The Bauman Letter

— Your Guide to Rogue Freedom & Bold Prosperity —

Puerto Rico: The American Tax Haven

I was convinced I'd seen this before … maybe a photo of the Palace of Versailles? The Hermitage in St. Petersburg? The papal quarters in the Vatican?

I waited in an ornate anteroom, at once luxurious and tasteful. A high ceiling, fine silk curtains in gold, priceless antique furniture and carpets … portraits of Spanish kings, queens and notables of the past.

You'd think I was in the capital of a European monarchy … but I was in La Fortaleza, the governor's mansion in San Juan, Puerto Rico.

Yes, that Puerto Rico. The one everyone — including yours truly — has told you is hopelessly bankrupt. The Western Hemisphere's version of Greece.

The contrast between the territory's financial problems and the glorious accommodations of its leader — the oldest seat of government in the Americas still in use — was jarring.

But it reminded me of something that's always critical to long-term planning.

Puerto Rico is amid difficult times. But it was a magnificently wealthy place in the past. As recently as the 1990s and early 2000s, it had a booming economy.

Even now, construction and renovation activity is exploding all over the island.

Everything from 18th-century residences overlooking the seaside fortress of San Felipe del Morro to seafront condos to classic hotels is being prepared for buyers and renters. That's because the real estate market is just past rock bottom … on its way up, slowly at first, but inevitably gaining speed as word gets out about what's happening here.

How does this sound?

You purchase a classic Spanish colonial residence in the old town … or a condo in Condado … or a beachfront home in Dorado … for a bargain price and renovate it. You spend half the year here.

In return, you pay no U.S. federal income tax on local source income, no local tax on interest or dividend earnings after you arrive, no capital gains tax if you sell the property.

And if you choose to operate a business from here — say, a location-independent consulting service registered in Puerto Rico — you pay 4% corporate tax.

That's for the next 20 years or more, depending on where you live on the island.

The fact is that there is exactly one jurisdiction

Inside This Issue

in the world where it is possible for a U.S. citizen or resident to pay zero federal income tax: Puerto Rico. That's right. It's the ONLY place exempt from the IRS' world-wide tax net.

Sound too good to be true? I thought so for a long time ... but not anymore.

What's Good for the Goose

In February 2016, billionaire New York hedge fund manager John Paulson — famous for making a $4 billion killing on the collapse of the subprime mortgage market — invited hundreds of U.S.-based billionaires to Puerto Rico. He told them it had "the potential to become the Singapore of the Caribbean."

Those are strong words.

Paulson, who is spending more than $1 billion on luxury hotels and resorts on the island — I saw some of them under construction — encouraged his fellow financiers to move there and, in doing so, save themselves a small fortune in tax.

Quite a few have done so since then.

Before I get into the details of why that's possible, recall that the U.S. is the only country in the world that effectively taxes its citizens and former residents no matter where they live and make their money.

If you're a U.S. citizen or green card holder, you must file your taxes and pay up, even if all your income is from offshore sources and you live overseas yourself. That was my situation for 25 years in South Africa. (As I wrote in the February issue of *The Bauman Letter*, however, a little more than $100,000 of that income is tax-exempt annually, double for couples.)

That means that even if you move to a low-tax country like Singapore, the Cayman Islands or Dubai, you'll still be on the hook with the IRS. The only way to escape the IRS entirely is to give up your citizenship and pay a big U.S. exit tax.

But not if you live in Puerto Rico.

How is this possible? Puerto Rico is an "organized unincorporated territory" of the United States, not a full state. It's basically a U.S. colony.

Puerto Ricans are U.S. citizens, with most of the rights and obligations that entails. Shortly after the U.S. forcibly seized Puerto Rico in the Spanish-American War, however, Congress made Puerto Ricans full U.S. citizens under the Jones-Shafroth Act — which also granted Puerto Rican residents exemption from federal income tax.

It was the least they could do, considering that the island's inhabitants are unable to vote in presidential races or any U.S. federal election, but were eligible for the draft, which was looming as U.S. entry into World War I became likely.

Any bona fide resident of Puerto Rico is exempt from federal income tax on income generated in the territory. However, they are subject to U.S. income tax on income from sources outside Puerto Rico, including the mainland and other countries.

For a U.S. citizen or permanent resident, becoming a bona fide resident of Puerto Rico is easy ... you just move there. It's no different from moving from, say, New York to Florida. You don't need a passport, and there is no immigration control for arrivals from the U.S. mainland.

And once you're there, you pay no tax to the IRS on local income. Period.

Sweetening the Pot

Even with zero federal income tax, it didn't really make sense for mainlanders to move to Puerto Rico ... until recently. Puerto Rican income taxes used to

About Ted Bauman

Ted Bauman is the editor of the Plan B Club, a blueprint to help protect your wealth and escape excessive taxation, regulations and wealth confiscation in America. He is also the editor of *The Bauman Letter*, a newsletter that's brimming with up-to-the-minute asset protection strategies, tips on buying and investing in real estate abroad, and retirement and residency secrets in American-friendly countries around the globe. Ted has been published in a variety of international journals, including the *Journal of Microfinance*, *Small Enterprise Development* and *Environment and Urbanization*. Email Ted your thoughts and questions at baumanletter@banyanhill.com

be just as high, if not higher, than U.S. taxes. (And for many locals, they still are.)

In 2012, however, the government of Puerto Rico passed Act 20 and Act 22, which provide a corporate tax rate of just 4% for companies exporting services outside of Puerto Rico (Act 20), as well as a full exemption for individuals from taxes on most types of investment income (Act 22).

