

# A Primer on International Insurer Holding Companies

## LEGISLATION FOR ESTABLISHING PUERTO RICO'S INCOME TAX EXEMPT INSURER HOLDING COMPANIES.

By: **Erick G. Negrón Rivera** | April 2023

Erick G. Negrón is a Partner at Rexach & Picó Law Firm focusing on Insurance Regulatory matters, and a Board Member of the Puerto Rico International Insurers Association.

An interesting but sometimes overlooked feature of the Puerto Rico international insurers legislation is that which relates to the possibility of establishing for such insurers holding companies that will be fully exempt from Puerto Rico income taxes if properly organized. Indeed, the provisions of Chapter 61 of the Insurance Code, aside from establishing the regulatory framework applicable to international insurers, also allow for the creation of “international insurer holding companies” (also known as “Chapter 61 holding companies”).

These are essentially defined as legal entities organized under Puerto Rico law that own stock shares or other securities issued by international insurers, and that may also own other specified types of assets, virtually anywhere in the world. These holding companies are fully exempt from Puerto Rico taxation on their annual net income, and their dividends and similar distributions paid out are fully tax-exempt as well.

They are also fully exempt from municipal license taxes and municipal property taxes if the underlying international insurer became

organized prior to the relevant date of effectiveness of Act No. 60 of 2019; Chapter 61 holding companies of international insurers subsequently organized are only partially exempt from these (relatively modest) municipal taxes.

In a nutshell, aside from owning stock shares or other securities issued by Puerto Rico international insurers, a Chapter 61 holding company may own an unlimited amount of stock or securities issued by other insurers, and an unlimited amount of securities or assets necessary for the operation of businesses incidental to the insurance business, as well as a limited amount of certain other assets.


It may also own cash, cash equivalents and “investment portfolios” (as defined by regulation) in an amount that does not exceed, on a 1:1 basis, the value of its other permitted assets.

Thus, for example, a Chapter 61 holding company that owns stock shares of a Puerto Rico international insurer that are worth \$10 million, and stock shares of a Canadian insurer that are worth \$20 million, may also own as much as \$30 million in U.S. publicly traded securities; all of

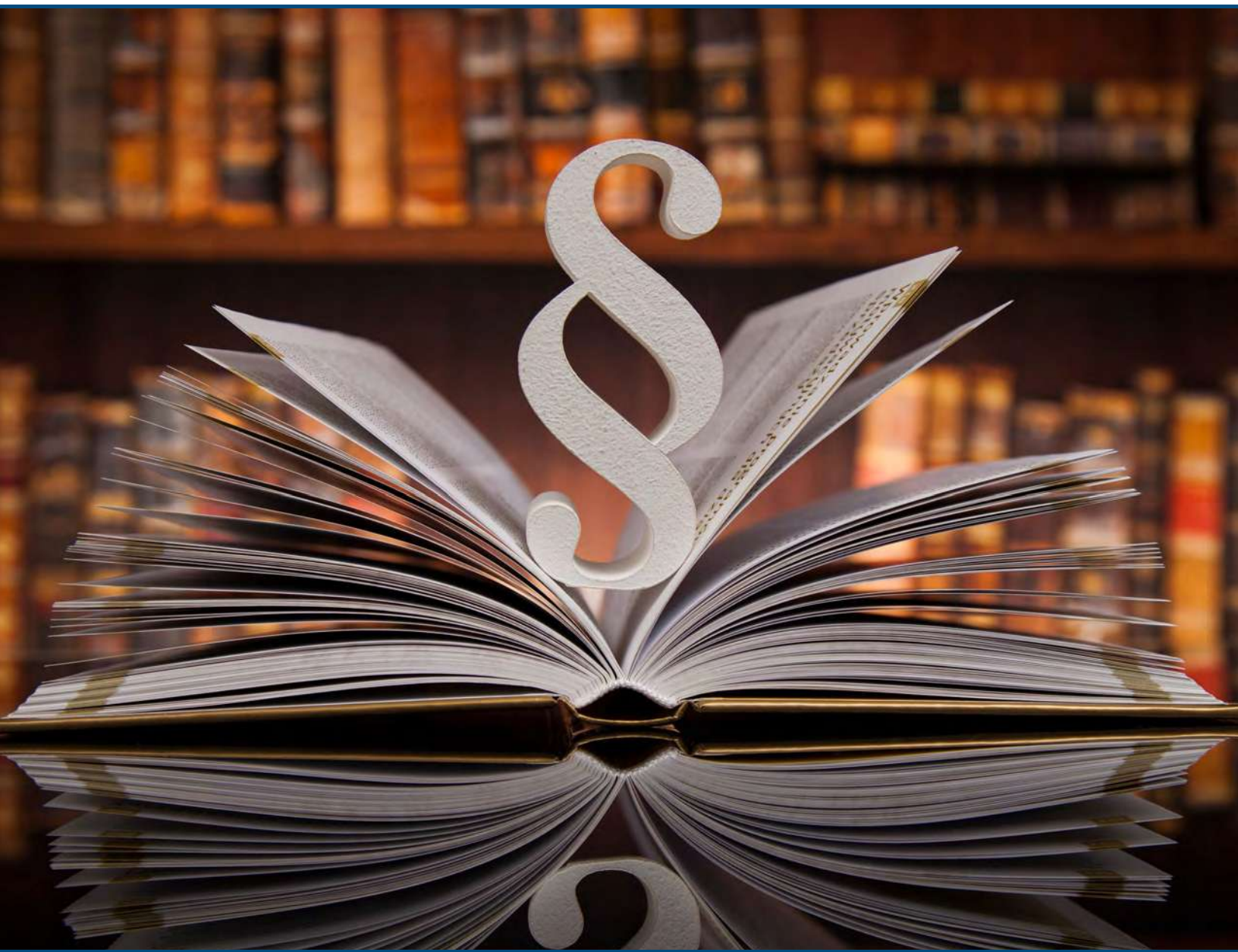
this in accordance with the valuation methods and other norms established in Article 61.040 of the Insurance Code and Rule 82 of the Office of the Commissioner of Insurance.

