



# TAX LIENS

## Tax Lien Notices / Large Taxpayers

By: **Yesenia Sánchez-Quiles**

Since the pandemic started in the year 2020, the Puerto Rico Treasury Department (“PRTD”) provided different alternatives to assist or support the taxpayers during such challenging time. Among other benefits provided, the PRTD held the automatic collection process for outstanding debts, allowing the taxpayers to have more time to clarify the accounts or pay their respective balances. Now, after nearly two years, the PRTD has reestablished its collection process and is executing tax liens for the debts that have been outstanding during this period.

In this bulletin, we will discuss the assessment and collection process with the PRTD and alternatives available to hold the tax liens. We will also discuss new information related to the Large Taxpayers Unit that was introduced by Act 52-2022 (“Act 52” or the “Act”), which was signed into law on June 30, 2022.

### TAX LIENS

The Secretary of the PRTD is authorized to issue tax liens to collect outstanding debts that have been notified to the taxpayers, after the period established by law to object such debts expires. However, before completing this process, the PRTD will notify the taxpayer with an Assessment Notice (Form SC 6094) and then with a Collection Notice (Form SC 3409). After these notices are sent, if the debts remain outstanding, then a Garnishment Notice will be sent and the taxpayer will have 30 days to clarify or pay the debts, before the PRTD automatically executes the tax lien against the personal or real property of the taxpayer to collect the outstanding balance.

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During the past two years, the PRTD continued to issue assessment and collection notices, but due to the pandemic, they were not executing the tax liens. In the past months, the PRTD has become very active issuing these notices and they have started executing the tax liens again. Generally, the PRTD issues the Garnishment Notice to the banks and cooperatives located in Puerto Rico and they proceed to freeze the funds available for 30 days.

Within this period, the taxpayers must clarify the debts with the PRTD or pay the outstanding balance before they execute the lien and withdraw the funds from the banks.

Unfortunately, a high volume of the debts assessed by the PRTD are erroneous and when this is the case, the 30-day time frame may not be enough to clarify the debt with the PRTD before the funds are retired automatically. When the debts are incorrect or the taxpayer is unaware of the debts, they must obtain an appointment with the Taxpayer Service Office to clarify them, but usually the dates available for an appointment are longer than 30 days. These concerns were discussed with the PRTD, and they created an electronic mail ([embargosbancarios@hacienda.pr.gov](mailto:embargosbancarios@hacienda.pr.gov)) to handle these cases. Here, the taxpayers or their representatives can submit, within the 30 days window, the supporting evidence showing the debts are erroneous. The PRTD will analyze the evidence provided and if they determine that the information is correct, the PRTD will hold the collection process with the banks for a certain period of time (30 or 60 days), so the taxpayer can continue with the clarification process with the Taxpayer's Service Office.

### **LARGE TAXPAYERS UNIT**

The term "Large Taxpayers" was already defined in the Puerto Rico Internal Revenue Code of 2011, as amended (the "Code"), as those taxpayers engaged in trade or business in Puerto Rico that meet at least with one of the following requirements:

- Is a commercial bank or trust company;
- Is a private bank;
- Is a securities or brokerage house;
- Is an insurance company, including an International Insurer;
- Is an entity engaged in the business of telecommunications; or
- Is an entity whose volume of business is fifty million (50,000,000) or more, for the preceding taxable year.

Act 52 introduced, among others, a new Subchapter F to Chapter 5 of Subtitle F of the Code, "Large Taxpayers Unit." This new subchapter includes provisions to create the unit and to assign the required resources to the unit. It also provides the functions of the unit, including the following:

- Assist, monitor and oversee the Large Taxpayers
- Create an update a register for the entities classified as Large Taxpayers
- Offer services to assist Large Taxpayers with tax related issues
- Prepare and coordinate publications addressed to the Large Taxpayers
- Create tools to identify substantial changes in the tax aspects of the Large Taxpayers and how they affect the tax collections
- Establish an audit plan to monitor if the Large Taxpayers are complying with their tax responsibilities
- Make business and financial analysis per type of industry
- Develop the applicable procedures and forms required for the operation of the unit
- Recruit external advisors or consultants, if needed, to assist in technical tax matters
- Provide services to Large Taxpayers to clarify in an expedited manner administrative issues, including but not limited to clarification of debts, obtain certifications or approval of exemption certificates in an expedited manner.

The creation of the Large Taxpayer Unit is not something new, since it was first created by Administrative Order 15-15 of September 21, 2015. However, we have noticed that the services and functions of this unit have been limited in the past. With the incorporation to the Code, the functions of the Large Taxpayer Unit appear to be more wide-ranging and complete. Therefore, we expect that the

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**Yesenia** is a Senior Manager at Alvarado Tax & Business Advisors (ATBA). Her Curriculum Vitae includes previous experience in the corporate and individual tax advisory area working as senior tax associate in a local accounting firm providing tax services to different types of industries. She started her career at the Puerto Rico Treasury Department.

At ATBA Yesenia provides corporate tax and government resolution services for clients in the manufacturing, service, wholesale, telecommunication, energy and retailing industries, among others. She also manages a government and corporate tax resolution practice specializing in tax audits from the Puerto Rico Department of Treasury, the United States Internal Revenue Service, and municipalities including, sales and use tax, volume of business, real and personal property resolution services for individuals and businesses. In addition, she works to obtain licenses and permits required to operate regulated lines of business such as distribution or retail of alcohol, imports license, fire arms, public services such as maritime, road or air transportation, security services, certain energy production, distribution, retailing and communication services.

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PRTD will be focusing more on the compliance of those entities classified as Large Taxpayers.

### **ATBA Comments**

It will be very helpful having a unit directly handling the tax issues or certifications for Large Taxpayers in an expedited manner, instead of waiting

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for the regular process, which can be difficult and takes a lot of time.

Additionally, in multiple occasions, taxpayers are unaware of the debts that have been assessed and only take notice when the financial institution has frozen the funds in their accounts. At this time, the options to clarify the issues are limited. Therefore, we recommend monitoring the Internal Revenue Unified System ("SURI" for its Spanish acronym) accounts on a regular basis. This can prevent tax liens on your property and even it can help to clarify deficiencies before the debts are assessed. This way you can continue your business without affecting its operations.

We are ready to assist you and your business to adjust to the constant changes in the law and in the day-to-day operations. If you need further assistance, please feel free to contact our tax professionals to assist you with this or any other tax related matters.

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