



Tax



Business



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Tax Code amendments and their effective dates

May 20, 2019

Act No. 257 of December 10, 2018 brought a series of changes to the 2011 Internal Revenue Code for a New Puerto Rico (the “Code”), most of which were effective upon the enactment of the legislation unless the Act stated otherwise.

The Puerto Rico Treasury Department issued **Administrative Determination No. 19-01** (“AD 19-01”) on May 1, 2019, to establish that the amendments where effective dates were not properly disclosed will commence as follows:

Amendments commencing on taxable years after December 31, 2016

- §1031.01(b)(18) – exclusion of distributions from an employees' trust or an IRA for disaster;
- §1081.01(b)(1)(D) – exclusion from gross income on distributions from an employees' trust in the event of a disaster declaration by the Governor of Puerto Rico;
- §1081.01(d)(1)(I) – exclusion from gross income on distributions from an IRA in the event of a disaster declaration by the Governor of Puerto Rico;

Amendments commencing on taxable years after December 31, 2017

- §1010.01(a)(3) – for the 2018 taxable year, the deadline for partnership election on limited liability companies will be the filing date of the corresponding Puerto Rico income tax return (including extensions), along with Form 6045. However, for taxable years 2019 and onwards, the election will be done on the corresponding Puerto Rico income tax return.

Amendments with immediate effective date (i.e. December 10, 2018)

- §1031.01(b)(3) – gross income exclusion on compensation for emotional distress;
- §4010.01(l)(1)(E) – amends the definition of “admission rights” to include fees and dues paid to private or membership clubs that allow for the acquisition of goods and/or services, be it through brick-and-mortar locales or the internet
- §4010.01(m) – amends the definition of “candy” to include drops, cremes or pieces;

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- §4010.01(II)(11)(B)¹ – does away with the limitation to the exemption of legal services that could not be provided by other professionals;
 - §4030.19 – exemption from sales and use tax (“SUT”) on the rental of machinery, medical-surgical material, supplies, articles, equipment and technology used in the provision of health services;
 - §4030.20 – exemption from SUT on the purchase or rental of e-books;
 - §4030.26 – exemption from SUT on women’s hygiene products for menstrual period;

Amendments for taxable years commenced after December 31, 2018

- §1010.01(a)(35) – in determining whether an entity is a *Large Taxpayer*, the business volume of all the members of the *group of related entities* must be taken into consideration;
- §1010.05 – adds the terms “entities”, “chain of entities” and to the definition of “*group of related entities*”. For the taxable year 2018, the term *group of related entities* will not comprise LLCs that are taxed as partnerships, special partnerships or corporations of individuals;
- §1033.14(c)(2) – restriction on the use of the net operating loss deduction carry-overs from previous years or the current year to reduce the partner’s **distributable** income on the partnership;
- §§1035.01(a)(3)(A) and 1035.02(a)(3) – income from the rendering of services to the Government of Puerto Rico, its agencies and departments, the Legislative and Judicial branches, Municipalities or any other entity created by virtue of a state or federal law will be sourced to Puerto Rico – even if the services were rendered outside of Puerto Rico – if the monies came from the General Fund;
- §1062.03(b)(15) - exemption from withholding taxes on payments made by a partnership, special partnership or corporation of individuals engaged in the rendering of services to an individual that is a member, shareholder or owner of said entity;
- §1063.01(a) – requirement to report payments made by any person engaged in trade or business in Puerto Rico for ads, insurance premiums, telecom services, internet access, cable and satellite TV in excess of \$ 500.00 through an informative return;
- §1033.15(a)(1)(G) – procedure to claim the Deduction for interest paid or accrued on residential property when the taxpayer is not the debtor or mortgage co-debtor. This Section abolishes the requirements of Internal Revenue Circular Letter No. 18-01 for taxable years commenced after December 31, 2018;
- §1061.02(a) – requirement that Income Tax Returns for Large Taxpayers be certified as prepared or reviewed by Puerto Rico CPA;
- §1101.02 – special tax on compensation received by highly-paid Officers, Directors and Employees of non-profit entities;
- §1101.03 – special tax on payments for compensation in harassment cases and related expenses.

¹ Please note that on AD 19-01, it is erroneously identified as §4010.01(II)(11)(B).

Amendments effective on May 1, 2019

- §6030.25 – procedure for the application of voluntary partial payments and voluntary payments owed to the Treasury Department;

Amendments effective on October 1, 2019

- §4030.14(b) – requirement for the SUT exemption on the lease of real property.

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



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