



# Oportunidades bajo Ley de Incentivos de Energía Verde de Puerto Rico – Incentivos Contributivos

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# Topics – Tax Incentives

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- ▶ Effectiveness of Green Energy Incentives Act (GEIA), Act 83
- ▶ Interplay with tax incentives under the Economic Incentives Act for the Development of PR (Act 73 of May 28, 2008) and other related matters
- ▶ Tax rates
- ▶ Tax exemptions
- ▶ Tax credits
- ▶ Tax applications
- ▶ Conversions, renegotiations and extensions

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# Effectiveness

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- ▶ Act Number 83 of July 19, 2010 – Green Energy Incentives Act
- ▶ Immediately after its approval, July 19, 2010

# Act 248- Incentives for Solar Energy Projects

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- ▶ Income Tax- Section 1040J- Credit based on investment
  - ▶ Years 2007-2008 through 2008-2009 – 75%
  - ▶ Years 2009-2010 through 2010-2011 – 50%
  - ▶ Years 2011-2012 and after – 25%
  - ▶ Credit is limited to \$5 Million per year for individuals and \$15 Million per year for corporations
  - ▶ Can be used against any tax determined under the Internal Revenue Code of Puerto Rico
  - ▶ 10 Year Carryover
  
- ▶ Credits for fiscal years 2010-2011 and thereafter no longer available as amended by Act 83

# Certain other provisions affected by Act 83

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## ▶ PR IRC

- ▶ Itemized deductions for individuals – Amended definition of solar equipment to specifically make eligible the one that uses the solar energy to to heat water
- ▶ Payment of excise taxes on autos moved by electricity, solar energy and hydrogen – Eliminated the full exemption
- ▶ Credit for purchase of autos moved by alternate or combined energy – Amended to basically substitute credit against income tax with a mechanism of auto excise tax refund
- ▶ Deduction of costs of acquisition and installation of windmills for businesses and individuals - Eliminated
- ▶ Special partnerships provisions

# Act 241 of August 9, 2008-Credit for Tourism Investment in Renewable Energy

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- ▶ Amends the Puerto Rico Tourism Development Act of 1993
  - ▶ Credit for tourism investment
  - ▶ 60% of total investment
  - ▶ Investment in acquisition and installation of equipment that can produce renewable energy
  
- ▶ Act 74 of July 10, 2010- Tourism Development Act
  - ▶ Amended Act 241 to eliminate credit

# Economic Incentives Act for the Development of Puerto Rico-Act 73

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- ▶ Eligible businesses
  - ▶ Section 2(d)
    - ▶ (1)(E) – Property devoted to industrial development
    - ▶ (1)(H) – Production of energy for use in PR through natural gas or carbon, and renewable sources
    - ▶ (1)(M) – Assembly of energy producing equipment
- ▶ Strategic projects-Section 2(p), Construction of plants for the production of energy through alternative fuels and renewable sources

# Economic Incentives Act for the Development of Puerto Rico-Act 73

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- ▶ Credit for investment in renewable energy, Section 5 ( c )
- ▶ Credit for investment in machinery and equipment for energy generation from renewable sources , Section 5(d)
- ▶ Credit for investment in Strategic Projects, Section 5 (g)
  - ▶ Investment in the cost of infrastructure for the operation of a Strategic Project



# GEIA - Tax Applications and Other

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- ▶ Requests for exemption and incentives allowed through December 31, 2020
- ▶ Requests filed with the Office of Industrial Tax Exemption
- ▶ Interagency evaluation of applications with specific time periods to respond
- ▶ Period of tax exemption - Fixed term of 25 years

# GEIA Tax Application Procedures and Rules – Interplay with Act 73

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- ▶ Business dedicated to eligible activities under the GEIA
  - ▶ No new applications under the 2008 Economic Incentives for the Development of Puerto Rico Act (Act 73 of May 28, 2008)
    - ▶ Applications for new grants in process as of the effective day
    - ▶ Business may opt to request its processing under the GEIA

