Growing Together

GUIDE

INFORMATIVE REQUIREMENTS ON PAYMENTS TO PROVIDERS

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Puerto Rico Tax Compliance Guide

By TCG, Torres CPA Group, CifrasPR, Torres & Soto Tax

Torres CPA Group is a Certified Public Accounting Firm that has been offering Audit, Tax, Consulting, and Financial Outsourcing services for over 38 years. If you require any further information or help, please do not hesitate to contact us. We assist in Accounting, Payroll, and Tax Compliance.

Understanding the Puerto Rico tax system and its interrelation with the United States is crucial for individuals and entities doing business in Puerto Rico. Puerto Rico is not a state; it's a territory, with its own business, tax, and Payroll laws and regulations.

The following White Paper is designed to give an insight on Tax Issues in Puerto Rico. It provides relevant background information, which will be of assistance to organizations considering establishing a business in the Island. Nonetheless, it is highly recommended to seek advice and counsel from qualified professional sources before undertaking any business.

Certain exclusions and exemptions may apply, and when specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Puerto Rico and to obtain appropriate accounting and legal advice.

It is understood that the following overview does not constitute any formal rendering of either legal, accounting, tax, or professional services. If legal advice or other assistance is required, an attorney, CPA or tax adviser should be consulted.

In accordance with IRS Circular requirements, you are advised that any discussion of tax issues in these materials is not intended or written to be used and cannot be used to avoid penalties imposed under Internal Revenue Code, as amended or to promote, market, or recommend to another party any transaction or matter addressed herein.

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Withholding Requirements in Puerto Rico

Payment for services rendered in Puerto Rico by Entities Doing Business in Puerto Rico duly registered in Puerto Rico State Department

Any natural or legal person doing business in Puerto Rico who makes payments (Payer) for rendered services must deduct and withhold 10% from such payment. Services provided include payments for professional services, repairs, maintenance, promotional services, legal services, services in general, among others.

The ten (10%) percent withholding has to be sent to the Puerto Rico Treasury Department (Hacienda) every month.

Payment for services rendered in Puerto Rico by Entities Doing Business in Puerto Rico not registered in Puerto Rico State Department

Any natural or legal person doing business in Puerto Rico who makes payments (Payer) for rendered services must deduct and withhold 29% from the payment made to Foreign non-resident individuals and foreign corporations and partnerships that are not registered in the Puerto Rico State Department to engage in trade or business in Puerto Rico. If the non-resident individual is a citizen of the United States, a twenty (20%) percent must be withheld. If the Rendered services are performed in the USA there not subject any withholding.

Payments for services rendered outside of Puerto Rico are not subject to withholdings but the payer are subject to self impose the B to B tax of 4%. The 4% B to B does not apply to Act 60 formally Act 20.

Payer Responsibility

Every payer must make the withholdings deposits within the first fifteen (15) days of the month following the date on which the withholdings were made; and file a quarterly and annual return.

Payer must file informative declarations (1099 equivalent) on payments made for all services providers, rent, advertisements, insurance premiums, telecommunications services, Internet and television and access services.

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Payments to Non-Residents

When payments for service for non-residents exceed $ 500.00, the tax filer must withhold, submit, and send providers the 480 Informative.

If the non-resident provider of services performs outside of Puerto Rico, there is no withholding requirement; however, an Informative declaration must be filed to be able to claim the expense.

If the provider performs in Puerto Rico, then he is subject to a 20% withholding and filing of the Informative. Entities under an incentives grant are not subject to the 20% withholdings.

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Informative Declaration Requirements for Payments to Providers

On December 10, 2018, Law No. 257, known as the "Tax Reform", was approved. It has brought significant changes in the items to be claimed as expenses in the 2019 Income Tax Return of individuals and corporations.

One of the most significant changes of the Reform is the requirement to submit new informative tax returns (480) to be able to claim the deductions as expenses in the Income Tax Return. It also incorporates the information of items

NOT Subject to Withholding for payments made after five hundred ($ 500.00) dollars which are detailed below:

Informatives Rendered by the Taxpayer

- Salary
- Professional service rendered, resident and no-resident
- Rent
- Water and Sewage
- Electricity
- Health insurance
- Payment for Insurance Premiums
- Payments for telecommunications Services
- Payment for Internet, Cable and Satellite TV Services
- Payment for advertisement
- Maintenance fees payed to HOAs
- Professional and trade continuous education
- Other income

All Informative Declarations must be submitted through SURI.

A copy of the 480 must be kept for a period of 10 years.

The expense must be filed in the Informative Declaration (480) in the name of the **tax payer**; otherwise, the taxpayer may NOT claim the expense on his Return.

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Information Required on Form 480

It is essential that you keep records of all disbursements to business providers to whom you make payments that are subject to be included in Form 480:

1) Full name and social security number
2) Postal Address
3) If applicable, Copy of the Certificate of Total or Partial waive of Withholding at Origin, effective the year the waiver was claimed.

Quarterly and End of the Year Information Information Form 480 (the equivalent of Form 1099)

The tax reform brought with it a new Quarterly Withholding Tax Return on Payments for Services (Form 480.6SP-1) that details the payments made for services, and the tax withheld and deposited during each quarter.

Any balance due for withholdings that has not been paid during one of the covered months must be paid on or before the last closing day of the quarter.

It will be the responsibility of the payer to file an Annual Reconciliation Form for the amounts withheld each year no later than February 28 of the year following the payment was made, together with the Informative Declarations.

The retention must reconcile amounts included in the informative with in the information provided on and the Annual Reconciliation Form (480.6SP-2).