Since any Puerto Rico-based business or Puerto Rican resident individual pays no U.S. federal income taxes on local income, if you move to the island and obtain an Act 20 and/or 22 decree, you pay the IRS nothing on local income and minimal tax to Puerto Rico itself.

Let's have a look at the details.

ACT 20

Under Act 20, any service business operated in Puerto Rico for clients outside of Puerto Rico pays a tax rate of 4% — or even less under some circumstances.

Service businesses include everything from hedge fund managers to marketers, public relations professionals, computer programmers, graphic designers ... or writers and researchers, like me.

All it takes is the creation of a Puerto Rico-based company that sells its services to non-Puerto Ricans, such as an online business.

That company must be genuinely physically present in Puerto Rico. It must create jobs for five employees — three after six months of commencing operations and the other two after two years.

Here are the specifics:

- Puerto Rican corporate tax rate of 4%.
- Corporate tax rate of 3% in the case of "strategic services."
- Puerto Rican tax exemption of 100% on distributions from earnings and profits.
- Tax exemption of 90% of personal property taxes for certain business types up to the first five years of operation. (The taxable portion is subject to a regular property tax rate of up to 8.83%.)
- Tax exemption of 90% from real property taxes for certain business types for up to the first five years of operation. (The taxable portion is subject to a regular property tax rate of up to 11.83%.)
- Tax exemption of 60% on municipal taxes. (The taxable portion is subject to a regular property tax rate of up to 0.6%.)

Note that you, as the owner of the company, don't have to move to Puerto Rico to take advantage of this. You can still live in the U.S. (or anywhere else) and set up a separate U.S. company that receives fees for services it performs on behalf of the Puerto Rican company — such as writing a report like this one.

Note, too, that if you already have a U.S. corporation, any Puerto Rican subsidiary created under Puerto Rican law won't be considered part of the consolidated company for U.S. tax purposes, since a Puerto Rican corporation is considered a foreign corporation for U.S. tax purposes.

The U.S.-based company would pay U.S. tax on those fee earnings. But most of the profits booked to the Puerto Rican entity — basically everything above the fees you pay yourself — would accumulate in the Puerto Rican company at just a 4% corporate tax rate. And those would not be taxable by the IRS, as long you don't pay yourself a dividend from your Puerto Rican company.

Over time, your Puerto Rican retained profits would build up into a tidy sum. That's why the Puerto Ricans also enacted a second incentive to encourage you to come down and enjoy that money, practically tax-free.

If you take advantage of it, you'll be able to pay out all the profits to yourself without paying a dime of tax — either to the IRS or to the Puerto Rican government. That's because Act 20 grants 0% tax on dividend distributions.

Consider what this means for John Paulson's hedge fund buddies.

They incorporate their hedge funds in Puerto Rico, serving the same clients as before. They continue to live in New York or Connecticut and pay themselves a fee from their Puerto Rican operations. The rest of the profits accumulate as retained earnings.

When they're ready, they move to Puerto Rico as a bone fide resident and pay out all those retained earnings to themselves as dividends — tax-free.

If they like, they can then return to the U.S. Or stay in Puerto Rico ... which isn't such a bad thing.

ACT 22

Unlike Act 20, which is for corporations, Act 22 is for individuals. Here's how it works.

You acquire residential property in Puerto Rico either by purchase or rental. You relocate and become a bona fide resident of Puerto Rico. You then get a 0% Puerto Rican tax rate on passive income sources such as investments, dividends or pension payouts — even if those investments are on the U.S. mainland.

Of course, the 0% tax on dividends applies to accumulated earnings in your Puerto Rican Act 20 business, if you have one.

Here's the breakdown:

- 100% tax exemption from Puerto Rican income taxes on all dividends and interest.
- 100% tax exemption from Puerto Rican taxes on all short-term and long-term capital gains accrued after you become a bona-fide resident of Puerto Rico.
- 0% capital gains tax on the sale of any Puerto Rican real estate acquired after you move there (if it is sold before 2036).

So how does one become a bona fide resident of Puerto Rico?

First, you need to spend six months of the tax year

Example 1

Let's say you purchased shares in a U.S. company at $10 in 2012, before you move to Puerto Rico. You move to Puerto Rico under Act 22 in 2016, at which time the price of the stock is $15. You then sell the stock at $30 in 2020.

From the time you purchased the shares to the time you move to Puerto Rico, you'd be liable for a 20% capital gains tax to the IRS and a 15% capital gains tax to the Puerto Rican authorities.

But since Puerto Rico is a foreign territory for U.S. tax purposes, that 15% would be offset against your U.S. tax, so you'd effectively only pay 5% capital gains to the IRS. Any capital gains that accrue from when you move to Puerto Rico — say the share price increases from $15 to $30 — would be Puerto Rican tax-free.

Example 2

You purchase stock at $10 in 2012, before you move to Puerto Rico. You become a Puerto Rican resident under Act 22 in 2016, when the price of stock is $15. You sell at $30 in 2027.

From the time you purchase the stock to the time you move to Puerto Rico, you'd pay 5% Puerto Rican capital gains. For gains from the time after you moved to Puerto Rico until you sell, you'd pay 0% Puerto Rican capital gains tax. ■

in Puerto Rico. Second, you need to ensure that your official "tax home" is in Puerto Rico, which entails filing Form 8898 to the IRS to notify them of your move. Third, while you're living in Puerto Rico, you must have a "closer connection" to Puerto Rico than to the U.S. That means a Puerto Rican driver's license, a bank account, a local doctor or a mixture of many other subtle conditions that say "I live in Puerto Rico. Really."

Now, there are four critical things to bear in mind here.

