

# Estate planning notes

## Taxable estate for Puerto Rico individuals

The gross estate includes all the property, rights and obligations of the decedent that are not extinguished by death. With this broad definition and in general the estate of a decedent, that was a resident of Puerto Rico at the time of death for Puerto Rico estate tax purposes, includes all the property of such decedent, wherever located. The gross estate includes among others:

- property in which the decedent had an interest
- certain gifts made during lifetime
- annuities
- certain lifetime transfers or transfers taking effect at death.

However, the estate of a nonresident alien or person who was a resident of Puerto Rico at the time of death but did not acquired US citizenship solely by reason of being a citizen of Puerto Rico or being born or residing in Puerto Rico, will be taxed only on the part of the estate located in Puerto Rico. In such cases, the estate tax will equal the maximum foreign estate tax credit granted under the US Internal Revenue Code for that portion of the estate located in Puerto Rico in the case of US citizens.

Upon death, an estate tax lien is automatically imposed on all the assets of the decedent. A Release of Estate Tax Lien will not be issued until the estate tax return is filed and all taxes owed by the decedent to the Government of Puerto Rico (including income taxes) or to its municipalities, have been fully paid. In the case of prescribed debts, a certificate to that effect must be obtained.

The 2011 Code establishes a limited number of deductions to reduce the gross estate, which depends on the property transferred or the recipient. The same will be discussed in Article 4 of this Series I.

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For example, a deduction from the gross estate equal to the fair market value of property located in Puerto Rico is granted. As a result of this deduction, most estates in Puerto Rico are exempt from Puerto Rico estate tax.

Property located outside Puerto Rico for Puerto Rico purposes include:

- US government obligations and US agency obligations;
- obligations of the 50 states of the US and their political subdivisions;
- real property and tangible property located outside PR;
- deposits booked at branches of banks located outside PR;
- stock of PR organized entities that fail to meet the 80% active income test or the 100% asset test (discussed in detail in Article 4 of Series I);
- stock of foreign entities; among others.

As a general rule, for US estate tax purposes a non-resident alien will pay US estate taxes on US property owned by the decedent. In general, property located within the US for US estate tax purposes includes:

- obligations of the states and their political subdivisions including some bonds exempt from US income taxes;
- stock and options of US organized corporations; mutual funds organized in the US;
- real property and tangible personal property located in the US;
- interest in pension plan whose trust is considered a US person;
- cash and funds held in US money market accounts of brokerage firms, among others.



### Contact us

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**Formalize your wishes in an estate plan. It is an important step that cannot wait.**