



Tax



Business



Taxpayer

Changes Applicable to Taxable Year 2020

November 19, 2020

Looking forward to the end of the year 2020, it is important to consider the technical amendments introduced by Acts 40 and 57 of 2020 to the Puerto Rico Internal Revenue Code of 2011 (Code) and other laws, for the closing of accounting year, computation of the income tax provisions and tax planning and reporting. Here is a summary of the most important changes applicable for 2020:

Individuals

- individuals whose gross income does not exceed \$100,000; the determined tax liability will be 92% of the contribution as calculated under section 1021.01 of the Code. This represents an 8% reduction to the normal tax for individual taxpayers.
- to determine the net income subject to alternate basic tax and claim ordinary and necessary expenses incurred as deductions, it is required the filing of informative returns to inform expenses such as rent, telecommunication services, insurance, advertising and internet.
- individuals are entitled to claim as deduction the ordinary and necessary expenses incurred during the year in the operation of any industry or business for Alternate Basic Tax purposes as long as they submit with their income tax returns an Agreed Upon Procedures (AUP) or a Compliance Attestation Report (CAR) prepared by a Certified Public Accountant (CPA) with license in Puerto Rico.
 - in the case of individuals whose volume of business is less than \$1 million, they may choose to submit along with the income tax return a due diligence checklist (“DDC”) instead of submitting an AUP or CAR. A tax preparer specialist registered with the Puerto Rico Treasury Department will swear this DDC.
- for individuals who carry out their trade or business and whose source of income, in at least 80%, comes from services rendered subject to withholding, could elect the optional tax computation, in lieu of the regular tax computation. Law 40-2020 eliminated the requirement that the income earned must be reported on informative returns, but requires that the payment of the tax owed under the optional tax computation be satisfied through withholding of tax at source or estimated tax payments.

Entities

- in the case of conversion of a regular corporation to a limited liability company, the election to be taxed as a flow-through entity is going to be effective starting the first day of the taxable year in which the conversion became effective.
- expenses for services such as rent, telecommunications, insurance, advertising, and internet could be claimed as deductible for alternative minimum tax purposes if the amounts paid were included in the required informative returns.
- taxpayers shall deduct the same deductions to calculate net income subject to regular tax as to determine the net income subject alternative minimum tax as long as Audited Financial Statements (AFS) or an AUP or CAR is filed along with the return.
- for entities that carry out their trade or business and their source of income, in at least 80%, comes from services rendered subject to withholding, could elect the optional tax computation, in lieu of the regular tax computation. Law 40-2020 eliminated the requirement that the income earned must be reported on informative returns, but requires that the payment of the tax owed under the optional tax computation be satisfied through withholding of tax at source or estimated tax payments.
- in those cases in which the entities earned a business volume equal to or greater than \$3 million, but less than \$10 million, the entities may choose to submit, in lieu of AFS, an AUP along with their income tax return.
 - if the entity earned a volume of business equal to or greater than \$10 million, it must submit AFS along with the income tax return and file the supplemental schedules.
 - in the case of a group of related entities (“the Group”), if the aggregate volume of business of the Group equals to or is more than \$10 million, every member of the Group with a volume in excess of \$1 million must file AFS. Such member of the Group may submit AFS for its operations alone, including a note to the financials with a list of related entities which are part of the Group. This Group information may be substituted by filing Form 2652 for Groups of Related Entities, which is now filed in SURI. Nevertheless, those entities member of the group that earned a volume of business of less than \$1 million, are required to submit an AUP or CAR if they don’t submit AFS.
- those entities engaged in the telecommunication, internet, cable TV, advertising and insurance industries shall prepare and file informative returns for their commercial clients on or before February 28, 2021.
- entities with Incentive Tax Grants, Exempt Organizations and Insurance Companies have as due date for their income tax return June 15, 2021 for calendar years or the 15th day of the sixth month following the year end closing. This due date is not applicable to pass-through entities.
- if a corporation cannot file the 2020 Annual Report by April 15, 2021, it may request an extension for two months paying the fee of \$150. If the report is not filed by June 15, 2021, the entity may request an additional extension for two months paying a fee of \$30.
- carryback program of 2020 net operating losses for the two previous years: this program is available for entities with volume of business of \$10 million or less. Note that the maximum NOL to carryback is \$200,000 and the maximum refund for taxes paid in prior years is \$50,000.
- NOL carryforward- NOL incurred directly by COVID-19 to be carryforward to subsequent years will not be subject to the limitations established in Section 1033.14 of the Code.
- the \$500 Minimum Tentative Tax will be applicable.

- exclusion from Gross Income and from Income subject to Municipal License Tax due to discharge of indebtedness and grant received from any federal subsidy or stimulus under the CARES ACT or under any other federal legislation to address COVID-19 or under any state subsidy or stimulus granted as a result of COVID-19, including reimbursable tax credits and other economic aid.
 - taxpayer could claim as deduction from net income the ordinary and necessary expenses incurred in the business, although they were paid with funds or subsidy or federal stimulus pursuant to CARES Act or any other federal or state legislation.
- for taxable year 2020, all beneficiaries of a Tax Incentive Grant will be considered as in compliance with the following requirements:
 - creation and retention of employees
 - gross revenue or volume of sales
 - investment in machinery and equipment

We are committed to keeping you up to date with all tax-related developments. Please contact our Tax Department should additional information be required regarding this or any other tax issue. We will be glad to assist you.



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