First, no matter what, you are liable for U.S. capital gains tax for U.S. source dividends and capital gains.

Second, under the American Taxpayer Relief Act of 2012, if your ordinary income in the year you realize capital gains puts you in the 10% or 15% tax brackets, you won't pay U.S. capital gains tax, in addition to 0% Puerto Rican capital gains tax on gains made whilst you have lived there.

Third, if you sell stock after 10 years of moving to Puerto Rico, you don't need to report any capital gains to the IRS — neither the unrealized gain at the time of the move nor the realized gain at the time of sale. That's because such gains are excluded under Section 865(g) of the Internal Revenue Code, for bona fide residents of Puerto Rico.

Fourth, if you live in a high-tax state like New York or California, or a state that imposes additional capital gains taxes, this adds significantly to your overall potential tax benefit.

But Ted, Can it Last?

I'd only been in San Juan for 24 hours when my hosts picked me up from my hotel for our meeting with Governor Ricky Rosselló.

In the car on the way over to La Fortaleza, the seat of Puerto Rico's executive branch, I did what I always do when I visit a new place: I looked at the buildings and infrastructure.

After years working in urban housing development, I can spot little things … the average age of roofing materials … cleanliness of street-facing windows … the state of the streets and storm drains … that suggest whether a city is well cared for.

Unexpectedly, given everything I'd heard about the country's problems, San Juan was spotless. Very few U.S. cities are as well looked after. But that couldn't be enough for me, and it wasn't.

In his mini library overlooking the San Juan harbor — and with his young kids playing just outside — I sat down with Governor Rosselló, who was elected on November 8, 2016 and had only recently assumed office.

He began our meeting by explaining where he was positioned on Puerto Rico's political spectrum. The territory has two main parties, Roselló's *Partido Nuevo Progresista* (New Progressive Party, or NPP) and the *Partido Popular Democrático* (Popular Democratic Party, or PDP).

Both parties are centrist by U.S. standards, but Roselló's NPP favors statehood, whilst the PDP wants to remain an autonomous U.S. commonwealth, albeit with more rights than at present.

The NPP is affiliated with the U.S. Republican Party, whilst the PDP caucuses with the Democrats. Both parties are dominated by Puerto Rico's upper-middle classes, and neither is as "extreme" as their U.S. counterparts on most issues of policy.

The governor is a young guy, a sportsman and a published biochemist. His father, Pedro Rosselló, was elected governor of Puerto Rico from 1992 to 2000. His dad's political nous evidently rubbed off on the younger Rosselló.

Here are the main points we discussed — as well as the concerns that gave rise to them, which I posed to him in devil's advocate fashion. During our chat, I remained conscious of the fact that the governor was trying to sell something to me — the idea of Puerto Rico as a viable tax haven for Americans.

Fiscal Crisis

Objection: Puerto Rico is bankrupt, and its economy is in a tailspin. The government won't be able to maintain tax breaks for rich mainlanders under those conditions, especially since native-born Puerto Ricans are paying full tax rates.

Puerto Rico is about $70 billion in debt to U.S. banks, and it has little chance of paying all of that off

Puerto Rico's Governor Rosselió and Ted Bauman

on the terms on which the loans were made. Unlike a U.S. city, Puerto Rico can't declare bankruptcy. (Puerto Rican bonds are treated as municipal issues under U.S. tax law.)

All that's true. But ultimately, as Rosselló implied without stating it directly, it's in nobody's interest to have the territory bled dry as Greece has been by its European lenders. Puerto Ricans are free to move to the mainland, and if Wall Street insists on full repayment without restructuring, the island will rapidly depopulate, leaving no economy to tax to raises funds for repayment.

That leads — at least to me — to the strongest argument in favor of keeping Acts 20 and 22.

Since 2006, hundreds of thousands of Puerto Ricans have moved to the mainland to find greener pastures. So many residents have left the island over the years that there are millions more Puerto Ricans living in the mainland United States (5.2 million) than in Puerto Rico (3.6 million).

The 300,000 departures from 2000 to 2010 mark the largest migration wave since the 1950s, when close to a half million Puerto Ricans migrated to the mainland.

Every Puerto Rican who leaves is one less person paying Puerto Rican income tax. By contrast, every person who takes advantage of Act 20 and/or 22 is paying 4% or thereabouts — tax income that would not otherwise exist.

In other words, it's not an either/or situation: Acts 20 and 22 improve Puerto Rico's chances of repaying Wall Street. Moreover, the investment and residence requirements of the acts produce significant spending by the new arrivals, which circulates through the economy, boosting its ability to pay tax.

Finally, although the governor didn't say this directly, it's also not clear that a smaller Puerto Rico focusing on tourism and high-end export services would be a bad thing. The island has almost no agriculture and no competitive advantage in manufacturing. Acts 20 and 22 at least serve to create an alternative locus of economic dynamism.

Congressional Pressure and PROMESA

Objection: Puerto Rico's tax breaks sound too good to be true, and if the U.S. Congress becomes concerned enough about Acts 20 and 22, it could eliminate Puerto Rico's federal tax-exempt status.

Unlike a U.S. state, Puerto Rico does not have a zone of reserved sovereignty that is beyond the reach of Congress. That means Puerto Rico has no recourse to challenge unilateral actions by the U.S. government that affect its citizens. If Congress wanted to do so, it could override Acts 20 and 22.

But Puerto Rico's fiscal situation is partly the fault of Congress. Even the hardest-hearted fiscal conservative would have to acknowledge that their shared history means the island should get some slack.

Starting in 1921 with special breaks for Puerto Rico and the Philippines, both captured from Spain in 1898, Congress has a long history of tweaking the territory's tax status. Congress revised the tax exemptions for Puerto Rico in 1976, as Section 936 of the tax code.

