Puerto Rico - New requirements to include CPA-audited financial statements with returns


To implement these measures, Puerto Rico’s Treasury Department issued Administrative Determination (AD) 13-22 that delays application of some of the new rules.

The following discussion provides an overview of the tax law changes.

Act No. 163

Prior law in Puerto Rico required taxpayers with gross revenues in excess of $3 million to file audited financial statements (i.e., audited by a CPA licensed to practice in Puerto Rico) with the taxpayers’ income tax returns, personal property tax returns, and volume of business declaration and corporation annual reports.

Under Act No. 163, these taxpayers must now also include in these statements certain supplemental information—i.e., other records and work papers used in the preparation of the statements and subjected to audit procedures.

List of supplemental information

A list of the newly required supplemental information with respect to audited financial statements included with the taxpayer’s income tax return includes the following items:

- A statement that the withholding tax at source on salaries, services, and payments to nonresidents has been withheld and duly deposited.
- A statement that the sales and use tax previously reported has been duly remitted.
- A statement that the sales and use tax previously reported has been duly remitted, taking into account any credits generated from the payment of the
sales and use tax in the purchase of tangible personal property for resale.

- A schedule or statement with a listing of credits generated by the purchase of tangible personal property acquired for resale, the credits claimed in the monthly sales and use tax returns, as well as the balance of unused credits at the beginning of the year as well as at year-end.
- A statement expressing that the use tax has been paid in transactions when tangible personal property has been sold for less than its cost in exchange for entering into a service or maintenance agreement.
- A schedule or statement with the salaries reported in Puerto Rico Form 499R2/W-2PR, as well as any reimbursed expenses and other compensation paid to owners, stockholders, partners or members.
- A statement that total compensation paid during the year matches the information presented on Form W-3PR. If the taxpayer is an other-than-calendar-year taxpayer, this information must be validated with the quarterly payroll tax return.
- A statement reconciling the expenses for services rendered with the same services reported on Forms 480.6A and 480.6B.
- A statement or schedule of balance at year-end of any loans with related parties, owners, stockholders, members or partners.
- For construction businesses with construction contracts exceeding $1 million, a statement that (1) the sales and use tax has been paid on purchases of construction materials; and (2) amounts shown in the accounting books as retained are in fact amounts retained by the developer for work not finalized.
- For financial institutions, a statement providing a detailed description of the methodology used to determine nondeductible expenses.

**Administrative Determination (AD) 13-22**

To afford taxpayers additional time to implement the dispositions of this law, the Puerto Rico Treasury Department issued AD 13-22 to delay the applicability of certain provisions relating to the supplemental information requirements under Act No. 163.

The postponed provisions are effective for tax years beginning after March 31, 2013, and only apply to the supplemental information required to be included as part of the audited financial statements (to be attached to the Puerto Rico income tax return).

**Other returns affected**

Provisions of Act No. 163 requiring additional supplemental information as part of the audited financial statements to be attached to a taxpayer’s Municipal License Tax Return, the Personal Property Tax Return, and the Corporation Annual
Report, as well as the other miscellaneous provisions of this law, were effective immediately upon its approval (December 25, 2013).

The following is a list of the delayed supplemental information measures:

- A statement that the taxpayer’s expense accounts do not include personal expenses from partners, shareholders, members, owners, employees or their families. The CPA will be required to use his or her professional judgment in determining which accounts may include these types of expenses. As part of this process, the CPA must review, at a minimum, the following expense accounts—repairs, maintenance, business representation, seminars and continued education, reimbursed expenses, transportation and motor vehicle accounts, travel, and miscellaneous expenses. The CPA will be required to prepare a schedule detailing any personal expense found in these accounts.

- For businesses operating under the benefits of a tax grant, a statement that the exempt business is in compliance with all tax grant requirements related to employment and capital investment, and that the partially exempt income, as reported in the income tax return, is derived from exempt operations.

- For construction businesses with construction contracts exceeding $1 million, a statement of: (1) the accounting method used and if such method is approved by the Code; and (2) if using the percentage of completion method, that the percentage of completion for each contract that was certified by an engineer.

- For financial institutions, a statement that: (1) the amounts claimed as an interest expense in the income tax return do not include interest related to exempt obligations incurred after December 31, 1987 (as required by section 1033.17(f) of the Puerto Rico tax code and the regulations issued there under); and (2) the amounts claimed as expenses, not related to interest expense, are not related to exempt income.

- For hospitals operating under the provisions of Act No. 168 of June 30, 1968, as amended, a statement of: (1) the amount reported as eligible payroll complies with the definition of such term under Act No. 168, and (2) the credit claimed by the hospital complies with the requirement set forth by section 1(a) of Act No. 168.

**Supplemental information - AFS volume of business declaration**

- A statement including the amount of gross income from the taxpayer’s business activities
- A breakdown of the components of the “other income” account
- For retail stores, a statement with the amount of returns
- For gas stations, a statement with the number of gallons of gasoline sold well as the first and second bulleted items (above)
For businesses operating under a tax grant, a breakdown of income generated by the exempt and taxable operations, if applicable

**Supplemental information - AFS personal property tax return**

- A statement of inventory balance for each of the months in the calendar year determined using any acceptable method under Generally Accepted Accounting Principles (GAAP)—but not the last in/first out (LIFO) method
- A statement with the balance of inventory reserves, if any, for each of the months in the calendar year and the taxpayer’s tax year, if different
- A statement with the balance of cash as of January 1, segregated between cash in bank and cash deposited before January 1 but not yet reflected in the bank as of January 1
- A breakdown of the book value of the assets not being used in the exempt operation as of January 1
- A statement with the inventory adjustments, if any, for each of the months in the calendar year and the tax year, if different

Additionally, Act No. 163 clarifies that the 51% disallowance of expenses incurred and paid to a partner, member or stockholder with an ownership interest of 50% or more in such entity will also apply to payments made to a “home office” by a branch of such foreign corporation doing business in Puerto Rico. Furthermore, amounts that would normally be subject to withholding when paid to a related nonresident entity not engaged in trade or business in Puerto Rico would be deductible when such amount is in fact paid to the related person.

For more information, contact a KPMG tax professional in Puerto Rico

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