



GUIDE

Do and Don't Hub

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Puerto Rico Tax Compliance Guide

By TCG, Torres CPA Group, CifrasPR

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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Do and Don't under the Act Hub Trading

Follow a Strategy to further emphasize the transparency of the structure in the eyes of the IRS. That will consolidate the legality of your business in the eyes of the IRS and still pay only 4%, **SAVE A LOT OF TAXES.**

Critical things to consider when setting up your Puerto Rico Business Strategy is that Income from sources outside Puerto Rico will be treated as effectively connected with a trade or business in Puerto Rico. To do so, it must comply with:

1. Sales of Goods

- a. Sales of inventory Goods is source where the transfer of title of the goods or the services takes place.
- b. A corporation can only sell goods through its employees or web base server, hired Puerto Rico residents to sell and provide support to servers, to start qualifying under the Act.
- c. Sells generated by PR entity to a US resident (Individuals or Entities) or worldwide entity through its Puerto Rico resident employees, is considered PR source income, if transfer of title is done from the PR entity, not US source income, so employee PR residents and transfer title FOB Seller.
- d. If the owner significantly contributes and is an essential economic element in the earning of the income, hire the owner as an employee of the Act entity.

2. Location

- a. Have an office or other fixed places (location) of business in Puerto Rico.
- b. The Puerto Rico office or other fixed places (location) of business the main address as disclose to providers and clients.
- c. The income of the Puerto Rico location should be in the ordinary course of the trade or business carried through that office or other fixed places of business.
- d. The Puerto Rico office or other fixed places of business should be a material factor and it significantly contributes to, and is an essential economic element in, the earning of the income.
- e. Do not have office or other fixed places of business in a foreign country or USA that is a material factor in the generation of revenue outside of Puerto Rico.
- f. If server is located outside Puerto Rico, use third party websites.
- g. If you use your own sales platform have the server located in Puerto Rico.
- h. Have the principal entities bank accounts in Puerto Rico. Use and document US banks use only for services or products not effectively provided in Puerto Rico.

- i. Use Puerto Rico provider for product and services. Use and document US providers only for services or products not effectively provided in Puerto Rico.
- j. Perform all mayor critical functions of procurement, marketing, sales and logistic management in Puerto Rico.
- k. Have the principal entities bank accounts in Puerto Rico. Use and document US banks use only for services or products not effectively provided in Puerto Rico.
- l. Use Puerto Rico provider for product and services. Use and document US providers only for services or products not effectively provided in Puerto Rico.

3. Leaving behind activities

- a. If required, relocate critical services to Puerto Rico and leave behind, in a separate US company, any activities that is not practical to move. That would require billing clients separately for services from the US company and for services from the Puerto Rican company.
- b. Stay away from the strategy of a partial move, a US company to buy or sell services from or to the Puerto Rican company. It takes the entities into the highly technical tax rules for "transfer pricing". This approach is practical only for a large business.
- c. Smaller entity should use the down stream approach, the PR company buys from the USA company, only those that it can not bring to PR or provide from PR.
- d. If you have to store inventory in USA, use a USA independent warehouse to store and do not transfer title of inventory to the warehouse.
- e. Have delivering logistics thought an independent delivering entity.

4. Independent Agents

- a. If you need to conducts activities in the US on behalf of the PR entity, use an independent agent or US Corporation, non related party, to conducts activities these activities in the US on behalf of the PR contractor.
- b. Income earned generated in part by independent agent's or US Corporation from their activities could be deemed PR source, if directly perform and deliver to the PR entity with no client contact, and the independent agent did not significantly contribute and is not an essential economic element in the earning of the income.

5. To not have more than 50% ownership of a USA entity.

- a. Transaction with a controlled or own over 50% bear a Transfer Pricing Risk
- b. Pricing the amount charged in a transaction with controlled or own over 50% related entity, must be determine as an arm's length transaction between independent entities.

- c. Identify and asses crucial control related entity transactions in the early stage of the planning, pricing risk requires assessment to be sufficient, relevant and reliable information at an early stage and periodically updated.
- d. Getting prices from independent entities that provide the same service or product that the PR entity is buying from a related entity in USA, would be a good base to determine fair value of services or products between related entities.