As earlier said, the income derived by the Chapter 61 holding company from the ownership of any such assets (be it, for instance, through dividends, interest or capital gains) is fully exempt from Puerto Rico income taxes, and any dividends or equivalent distributions it pays out are similarly exempt from income tax (or from tax withholding obligations). Interest paid out by the Chapter 61 holding company to nonresident individuals or to foreign (i.e., non-Puerto Rico) corporations and partnerships not engaged in a trade or business in Puerto Rico is also fully exempt from income taxes (and from any tax withholding obligations).

Importantly, Chapter 61 holding companies generally may not “control” Puerto Rico domestic insurers or other Puerto Rico entities that are neither international insurers nor Chapter 61 holding companies (for instance, by owning at least 5% of the voting stock of such entities), although they may control Puerto Rico entities



**A CHAPTER 61 HOLDING COMPANY THAT OWNS STOCK SHARES OF A PUERTO RICO INTERNATIONAL INSURER THAT ARE WORTH \$10 MILLION, AND STOCK SHARES OF A CANADIAN INSURER THAT ARE WORTH \$20 MILLION, MAY ALSO OWN AS MUCH AS \$30 MILLION IN U.S. PUBLICLY TRADED SECURITIES.**



providing services exclusively to affiliated international insurers. (As an exception, the Commissioner of Insurance may allow the Chapter 61 holding company to control such Puerto Rico entities, provided that any income derived therefrom will not be subject to the tax exemptions allowed to the international insurer and the Chapter 61 holding company.)

While international insurers and their Chapter 61 holding companies used to be fully exempt from municipal license taxes and property taxes, this has changed for new insurers and their Chapter 61 holding companies following the adoption of Act No. 60 of 2019.

Essentially, insurers that filed their application for a certificate of authority at the Office of the Commissioner of Insurance after December 31, 2019 are only 50% exempt from municipal

license (patente) taxes, and 75% exempt from municipal property taxes; similar 50% and 75% exemptions apply to the Chapter 61 holding companies of those international insurers (although the underlying regular rates of municipal license tax may be different for both types of entities—the international insurer and the Chapter 61 holding company).

The above-described tax incentives applicable to Chapter 61 holding companies, like the tax incentives applicable to the underlying international insurers, are guaranteed under tax-incentives grants that are issued by the Department of Economic Development and Commerce of Puerto Rico, following the corresponding application process that is now governed by the afore-mentioned Act No. 60. Those grants, which have a 15-year duration period (and, subject to conditions, may be renewed for an

additional 15-year period), are considered as a contract between the Government of Puerto Rico and the grant beneficiaries, and thus their terms cannot be unilaterally changed by the government.

In the past, investors have found the Chapter 61 holding company provisions to be a highly convenient feature for corporate or tax planning purposes. As the Puerto Rico international insurers platform continues to evolve, this feature may acquire further relevance as a vehicle for the ownership of insurance-related entities and investment assets not only in Puerto Rico but abroad.

For more information about this article contact Atty. Erick G. Negrón at [negron@rexachpico.com](mailto:negron@rexachpico.com). Rexach & Picó is located at 802 Manuel Fernández Juncos Ave. in San Juan, Puerto Rico.