Small Business Owner's Guide to **COVID-19** United States and Puerto Rico

FGA

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This guide has been compiled, edited and revised by Financial Guidance Advisors, LLC (FGA). It is intended to provide a general understanding about the major tax and labor provisions, as well as programs and initiatives made available by the United States (US) Congress and the Government of Puerto Rico (PR) to address business needs during the Coronavirus (COVID-19) pandemic.

The US Congress and the Government of PR have taken several measures in response to COVID-19. Among the numerous relief efforts, Congress has passed the following three bills: the Coronavirus Preparedness and Response Supplemental Appropriations, the Families First Coronavirus Response Act (FFCRA), and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 6, 17 and 27, 2020, respectively. These measures include allocating $376 billion in relief for workers and businesses, expanding unemployment benefits, and requiring employers to provide paid sick and family leave. They provide new resources available for small businesses (less than 500 employees), certain non-profits and other employers. Congress is presently working on an additional stimulus package to expand current relief measures.

The Government of PR has also approved tax and regulatory measures, as well as economic incentives, in support of merchants and workers. There are several additional measures pending to be approved or implemented, including the Complementary Act to Address the Effects of the Puerto Rican Economy Caused by the COVID-19 Emergency (P.C. 2468) and other incentives to be offered by the Department of Economic Development and Commerce.

This guide is meant to provide a general overview of some of the main measures adopted by the Federal and local governments to aid small businesses and individuals during the COVID-19 pandemic. It is not a tax nor legal consultation. Each situation must be evaluated individually, to determine which benefits apply to your entity. For a detailed consultation about the applicability of measures available for you or your business contact us by email at yrullan@fgapr.com and/or evargas@fgapr.com.

For more information visit our website www.fgapr.com and follow our media accounts @fga.pr to obtain updated information about regulations and additional measures adopted to address the COVID-19 pandemic.

I. US Measures in Response to COVID-19

A. Internal Revenue Service Tax Provisions

1. Tax filing and payment deadlines

The filing and payment deadline for tax returns has been extended by the Internal Revenue Service (IRS) from April 15 to July 15, 2020. This extension includes payments on self-employed income. Taxpayers who need additional time to file beyond the July 15 deadline can request a filing extension. However, the IRS urges taxpayers who are owed a refund to file as quickly as possible and prompts taxpayers and tax professionals to use electronic options to support social distancing and speed the processing of tax returns, refunds and payments.

Additional time has also been granted to perform time-sensitive actions, to taxpayers and IRS Employees, since due to COVID-19 emergency may be unable to access documents, systems or other resources.

2. Tax credits and deductions

a. COVID-19 related tax credits for required paid leave for Employers

The FFCRA requires employers to provide paid leave through two separate provisions: (i) Emergency Paid Sick Leave Act (EPSLA) which entitles workers to up to 80 hours of paid sick time when they are unable to work for certain reasons related to COVID-19, and (ii) the Emergency Family and Medical Leave Expansion Act (Expanded FMLA), which entitles workers to certain paid family and medical leave.

Businesses and tax-exempt organizations with fewer than 500 employees that are required to provide paid sick leave under the EPSLA and to provide paid family leave under the Expanded FMLA (collectively "qualified leave wages"), are considered to be Eligible Employers entitled to refundable tax credits. These tax credits are increased by the qualified health plan expenses allocable to, and the Eligible Employer's share of Medicare tax on, the qualified leave wages.

Eligible Employers will report their total qualified leave wages and the related credits for each quarter on their Federal employment tax returns, usually Form 941, Employer's Quarterly Federal Tax Return. The tax credits will apply to wages paid for the period beginning April 1, 2020 and ending on December 31, 2020.

If there are insufficient Federal employment taxes to cover the amount of the credits, an Eligible Employer may request an advance payment of the credits from the IRS by submitting Form 7200, Advance Payment of Employer Credits due to COVID-19.

If an Eligible Employer uses a third party to file, report, and pay federal employment taxes, certain rules for claiming/reporting the credits will apply depending on the type of third-party payer the Eligible Employer uses.

b. Specific Provisions Related to Self-Employed Individuals on COVID-19 related tax credits for required paid leave –

The FFCRA also provide comparable credits for self-employed individuals carrying on any trade or business, within the meaning of section 1402 of the Internal Revenue Code, if the self-employed individual would be entitled to receive paid leave under the EPSLA or the Expanded FMLA from an Eligible Employer (other than himself) that is subject to the requirements of the FFCRA.

