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## ***Puerto Rico's Tax Advantages Offer Additional Incentives for EB-5 Foreign Investors***

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The U.S. Congress created the fifth-employment based (**EB-5**) immigrant visa category in 1990 for qualified foreigners willing to invest in a business that will benefit the U.S. economy and create or save at least 10 full-time jobs. The investment requirement for this type of visa is US \$1,000,000 per foreign investor. However, since Puerto Rico is a "Target Employment Area" only a minimum of US \$500,000 is required from the foreign investor.



By making the investment, the foreign investor gets the opportunity to become a conditional resident of the United States for a period of two years therefore possessing a conditional Green Card. This is possible because Puerto Rico is a U.S. Territory therefore considered as such for immigration purposes. After meeting the job creation requirement, this conditionality is removed and the foreign investor becomes a permanent resident of the U.S., holding a Green Card with no conditions attached. After five years of being a Green Card holder, the foreign investor can apply for U.S. citizenship. There is no obligation to remain in the United States on a continuous basis as a conditional or permanent resident to be able to apply to become a

citizen. Therefore, travel is possible, but residence in the U.S. must be maintained during that time. Another incentive for this type of visa is that immigrant investors may include their spouses and unmarried children under

the age of 21 in their EB-5 application under the same US \$500,000 investment.

While Puerto Rico competes with other U.S. jurisdictions for investments, the Island's unique tax structure allows it to provide additional tax benefits to foreign investors that decide to establish operations or relocate to Puerto Rico. For example, Act No. 22 of January 17, 2012 ("Act No. 22") provides for income tax exemption on passive investment income and certain capital gains to investors that decide to relocate to Puerto Rico. Another potential benefit of becoming a U.S. citizen upon naturalization in Puerto Rico is that said investor would be considered a nonresident alien for U.S. estate and gift tax purposes, which could limit the exposure to said taxes with the appropriate estate planning. Therefore, such investor could enjoy the Puerto Rico income tax exemptions granted under Act No. 22 on his or her passive investment income or capital gains while potentially

limiting the impact of any U.S. estate or gift taxes.

Additionally, in this time of globalization, the Exportation of Services Promotion Act of 2012 (“Act 20-2012”) offers tax incentives for the export of services from Puerto Rico. Puerto Rico’s geographic location and bilingual workforce, coupled with lower tax rates for businesses that export services, make the Island particularly attractive for businesses looking to set up headquarters for the eventual export of services to other markets in Latin America and the rest of

the world. Tax benefits under Act 20-2012 include: (1) 4% flat income tax rate; (2) 0% tax on distributions to shareholders; (3) 90% exemption on property taxes; and (4) 60% exemption on municipal business taxes.

With the Puerto Rico’s Economic Development Administration’s authority to designate Targeted Employment Areas and the tax incentives provided in Puerto Rico, the EB-5 should prove to be an attractive business come-on for foreign investors.

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Goldman Antonetti & Córdova, LLC is willing and able to provide legal advice and services for these very attractive incentives for foreign investors.

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