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Puerto Rico enacted budget includes personal income tax changes

Puerto Rico enacted Act 72-2015 on May 29, 2015, which includes significant changes to the Puerto Rico Internal Revenue Code of 2011, as amended, (2011 PRIRC or the Code), principally modifying the sales and use (SUT) regime, introducing a Value Added Tax (VAT), and amending other income tax provisions.

Act 72-2015 resulted from House Bill 2482 (HB 2482 or the Bill) and was the final attempt to pass tax legislation necessary to submit a balanced budget for fiscal year 2016, deal with the Puerto Rico Government's fiscal crisis, and create or adopt an integrated tax system.

This *Payroll Newsflash* summarizes key personal income tax changes under Act 72-2015.

Individual income tax changes under Act 72-2015

The tax rates previously in effect for tax years commencing after December 31, 2012, but before January 1, 2014, are made effective for all tax years after December 31, 2012. Refer to the graduated rates table below. These rates also apply to tax year 2014 because the Government's budgetary, financial and economic metrics required for the scheduled reduction in rates to take place as originally approved under the Code, were not achieved.

If the net taxable income is:	The tax shall be:
Not over $9,000	0%
Over $9,000 but not over $25,000	7% of the excess over $9,000
Over $25,000 but not over $41,500	$1,120 plus 14% of the excess over $25,000
Over $41,500 but not over $61,500	$3,430 plus 25% of the excess over $41,500
Over $61,500	$8,430 plus 33% of the excess over $61,500

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The gradual adjustment, which was not in effect for tax years after December 31, 2014, applies again for tax years after December 31, 2014, at a rate of 5% of the excess of net income subject to tax over $500,000. The gradual adjustment continues to be limited to a certain cap amount.

The 2% special tax on self-employed individuals is eliminated for tax years commencing after December 31, 2014.

For tax years commencing after December 31, 2014, only those contributions made to nonprofit entities acknowledged as, and tax-qualified by, the Puerto Rico Secretary will be deductible. Prior to this amendment, donations made to entities qualified by the US IRS were also deductible.

Limitation of capital losses for individuals was relaxed as follows:

Current status **Tax years ended before January 1, 2015**	**Act 72-2015** **Tax years ended after December 31, 2014**
Limited to 90% of the gains from the sale or exchange of capital assets, plus the net income of the taxpayer or $1,000, whichever is smaller	Available to offset capital gains generated during the year. Any excess can be used against the taxpayer's net income or a $1,000 deduction, whichever is lower.

Individuals with net operating losses (NOLs) from their trade or business for three consecutive years may carry over only 50% of the NOL amount.

Moratorium of tax credits

Act 72-2015 modifies the existing tax credit moratorium period for the use of credits granted or purchased, as well as on the issuance of tax credits, by extending the moratorium from tax years commencing before January 1, 2016, to tax years commencing before January 1, 2018. Act 72-2015 also includes certain annual limitations on the issuance of tax credits under certain special laws. In the case of the moratorium on tax credits subject to the informative return requirement on tax credits issued as of June 30, 2013, Act 72-2015 also extends the moratorium period to tax years commencing on or after January 1, 2018.

The right to use certain tax credits subject to the moratorium, issued during fiscal years 2014-15 through 2017-18, will continue to be subject to a 50% limitation rule as extended by the Act.

Interagency portal to be created for improved tax enforcement

A digital tool managed by the Puerto Rico Treasury Department will be created to receive information from various government agencies and used to corroborate transactions as part of the enforcement process for both corporate and individual taxation.

Agencies such as the Department of Transportation, Municipal Revenue Collection Center (CRIM), Commissioner of Financial Institutions and municipalities will be required to submit information to the portal or database, which will be used to crosscheck information reported by the taxpayer in its tax returns. Taxpayers will also be required to disclose certain legal transactions, such as purchases or sales of real property, refinancing transactions and wills, with an informative tax return to be made available by the Secretary as pertinent.
