



TAX INSIGHTS

Preparing for Puerto Rico Treasury Tax Audits: A primer for business on what to expect and how to prepare for local tax audits.

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On October 31, 2016, the Department of the Treasury launched the Unified Internal Revenue System, better known as SURI. Since then, there have been multiple updates and improvements to SURI, all in efforts to integrate and streamline tax and revenue administration to drop the complexity of having multiple systems for the benefit of the Treasury and the taxpayer. Each year it is more common for the processing time of electronically filed returns to decrease significantly, in some cases, it can take less than a week. Therefore, notices are received quickly easing a Tax Audit for the Treasury. We believe that an effective way to start and/or prepare for the 2024 tax season is to know the implications of an audit and how to be prepared for it. It is important to know the requirements that the law demands of taxpayers to follow the provisions of the Puerto Rico Internal Revenue Code of 2011. Although there are other types of audits in Puerto Rico, that are performed by the different governmental agencies in the Island, this article will cover tax audits by the Puerto Rico Treasury Department.

[What is a tax audit?](#)

Is a review/examination of an organization's or individual's accounts and financial information to ensure information is reported correctly according to the local tax laws and to verify that the reported amount of tax is correct.

[Who has the power to perform a tax audit?](#)

The Secretary of the Department of the Treasury is empowered to examine, through any official or employee of the Department of the Treasury or through electronic means, any books, papers, records, or memoranda which may be relevant or material to the tax return or statement, and summon the person who filed the tax return or statement, or any official or employee of said person, or any other person who is knowledgeable about the issue in question, and to take such testimony with respect to those matters required by law to be included in said tax return or statement, with the authority to administer oaths to such person or persons.

The Secretary may also hire skilled personnel in tax matters to examine any books, papers, records, or memoranda, which may be relevant or material to the tax return or statement, as well as to provide technical support to the officials or employees of the Department of the Treasury, even when the person hired is not an employee of the Treasury. It may also be requested, through any official or employee, any taxpayer a copy of the forms filed with the U.S. Internal Revenue Service (IRS).

Why the Department of the Treasury of Puerto Rico may contact you.

- Failure to file a return, form, or document.
- Discrepancy from the information given vs the treasury's records.
- Random selection and computer screening.
- Outstanding debts.
- Missing evidence for certain credits claimed.
- Return or Form amendment.
- Uncertain tax positions
- Adjustments to an Income Tax Return.

Key Point: Although the Department of the Treasury may contact you for any of these reasons, this does not mean that an audit is being performed or that an audit will be performed. Some of these can be correspondence notifications, evidence requests, and mathematical errors. Most, if not all, of these electronic notifications will be sent through SURI, and it is recommended to verify your SURI account periodically as these notifications have an expiration time and action must be taken in the time frame provided by the Treasury.

How to prepare for a local tax audit

Taxpayers will be notified that they are being selected for an intervention and will receive a letter by certified mail, better known as an Investigation Notice. This letter shows the period and concept of the audit, and it will be accompanied by a document that shows the evidence needed for the audit process. It also includes an agreement and commitment letter. Such letter will include two options for the taxpayer: (1) pay the total debt, including interest, and exclude any surcharges imposed or (2) request a payment plan for the total debt including interest and surcharges. Under both options, the Treasury will grant a 25% discount. If the taxpayer agrees and selects one of the options provided, then the taxpayer can proceed to sign the agreement and commitment letter and send a copy to the Treasury.

If the taxpayer does not agree with the two payment alternatives, then the audit process will continue. Taxpayers should expect to provide bank statements, receipts, returns, extensions, forms, documents, organizational documents such as registry certificate and operating agreements, owner information, among others.

Taxpayers shall not be subject to unnecessary investigations or examinations and only one inspection shall be conducted per taxable year concerning the accounting books of the taxpayer, unless the taxpayer requests otherwise or unless the Secretary, after having investigated, notifies the taxpayer in writing that an additional inspection is necessary. An audit may end with no changes, an agreed-upon

change or changes that the taxpayer disagrees with and appeals.

