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# Tax News

SAN JUAN, PUERTO RICO

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# I Do Decree: Act 60 on Stock Dividends

Decree holders in Puerto Rico can benefit from Act 60 by selling stocks with a significant reduction in their capital gains tax burden. Under Act 60, individuals who have been granted a Decree for Economic Development—also known as a tax decree—are eligible for a 100% exemption on capital gains taxes for any stocks sold after moving to Puerto Rico.

This means that if a decree holder sells stocks that have appreciated in value since they moved to Puerto Rico, they will not have to pay any capital gains taxes on the profits earned from the sale. This can result in significant savings and increased profitability for individuals who have relocated their business or investment portfolio to Puerto Rico.

It's worth noting that to qualify for this benefit, decree holders must meet certain requirements, such as maintaining a physical presence in Puerto Rico and creating jobs for residents. Additionally, the exemption only applies to stocks sold after the individual has become a Puerto Rican resident, and it does not apply to any stocks sold prior to the move.

# Educators and Trainers, You Could Benefit from Act 60

Under Act 60, businesses engaged in "export services" are eligible for a range of tax incentives. These services include consulting, research and development, engineering, and other professional services that are provided to clients outside of Puerto Rico.

Educators and trainers who provide their services to clients outside of Puerto Rico can qualify for these incentives, which include a corporate tax rate of just 4%, compared to the regular corporate tax rate of 20%.
In addition to the reduced corporate tax rate, Act 60 provides a range of other tax benefits for educators and trainers. For example, individuals who receive dividend income from a business engaged in export services pay a reduced tax rate of just 4%, compared to the regular rate of up to 20%. This can be particularly beneficial for educators and trainers who own their own businesses and receive dividend income as part of their compensation.

Another benefit of Act 60 for educators and trainers is the exemption from Puerto Rico income tax on interest and dividends earned by individuals. This means that educators and trainers who receive income from investments or other sources outside of their primary employment can benefit from the tax-free status of this income.
Furthermore, to these tax benefits, Act 60 also provides a range of other incentives that can be beneficial for educators and trainers. These include a 50% reduction in property taxes for qualifying businesses, as well as a range of credits and incentives for businesses that create jobs and invest in the island's economy.

To qualify for these incentives, educators and trainers must meet certain criteria, such as maintaining a physical presence in Puerto Rico and providing their services to clients outside of the island. However, for those who do qualify, the benefits can be substantial.

# If I Hire My Kids, Can I Give Them Tax-Free Education Benefits?

If your children work in your business, consider giving them education fringe benefits. Doing this right creates

- tax deductions for the business, and
- tax-free fringe education benefits for the child.

You can accomplish this without a Section 127 plan when your child needs the education to do the job for your business or to comply with a law or regulation.

In general, you can't treat undergraduate degree programs as work-related education. If you pay for such programs outside of a Section 127 plan, you must treat the payments as taxable income to the child-employee.

But certain individual courses within a program may be evaluated separately, and certain courses, such as accounting courses for an employee-child with an accounting job, may qualify for tax-free working condition fringe benefit payments.

On the other hand, MBA programs can qualify as work-related education if they maintain or improve the employee's skills for his or her current profession or business.

In addition to the possibilities listed above, if your child is age 21 or older, the Section 127 plan can offer up to $5,250 in tax-free education benefits.

# Business Gym for Your Employees, and Maybe You Too

To be tax-deductible, your gym or other athletic facilities must be primarily for the benefit of your employees—other than employees who are officers, shareholders, or other individuals who own a 10 percent or greater interest in the business, or other highly compensated employees.

For the 10 percent ownership test, the law treats employees as owning any interest owned by their brothers and sisters, spouses, ancestors (such as parents and grandparents), and lineal descendants (such as children and grandchildren).