Section 936 was intended to prevent tax evasion and to establish an incentive for U.S. companies to set up job-creating manufacturing subsidiaries in Puerto Rico. The tax credits effectively exempted all Puerto Rico source corporate income from U.S. taxation.

Dividends from a Puerto Rican subsidiary to a U.S. parent could be repatriated tax-free as well. Section

936 even exempted passive income from some Puerto Rico sources.

In response, many large pharmaceutical companies began manufacturing on the island, including Johnson & Johnson, Pfizer and GlaxoSmithKline. Given the incentive to fiddle the system, these companies began to subtly shift income from the U.S. to their Puerto Rican subsidiaries to escape U.S. tax, costing the mainland billions in tax payments and thousands of jobs as well.

So, in 1996 Congress voted to remove the incentives, which were fully phased out by 2006. Puerto Rico lost its main source of tax income — just as the 2008 financial crisis erupted. So, the Puerto Rican government began to take advantage of the tax-free status of income from U.S. municipal bonds (which Puerto Rico's were considered) by borrowing in U.S. markets.

That same tax-free loophole encouraged Wall Street to make these loans and to discount the risk, since it was widely assumed that the U.S. government wouldn't let the territory default. The combination of Puerto Rico demand and Wall Street supply, heavily incentivized by the U.S. tax code, led to unsustainable levels of borrowing.

On July 1, 2016, then-Governor Alejandro García Padilla suspended payments due on Puerto Rican bonds.

He did so because he couldn't pay them but also because Congress had just passed the Puerto Rico Oversight, Management, and Economic Stability Act (Promesa), which established an oversight board, a process for restructuring Puerto Rico's deb, and expedited procedures for approving critical infrastructure projects.

Most importantly, Promesa creates a bankruptcy-like restructuring process and halts litigation in case of default.

I asked Governor Rosselló point-blank whether he had encountered concerns about Acts 20 and 22 from the Promesa oversight board (where he is an ex officio member) or from Congress. He said he had had no indication of that at all, for four reasons.

First, unlike in the case of the repeal of the Section 936 tax break in 1996, there are no mainland American jobs at stake, making it even less likely that Congress will worry about the acts.

Second, the tax boost provided by the acts is better than nothing, as I mentioned above.

Third, the Contracts Clause of the U.S. Constitution prohibits unilateral abrogation of any tax decrees issued under Acts 20 and 22, so those issued so far would have to be grandfathered in.

But most importantly, for Congress to take the drastic and rarely used step of overruling Puerto Rico's own laws, it would have to be willing to change Puerto Rico's status as an unincorporated territory. Otherwise, Puerto Rico would have no incentive to play ball, and Congress would have to take over direct administration of the territory.

Ultimately, Governor Rosselló and his party — along with most Puerto Ricans — want the island to become our 51st state. If Congress wants to overrule Acts 20 and 22, it would have to be prepared to accept that. That is unlikely under the present political conditions in Washington, where the GOP tends to see the island as leaning Democratic, potentially tipping the balance of the Senate.

Rosselló agreed when I pointed out that there is one mainland issue that could cause problems — objections from high-tax states like New York and California, which are already losing some big taxpayers to Acts 20 and 22. Again, however, the GOP-dominated federal government has no incentive to do any favors for those solidly Democratic states for the moment.

The Political "Temperature"

Objection: Ordinary Puerto Ricans will not accept preferential treatment for rich mainlanders, threatening social and political instability.

This is one issue that worried me greatly, since I've experienced the consequences of inequality in living standards and legal treatment in my own life. It's a recipe for conflict. So I asked everyone I could — from my hosts to the governor to the waiter at a local restaurant to the hotel desk clerk — how they felt about Acts 20 and 22.

The uniform response I got was that although it may bother some Puerto Rican nationalist-types a lot — and there aren't many of those any more — most people are just glad to have somebody spending money on the island, even if it means a preferential tax rate.

In any case, they said, very few Puerto Ricans pay much in tax at all, since they don't have much income. Those who do have good incomes tend to be invested in the very Puerto Rican bonds that the government can't repay, so tax authorities are being lenient on them for the time being. Overall, they guessed, the net benefit for the territory of Acts 20 and 22 is probably positive.

Evidence bears this out. I managed to obtain a private analysis of the fiscal impact of Acts 20 and 22 from a local source, which claims that the two acts have generated more than 1,000 jobs, $165 million in local salaries, $40 million in corporate tax and $330 million in real estate investment.

Over the next eight years, the total tax haul from the acts could be as high as $1 billion. That's compared to no tax income at all from a depopulating tax base.

I didn't see any protests about Acts 20 or 22 during my visit. I did, however, see some animated objections to Uber from local taxi drivers.

2 Reasons to Work With a Lawyer

Like Louisiana, Puerto Rico adheres to the Napoleonic civil code rather than English common law. That has significant implications for anyone thinking of moving to the island to take advantage of these tax incentives. There is both good and bad news — both of which require a lawyer's attention.

• TRUSTS

Anyone relocating to Puerto Rico can establish a revocable or irrevocable trust and have it treated as a grantor trust for Puerto Rican tax purposes. Foreign trusts, including mainland asset protection trusts, are valid in Puerto Rico.

That gives you a lot of flexibility to put some distance between yourself and your assets if you go to Puerto Rico — something I always recommend. There may well be some significant tax advantages to doing so, depending on your circumstances, making Acts 20 and 22 even more attractive.

That's the good news.

