



**CHANGE**



**AHEAD**

## New Changes in the Informative Returns: Discussion of the Internal Revenue Informative Bulletin No. 20-20 (“BI-RI 20-20”)

**By: María Adorno-Santos**

As the end of the year approaches, the period of preparation of the informative returns gets closer. During 2019 and 2020 many changes were implemented for the 2019 informative returns. Then, due to the effects of COVID-19, additional changes and exceptions were made to provide more time and relief to taxpayers to complete the 2019 informative returns during the pandemic. Soon after, several amendments to the Puerto Rico Internal Revenue Code of 2011, as amended (“PRIRC”), were made by Act 40-2020 to clarify and modify the requirements of the informative returns. Some of these amendments were of immediate effect for the filing of the 2019 returns. However, others are to be applicable to the 2020 informative returns and affect the 2020 income tax return. We will discuss the most relevant changes applicable to the 2020 informative returns in this newsletter.

### Significant Changes

1. **Form 480.6A, Informative Return – Other Income Not Subject to Withholding** – The lines to report the amounts paid on utilities (electric energy and water) on, as well as the requirement to report them to claim the expense in the income tax return, were eliminated. Therefore for 2020, the amounts paid on utilities will not be reported on an informative return.

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2. **Form 480.6A, Informative Return – Other Income Not Subject to Withholding** – The payments of memberships to professional associations and the payments of subscriptions to virtual and technological tools are to be included on this form.
3. **Form 480.6C, Informative Return – Payments to Nonresidents or for Services from Sources Outside of Puerto Rico, and Form 480.30, Nonresident Annual Return for Income Tax Withheld at Source** – A specific line to include the payments for services rendered outside of Puerto Rico was included. This inclusion makes it obvious that businesses must prepare an informative return even when the services are rendered outside of Puerto Rico and may not be subject to Puerto Rico income tax.
4. At the end of 2019 the Puerto Rico Treasury Department (“PRTD”) indicated that to claim the expenses related to advertising, insurance premiums, telecommunication, internet access and cable or satellite television services in the income tax return, the taxpayers needed to report such amounts on the informative return Form 480.7E, Informative Return - Advertising, Insurance Premiums, Telecommunication, Internet Access and Cable or Satellite Television Services. However, pursuant to Section 1063.16 of the PRIRC, the requirement to file the informative returns related to such services was of the service provider. Due to the inconsistencies between the PRIRC and the publications of the PRTD, the requirement to file the informative return to claim the expense in the income tax return was eventually postponed. Now, BI-RI 20-20 provides two forms to report such payments:

- a. **Form 480.7E, Optional Informative – Advertising, Insurance Premiums, Telecommunication, Internet Access and Cable or Satellite**

**Television Services** – Even though this form is “optional” (no penalty will be assessed for not filing it), it is required to be filed if the taxpayer wants to deduct the expenses to determine the income subject to alternative basic tax (individuals) or the income subject to alternative minimum tax (corporations).

- b. **Form 480.7F, Annual Return of Payments Received for Advertising, Insurance Premiums, Telecommunication, Internet Access and Cable or Satellite Television Services** – This form must be completed by the service providers to inform the total amount of payments received during the year for such services. The informative returns must be completed only for commercial clients. However, a residential client may require that the service provider completes such form.
5. **Form 480.7E, Optional Informative – Advertising, Insurance Premiums, Telecommunication, Internet Access and Cable or Satellite Television Services** – The contributions made to health and accidental plans are no longer required to be reported on this informative return and therefore, can be claimed in the income tax return without the filing of the informative return.

### ***New Income Items Exempt from Income Tax Withholding***

1. **Form 499R-2/W-2PR, Withholding Statement** – As part of the new provisions of the 2019 Puerto Rico Incentives Code (Act 60-2019, as amended), the payments in excess of \$100,000 to a professional of difficult recruitment are exempt from income tax. The 2020 Form 499R-2/W-2PR, which is used to inform the wages of the employees, will include a new exemption code to cover such provision.
2. **Form 480.6D, Informative Return - Exempt and Excluded Income Subject to Alternative Basic Tax** – Due to the seismic activity that affected the south of the Island, the Governor of Puerto Rico declared a state of emergency on January 7, 2020. Pursuant to Section

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1031.01(b)(16) of the PRIRC, the qualified payments related to disaster relief paid to an employee or contractor are excluded from the gross income of the taxpayer for purposes of the income tax return. Furthermore, Circular Letter 20-08 (“CC 20-08”) established the requirements for a payment to be considered a qualified payment. Based on the CC 20-08, the payments are limited to \$2,000 monthly per employee and the payments cannot exceed of \$4,000 per employee. Therefore, the disaster relief payments received up to \$4,000 are exempt from the income tax withholding at source. Such payments must be reported on Form 480.6D.