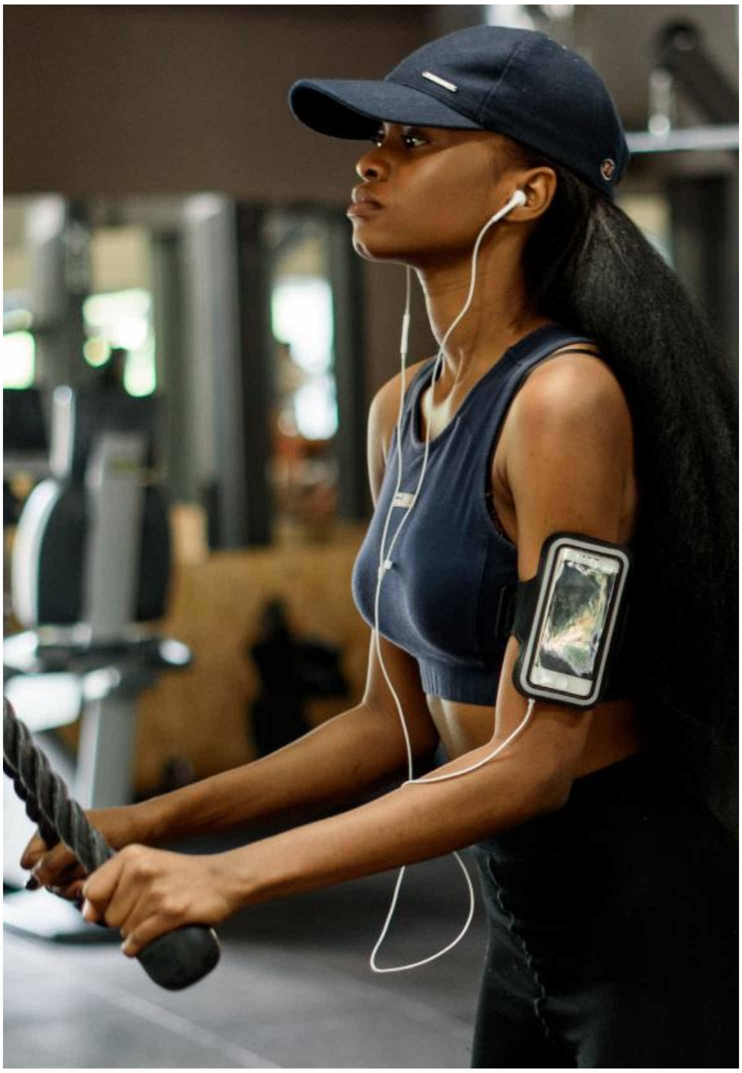
The highly compensated group consists of employees who earned more than $150,000 for the preceding year.

The gym or other athletic facility must benefit the rank-and-file employee group more than the owner and highly compensated employee group. Think of this primary-benefit test as a 51-49 test.

This means that the rank-and-file employees and their families must use the facility for more days than the owner and highly compensated group do.

To see if you pass the 51-49 test, look only at days of use of the facility.

Example. Rank-and-file employees and their families use the gym 235 days during the year and you, the business owner and your family, use it 137 days. The gym passes the 51-49 test. It's tax-free to the users and deductible to the business as an employee recreational facility.




# Take Advantage of the Once-in-a-Lifetime IRA-to-HSA Rollover

**Health Savings Accounts (HSAs) are designed for use alongside high-deductible health plans, assisting you in covering your medical expenses**

Health Savings Accounts (HSAs) are designed for use alongside high-deductible health plans, assisting you in covering your medical expenses. They can also function as an incredible retirement account due to their triple tax benefit:

- You can deduct contributions from your taxes.
- Your account balance grows without being taxed.
- Withdrawals for medical expenses are tax-free.

And after age 65, you can use the monies for non-medical purposes, the same as you can with a traditional IRA, and pay taxes at ordinary income rates but without penalties.

We recommend that you fully fund your HSA each year until you enroll in Medicare and that you ideally minimize distributions. By doing so, even if you start at age 50, you could accumulate $200,000 or more by the time you reach age 65.

To assist in funding your HSA, there is a special, lesser-known rule: you can roll over funds from your IRA to your HSA once in your lifetime through a qualified HSA funding distribution.

The rollover amount is limited to your HSA contribution limit for the year. In 2023, this amounts to $3,850 for individual coverage and $7,750 for family coverage. If you are over age 55, you can add a $1,000 catch-up contribution.