• ESTATE ISSUES

The bad news is that civil law involves "forced heirship," which means that your Puerto Rico-based assets must be divided per a predetermined formula. It's also common in much of Latin America.

Theoretically, that applies to your mainland-based assets as well, but there is no way to enforce this provision on U.S. real estate or other property since it is subject to U.S. courts by virtue of its stateside location. Nevertheless, that's another reason to engage a smart estate-planning lawyer if you decide to make this move.

Estate taxes exist in Puerto Rico, ranging from 18% to 50%. Generally, the taxable estate of a person who was a resident of Puerto Rico at the time of death includes all his or her property, wherever located, including on the mainland.

However, the taxable Puerto Rican estate of a person who was a resident at the time of death but did not acquire U.S. citizenship by being born in Puerto Rico is only on the part of the estate located in Puerto Rico. That means anyone born on the mainland who takes advantage of Act 20 and/or 22 can exclude their mainland assets from the Puerto Rican estate.

How It's Done

Acts 20 and 22 are considered "tax decrees," a unique feature of civil law. The decrees are valid for 20 years, but in some circumstances, they can be extended to 30 years.

The decree is a binding contract between you and the government of Puerto Rico and cannot be overturned by future Puerto Rican legislation. Puerto Ricans I spoke to uniformly believe that the Contracts Clause — the U.S. Constitutional prohibition against the impairment of contracts — should protect the decrees from potential revocation or amendment by subsequent legislation, even by the U.S. Congress.

Applying for such a decree involves a filing fee of $750, and if approved, a $5,000 fee.

To summarize the conditions:

- For Act 22, you must be present physically on the island 183 days of the tax year.

- You must have a Puerto Rican bank account.
- For Act 22, you must buy or rent property.
- For Act 20, you must form a Puerto Rican corporation and employ at least five locals.
- You cannot have a tax home outside of Puerto Rico.
- You cannot have been a resident of Puerto Rico within six years prior to the date in which the acts became effective in 2012. Puerto Rican "expats" who have been away longer than that are welcome to apply.
- Beneficiaries must file an annual report with the Office of Industrial Tax Exemption by April 15, showing compliance with conditions and requirements of the grant for the preceding tax year.
- To qualify for the Act 22 capital gains exemption, they must be recognized prior to January 1, 2036.

All of this can be done via an online application through the Department of Economic Development & Commerce, via the Office of Industrial Tax Exemption of Puerto Rico.

However, given what's at stake, I strongly advise that you contact Ivonne Rodríguez-Wiewall, a highly regarded Puerto Rican attorney who offers a concierge service not only to obtain a decree, but also to handle issues associated with settling on the island. She can also put you in touch with developers who are building homes for Act 22 beneficiaries in high-quality beachfront developments like Dorado on the north coast.

I have also made special arrangements for the U.S. side of the process with my friend Josh Bennett, who has a close working relationship with Ivonne.

Conclusion

I know I have some Canadian readers … and no, you don't have to be American to take advantage of this. You can certainly take advantage of Act 20 to start a tax-advantaged Puerto Rican export business, but, of course, residence on the island, i.e. via Act 22, would require a U.S. green card.

So, what's my opinion of this opportunity?

As I said earlier, I was doubtful in years past. It just didn't make any sense to me that a U.S. jurisdiction in such dire financial straits could get away with offering such attractive tax advantages to U.S. citizens and residents.

But the points I outlined above from my meeting with Governor Rosselló are compelling. The economic, fiscal and political circumstances are such that there is no real downside to Acts 20 and 22 from the congressional perspective. If Rosselló is to be believed, the issue hasn't even come up in the Promesa financial oversight commission. (They're apparently much more concerned about some other tax deals Puerto Rico has made with U.S. corporations … taking the heat off Acts 20 and 22.)

My judgement is that the Republican administration in the White House and the Republican Congress are unlikely to complain about low tax rates for anybody, including Puerto Rico. After all, they've been campaigning against taxes and government interference for years. You'd think they'd be overjoyed to see a 3% to 4% tax rate in a place like Puerto Rico.

The big question that remains for me is whether the island can maintain its good standard of living and reasonable public services whilst Acts 20 and 22 and other incentives gradually improve the local economy.

A lot depends on whether the Promesa oversight commission comes down in favor of Wall Street banks that lent money to the territory or does the sensible thing and strikes a balance between their interests and the interest of the people of Puerto Rico and the U.S. itself — which will not be served by a financial collapse.

Of course, it doesn't hurt to have influential Wall Street folks like John Paulson invested in Act 20.

My advice is this: Take the short trip down to San Juan and have a look around. Meet with Ivonne and her colleagues to see what is offered. Explore the place yourself, and see if it is a place where you could do business and/or retire.

After all … all you have to lose is your obligation to pay the IRS every year. ■

Are Puerto Rico's Extraordinary Tax Benefits Ideal for You?

By Josh Bennett

IN January 2012, Puerto Rico enacted laws that provide arguably the most attractive tax benefits available to U.S. citizens and certain businesses. These tax incentives all but annihilate the tax obligations that residents of the U.S. and Puerto Rico bear.

How does a zero tax rate on capital gains sound? And zero tax on certain types of interest and dividends earned by individuals? How about if you run your business from there, remotely providing services abroad, including in the 50 states?

If you as an individual qualify, only income derived from sources outside of Puerto Rico are potentially subject to U.S. federal taxation. Additionally, there are no capital gains, short or long term, subject to tax when you sell personal property (stocks, bonds and futures — this excludes day trading), regardless of where the exchange you use is located. That means you aren't required to pay a single penny in federal or state income tax on those capital gains.