Eligible self-employed individuals are allowed an income tax credit to offset their federal self-employment tax for any taxable year equal to their "qualified sick leave equivalent amount" or "qualified extended FMLA equivalent amount." In either case, the maximum number of days a self-employed individual may take as qualified sick leave equivalent amount is 10, occurring during the period beginning on April 1, 2020, and ending on December 31, 2020.

For an eligible self-employed individual who is unable to work or telework because the individual:

1) Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2) Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
3) Is experiencing symptoms of COVID-19 and seeking a medical diagnosis,

The qualified sick leave equivalent amount is equal to the number of days during the taxable year that the individual cannot perform services, multiplied by the lesser of $511 or 100% of the "average daily self-employment income" of the individual for the taxable year.

For an eligible self-employed individual who is unable to work or telework because the individual:

1) Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

2) Is caring for a child if the child's school or place of care has been closed, or childcare provider is unavailable due to COVID-19 precautions; or
3) Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor,

The qualified sick leave equivalent amount is equal to the number of days during the taxable year that the individual cannot perform services for one of the three above reasons, multiplied by the lesser of $200 or 67% of the "average daily self-employment income" of the individual for the taxable year.

c. Employee Retention Credit for businesses financially impacted by COVID-19

The Employee Retention Credit was designed to encourage businesses to keep employees on their payroll. The credit is available to all employers regardless of size, including tax-exempt organizations. There are only two exceptions: State and local governments and their instrumentalities and small businesses who take small business loans.

Qualifying employers must fall into one of two categories:

- The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter.
- The employer's gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter.

The amount of the credit is 50% of qualified wages, the maximum amount considered regarding each employee for all calendar quarters is $10,000, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is $5,000. The total qualified wages and the related health insurance costs must be reported on Form 941, Employer's Quarterly Federal Tax Return, beginning with the second quarter of 2020.

Qualifying wages are based on the average number of a business's employees in 2019:

- Employers average of less than 100 employees in 2019: the credit is based on wages paid to all employees, regardless if they worked or not.
- Employers with more than 100 employees in 2019: the credit is allowed only for wages paid to employees who did not work during the calendar quarter due to one of the categories.

Eligible Employers may request an advance payment of the credits from the IRS by submitting Form 7200, Advance Payment of Employer Credits due to COVID-19.

d. Relief from penalty for failure to deposit employment tax

The IRS provides relief from the failure to deposit employment taxes penalty to employers entitled to the refundable tax credits provided under the FFCRA and the CARES Act. The relief might be up to the extent that the amounts not deposited are equal to or less than the amount of refundable tax credits to which the employer is entitles and that the employer does not also seek an advance credit with regard to the same amount. This applies to deposits of employment taxes with respect to the periods beginning April 1. 2020 to December 31, 2020.

e. Extension of time to file application for tentative carryback adjustment

The IRS grants a 6 months extension of time to file Form 1045 or 1139 as applicable, to taxpayers that have a net operating loss (NOL) that arose in any taxable year that began during calendar year 2018 and that ended on or before June 30, 2019. This extension of time is limited to requesting a tentative refund to carry back an NOL and does not extend the time to carry back any other item.

3. People First Initiative

The IRS is taking a series of actions to assist taxpayers and businesses by providing relief on issues ranging from easing payment guidelines to postponing compliance actions. The People First Initiative includes the following measures:

- Existing Installment Agreements: taxpayers with existing installment agreement payments due between April 1 and July 15, 2020 are suspended. Taxpayers unable to comply with the terms of an existing agreement may suspend payments during this period. The IRS will not default installment agreements during this period. Interest will continue to accrue on any unpaid balances.
- New Installment Agreements: people unable to fully pay their federal taxes may enter into a monthly payment agreement.
- Offers in Compromise (OIC): to assist taxpayer in the various stages of the OIC process:
    - Pending OIC applications: taxpayers will have until July 15 to provide requested additional information to support a pending OIC, the IRS will not close any pending OIC request before July 15, 2020, without the taxpayer's consent.