[Organize Your Records and Paperwork](#) - You need to get your paperwork ready, seek to understand what the problem is and plan your next steps. You may want to make sure you have copies of all the returns filed and that the supporting documents you have match up with the year that is under audit. If you realize you have misplaced certain records, you may want to contact a [tax professional](#) to review your documents and make sure you understand what the discrepancy might be.

[Keep Your Tax Documentation in One Location](#) - It will be easier for you to have the financial information, returns, elections, documents, forms, statements, memoranda, tax grants, and any other document pertinent to your tax returns available for quick access in case of a regular audit, mail audit or return adjustment letter. In most cases, you will have 30 days or a predetermined time frame to provide your paperwork.

[Contact Your Tax Professional and Seek Representation](#) - You have the right to give power of representation to a tax professional. Your tax professional could save you a lot of time and hassle in this process.

Know your Rights!

- Receive fair, proper, and unbiased treatment.
- Privacy and Confidentiality.
- Reasonability.
- Clear, Simple and Transparent Communication.
- Undiscriminating Process.
- Power of Representation.
- Right to file an administrative complaint challenging the Department of the Treasury

[Request an Administrative Review Letter](#) - In cases that you understand that these debts do not arise and are carrying out any action that prevents them from obtaining contracts from the Government of Puerto Rico, you can request in writing an Administrative Review Letter through the Investigations Division where the request will be analyzed, a determination will be made, and the taxpayer will be informed. Such letter will, for a period of time, put a hold on the interest and surcharges calculated by the Treasury.

[Prescriptive Period - When does a debt become time-barred?](#)

Generally, the prescriptive period is the term of time in which the Treasury must assess and collect the amount of taxes or levies after the return or statement was filed, and to request a remedy in court. This means that after that term passes, the action can no longer be filed in court because it is time-barred, except for certain exceptions, such as tax returns or statements that have been filed falsely or fraudulently with the intent to evade taxes, or when there is failure to file tax returns or statements, such taxes may be assessed or court proceedings for the collection may be filed without assessment at any time.

As a general rule, the Secretary of the Treasury has four years after a return is filed (or due if filed before the return's deadline) to assess any additional income tax imposed. However, if the taxpayer omits 25% or more of the gross income reported on the return, the period to assess any tax will be six years instead of four. After assessing a tax debt, the Treasury has an established timeframe to collect it. According to Section 6010.06(d)(1) of the Puerto Rico Internal Revenue Code, as amended, the collection of tax debts prescribes if the Department of the Treasury has not made any collection efforts during a consecutive period of seven years unless an exception applies. The Secretary will eliminate it from its records and will not pursue any tax debt that is 10 years old or older since it was assessed by the Treasury Department.

[Preventive Measure for Non-Fraudulent Omissions, Inaccuracy, or Miscalculation - Voluntary Disclosure.](#)

Before a tax audit arises, taxpayers who have unintentionally failed to comply with certain tax obligations by not reporting income, transactions, returns, forms, certifications, reports, or any other document required by law, have the opportunity to correct their filings and fulfill their tax obligations before the Department of the Treasury by making a Voluntary Disclosure submission. The Voluntary Disclosure must be: (1) timely, (2) sincere, (3) complete, (4) where the income comes from legal sources, and (5) the taxpayer pays in full the tax due. The Secretary of the Department of the Treasury has the discretion to condone the penalties and surcharges related to the tax liability that are satisfied as part of the Voluntary Disclosure process. For additional details please refer to Administrative Determination [09-03](#).

In addition, as per [10-08](#) the Department of the Treasury may authorize the deferred payment of the contribution (including contributions owed for contributions withheld at source) for a period of no more than six (6) months as part of the Voluntary Disclosure Program, without such deferred payment, disqualify the disclosure as a complete one.

If you like this article you may be interested in: [Collection Notices and Tax Garnishments from the Puerto Rico Department of Treasury](#)

Our team of tax experts is available to assist you in the negotiation of a Voluntary Disclosure Agreement with the Puerto Rico Department of the Treasury or if an audit process already started, guide and support you through the audit to ensure a smooth resolution. Contact us today to learn more about how we can help you.



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