Penalties for non-compliance of withholding

If the payer does not fulfill his responsibility to deduct and withhold taxes, he will be subject to paying penalties, interest, and surcharges, such as:

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- Penalties: 2% for every 30 days in which the withheld amounts are not deposited, these will not exceed the maximum of 24%.
- Annual interest — 10%
- Surcharges — there will be no charges for the first 30 days
    - 31 to 60 days – 5%
    - 61 days or more – 10%

Penalties for non-compliance

There will be no time extension for filing of these information forms. Not filing the forms on the expiration date will result in penalties.

Any taxpayer that does not comply with the filing of the Informative Declarations **CANNOT** claim the related expenses on his income tax return.

It is crucial file them on time to avoid the penalties imposed. As of January 1, 2020, the Department of the Treasury will begin to implement penalties, so you must ensure that you comply with the stipulated filing dates and thus avoid the penalties. The penalties are detailed below:

- **$500.00 Penalties – i**f Not submitted on time.
- **$500.00 Penalties –** if Not submitted on electronically through the Internal Revenue Unified System (SURI).
- **$100.00 Penalties –** if Not delivered to the supplier.

Accrual Method or Year Not Closing on December 31

Taxpayers who are under the accrual method or with an economical year that does not close on December 31 may claim the deduction, even if the amount is not shown in an informative return.

This is so, provided the conciliation of expenses claimed and the amount in the informative return are included. To date, the Treasury Department has not issued any information on how it will require taxpayers to file this reconciliation.

The Taxpayers who are under the “Cash Basis” method or who are governed for a Calendar year that close on December 31, do not ever have to reconcile the claimed expense.

At Torres CPA, we are committed to your financial growth; and to help you fulfill your tax responsibilities, as well as reduce the payment of contributions within the framework allowed by law.

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Penalties

The payer will be subject to a penalty of $500 for each informative declaration that is either filed late or not filed. Any taxpayer or withholding payor that fails to file the Informative Declarations WILL NOT BE ABLE TO DEDUCT the related expenses on his tax return.

The requirement to deduct and withhold does not apply to the following payments:

- First $500 paid during the calendar year to the entity providing the service
- Hospitals and clinics that deliver health care services.
- Laboratories that are an integral part of a hospital or a clinic.
- Nonprofit organizations certified by Hacienda
- Commission payments to sellers of consumer products.
- Contractors or subcontractors for construction projects.
- Bona fide farmers.
- Foreign persons not engaged in trade or business in Puerto Rico.
- Payment of Wages or Salaries.
- The government of Puerto Rico, its agencies, public corporations, and political subdivisions.
- Eligible payments made to transportation companies.
- Church services.
- Insurance contracting.
- Lease or sale of tangible personal property or real estate property.
- Printing
- Newspaper, magazines and other publications (including ad placements).
- Broadcasting on radio or television.
- Services rendered outside of Puerto Rico.

Architectural, engineering, design, consulting and other professional services of a similar nature are not exempt from withholding.

Waivers

Total Waiver–100% exemption from withholding

Any individual, entity, corporation or partnership may apply for a total waiver when starting a new business in Puerto Rico. A new business is any individual or entity that begins operations in or outside Puerto Rico during the calendar year for which it requests the exemption and its business falls within the first (1) year of service.

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Individuals

Individuals must meet all of the following requirements:

- Complete an affidavit form (Form SC 2678) and present it at the Treasury Department.
- Copy of all filed tax returns
- Authorization to do Business in Puerto Rico
- Evidence that he does not have an outstanding debt with the Treasury Department.
- Evidence that he has not had any Business beforehand.
- Has not rendered any service in or outside Puerto Rico previous to starting the service activity on the Island, or the service activity falls within the first (1) year of operations.
- Must have the Merchant Certificate
- Must have obtained an employer's identification number from the Treasury Department.

Corporations and Partnerships

Corporations or partnerships must meet all the following requirements

- Must complete Model SC 2680- to request a Withholding Waiver Certification.
- Authorization to do business in Puerto Rico.
- Must have Merchant Certificate.
- Must have obtained the employer's identification number from Hacienda.
- The person in charge cannot have previously provided the same kind of services the new entity is now offering.
- Submit a copy of the last three (3) income tax returns.
- Any corporation that did not request or obtained the waiver during the first year of operations must provide an Audited Financial Statement that shows earned income of one ($1,000,000) to three million ($3,000,000) dollars.

Once Hacienda approves the waiver request, it will issue a Waiver Certificate (Model SC 2756) of which a copy must be presented to whoever makes the payments for services, so they are aware that they have a waiver of the withholding. The waiver certificate expires annually; the expiration date is at the bottom of the document.

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Partial Waiver–6% Reduction of the Withholding

To obtain the partial waiver, the corporation or partnership must meet the following criteria:

- Must have filed all their income tax returns.
- Had no outstanding debts or has an approved payment plan for any debts with Hacienda.
- Have substantially forwarded the amount of net loss in operations.
- Proves that the withholding will result in a tax refund or credit.
- For subsequent years following the request, Hacienda will automatically issue through SURI a certificate to any corporation or special partnership that meets the above mentioned requirements. If the entity does not receive the waiver certificate, a representative must visit the nearest District Collection Office and request the waiver certificate.

Physicians with a Decree under the Incentives Law for Medical Professionals-Law No. 14

Any Physician that holds a Qualified Doctor's Certificate and a Decree under the Incentives Law for the retention and return of Medical Professionals, Law No. 14 of February 21, 2017, will be subject to a fixed income tax rate of four (4%) of the eligible income produced by offering Medical Professional Services during the period covered by the Decree.

The eligible income earned by a Qualified Physician that owns the Decree under Law No. 14 will not be subject to the income tax withholding. Thus, instead of a Withholding Exemption Certificate or Exemption, they will submit a sworn statement to the person that makes the payment on which he includes the number of the decree; and certifies that the income he is receiving is eligible under Law 14, among other things.

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