If your business qualifies, it will pay a mere 4% tax on its income, and you, as a stockholder/owner living in Puerto Rico, would be 100% exempt from income tax on any and all dividends it pays to you from any income sourced in Puerto Rico. (Dividends paid to stockholders based in the U.S. are required to pay federal and state taxes.)

Act 22 Requirements for Individual Investor Exemption

There are three bona fide residency tests you must meet in order to comply with Act 22: the presence test, the tax home test and the closer connection test.

This entails living 183 days or more in Puerto Rico and moving your official residence there, along with your spouse and/or dependent children you may have and any legal matters. (Those individuals who relocate within the six years preceding January 17, 2012, when the acts were enacted, are not eligible.)

The cost to petition for each grant (entities and individuals) is $750 at the time of filing. In addition, Act 22 (individuals) requires a flat fee of $5,000 if your petition is granted. After that, the only cost is a yearly $300 to file annual reports to demonstrate that you continue to meet the terms and conditions required. Attorney fees are not included in the fees mentioned above.

Why Make the Move?

Say you're an individual investor who receives $5 million in interest from taxable U.S. fixed income. If you live in the U.S., you could find yourself having to pay nearly $2 million in income tax.

If you meet Act 22's requirements, you would not pay a penny, saving nearly $2 million!

It's also convenient. Americans are permitted to live on the island without restriction — no visa required. In fact, you don't even need a U.S. passport to travel there.

With these two new laws, tax and regulatory burdens are all but eliminated. No other place in the entire world can claim that level of favorable treatment for U.S. expats. Add to that a spectacular island climate, glorious mountains and beaches, a thriving culture of cuisine and arts, well-maintained infrastructure and even Internet at speeds that rival or exceed much of what you find in the U.S.

Already Live Outside the U.S.?

In recent years, U.S. citizens, many times in an attempt to unburden themselves of onerous double taxation, have been giving up their citizenship in droves. That can be an expensive proposition if you are successful, as the U.S. levies a fairly severe exit tax of nearly 24% on any unrealized capital gains.

(Note: Any American who enjoys foreign-earned income in salary, wages, etc., in the six-figure range or higher while living in a foreign country, not to mention earning any investment income abroad whatsoever, is subject to double taxation. No other developed country in the entire world does that. In fact, the only other country that does insist on double-taxing its citizens like the US is the tiny nation of Eritrea, in Africa.)

Puerto Rico has made it possible, however, for U.S. citizens to avoid onerous taxation while still retaining their U.S. citizenship. And it's completely legal. Puerto Rico is a commonwealth, an unincorporated territory of the U.S., so its residents do not pay U.S. federal income tax despite being U.S. citizens.

Act 20 Requirements for Export Services (Business) Exemption

Businesses that provide eligible services for export, meaning that they do not relate to business activities conducted within Puerto Rico, include but are not limited to:

- Consulting services on matters relating to any trade or business.
- Investment banking and other financial services.
- Research and development.
- Advertising and public relations.
- Economic, scientific, environmental, technological, managerial, marketing, human resources, engineering, information systems, auditing and consulting services.
- Services performed by electronic data processing centers.
- Call centers.
- Professional services (such as medical, legal, tax and accounting services).
- Centralized managerial services.

For every million dollars of income a business generates from U.S.-based customers, it could potentially pay as much as $481,500, roughly 48%. If it operated in Puerto Rico, however, that same million dollars of services provided to the U.S. would be taxed a mere $40,000, a flat 4%.

In addition to enjoying a 4% general tax rate and a 100% exemption on distributions, certain businesses are even eligible for a 90% exemption on property and real estate taxes.

If you think you might benefit from Puerto Rico's major tax savings and would like to learn more, contact us to discuss your situation and discover how you might best exploit this opportunity.

Josh N. Bennett
440 North Andrews Avenue
Fort Lauderdale, Florida 33301 USA
Telephone: 954-779-1661
Fax: 954-767-9989
Email: josh@joshbennett.com
Web: www.joshbennett.com

Attorney Ivonne Rodríguez-Wiewall
IRW Concierge Services, LLC
IRW Law Office
PMB 721
#1353 Ave. Luis Vigoreaux
Guaynabo, PR 00966
Telephone: 787-590-7070 / 787-775-0624
Email: irwlawoffice@me.com
Web: www.irwconciergeservices.com ■

Josh N. Bennett has more than 23 years experience in law with extensive, in-depth involvement in all aspects of international tax, estate and gift tax planning.

A Special Note From Ted

IN recent months, I've received several letters asking why I talk about "politics." After all, this is supposed to be an "investment" newsletter.

It's a good question, and answering it requires a bit of institutional history.

About 20 years ago, Agora Publishing launched a branch called The Sovereign Society. It catered to subscribers who wanted to learn about threats to their assets and freedoms, and about practical steps they could take to protect against such threats. The service leaned a bit libertarian.

For most of those years my father, ex-Congressman Bob Bauman, wrote a Sovereign Society newsletter called *Offshore Confidential*. It focused on non-U.S. opportunities for asset protection and related needs.

In 2013, I was asked to take over the publication so Dad could retire. The newsletter was briefly called *Sovereign Confidential*, then relaunched as *The Bauman Letter* in 2015, with more emphasis on U.S.-based asset protection solutions and opportunities for long-term wealth creation.

None of these newsletters were investment-oriented *per se* — no stock tips, no analyses of hot companies. Instead, they've all addressed the flip side of wealth … keeping and protecting what you've earned, while growing it safely at the same time.

The only reason to learn how to protect something is if it is threatened. The nature of the threat has a big influence on the steps one takes to protect against it. So, all along, in all iterations of this newsletter, we have written about both the threats to your assets and the solutions to them.

