



Tax



Individuals



Incentives

Return to work incentives

September 17, 2021

On March 11, 2021, the U.S. federal government enacted the American Rescue Plan Act of 2021 to assist state governments with the public health emergency caused by the COVID-19 and to boost the economic development of certain industries most heavily impacted by the pandemic.

Incentives to private sector employees

The American Rescue Plan Act of 2021 (“ARP Act”) established the Coronavirus State Fiscal Recovery Fund (“CSFRF”) with \$350 billion designated to states, territories, countries, and other local governments. Under the CSFRF, Puerto Rico was assigned \$2.47 billion. The Puerto Rico Government (“Government”) has expressed that these funds will be directed to the economic development of the Island, quality of life, government of excellence, and future projects. With respect to the economic development, the Government designated \$150 million to foster the return to work of employees among the following industries: the construction sector, restaurant and bars, agriculture, distribution chains, and hospitality industry. These incentives will be granted under the Return-to-Work Program and the Premium Pay Program. Our discussion focuses on the eligibility requirements and process of the Return-to-Work Program, as local guidelines for the Premium Pay Program are yet to be published by the Puerto Rico Department of the Treasury (“Department”).

Caroline López, CPA, Esq.
Tax Manager

Samira Yassin, CPA
Tax Senior

Collaborated in the preparation of this article.

Return-to-Work Program

The Return-to-Work Program (hereinafter the “Program”) aims to revitalize the economy struck by the effects of the COVID-19 pandemic, by helping unemployed individuals transition to the workforce. A summary of the Program eligibility requirements and process established by the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF) to grant the incentives is provided below. Full Program requirements are stated in the [AAFAF Return to Work Program Guidelines](#) and the [Puerto Rico Department of the Treasury Circular Letter 21-18](#)

Who is eligible?

Employers or employees that meet the eligibility criteria discussed below.

What employers are eligible?

To be an Eligible Employer, you must meet all the following requirements:

- be a private sector employer, as a self-employed individual, partnership, or legal entity (includes non-profit entities).

- be conducting operations by the time the incentive is requested.
- be engaged in one of the following business activities:
 - restaurant or bar
 - hotels or accommodation services
 - agriculture or construction
- be duly registered in the Puerto Rico Department of the Treasury and list one of the following NAICS code as its principal business on its Merchant Registry Certificate: 72231, 72232, 72233, 72241, 72251, 72111, 72112, 72119, 11111, 11112, 11113, 11114, 11115, 11116, 11119, 11121, 11131, 11132, 11133, 11141, 11142, 11191, 11192, 11193, 11194, 11199, 11211, 11212, 11213, 11231, 11232, 11233, 11234, 11239, 11241, 11242, 11251, 11291, 11292, 11293, 11299, 11511, 11521, 11411, 11531, 48411, 48412, 48423, 23611, 23621, 23622, 23711, 23712, 23713, 23731, 23799, 23812, 23891, 33661 (Eligible Industries).
- had timely filed the 2020 Puerto Rico Income Tax Return or Request for extension of time to file it if the business performed operations during taxable year 2020.

What employees are eligible?

To be an Eligible Employee, you must be an individual who meets the following criteria:

- had been receiving the Pandemic Unemployment Assistance (PUA) until the start of a new position in an Eligible Industry.
- duly notified the Puerto Rico Department of Labor that began a new job and as a result stopped claiming unemployment benefits.
- the individual's new employer is an Eligible Employer.
- commenced the new job (full time or part time) with the Eligible Employer during the period that begins on July 1, 2021, and ends on September 4, 2021.
- agrees to comply with the terms and conditions of the Program; and
- agrees to return the funds received from the Program, if it is later determined that the eligibility requirements were not met.

What is the incentive?

The monetary incentive to be granted amounts to \$2,000 per each Eligible Employee and will be paid directly to the Eligible Employer in two unequal installments. The initial payment of \$500 will be made once the initial proof of employment is submitted by the Eligible Employer and corroborated by the Department. The final award payment of \$1,500 is made when final proof of employment is submitted on or after 90 days of the initial disbursement but not after November 30, 2021.

When is the due date to request it?

The incentive must be requested by the Eligible Employer no later than September 30, 2021.

Where to request it?

The application must be submitted through the Eligible Employer's Unified System of Internal Revenue (SURI, for its Spanish acronym) account.

What is the process to request the incentive?

Step 1: Eligible Employer files application (on or before September 30, 2021)

The Eligible Employer must access the link titled "Incentive – Return to work" on its SURI account to submit the following information:

1. Eligible Employee's information:
 - full name
 - social security number
 - birth date
 - email address

- postal address
 - bank account information (bank name, routing number, and account number);
 - telephone number
 - part-time or full-time job
2. Certification that each Eligible Employee:
- provided the required documents to evidence that he/she is a Puerto Rico bona fide resident (i.e., driver's license, utility invoice, etc.).
 - subscribed an employment contract or agreement with the Eligible Employer, who has a copy of said document.
 - provided evidence issued by the Department of Labor of receiving unemployment benefits or PUA on July 1, 2021 (must include claim confirmation number).

Compliance Requirement – The Eligible Employer must retain the documents requested in the Certification for a period of 10 years.

The Department reviews the application and issues a notification to the Eligible Employer for each Eligible Employee with its funding decision. For those Eligible Employees that were approved, proceed to Step 2.

Step 2: Eligible Employer provides final proof of employment (on or before November 30, 2021)

After 90 days of the initial payment date, or November 30, 2021 whichever is earliest, the Eligible Employer must login to its SURI account to confirm that the Eligible Employee that received the initial incentive continues working therein and is eligible for the final payment.

Upon receiving confirmation from the Eligible Employer, the Department will disburse the final installment of \$1,500 to the Eligible Employee.

How is the incentive treated for Puerto Rico Income tax purposes?

The incentive does not constitute taxable income neither for the Eligible Employer nor for the Eligible Employee. The incentive income will be considered an income exclusion; therefore, it will not be subject to Puerto Rico income tax, including alternate basic tax and alternative minimum tax.



Premium Pay Program

Another CSFRF program that grants incentives to public and private business employees is the Premium Pay Program. Eligible private employees will be those who pertain to the health, food, and security industry. Today the Department issued [Internal Revenue Circular Letter 21-19](#) to establish the eligibility guidelines of this program for private employers and employees and to inform that the application is already available in the SURI account of the employer. In the upcoming days we will be releasing a publication with further details.

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



María de los A. Rivera
Tax Partner and IBC Director
E maria.rivera@pr.gt.com



Francisco Luis
Tax Partner
E francisco.luis@pr.gt.com



Isabel Hernández
Tax Partner
E isabel.hernandez@pr.gt.com



grantthornton.pr

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