The rollover amount doesn't count as income, isn't deductible, and reduces the amount you can contribute to your HSA for the year. The big benefit is that you turn this otherwise taxable money into tax-free money when you use it for medical expenses.

# Know the $75 Rule for Business Expenses

The $75 rule applies to certain business expenses where you do not need a receipt. But we emphasize that this rule does not apply to all tax deductions.

Many taxpayers mistakenly apply the $75 rule to all their tax deductions, which can result in a significant loss of deductions and penalties. We encourage you to know the $75 rule and its limitations to avoid potential negative consequences.

IRS Reg. Section 1.274-5(c)(2)(iii) contains the $75 rule and Notice 95-50 provides a clear explanation of what it applies to. The rule applies to business travel expenses, vehicle expenses, and gifts that cost less than $75. But remember that the $25 limit on deductions for business gifts applies, meaning the practical limit is $25.

It's worth noting that your bank and credit card statements do not provide sufficient proof of expenses for tax purposes. You need to have both the receipt (proof of what you purchased) and the canceled check or credit card statement (proof of payment) to substantiate the expenditure.

While the $75 rule may allow you to avoid having a receipt for some expenses, it is crucial to document all your expenses properly. To document a $60 meal consumed during deductible business travel with or without a receipt, for example, you need to prove the amount spent, the date of the meal, and the name and location of the restaurant.

While you don't need a receipt for the $60 travel meal, your documentation life is easy with a receipt.

We encourage you to keep all your receipts for tax purposes, as they often take less time to keep track of and are better evidence in the event of an IRS audit.

# Stay Compliant If You Want a Successful Business in Puerto Rico...

With a population of around 3.3 million people and a strategic location between North and South America, Puerto Rico is an ideal place to start and operate a business successfully. Here are some tips on how to operate a business from Puerto Rico successfully.

1. Research and understand the market Before starting a business in Puerto Rico, it is important to research and understand the market you are targeting. This involves identifying the needs and preferences of the target market, understanding the competition, and identifying the unique selling proposition of your business.

2. Build a strong network Networking is key to success in business, especially in Puerto Rico. Building a strong network of contacts in the industry can help you gain valuable insights, potential clients, and partnerships. Attend business events and conferences, join business organizations, and participate in online forums to expand your network.

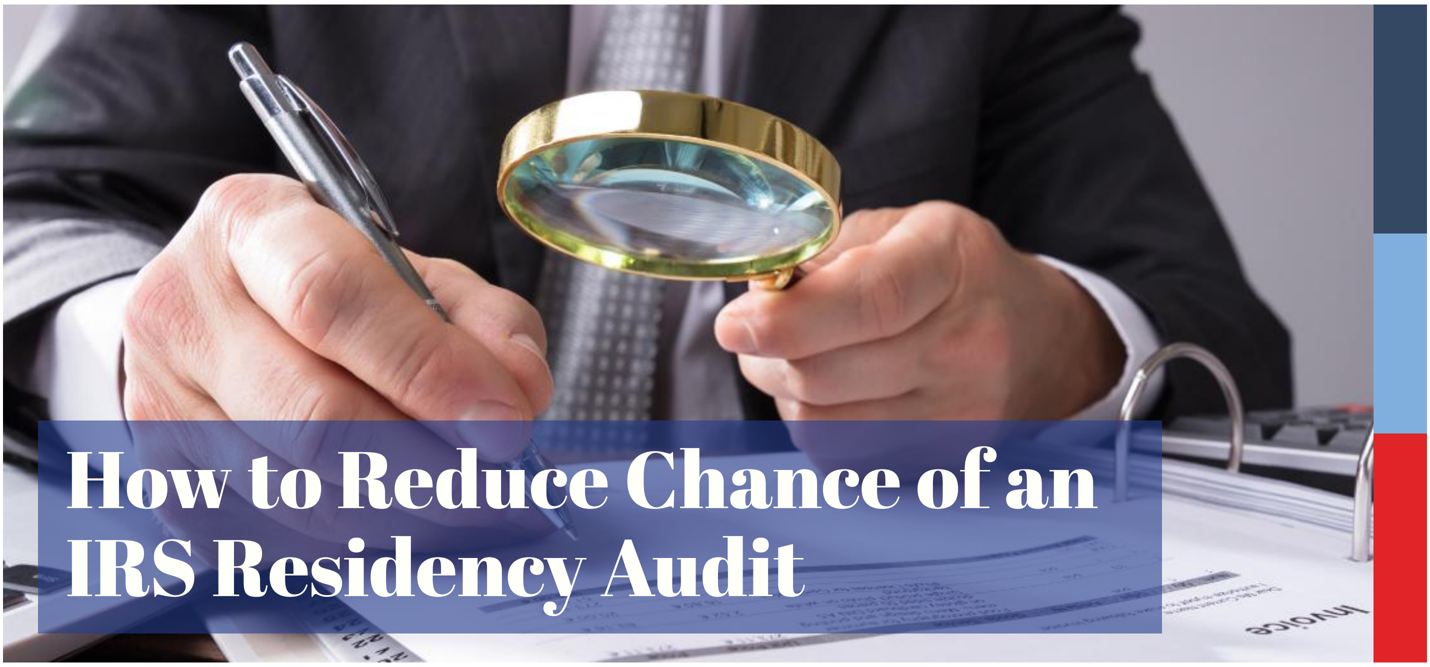
3. Take advantage of tax incentives Puerto Rico offers several tax incentives for businesses, including a flat 4% corporate tax rate for eligible businesses, tax exemptions for dividends, and other tax benefits for qualifying businesses. Take advantage of these incentives to reduce your tax burden and increase your profits.