The single biggest threat to your wealth — and the prime motivation for those who started The Sovereign Society, the spirit of which lives on in *The Bauman Letter* — is the government.

That's why *Offshore Confidential*, *Sovereign Confidential* and *The Bauman Letter* have always been the place in our publishing house where political issues that relate to asset protection are discussed, both in the newsletters themselves and in our contributions to *Sovereign Investor Daily*.

For the last eight years, for example, we criticized the Obama administration when it did things that threatened your wealth. Very few readers complained. We didn't criticize the president as an individual. Instead, when his administration — or any other branch of government, including Congress and the Supreme Court — did things that we felt threatened your assets, we wrote about it with no holds barred.

When I took over the asset protection portfolio at Sovereign Society/Banyan Hill, I expanded the definition of "asset" to include privacy, health and other nonfinancial things that contribute to a good life. That expanded the range of things that might come under scrutiny from a political perspective. For example, I've written extensively about NSA/FBI/CIA surveillance, the Homeland Security apparatus, civil asset forfeiture, health policy and similar public policy matters.

I also comment from time to time on other matters of public policy that may have a bearing on your wealth and happiness.

When I write about these matters — as was the case with Bob Bauman before me — it's not about *being on the red team or the blue team*. It's about considering your interests, identifying threats and investigating practical solutions. When I criticize a specific policy or the specific politicians who have brought it about, I do so with your interests in mind — not because I am a Republican or Democrat (I'm neither), but because I care about you.

Of course, I have political opinions. I'm basically a libertarian, albeit one who doesn't limit his focus to government only. I'm equally concerned about threats to our freedom from private interests such as big banks and corporations. That's because I'm motivated by principle — protecting freedom — rather than politics.

So please remember, if you read something "political" from me, it's only because at the end of the day, politics is a matter of dollars and cents — yours. And looking after you is my job. ■

Killing the Golden Visa

By Bob Bauman JD

RONALD Reagan was my friend. I learned firsthand in discussions with this great American his admirable way with words.

Noting bloated government programs that always grow and never disappear, Reagan's wry comment was: "Actually, a government bureau is the nearest thing to eternal life we'll ever see on this earth!"

At last there may be an exception to this Reagan dictum; an unneeded, corrupt program facing well-deserved extinction — the so-called "EB-5 visa" program.

Known as the "employment-based preference immigrant investor program," if Congress takes no action, the EB-5 visa program will die on April 28, when a temporary extension expires.

A bill co-sponsored by Charles Grassley (R-Iowa), the chairman of the U.S. Senate Judiciary Committee, and Dianne Feinstein (D-Calif.) would abolish the EB-5 visa program the *Washington Post* said "…has morphed into a scandal-ridden embarrassment" plagued by allegations of fraud, bribery and mismanagement by immigration officials.

The EB-5 program awards permanent U.S. residency to a maximum of 10,000 wealthy foreigners each year, who agree to invest at least $500,000 in an American business, creating at least 10 jobs.

The program allows pooled investments in developer's projects, such as a hotel, health care facility or residential or other construction project, in which the investor has no active management role. The city of New York has received $3.2 billion of the EB-5 funds since 1993, and $600 million went to the massive riverside Hudson Yards project.

As you might expect, this honeypot of cash has been used for political purposes. In several instances, EB-5 "regional centers" were created in favored geographic areas where political influence appeared to make the determination of who got the visas. Among the business owners to take advantage of EB-5 was President Trump's son-in-law and adviser, Jared Kushner, whose company raised $50 million for a Trump-branded apartment building in Jersey City from Chinese EB-5 applicants.

Fraud has been its hallmark. The SEC charged the owner of one EB-5 project with securities fraud for misusing at least $200 million raised through EB-5 investors. If you're concerned about vetting for terrorists, a 2013 USCIS investigation warned the EB-5 program "may be abused by Iranian operatives to infiltrate the U.S." Investigators discovered individuals possibly tied to the Iranian and Chinese intelligence services had applied for EB-5 visas using fake documents.

A 2015 Government Accountability Office report concluded that the USCIS could not be sure that money used for the visas was not coming from "drug trade, human trafficking or other criminal activities." The USCIS lacks the most basic information on EB-5 applicants, including name and date of birth.

With thousands of refugees begging for U.S. entry, the EB-5 visa is a blatant case of selling U.S. citizenship that only wealthy foreigners can afford. That's why it's called the "Golden Visa" by immigration lawyers and foreign promotional groups making big fees from thousands of wealthy foreigners willing to pay for quick citizenship.

Back in 1988, President Reagan said: "Every once in a while somebody has to get the bureaucracy by the neck and shake it loose and say 'stop what you're doing.'"

With all the debate in America about illegal immigration and the building of walls, the EB-5 is a *legal* immigration program that should be abolished now. ■

Bob Bauman is a former U.S. Congressman from Maryland. He is an author and lecturer on wealth protection, offshore residence and second citizenship. Email Bob at baumanletter@banyanhill.com

America's Health Care Fight: Round 2

LOVE it or hate it, Obamacare has had an impact on a lot of Americans.

Most of us are aware of the so-called individual mandate and the subsidies that help people afford health insurance premiums, but the Affordable Care Act (ACA) has a lot of other moving parts that affect us in indirect ways.

One of the most consequential is ACA's use of risk pools to cross-subsidize insurance across age groups. Obamacare prohibits insurers from charging older people more than three times as much as the youngest insured.

Since younger people tend to be healthier, they effectively subsidize older people. That's one reason the ACA forces people to buy insurance — otherwise this age-based cross-subsidy wouldn't work.

