



Tax



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# Amendments to the Puerto Rico Internal Revenue Code

**August 27, 2019**

On July 1, 2019, the Governor enacted into law Act No. 60, also known as the Puerto Rico Incentives Code (the “Act”). During the month of July 2019, we published a series of alerts to keep you up to date with the important changes introduced by the Act to our tax incentives laws. Besides codifying all tax incentives laws into one-single statute, the Act also amended Act No. 1 of January 31, 2011, as amended, known as the Puerto Rico Internal Revenue Code. As such, we hereby provide you with the most significant amendments made by the Act to the Puerto Rico Code.

## **Act No. 1 of January 31, 2011 (the “PR Code”)**

### **Income tax**

- Section 1031.02 – **Adds** the Secretary of Economic Development and Commerce to the authorized persons whom shall file with the Secretary of Treasury the Annual Report regarding the agricultural incentives issued during the calendar year.
- Section 1031.06 – **Provides** special tax treatment under the Qualified Opportunity Zones program to capital gains derived from the sale or exchange of an asset to an unrelated person after November 7, 2018.
- Section 1033.14 and 1034.04(u) – **Limits** rules regarding carryforward of net operating losses after certain changes in control for taxable years beginning before January 1, 2019.
- Section 1033.15 – **Adopts** a new deduction for individual taxpayers for cash contributions to “Cuenta Mi Futuro”, provided the beneficiary is a son, daughter, or relative between the third-grade consanguinity or second of affinity.
- Section 1040.02 – **Increases** the maximum amount of gross income that a taxpayer may have to use the cash basis method of accounting from \$1,000,000 or less for taxable years beginning before January 1, 2019 to \$3,000,000 or less for taxable years beginning after December 31, 2018. Taxpayers may change to cash basis if they qualify under the new threshold without requesting a ruling from the Secretary of Treasury.

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- Section 1040.05 – **Introduces** an exception to the installment method rules regarding gain or loss upon disposition of installment obligations between a group of related entities or related persons.
- Section 1061.20 – **Adds** as an exception to the requirement of estimated tax payments for individual taxpayers who receive disaster relief distributions from an employee trust or an individual retirement account.
- Section 1062.03 – **Adds** an exception to withholding at source requirements for payments made between persons engaged in trade or business in Puerto Rico that belong to a controlled group of corporations or a group of related entities. Furthermore, **amends** subsection (c) to allow taxpayers on accrual basis of accounting or with an economic year to provide that said taxpayers do not have to file a reconciliation of expenses and amounts reported in informative forms if they attach Audited Financial Statements (AFS) and Supplementary Information to their income tax return. Lastly, **amends** subsection (g) to change the withholding at source rate of individuals and other entities that submit AFS and are up to date with their tax responsibilities, from 3% to 6% and adopt other technical amendments to withholding waivers provisions.
- Section 1063.01 – **Eliminates** payments in excess of \$500 for advertising, insurance premiums, telecommunication, internet access, cable or satellite television services, from services that require the filing of informative return, and provides that taxpayers with an accrual basis of accounting or with an economic year do not have to file a reconciliation of the expenses claimed and amounts reported in informative returns if they attach AFS and Supplementary Information to their income tax return.
- Section 1063.16 – **Adds** a new section to the PR Code, to require taxpayers that provide advertising, insurance premiums, telecommunication, internet access, cable or satellite television services, to file on or before February 28 of each year, an annual informative return to their clients including, among other information, the amount paid by said client for services rendered.
- Section 1071.02 – **Provides** that items of income and deductions from a partnership under to the optional tax method will not flow through to the partners.
- Section 1071.10 – **Adds** a new section to the PR Code, to provide the optional tax method rules for partnerships that derive substantially all their income from services.
- **Adds** Subchapter G to Chapter 7 of Subtitle A of the PR Code, to provide the rules for reorganizations between pass-through entities.
- Section 1081.05 – **Amends** subsection (c) to state that any “qualified distribution” made pursuant to “Cuenta Mi Futuro” shall not be included in gross income and shall be exempt from income taxation. The term “qualified distribution” means any payment or distribution made to pay for college, technical or vocational courses or as initial capital for the beneficiary’s sole proprietorship.
- Sections 1082.01 and 1082.02 – **Amends** the rules and requirements for Real Estate Investment Trusts (REITs) in Puerto Rico.



- Section 1115.11 – **Adds** a new section to the PR Code, to provide the optional tax method rules for corporation of individuals that derive substantially all their income from services.

#### Sales and use tax

- Section 4010.01 – **Amends** the definition of “designated professional services” to **add** continuing education services provided by for-profit entities certified by an agency of the government of Puerto Rico, the government of the United States, the Puerto Rico Supreme Court or any non-for-profit private organization, to be rendered to professionals that render designated professional services.

#### Other provisions

- Section 6041.11 – **Adds** a subsection to include a penalty for failure to file informative returns for payments made regarding advertising, premium insurance, telecommunication services, internet access services and cable or satellite television services.

Please contact our Tax Department should you require additional information regarding this or any other tax issue. We will be glad to assist you.



**María de los Angeles Rivera**  
Partner Head of Tax and  
IBC Director  
E [maria.rivera@pr.gt.com](mailto:maria.rivera@pr.gt.com)



**Lina Morales**  
Tax Partner  
E [lina.morales@pr.gt.com](mailto:lina.morales@pr.gt.com)



**Francisco Luis**  
Tax Partner  
E [francisco.luis@pr.gt.com](mailto:francisco.luis@pr.gt.com)



**Isabel Hernández**  
Tax Partner  
E [isabel.hernandez@pr.gt.com](mailto:isabel.hernandez@pr.gt.com)



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