

International Banking and Financial Entities (IFEs and IBEs)

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The establishment of international banking entities (IBEs) and international financial entities (IFEs) in Puerto Rico under Acts No. 52-1989 and No. 273-2012 (the “IFE Act”), respectively, has provided significant tax incentives and strategic opportunities for offering financial services and products in U.S. dollars to clients outside Puerto Rico, from a reputable jurisdiction that also offers excellent financial and communications facilities and networks. All of these entities are licensed and supervised by the Office of the Commissioner of Financial Institutions (the OCFI).

These vehicles have been used by investors from many foreign countries, as well as from the United States, with the vast majority engaging in banking services to receive deposits, offer loans, letters of credit and trade financing facilities, as well as trust and custodial services. An IFE can also be used to establish a securities broker-dealer and investment firm, and to offer asset management services to clients. Careful attention must be paid to insure that locally permitted activities comply with applicable federal laws.

McConnell Valdés attorneys have been advising and guiding IBE’s and IFE’s since the Acts were first created in 1989. They assist clients with everything from initial permit requests to organizing all aspects of the corporate organization and licensing process. They also provide counsel on various regulatory, tax, employment, and other issues that arise in the course of their doing business and assist investors in the purchase and sale of existing entities, and in their financing and capital raising efforts. In the IBE and IFE field, our attorneys have a depth of experience unique to the Puerto Rico market.

Subject to the approval of the IFE license, an entity will be able to enjoy the following tax benefits:

1. A 4% fixed income tax rate on income generated from a permitted transaction. Regular rates might apply to entities operating as a unit of a bank.
2. A 100% tax exemption on taxes from distributions (i.e., dividend income) made by an IFE to a foreign shareholder (6% fixed rate to resident shareholders).
3. A 100% tax exemption on property taxes and gross receipt taxes levied by municipalities.

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Such benefits will only be available upon the concession of a tax exemption decree following the presentation the IFE license to the Puerto Rico Office of Industrial Tax Exemption (OITE). If the entity complies with the above and other requirements under the IFE Act, the concession will operate as a contract between the entity and the Government of Puerto Rico, assuring the preservation of its terms. Every tax exemption decree has a term of up to fifteen (15) years with the opportunity to renew for two additional terms of 15 years each, where the applicable income tax rate will range from 4% to 10%.

Applicants interested in establishing an IFE must provide to the OCFI evidence of their financial capability for establishing and operating the entity in a safe and sound manner, with adequate capital and liquidity, and with strong internal controls for compliance, particularly with the requirements for anti-money laundering and anti-terrorism prevention imposed under U.S federal laws and regulations.