



# TaxNewsFlash

United States



No. 2020-052  
January 29, 2020

## Puerto Rico: Deductible expenses, alternative basic or alternative minimum tax for 2019

Puerto Rico's Treasury Department issued two sets of guidance that concern: (1) the procedures for submitting a report to deduct expenses for alternate basic income tax (ABT) and alternative minimum tax (AMT); and (2) persons responsible for filing the information return for payments related to advertising, insurance premiums, telecommunication, internet access and cable or satellite television services.

### Internal Revenue Circular Letter No. 19-14

Internal Revenue Circular Letter No. 19-14 establishes the procedures for a taxpayer to submit a report of "agreed upon procedures" (AUP) or "compliance attestation" (AU) in order to deduct what otherwise would be limited expenses for ABT or AMT purposes.

If the taxpayer chooses to take into account all such expenses in order to determine its net income, it must submit together with its income tax return, an AUP prepared by a certified public accountant (CPA) who is licensed to practice in Puerto Rico.

The circular letter establishes the type of report, its content, and the procedures that the CPA must follow in the preparation of the report.

### KPMG observation

Flow-through entities will be required to submit the AUP at the level of the flow-through entity. Once submitted, the owners can claim their distributive share of the expenses to determine the net income subject to ABT and AMT, as applicable, for their own returns.

### Background

Legislation (Act 257) enacted in October 2018 overhauled the ABT and AMT computations for individuals and corporations, respectively. As a result of these changes, certain expenses are not deductible for purposes of these computations unless they are subject to certain AUPs.

The changes are effective for tax years beginning after December 31, 2018. Therefore, 2019 is the first year that these provisions would apply for calendar year taxpayers.

### **Expenses subject to CPA report and type of report to be prepared by CPA**

To comply with the measures of the Puerto Rico Internal Revenue Code (2011), an AUP is required in order to deduct certain expenses (listed below). The language the CPA will use in the report and the scope of the procedures to be performed must be according to the professional standards of attestation.

Expenses subject to the AUP report:

- Automobile expenses
- Other motor vehicle expenses
- Repairs and maintenance
- Travel expenses
- Meals and entertainment
- Office supplies
- Materials used directly in the industry or business
- Stamps, vouchers and customs
- Shipping and postage
- Uniforms
- Parking and tolls
- Office expenses
- Bank charges
- Contributions to educational contribution accounts for employee's beneficiaries
- Expenses incurred or paid to stockholders, persons or related entities
- Losses from fires, storm, other casualties or theft
- Bad debts
- Administration charges, not included in an information return
- Expenses on properties leased to the Puerto Rico Industrial Development Company or warehouse of the Puerto Rico Trade and Export Company
- Subscription and membership expenses
- Expenses related to licenses and computer programs that cannot be capitalized
- Charitable contributions
- Deductions under Act 185-2014
- Any other expenses that are not subject to be included in an information return

Expenses deductible to determine the net income to tax without the need of an AUP:

- Interest on business debts
- Taxes, patents and licenses, including municipal taxes, sales and use tax, excise taxes and the State Insurance Fund policy
- Depreciation and amortization of property used in the business
- Contributions to qualified pension plans
- Deduction to employers who employ disable persons

Expenses deductible to determine the regular tax, ABT, and AMT, as applicable, provided that those expenses were duly informed in the withholding statement or the corresponding information return:

- Wages paid to employees, including officers and directors

- Employer portion of Social Security (FICA and Medicare)
- State and federal unemployment insurance
- Services provided
- Subcontracted services
- Commissions paid to other businesses or merchants
- Rental expenses paid including rental of personal and real property
- Insurance premiums paid for health or accident insurance, and property, contingency, public liability and surety insurances
- Telecommunication services including internet and cable or satellite television services used in industry or business
- Water and electric power services
- Ads and advertising services
- Royalties
- Special contribution for professional and advisory services under Act 48-2013
- Interest paid on mortgage loans and car finance leases
- Tuition fees paid to benefit employees
- Maintenance fees paid to residents or condominium associations
- Seminars, trainings and continuing education expenses for employees

The AUP, prepared according to the circular letter, must be submitted together with the filing of the 2019 and subsequent income tax returns in order to be eligible for the deductions. The taxpayer and the CPA can agree on which categories of expenses will be subject to the AUP. However, the CPA must inform in its report which categories were subject to the AUP. Those expenses that were not considered for the AUP, will not be allowed when determining the net income subject to ABT or AMT, as applicable.

### **Audited financial statement instead of AUP**

Corporations with a volume of business equal to or greater than \$3 million during a tax year must submit financial statements accompanied by an auditor's report issued by a CPA licensed to practice in Puerto Rico. However, audited financial statements may be voluntarily submitted by any taxpayer regardless of the volume of business generated. The auditor report must indicate that the financial statements have been prepared according to U.S. GAAP.

If audited financial statements are submitted with the return, it is not necessary to submit the AUP in order to deduct any expense.

### **Administrative Determination 19-08**

Act 257 amended the Puerto Rico Internal Revenue Code to require an information return for payments related to advertising, insurance premiums, telecommunication, internet access, and cable or satellite television services. Administrative Determination 19-08 was issued to notify the person responsible to file the Form 480.7E with Puerto Rico's Treasury Department for tax year 2019.

The Puerto Rico Internal Revenue Code established that the responsible person is the one to which the payment is made (service providers). However, for calendar year 2019, the person responsible for preparing and filing Form 480.7E will not be the person or entity that receives the payment, but the one paying for the services during the year.

This determination is made as an exception only for the 2019 calendar year, with the purpose of giving insurance, telecommunication, and advertising companies additional time to program their systems and to obtain the necessary data to comply with the provisions of the Puerto Rico Internal Revenue Code.

Taxpayers will be unable to claim such payments as deductible expenses for ABT or AMT if they fail to file Form 480.7E.

### **Deadline of February 28, 2020; other requirements**

Forms 480.7E must be filed no later than Friday, February 28, 2020. In addition, it can only be filed electronically through SURI (the Spanish acronym for the "Internal Revenue unified system").

Any natural or legal person receiving payments for advertising, insurance premiums, telecommunication, internet access, and cable or satellite television services must provide each of their customers the following information no later than January 30, 2019.

- Full name (including the two surnames if it is a natural person or legal name if a legal entity)
- Physical address and postal address
- Social security number or employer identification number.

For payments received after December 31, 2019, the entities receiving payments for the above-listed services will be required to file an annual information return with any commercial or residential client. The original copy of the declaration must be provided to the payer no later than February 28 following the calendar year for which the copy of the declaration must be filed with the Secretary.

For more information, contact a KPMG tax professional in Puerto Rico:

Rolando Lopez | +1 (787) 622-5340 | rlopez@kpmg.com  
Carlos Molina | +1 (787) 622-5311 | cmolina@kpmg.com

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)