



Coronavirus Disease 2019 Outbreak

COVID-19

**EMPLOYEE COMPENSATION
FEDERAL AIDS**



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GUIDE

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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Employee compensation due to self-quarantine due to coronavirus concerns employee

Nonexempt Employees

Nonexempt employees are those who are compensated per hour worked. These employees have the right to be remunerated only for hours actually worked.

Employers are not required to pay hours that nonexempt employees have not worked due to a temporary cessation of work.

There is nothing to prevent employers from offering partial compensation, bonuses, or other remuneration that is done out of mere liberality, for the sake of helping their employees during the emergency we are experiencing as a result of the pandemic.

If employers cannot voluntarily compensate for time not worked during the period of cessation of operations, they may charge the hours not worked to the vacation leave of nonexempt employees when the nonexempt employee does not object to the make such a charge.

Compensation of exempt employees

Exempt employees are those classified as executives, administrators, and professionals.

In each weekly, biweekly, or monthly pay period, exempt employees are compensated for a pre-agreed salary, which is not subject to reductions for variations in the quantity or quality of work performed.

The employer may make discretionary charge the hours or days in which the exempt employee did not perform any work to the licenses that are available as part of the benefits provided, such as vacations and illness. Loans may be granted to employee base on agreement with employees.

On the other hand, if the exempt employee does not perform any task in a full work week during the work outbreak period, either in person or remotely, employers are not required to compensate for it.

Federal Families First Coronavirus Response Act

Summary of Key Provisions

DIVISION C—EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT-

Qualified need for a public health emergency leave:

The employee is unable to work due to a need for leave to care for their child because the school or daycare has been closed or the child care provider is unavailable due to a public health emergency.

Pay:

- a) Not less than two-thirds of the employee's regular pay, up to \$200/day, and \$10,000 over the benefit period.
- b) The first ten days (Two weeks (up to 80 hours)) taken may be unpaid, but the employee may use other paid leave during that period, if available.

Duration of leave: Twelve weeks, which includes job protection as required in the Family and Medical Leave Act (including amendments to it made by this Act concerning job protection requirements for an employer who employs fewer than 25 employees). Benefits are not retroactive.

Eligible employees: Employees must have worked for the employer for at least 30 days. Employees shall provide the employer with such notice of leave as is practicable.

Applicable employers: Private businesses with < 500 employees and all public employers

Authority is given to the Secretary of Labor: To exclude certain health care providers or emergency responders from the definition of eligible employees and to exempt small businesses with fewer than 50 employees if compliance with the requirements would jeopardize the viability of the business as a going concern.

Effective not later than 15 days after enactment on 3/18/20 and ending Dec. 31, 2020. Therefore April 2, 2020.

DIVISION E—EMERGENCY PAID SICK LEAVE ACT

Qualified reasons for emergency paid sick time leave: An employee is unable to work or telework due to a need for leave because the employee is:

- a) subject to quarantine or isolation order,

- b) has been advised by a health care provider to self-quarantine due to coronavirus concerns, or
- c) is experiencing symptoms of coronavirus and seeking a medical diagnosis.

Pay: Employee's regular pay, up to \$511/day, and \$5,110 over the benefit period.

Other qualified reasons for paid sick time leave:

An employee is unable to work or telework due to a need for leave because the employee is:

- a) caring for an individual who is subject to quarantine or isolation order or has been advised by a health care provider to self-quarantine due to coronavirus concerns;
- b) caring for their child if their school or daycare has been closed, or the child care provider is unavailable, due to coronavirus precautions; or
- c) is experiencing "any other substantially similar condition specified by" the Secretary of Health and Human Services in consultation with the Secretaries of the Treasury and Labor.

Pay: Two-thirds of the employee's regular pay, up to \$200/day, and \$2,000 over the benefit period.

Duration and use of leave: An employee shall be entitled to pay sick time of 80 hours for full-time employees and an amount equal to the average number of hours such employees work over two weeks for part-time employees. Paid sick leave is available for immediate use and does not require a waiting period or accrual. Benefits are not retroactive.

An employer may require that after the first workday or portion thereof an employee receives such leave, an employee follows reasonable notice procedures to continue receiving such paid sick time.

An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time granted under this section for the reasons above. Paid sick time shall not carry over from 1 year to the next.

Employers may not require, as a condition of providing such paid sick time, that the employee involved a search for or find a replacement employee to cover the hours during which the employee is using paid sick time.

Applicable employers: Private businesses with < 500 employees and all public employers..

Authority is given to the Secretary of Labor: To exclude certain health care providers or emergency responders from the definition of eligible employees and to exempt small businesses with fewer than 50 employees if compliance with the requirements would jeopardize the viability of the business as a going concern.

Effective not later than 15 days after enactment on 3/18/20 and expiring Dec. 31, 2020.

DIVISION G—TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE

Employer Payroll tax credits for qualified sick leave wages and family leave paid by an employer shall be allowed in the amount of benefits paid (not to exceed the limits identified above for pay) over the permitted duration.

An self-employed individual tax credit for qualified sick leave and family leave for self-employed individuals in the amount of \$200 a day (or \$511 for emergency paid sick leave for own quarantine or seeking own medical diagnosis) or 67% (or 100% for emergency paid sick leave for own quarantine or seeking own medical diagnosis) of average daily pay for self-employed individuals over the permitted duration, whichever is less.

Any wages required to be paid because of the Emergency Paid Sick Leave Act, and the Emergency Family and Medical Leave Expansion Act (see above) shall not be considered wages for certain purposes.

Effective on a date selected by the Secretary of the Treasury, which is within 15 days of enactment on 3/18/20, and ending on Dec. 31, 2020