



Tax Considerations for Digital Nomads and Remote Work: How the rise of remote work affects businesses and their taxation in Puerto Rico.

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As a country, we live in constant change, and Puerto Rico, in the past few years, has increased the modernity of “remote work” given the circumstances we have gone through, such as the COVID-19 pandemic. This has brought changes to our lifestyle and work environment as many employers have required or allowed their employees to work remotely. For employees who have decided to relocate from the United States to Puerto Rico, both the employer and employees could face unintended Puerto Rico and Federal tax consequences, if correct measures are not properly taken.

Through the enactment of Act 52-2022, the figure of “remote workers” was incorporated into the 2011 Puerto Rico Internal Revenue Code, as amended (“the Code”). Under this figure, the burden of the Puerto Rico income tax compliance shifts from the non-Puerto Rico based business to the remote worker. In this article, we will inform you about this tax provision that allows non-Puerto Rico-based businesses (Non-PR Employers) to have an employment relationship with individuals working remotely from Puerto Rico without triggering certain tax registration requirements that would otherwise exist for these businesses if not for the existence of tax legislation for remote workers. This reading presents some of the most relevant tax considerations for a temporary or permanent transition to remote work from the Island.

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Collaborated in the preparation of this article.

What is a remote worker?

A remote worker is an employee performing services from Puerto Rico for a nonresident person. Nonresidents can include individuals without a permanent home in Puerto Rico, certain trusts, estates, or foreign entities.

Industries or businesses with remote workers in Puerto Rico

For the services of a remote worker to qualify under these rules, the Non-PR Employer must meet the following conditions:

- X** Must not have an office or a fixed business location in Puerto Rico during the tax year.
- X** Must not have economic ties to Puerto Rico.
- X** Must not be considered a merchant for sales and use tax purposes in Puerto Rico.
- X** Cannot have the remote worker as its officer, director, or majority shareholder.
- ✓** Services must benefit customers with no nexus with Puerto Rico.
- ✓** Must report the income paid to the remote worker on a Federal W-2 Form or on a Form 499R-2/W-2PR.

Economic link with Puerto Rico

The mere fact that a Non-PR Employer allows its employees to work remotely from Puerto Rico does not establish an economic link or is considered as deemed engaged in trade or business with the territory, even in situations where:

- (1) The employee's home office is required for their employment.
- (2) There is a valid business reason for allowing the employee to use their home as an office.
- (3) The employee is required to perform some basic work duties from the employer's premises.
- (4) The employer may reimburse the employee for some of the expenses incurred in maintaining a home office.

Withholding of tax at source on wages

Non-PR Employers do not need to withhold or report taxes on wages paid to remote workers after December 31, 2021.

Requirement to pay estimated tax

On the other hand, remote workers are responsible for paying estimated taxes on income earned from Non-PR Employers after December 31, 2021.

Credit for taxes paid to possessions or states of the United States

A remote worker could claim in his income tax return a foreign tax credit for taxes paid or accrued to any possession or any state of the United States during the tax year for services rendered to a Non-PR Employer that comply with the provisions. The credit will only apply to the amount of taxes paid to states and territories of the United States whose source of income rule, in the case of wages, is based on the employer's residence or place where the employer conducts business.

How does remote work affect businesses in Puerto Rico?

While the impact of these measures that promote remote work in Puerto Rico remains uncertain, its adoption has accelerated significantly since the COVID pandemic. These changes expand opportunities for Puerto Ricans to get remote jobs from industries with no presence in Puerto Rico and empower employers to hire and allow employees residing on the island to work remotely without triggering tax implications or being considered engaged in trade or business within Puerto Rico. This positions Puerto Rico as a destination for both temporary and permanent remote work arrangements that allow the development and continuity of employment despite any circumstance that occurs in the country.

Prior to this law amendment, U.S.-based companies could not have employees working remotely from Puerto Rico, other than to work as a freelancer, subcontractor, or self-employed, without triggering to be devoted to a trade or business in Puerto Rico. It is important to note that these amendments appear to be aimed at making it easier for remote workers to relocate to Puerto Rico without causing income tax filing requirements for their nonresident employers. Please be advised that the PRTD may issue technical amendments during the process.

The new tax law is a positive development, but it is not a complete solution. The law only addresses income taxes, and it does not necessarily exempt Non-PR Employers from registering or complying with other types of taxes, such as state department requirements, state unemployment insurance corporations, and labor legislation. We perceive this change can lure Non-PR Employers hiring remote workers to consider Puerto Rico as a business destination and assess opportunities under the Incentives Code. For further information on available incentives in our Island, access our tax and incentives guide: [Puerto Rico tax and incentives guide | Grant Thornton](#)

We are committed to keeping you informed of all the latest developments in laws and regulations that affect businesses in Puerto Rico. We can help you navigate the complex tax landscape to ensure that you are taking advantage of all the available benefits. Contact us today to learn more about how we can help you.



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