# Puerto Rico Green Energy Incentives Act (GEIA)-Act 83 of July 19, 2010

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## Income Tax Rates

- ▶ 4% flat rate on net “green energy income” (GEI)
- ▶ 12% withholding tax on royalties to non PR resident foreign corporations & partnerships
- ▶ 100% exemption on dividend distributions from GEI
- ▶ 4% on gain from sale of stock
- ▶ 100% exemption on total liquidation
- ▶ Accelerated depreciation benefits

# Puerto Rico Green Energy Incentives Act (GEIA)-Act 83 of July 19, 2010

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## Special Deductions

- ▶ Net operating loss deduction
  - ▶ Current losses incurred in activities not covered by tax grant
  - ▶ Current losses incurred in activities covered by tax grant
  - ▶ Carryover losses of prior years

# Puerto Rico Green Energy Incentives Act (GEIA)-Act 83 of July 19, 2010

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## Special Deductions

- ▶ Investment in property, plant and equipment
  - ▶ Accelerated depreciation benefits, not an additional deduction
  - ▶ Costs incurred in the purchase, acquisition or construction of buildings, structures and machinery and equipment
  - ▶ Costs incurred in the remodeling or reparation of building, structures, machinery and equipment
  - ▶ Excess of deduction: Carry forward permitted

# Puerto Rico Green Energy Incentives Act (GEIA)-Act 83 of July 19, 2010

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## Other tax exemptions

- ▶ Property Tax
  - 90% exemption
  - 100% during construction period
- ▶ Municipal License Tax
  - 60% exemption
  - 100% during first three semesters
- ▶ Other Municipal Taxes
  - 100% exemption, including contractors and subcontractors
- ▶ Excise, Sales and Use Tax
  - 100% exemption (specific articles covered and excluded articles excluded from exemption)

# Puerto Rico Green Energy Incentives Act (GEIA)-Act 83 of July 19, 2010

## Tax Credits and Benefits

	Purchase of products manufactured in Puerto Rico	Job creation	R&D	Transfer of intellectual property
	Purchase of products manufactured in Puerto Rico, including components and accessories	New business that create and sustain jobs for three years	Investment in R&D related with green energy projects	Payments for use of intellectual property
Amount	25% of purchase 35% of recycled	\$1,000 - \$5,000 depending on area	50% of eligible investments	12% of payments
Limit	Up to 50% of tax liability	N/A	Two or more installments	N/A
Transferability	No	No	Yes	No
Carryforward	Unlimited	Up to four years	Unlimited	Eight years

# Puerto Rico Green Energy Incentives Act (GEIA)-Act 83 of July 19, 2010

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## Minimum Tax and Limit on Use of Tax Credits

- ▶ Tax determined will never be lower than:
  - ▶ 4% flat rate on the GEI
  - ▶ 3% flat rate on the GEI, if 50% is owned by Puerto Rico residents



# Limitation Rules for Businesses under Other Tax Incentives Acts

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- ▶ Businesses that benefit from the rebate program under the GEIA will not be allowed to claim the credits or special deductions under Act 73, including tax credit under Section 5(d) of Act 73 (Investment in machinery and equipment for energy generation)
- ▶ Businesses dedicated to green energy production operating under other tax incentives acts
  - ▶ If credits or deductions are claimed after June 30, 2011
    - ▶ Will not be allowed to benefit from the incentives provided under the GEIA, including the rebate program
    - ▶ Limitation valid through the term of the grant, including extension period

# Tax Application Procedures and Rules – Interplay with Act 73

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- ▶ Transition rule
  - ▶ Business that dedicates to the production of energy for use in PR under Section 2(d)(1)(H) of Act 73
  - ▶ Credit granted prior to July 1, 2011 for investment in machinery and equipment for energy generation
    - ▶ Allowed to be sold or transferred
    - ▶ Credit not transferable under Act 73