designation includes laboratories, telemetry services, X-ray services, magnetic resonance imaging services, blood tests, and the like that assist in the delivery of medical care. It also includes centers of telemedicine that host doctors, pharmacists, and other healthcare professionals.



### 12. Investment Banking

This designation is meant for investment banking and other financial services, such as asset management services, alternative investment management, management of activities related to private equity management, management of hedge funds or high-risk funds, management of pools of capital, management of trusts that serve to turn different types of assets into stocks, and management services for escrow accounts (insofar as they are provided by foreign persons).

### 13. Marketing Centers

This designation includes businesses primarily involved in offering space and services, including leasing, secretarial support, translation, data processing, communications, marketing, telemarketing, and consulting, to businesses located outside of Puerto Rico that fall within this category. This includes export and marketing firms, commercial attachés, government agencies handling foreign trade, exchange, and centers for product and service exhibitions.

### 14. Any Other Service

In consultation with the Secretary of Hacienda, the Secretary of the DDEC will determine whether other services that are not defined as eligible activities under this designation should be treated as eligible export of services. This will be decided in consideration of any of the following factors:

- a. It is a service that is deemed to be in the best interest and for the social and economic wellbeing of Puerto Rico
- b. The demand for such services outside Puerto Rico
- c. The total number of jobs to be created
- d. Its payroll
- e. The investment the sponsor would make in Puerto Rico
- f. Any other factor that warrants particular research and development

## → Eligible Export of Goods Businesses<sup>8</sup>

### 1. Reselling of Goods Purchased in Puerto Rico

This designation includes the sale to foreign persons, for use, consumption, or disposition outside of Puerto Rico, as well as products purchased by the eligible business for resale.

### 2. Commissions

This designation includes income earned in the form of commissions and received through the sale of products for use or consumption outside of Puerto Rico.

### 3. Reselling of Products Manufactured or Harvested Upon Request

This designation includes the sale of products manufactured or harvested upon request and sold outside of Puerto Rico.

### 4. Intellectual Property and Content

This designation includes the sale or distribution to foreign persons outside of Puerto Rico of intangible products, such as patents, copyrights, digital content, and trademarks, among others.

### 5. Distribution and Logistics Hubs

This designation includes storage, transportation, and distribution hubs for products and articles belonging to third parties outside Puerto Rico.

### 6. Commercial Distribution

This designation includes the commercial distribution of products manufactured or harvested in Puerto Rico for jurisdictions outside of Puerto Rico.

### 7. Finished Good Operators

This designation includes the assembly, bottling, and packaging operations of products for export.

### 8. Others

Any other international trading activity to be included in the Incentives Regulations may be eligible, taking into consideration the following factors:

8 13 L.P.R.A. § 45232 (2023). <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2-ingles/60-2019.pdf>



- a. Nature of the activities carried out
- b. The direct or indirect benefits of the commercial activity for Puerto Rico
- c. Any other factor pertinent to achieving the objectives of this Code when such treatment is deemed to be in the best interest and for the social and economic wellbeing of Puerto Rico

#### Eligibility Requirements

1. Eligible income will only be recognized from sources with no connection to Puerto Rico. A connection with Puerto Rico involves the use, benefit, or consumption by the end-user in Puerto Rico.

#### General Benefits

1. The incentive has a duration of 15 years. It can be extended for another 15 years, upon request, providing a total of up to 30 years of preferential tax treatment to the business.
2. The incentive has a 4% corporate income tax rate. If the company is less than 3 years old and has not surpassed \$3,000,000 in gross revenues at the moment of applying for the incentive, the eligible business may obtain a 2% corporate income tax during the first 5 years in operations as a new SME (see Chapter 1).
3. Royalties, rents, and licenses paid to non-Bona Fide Residents will be taxed at 12%.
4. The incentive provides 100% exemption on the distribution of dividends or profits for Bona Fide Residents of the island.
5. The incentive provides a 75% exemption on municipal and state property taxes.
6. The incentive provides a 50% exemption from municipal contributions or municipal patents for the duration of the decree.
7. Export of Services Companies that engage in Research and Development Activities may qualify for tax credits of up to 50% for all eligible investments and activities (see Chapter 6).
8. There is a 100% exemption from property taxes on call centers, corporate headquarters, and distribution centers available for the first 5 years of operations.



## Illustrative Example

Giovanni, a resident of Ponce, has been crafting small-batch rum blends for over 15 years. Friends and colleagues frequently ask him for recommendations on the best ways to age and mix rum. Inspired by their interest, he decides to start an online business selling curated rum blends and exclusive batches. Giovanni builds a website, uploads detailed product descriptions and photos, and launches Ponce Rum Reserve.

To promote his brand, Giovanni shares tasting tips and cocktail recipes on social media, engaging an audience passionate about premium rum. Within the first few weeks, his inventory sells out, and he notices that 75% of orders are from the mainland United States. Seeing this demand, Giovanni formalizes his business by establishing Ponce Reserve LLC and applies for tax incentives aimed at exporters.

Giovanni's old friend, Timothy, owns a chain of specialty liquor stores in Florida and agrees to carry Ponce Rum Reserve products. Sales from these stores and online orders from outside Puerto Rico quickly generate \$12,000 a month, all of which qualify for reduced tax rates in Puerto Rico of 2% for the first 5 years and 4% thereafter under local export incentives. This business may also qualify for manufacturing and other incentives.

→ **Qualified Promoters**<sup>9</sup>

As we near the end of this chapter, another important incentive to be discussed is the one for Qualified Promoters. This incentive benefits persons and entities that make it their job to help companies and individuals relocate to Puerto Rico. Their services encourage individuals and entities to advertise the benefits of Puerto Rico’s economy and tax incentives while allowing them to promote a decree-supported business in order to benefit from their establishment on the island.

Promoters can earn up to 50% of the tax revenue that is paid by the business to the Economic Incentives Fund managed by the DDEC. This benefit lasts up to 10 years after the company or individual receives the decree. The income earned by promoters for their efforts will be taxed as ordinary income. No incentives or tax breaks are granted to promoting entities.

**Cost to File**

When applying for the incentives mentioned in this chapter, either as a business engaged in the export of goods and services or a Qualified Promoter, there must be a budget of at least \$1,005 for filing and transaction fees. These fees do not include any other additional fees incurred by service professionals, attorneys, or lawyers.

Cost to File		
Filing	Transaction Fee	Service Fee
Applying as a Business Engaged in the Export of Goods and Services	\$5	\$1,000
Applying as a Qualified Promoter	\$5	\$1,000
Tax Credit Application for Research and Development Activities	\$5	\$500

9 13 L.P.R.A. § 45261 (2023). <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2-ingles/60-2019.pdf>

