



Growing
Together

GUIDE

Getting ready for IRS RESIDENT AUDIT 110118

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Getting ready for IRS

Participants in the Puerto Rico Incentive programs ACT 22 must be prepared for an IRS audit that questions their residency in good faith, and proper record keeping is playing defense.

The burden of proof falls on the taxpayer; therefore, you must be able to prove your residence as a fact. If the IRS contests the residence of a taxpayer in Puerto Rico, the taxpayer must have performed three tests: proof of physical presence, proof of tax home, and proof of the closest connection.

PROOF OF PHYSICAL PRESENCE

In practice, if a taxpayer satisfies the physical presence test, it will be easier to test the other two tests. If a person spends 183 days or more a year in Puerto Rico, the Home tax and the closest connection factors will be developed organically.

However, attention should still be paid to the home tax and the closest connection tests, since the failure of any of these tests will result in the taxpayer not being a resident of Puerto Rico, regardless of the number of days in Puerto Rico.

The personal or business calendar of a resident could be used to justify a residence calendar. The registration must be contemporary, indicating the physical location of the person, those corresponding to Puerto Rico, United States and International.

The calendar should be backed up with supporting documents, such as travel documents, frequent flyer records or airline ticket stubs, essential documentation of the time spent in different places.

The credit card account statements could also be used to show where a person has been. If this is the case of resident of Puerto Rico, that resident would be well served by keeping contemporary records of which the charges are the result of the card used by the holder of the Puerto Rico card.

There are several cases in which a resident of Puerto Rico can count a day he spent in the United States as a day he spent in Puerto Rico. Days when a person has left Puerto Rico due to a significant disaster counts as days in Puerto Rico. A 14-day period during which a major disaster occurs in the relevant territory for which a FEMA notice or a Presidential declaration of a major disaster is issued in the Federal Register; or

A period during which there is a mandatory evacuation for the area within the relevant territory in which the individual's place of abode is located.

In addition, persons who are residents of Puerto Rico but must travel to the United States to receive medical treatment are allowed to treat medical days as days of Puerto Rico. To qualify for this exception, the taxpayer or a member of your immediate family must be in the United States to receive medical treatment for a condition that requires an overnight stay in a hospital. The document supporting the taxpayer of the treating physician that describes the medical condition must also be retained.

Qualifying Medical Treatment: Medical treatment provided by a physician or under a physician's supervision for an illness, injury, impairment, or physical or mental condition involving a period of inpatient care in a hospital or hospice, as well as any period immediately prior or subsequent to the inpatient care that is medically necessary, or any period during which inpatient care is received in a residential medical care facility for medically necessary rehabilitation services.

In addition, persons who are residents of Puerto Rico is in transit between two locations outside the United States and is in the United States for less than 24 hours. If the individual is present in both the relevant territory and the United States, the day is counted as a day of presence in the territory. If the individual is present in two territories, the day is counted as a day of presence in the territory where the individual's tax home is located.

PROOF OF TAX HOME

A residence (dwelling) is defined as the home, dwelling, domicile or place of residence of a person. The dwelling is a domestic term, while the tax on the home is vocational, and both are independently important. In general, you live in your fiscal domicile and, therefore, this minor distinction is not relevant. However, if you travel a lot for business / pleasure, it could be relevant. If your place of work, employment or regular or principal duty is PR, Puerto Rico is your tax home.

The main office of a bona fide resident of Puerto Rico should be demonstrably in Puerto Rico. In addition to demonstrating that such an office exists (that is, through a lease or purchase contract), the taxpayer must be able to demonstrate that this is the main office. The letterheads and email signatures of the residents of Puerto Rico must contain their Puerto Rico office address. Commercial correspondence must be sent to this address and in front of it.

When moving to Puerto Rico, a bona fide resident must file with banks, credit card, and others providers, a Change of Address, to notify that the taxpayer's principal residential address is located in Puerto Rico.

CLOSEST CONNECTION TEST

It is imperative to obtain a driver's license and voter registration in Puerto Rico as soon as possible, which usually occurs after the execution of a residential lease or purchase contract. In addition, residents of Puerto Rico must take affirmative action to waive their voter registration in the state from which they move.

A resident of Puerto Rico must also set up a local bank account at banks that provide services primarily to Puerto Rico. These banks use routing numbers from the United States.

Many closer connection factors will be driven by the individual taxpayer's lifestyle and economic options. A bona fide resident will likely rent or buy and live in a residential residential property in Puerto Rico. Some taxpayers will also buy vehicles such as cars or boats. Many taxpayers will buy other personal assets such as furniture, works of art or similar items in Puerto Rico. Although these are often not commercial purchases, residents must keep documentation of such investments if the property was purchased in Puerto Rico or documentation that personal property was shipped to Puerto Rico.

Closer connection factors involve social and professional connections within Puerto Rico. It is advisable to hire local lawyers and accountants for your local knowledge, but also because these relationships indicate a closer connection with Puerto Rico.

Are you near and dear? This refers to essential tangible items that most people would like to have with them in their homes, such as family photos, collectibles, family relics, documents, trophies and prizes, and valuable works of art. While the monetary value of these elements is necessary, sentimental value is also considered.

In the same way, joining social and religious organizations such as churches, synagogues, rotating clubs or yacht clubs in Puerto Rico also indicates a closer connection.

Finally, a resident of Puerto Rico must donate to charities located in Puerto Rico. Many of these relationships will be developed organically from the life of the taxpayer, but Puerto Rican residents should be sure to document these relationships in the event of an audit.

The sensitive part of the closest connection test is the location of the taxpayer's family. Many people do not move their families to Puerto Rico when they become residents of Puerto Rico. Sometimes this is because the taxpayer's spouse can not move because of a job, or because the taxpayer does not want to move the children who are in school.

Although the location of the taxpayer's family is a closer connection factor, a single closest connection factor is not required. For taxpayers who do not move their families to Puerto Rico, it is crucial that they reinforce their other closest connection factors so

that, in the case of a residence audit, all of the taxpayer's circumstances indicate a closer connection with Puerto Rico. Rich.

Filing forms

When moving to Puerto Rico, a bona fide resident must file a Form 8822, "Change of Address," to notify the IRS that the taxpayer's principal residential address is located in Puerto Rico.

At the close of the taxpayer's first taxable year as a resident, you must file Form 8898 of the IRS, a formal notice that a taxpayer is a resident of Puerto Rico, generally done with the filing of the income tax return.