The New Health Care Plan

The new Republican plan announced in early March, by contrast, would allow insurers to charge five times as much to the older insured, starting next year.

By one estimate, the average 64-year-old would see annual premiums increased by almost 30% to $13,100 on average.

To compensate for this, the GOP plan offers more generous tax credits to older people — $4,000 for a 60-year-old compared with $2,000 for a 25-year-old. But even with this, the GOP plan would cover significantly less of an older person's out-of-pocket costs.

The Congressional Budget Office has yet to release estimates of how many people would lose coverage under the proposal — congressional Republicans want to keep that secret until they can pass their bill —but Standard & Poor's estimates that 2 to 4 million people would lose insurance coverage immediately. Millions more would lose coverage in the next three years. They'd mainly be people in their 50s and early 60s, too young to qualify for Medicare.

But other potential forces could drive up insurance premiums.

Standard & Poor's estimates that 2 to 4 million people would lose insurance coverage. They'd mainly be people in their 50s and early 60s, too young to qualify for Medicare.

Under Obamacare, premium subsidies are pegged to the cost of a plan within a specific regional market. If you live in a high-cost rural area, the subsidies are higher than if you live in a big metro.

The tax credits in the Republican plan, however, are the same no matter where you live. Coverage tends to be the most expensive in parts of the country where there are few hospitals or few insurers — i.e., rural areas.

So if you're a 50- or 60-something in America's heartland, you could see massive insurance cost increases if Obamacare goes ... precisely the opposite of what President Trump promised during his campaign.

Here's an example I culled from recent press reports:

A woman in rural North Carolina — who voted for Trump hoping he could make insurance more affordable — would see her effective out-of-pocket insurance premium go from $260 under the ACA to $442 under the GOP plan. She's not happy.

The GOP plan also sets the stage for even more rapid premium increases than we've seen under Obamacare. That's because it does away with the individual mandate, which requires people to have coverage or pay a tax penalty.

The GOP plan replaces it with a 30% premium surcharge for the first year someone buys a policy after dropping coverage, but that's a smaller cost than the current tax penalty for being uninsured under Obamacare.

It's also one people would be more willing to pay if they're sick and need care.

That means younger people will have even more incentive to gamble on not having coverage than they do now under the ACA. If younger people skip coverage because they're OK with a 30% short-term surcharge when they do sign up, insurance pools will be filled with older, sicker people, leading to inevitable premium costs.

As one health economist put it: "This looks like to me adverse selection on steroids," he said. "I don't see how it doesn't crater the individual market. Insurance companies are going to jack up the rates."

The GOP plan also sets the stage for even more rapid premium increases than we've seen under Obamacare.

I strongly suspect the GOP plan is dead in the water. The question is ... what alternative actually could keep Trump's promise to give us the "greatest" health package ever? ■

I'm interested in hearing more from you. What is your No.1 concern when it comes to your assets and your freedom? Send your comments to me at baumanletter@banyanhill.com

A Taxing Burden

IS it wrong to pay as little tax as you can?

Based on some of the letters I receive, some people seem to think so.

There are two ways to approach tax strategy. One is tax *avoidance.* That's illegal. It means doing something like hiding taxable earnings in an offshore bank account or under a mattress.

The other is tax *minimization.* That's just using the tweaks in the tax code to pay as little as possible … legally.

The U.S. tax code contains thousands of provisions that allow individuals and corporations to pay less tax than others do — loopholes. They're all based on acts of Congress, so they're legal. But why do they exist?

The biggest tax loopholes are aimed at business. For example, in Georgia, where I live, film companies get state tax breaks because the film industry creates a lot of jobs. That's why *The Walking Dead* is filmed here. I have several friends who work on the show, and therefore contribute to the state economy.

There are similar federal tax loopholes aimed at energy, finance, manufacturing and other sectors. They're ostensibly intended to promote certain types of economic activity, like the Georgia film industry. But many such loopholes are nothing more than favors for big political donors, like Wall Street's carried interest loophole.

Congress also tinkers with your behavior in this way. Many loopholes aimed at individuals are designed to encourage financial behavior that will result in the government having to spend less on you when you're older.

For example, your IRA and 401(k) contributions are tax-advantaged so you won't have to rely on Social Security when you retire. Coverdell and 529 college savings plans let you put money aside for your kid's education, which grows tax-free. Health savings accounts do the same thing for your future health care expenses.

The most infamous tax-based social and economic engineering program is the Affordable Care Act, or Obamacare. It's designed to get people to sign up for health insurance and to get insurers to offer packages people can afford. The replacement plan the Republicans just released does the exact same thing but in a different way.

None of these loopholes are secret, illegal or in any way untoward. Although Congress' motivation in adopting specific tax breaks might be dodgy (lower taxes with no economic rationale, aimed at favored industries) or honorable (the charitable contribution deduction), they are all *ethically* equivalent.

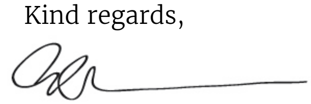
Of course, the federal income tax was not intended to tweak the economic behavior of firms and individuals. When it was adopted in 1913, its sole purpose was to raise funds for national purposes that only the federal government could meet, especially national defense.

Consequently, the loophole-ridden federal income tax is unbearably complex to fulfill for ordinary people. Filling out tax forms takes us 16 hours on average, and we spend $270 each getting help doing so.

Because of this, some people say we'd be better off with a flat tax or a sales tax. But those approaches result in low-income people paying a far greater share of their income in tax than rich people.

What do you think? Can our current loophole-based tax system be repaired, or do we need a totally different approach? Say your piece at baumanletter@banyanhill.com.

Kind regards,



Ted Bauman, Editor