



# TaxNewsFlash

United States



No. 2020-389  
June 16, 2020

## Puerto Rico: Additional economic relief, tax measures (COVID-19)

Legislation enacted on June 14, 2020, includes economic and tax relief measures that are provided in response to the coronavirus (COVID-19) pandemic.

House Bill 2468 was signed by the governor and enacted as Act 57 on June 14, 2020.

The legislation introduces new relief measures regarding income tax and sales and use tax. It also provides other miscellaneous provisions and codifies certain relief measures provided administratively by the Puerto Rico Department of Treasury.

### New economic relief

#### Income tax

- **Loss carryback:** Losses incurred during the year 2020 as a result of COVID-19 may be carried back for each of the two previous years, starting with the older of the two tax years. This measure will only be allowed for companies with \$10 million or less of gross income, and not for large taxpayers (as defined in section 1010.01(a)(35) of the Puerto Rico Internal Revenue Code of 2011 ("2011 PR Code")). Eligible taxpayers will have until the due date of the 2020 income tax return, including extensions, to claim benefits from the carryback. The maximum amount of the loss to be carried back is \$200,000 and the maximum refund is capped at \$50,000.
- **Net operating loss (NOL) carryover:** Losses incurred during tax year 2020 resulting from COVID-19 will not be subject to percentage limitations but will be fully allowed as deductions in future years. Note that taxpayer will first need to use the NOLs incurred prior to the 2020 tax year.
- **Alternative minimum tax (AMT):** The minimum \$500 AMT charge applicable to corporations will not apply with respect to tax year 2019. Corporations that have already paid the minimum \$500 AMT charge can file a claim for a refund.

- **Agreed upon procedure (AUP) / compliance attestation (CA):** The AUP or CA report required to validate expenses for AMT purposes will not be required for tax year 2019.
- **Income tax returns:** Any income tax return for tax year 2019 due any time between March 15 and June 15, 2020, is automatically extended to July 15, 2020, as will any payments that would be due with such return. Any taxpayer with a tax due with regard to such return may request a payment plan to satisfy the tax debt, no later than March 31, 2021. In order to be eligible for the payment plan, the taxpayers must be in compliance with their other tax responsibilities with the Puerto Rico Department of Treasury.
- **Gross income:** The amount of debt associated with loans from the Paycheck Protection Program (PPP) and Disaster Fund under CARES Act\* or any other federal law that is forgiven by these programs **and** any other stimulus or federal or state subsidy will be excluded from income taxation, for regular and AMT purposes. Deductions associated to payments from these loans proceeds will be allowed as a deduction.

\*"Coronavirus Aid, Relief, and Economic Security Act" (CARES Act) (Pub. L. No. 116-136)

### Sales and use tax

- **Business-to-business (B2B):** The invoicing for B2B services and professional designated services will not be subject to the 4% use tax during the months of April, May, and June 2020. The Secretary may extend the exemption, for three months at a time, up to December 31, 2021.

### Municipal license tax

The amount of debt associated with respect to loans from the PPP and Disaster Fund under CARES Act or any other federal law that is forgiven by these programs and any other stimulus or federal or state subsidy will be excluded from gross income for municipal license tax purposes.

### Tax incentives

For tax year 2020, all holders of a tax exemption decree issued under Act 60, previous similar tax incentives, or any special incentives acts will be deemed to have complied with the following decree requirements to the extent noncompliance is due to COVID-19: (1) creation and retention of employees; (2) gross volume; and (3) machinery and equipment investment.

### Other topics

- **Expeditious payment for suppliers of the government of Puerto Rico:** Existing receivables must be paid within 15 calendar days from the date of enactment (June 14, 2020). New receivables are to be paid within 30 days.
- **Sworn statements:** From April 1, 2020, and continuing until the COVID-19 emergency period is declared ended, there is no need to present a sworn statement before a notary public that would otherwise be required by the 2011 PR Code, regulations or administrative pronouncements to solicit government aid or subsidy. Instead, an affirmation may be provided.

## Economic relief from previous guidance

### Sales and use tax

**Monthly sales and use tax returns:** The deadline for filing the monthly sales and use tax returns and for remitting the corresponding payment, for the periods of February, March, April, and May 2020 will be, respectively, as follows:

- February until April 20, 2020
- March until May 20, 2020
- April until June 22, 2020
- May until July 20, 2020

**Monthly import tax return:** The deadline for filing this return and the corresponding payment for the periods of March, April, and May, 2020 will be, respectively, as follows:

- March until May 10, 2020
- April until June 10, 2020
- May until July 10, 2020

**Biweekly sales and use tax payments:** Penalties will not be assessed or imposed for noncompliance with requirements for biweekly sales and use tax payments for the months of March, April, May, and June 2020, as long as the total of the sales and use tax owed for these months is paid in full with the filing of the monthly sales and use tax returns for the periods.

**Temporary certificate exemption:** An exemption certificate allows for the import or acquisition of taxable items for resale and free of the sales and use tax payment (import tax) to all merchants who are “resellers” (as defined in section 4010.01 (ww) of the 2011 PR Code), and that have a reseller certificate issued in accordance with the provisions of section 4050.04 (c) of the 2011 PR Code. The exemption certificate will be valid from Monday, April 6, 2020, until Tuesday, June 30, 2020. This allows merchants to import or buy taxable items in Puerto Rico exclusively for resale during the “temporary exemption period” without the requirement to pay the sales and use tax for such transactions.

**Information returns or declarations:** The due dates for filing the information declarations corresponding to year 2019 are extended up to May 31, 2020.

**Licenses and permits:** Licenses and permits that would otherwise expire after March 1, 2020, are automatically extended for a period of six months.

**Withholding of tax on payments for services rendered:** The income tax withholding requirement on payments for services rendered covered by section 1062.03 of the 2011 PR Code will be waived from Monday, March 23, 2020, through Tuesday, June 30, 2020. This waiver does not exempt the payee of the services rendered from income tax on the payments receipt.

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

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