



Tax



Businesses



Reports

# New Agreed Upon Procedures

**December 23, 2020**

The Puerto Rico Treasury Department (PRTD) has determined that the type of report that must be attached to the Income Tax Return at the time of its submission, to comply with Section 1061.15 of the Puerto Rico Internal Revenue Code of 2011, (PR IRC), will be an Agreed Upon Procedures (AUP).

On December 18, 2020, the PRTD issued Circular Letter No. 20-39 (CC 20-39) to establish the type of report that must be included with a taxpayer's Income Tax Return and establish the scope of the procedures that a Certified Public Accountant with a valid license to practice his profession in Puerto Rico (CPA) must follow to prepare the report in order to comply with Section 1061.15 of the PR IRC.

As per Section 1061.15(c) of the PR IRC, the requirement to submit Audited Financial Statements (AFS) depends on the volume of business the entity had during the period covered by the return. Entities with a volume of business equal to or greater than three million dollars (\$3,000,000), but less than ten million dollars (\$10,000,000), have the option of submitting an AUP or a Compliance Attestation, prepared by a CPA, instead of AFS. CC 20-39 establishes that an AUP pursuant to the procedures described in such communication is the report to be submitted with the income tax return instead of the AFS. Therefore, taxpayers must choose between submitting their return with AFS or an AUP. This requirement applies to tax years beginning after December 31, 2019.

Furthermore, entities with a volume of business equal to or greater than one million dollars (\$1,000,000), but less than three million dollars (\$3,000,000), can voluntarily submit an AFS or an AUP with their return to receive a total or partial waiver on withholding for services rendered. The option to submit an AUP instead of AFS is available for tax years beginning after December 31, 2019.

Members of a group of related entities that are subject to the determinations set forth on Section 1061.15(a)(5) of the PR IRC, but that do not have a volume of business greater than one million dollars (\$1,000,000) during the tax year, are not required to submit AFS. Such entities are required to submit an AUP, as long as they decide to not submit AFS.

## Jose Dávila

Tax Supervisor

## Eduardo Carlo

Tax Semi Senior

Collaborated in the preparation of this article.

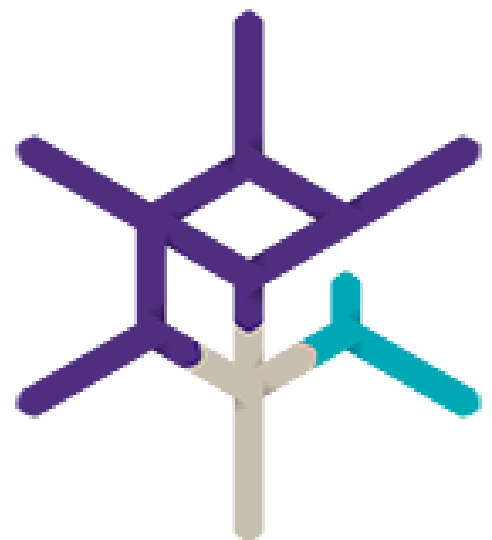
If a taxpayer does not include an AUP with its return as required, the PRTD will deem the return as incomplete and consider it not filed until the AUP or AFS are submitted, and the taxpayer may be subject to penalties for late filing. The requirement to submit an AUP under Section 1061.15 of the PR IRC will apply to tax years beginning after December 31, 2019.

Taxpayers may decide to submit AFS, even when not required. The AFS must be accompanied by the Schedules of Supplementary Information (SSI), and other documents used to prepare the financial statements. If an entity decides to submit AFS along with the SSI with its return, they will not be required to submit an AUP. This option is available for taxpayers with a volume of business less than ten million dollars (\$10,000,000). Members of a group of related entities will have this option as long as their volume of business does not exceed one million dollars (\$1,000,000).

Please be aware that, AUP's requirement, established on Section 1061.15 of the PR IRC (AUP CC 20-39), is different than the report required by Sections 1021.02(a)(2)(D) and 1022.04(a)(7)(B) of the PR IRC, and on the PRTD's Circular Letter No. 19-14 (AUP CC 19-14), in order not to be subject to limitations on the determination of the alternate basic tax net income or alternative minimum tax net income. Taxpayers that submit an AUP CC 20-39, do not need to submit an AUP CC 19-14.

In general terms, AUP CC 20-39 extended the scope of procedures to support the revenue and deductions claimed in the return, both in compliance with the filing and payment of the monthly sales and use tax returns and informative returns. In addition, AUP CC 20-39 requires the recalculation of tax depreciation and amortization, reconciliation of informative returns with expenses in books, vouching of expenses not reported in informative returns, and review of related entities due to/from accounts.

Taxpayers must decide which report will be submitted with their 2020 income tax return depending on the options available. The decision is not only based in cost reduction but in scope of work, time to be incurred and the additional usefulness of the report for the business.



The following chart summarizes all the requirements and thresholds regarding the requirement to submit an AUP or AFS:

<b>Section 1061.15 – General Rule</b>	<b>Requirement for tax years commencing after December 31, 2019</b>
Volume of Business: Less than \$1,000,000	No AFS required. Voluntary submission of AUP CC 19-14 not to be subject to ABT and AMT limitations.  AUP CC 20-39 could be used instead of AUP CC 19-14.
Volume of Business: Equal or greater than \$1,000,000 but less than \$3,000,000	No AFS required. Voluntary submission of AUP CC 19-14 not to be subject to ABT and AMT limitations.  Voluntary submission of AFS or AUP CC 20-39 to obtain full or partial waiver on withholding for services rendered (Section 1062.03)  AUP CC 20-39 could be used instead of AUP CC 19-14.
Volume of Business: Equal or greater than \$3,000,000 but less than \$10,000,000	Option to submit AFS or AUP CC 20-39.
Volume of Business: Equal or greater than \$10,000,000	AFS required.
<b>Section 1061.15 – Related entities</b>	
Aggregated Volume of Business: Equal or greater than \$10,000,000 (related entities and persons)	Members - less than \$1,000,000, no AFS required. AUP 20-39 required unless AFS are submitted.  Members - equal or greater than \$1,000,000, stand- alone AFS requires listing in the notes all related entities engaged in trade or business in Puerto Rico.
<b>Supplemental information:</b>	
Volume of business: Less than \$10,000,000	Required to submit if electing to submit AFS instead of AUP CC 20-39.
Volume of business: Equal or greater than \$10,000,000	Required to submit.

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.



**Lina Morales**  
Partner Head of Tax  
E [lina.morales@pr.gt.com](mailto:lina.morales@pr.gt.com)



**María de los A. Rivera**  
Tax Partner and IBC Director  
E [maria.rivera@pr.gt.com](mailto:maria.rivera@pr.gt.com)



**Francisco Luis**  
Tax Partner  
E [francisco.luis@pr.gt.com](mailto:francisco.luis@pr.gt.com)



**Isabel Hernández**  
Tax Partner  
E [isabel.hernandez@pr.gt.com](mailto:isabel.hernandez@pr.gt.com)