3. **Form 480.6D, Informative Return - Exempt and Excluded Income Subject to Alternative Basic Tax** - A specific line has been included in Form 480.6D to report income that has been excluded from gross income, including the alternative minimum tax and the alternative basic tax, which is related to debt forgiveness, subsidies or economic assistance

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received from the Federal government as part of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") or any other Federal law related to COVID-19 or any subsidies or economic assistance received from the Puerto Rico government granted due to COVID-19.

Informative returns need to be completed electronically through SURI as they were for 2019. Once the informative returns are filed, a copy of the forms must be delivered to the recipients within seven (7) labor days from the due date of the form. The due dates for the different informative returns will be as follows:

**Informative Returns Due Dates**

| Due Date      | Form                       | Name/<br>Description   |
|---------------|----------------------------|--|
| Feb. 1, 2021  | 499R-2/<br>W-2PR<br>480.6E | Withholding Statement Informative Return – Mail Order Sales  |
|               | 480.7A                     | Informative Return – Mortgage Interests  |
|               | 480.7D                     | Informative Return – Automobile Lease  |
| March 1, 2021 | 480.6A                     | Informative Return – Other income not subject to withholding                                       |
|               | 480.6B                     | Informative Return – Other income subject to withholding   |
|               | 480.6D                     | Informative Return – Exempt and excluded income and exempt income subject to alternative basic tax |
|               | 480.6G                     | Informative Return –   |

|  |         |   |
|--|---------|---|
|  | 480.6SP | Transactions made by electronic means<br>Informative Return – Service rendered  |
|  | 480.7   | Informative Return - Individual Retirement Account  |
|  | 480.7B  | Informative Return - Educational Contribution Account   |
|  | 480.7C  | Informative Return - Retirement Plans and Annuities   |
|  | 480.7F  | Annual return of payments received for advertising, insurance premiums, telecommunication, internet access and cable or satellite television services |
| April 15, 2021   | 480.6C  | Informative Return – Payments to nonresidents or for services from sources outside of Puerto Rico   |
| Other - no later than the due date of the income tax return, including the extension | 480.7E  | Optional Informative Return – Advertising, insurance premiums, telecommunication, internet access and cable or satellite television services          |

Lastly, we wanted to provide a reminder of the upcoming due dates of returns:

**Other Upcoming Due Dates**

| Date              | Return  |
|-------------------|---|
| December 15, 2020 | Third and fourth estimated tax payment due date for corporations  |
| January 15, 2021  | Third and fourth estimated tax payment due date for individuals   |
| January 15, 2021  | 2019 Income Tax Return (after 6 month extension requested)  |
| January 15, 2021  | 2019 Annual Report (extension and additional extension of time must have been requested)                                |
| January 15, 2021  | Filing of Audited Financial Statements for those taxpayers that filed the Personal Property Tax Return without the same |
| January 22, 2021  | Volume of Business Declaration (for those Municipalities that granted a 6 month period extension)                       |

ATBA comments:

Most of the changes in the informative returns presented by the BI-RI 2020 are to comply with what was already established by the PRIRC and to provide additional clarification of certain items. In a way, they provide a relief to taxpayers by eliminating some of the informative returns that had to be prepared for

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those expenses to be deductible in the Puerto Rico income tax return. For example, the fact that the informative return for payments for advertising, insurance premiums, telecommunication, internet access and cable or satellite television services are now to be completed by the service providers. However, to claim the expense in the income tax return, an informative return showing the expense must still exist. Therefore, it is important to verify that such informative returns are prepared correctly by the service providers.

It is extremely important to verify what expenses require informative returns to be deductible on the income tax return to make sure that all informative returns are prepared and timely filed. At ATBA we have experienced tax professionals who can assist you in such analysis, as well as with the reporting requirements, assist in the filing of informative declarations and other related tax matters.

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