4. Leverage technology Puerto Rico has a growing technology sector, and businesses that leverage technology can gain a competitive advantage. From online marketing to cloud computing, technology can help you streamline your business operations, improve customer engagement, and increase efficiency.

5. Embrace the culture Puerto Rico has a rich and diverse culture that is deeply rooted in its history and traditions. Embracing the culture and customs of the island can help you build strong relationships with customers, partners, and employees. Learning the language and customs can also help you navigate the business landscape more effectively.

6. Hire local talent Puerto Rico has a skilled and educated workforce, and hiring local talent can help you build a strong team that understands the local market and culture. Look for candidates who have experience in your industry and are familiar with the local business environment.

7. Stay informed and compliant Puerto Rico has a complex regulatory environment, and staying informed and compliant with local laws and regulations is essential for operating a successful business. Keep up to date with changes in the regulatory landscape and work with legal and accounting professionals to ensure compliance.



# How to Reduce Chance of an IRS Residency Audit

Puerto Rico's Act 60, also known as the "Puerto Rico Incentives Code," offers significant tax benefits for businesses and individuals who relocate to the island. However, those who take advantage of these benefits must be aware of the potential for a residency audit from the Internal Revenue Service (IRS). To avoid an audit, it's important to follow best practices for establishing and maintaining residency in Puerto Rico. Here are some tips:

## Document your move:

When you relocate to Puerto Rico, keep detailed records of your move, including your travel itinerary, receipts for expenses related to the move, and any documentation related to the purchase or rental of a home on the island. These documents can be used to demonstrate that you have established residency in Puerto Rico.

## Maintain a physical presence in Puerto Rico:

To qualify for Act 60 benefits, individuals must maintain a physical presence in Puerto Rico for at least 183 days per year. Keep detailed records of your time spent on the island, including travel dates and hotel receipts if you are not yet living in a permanent residence.

## Open a local bank account:

Opening a bank account in Puerto Rico can demonstrate your intent to establish residency on the island. Use this account for all your financial transactions, including paying bills and depositing your income.

## Register to vote in Puerto Rico:

Registering to vote in Puerto Rico can be another way to establish residency and demonstrate your intent to make Puerto Rico your permanent home.

## Obtain a local driver's license:

Obtaining a driver's license in Puerto Rico can further demonstrate your intent to establish residency on the island.

## Join local organizations:

Joining local organizations and social groups can help you establish roots in the community and demonstrate your commitment to Puerto Rico as your new home.