  - OIC Payments: taxpayers have the option of suspending all payments on accepted OICs until July 15, 2020. Interest will continue to accrue on any unpaid balances.
  - Delinquent Return Filings: the IRS will not default an OIC for those taxpayers who are delinquent in filing their tax return for tax year 2018. However, any delinquent 2018 return (and their 2019 return) must be filed on or before July 15, 2020.
  - New OIC Applications: the OIC process is designed to resolve outstanding tax liabilities by providing a fresh start to those facing a liability that exceeds their net worth.
- Non-Filers: people who have not filed their return for tax years before 2019 should file their delinquent returns. Many are owed refunds and still have time to claim them.
- Field Collection Activities: liens and levies initiated by field revenue officers will be suspended during this period. However, high-income non-filers will be pursued where warranted.
- Automated Liens and Levies: new automatic, systemic liens and levies will be suspended during this period.
- Passport Certifications to the State Department: IRS will suspend new certifications to the State Department for taxpayers who are "seriously delinquent" during this period. Certification prevents taxpayers from receiving or renewing passports.
- Private Debt Collection: new delinquent accounts will not be forwarded by the IRS to private collection agencies during this period.
- Field, Office and Correspondence Audits: during this period, the IRS will generally not start new field, office and correspondence examinations. They will continue to work refund claims where possible. However, the IRS may start new examinations where deemed necessary to preserve applicable statute of limitations.
  - In-Person Meetings: will be suspended. The IRS will continue their examinations remotely, where possible.
  - Unique Situations: in instances where taxpayers desire to begin an examination while people and records are available, it is in the best interest of both parties and appropriate personnel are available, the IRS may initiate activities to move forward with an examination.
  - General Requests for Information: the IRS encourages taxpayers to respond to IRS correspondence requesting additional information during this time if possible.
- Earned Income Tax Credit (EITC) and Wage Verification Reviews: taxpayers have until July 15, 2020, to respond to the IRS to verify that they qualify for the EITC or to verify their income. Until July 15, 2020, the IRS will not deny these credits for a failure to provide requested information.
- Independent Office of Appeals: appeals employees will continue to work their cases. Conferences may be held over the telephone or by videoconference.

- Statute of Limitations: the IRS will continue to take steps where necessary to protect all applicable statutes of limitations. Where statute expirations might be jeopardized during this period, taxpayers are encouraged to cooperate in extending such statutes. Otherwise, the IRS will issue Notice of Deficiency and pursue other similar actions to preserve such statutes. Where a statutory period is not set to expire during 2020, the IRS is unlikely to pursue the foregoing actions until at least July 15, 2020.
- Practitioner Priority Service (PPS): depending on staffing levels and allocations, there may be significant wait times for the PPS.

B. US Department of Labor Provisions

1. Unemployment Insurance Relief During COVID-19 Outbreak

a. Pandemic Unemployment Assistance (Section 2102)

The Pandemic Unemployment Assistance (PUA) Section 2102 program provides up to 39 weeks of benefits and is available starting with weeks of unemployment beginning on or after January 27, 2020, and ending on or before December 31, 2020. It covers self-employed individuals, seeking part-time employment, or who otherwise would not qualify for regular unemployment compensation (UC) or employee benefits (EB) under State or Federal law or Pandemic Emergency Unemployment Compensation (PEUC) under Section 2107. Coverage also includes individuals who have exhausted all rights to regular UC or EB under State or Federal law, or PEUC.

Operationally, this program will be administered similar to the Disaster Unemployment Assistance (DUA) program. Individuals must demonstrate that they can otherwise work and are available for work within the meaning of applicable State law, except that they are unemployed, partially unemployed, or unable or unavailable to work because of the COVID-19 related reasons.

b. Family First Coronavirus Response Act

The FFCRA requires employers to provide paid leave through two separate provisions: (i) the EPSLA, which entitles workers to up to 80 hours of paid sick time when they are unable to work for certain reasons related to COVID-19, and (ii) Expanded FMLA, which entitles workers to certain paid family and medical leave.

i. Overview of the EPSLA

Requires Eligible Employers to provide employees with paid sick leave if the employee is unable to work (including telework) due to any of the following:

1) the employee is under a Federal, State, or local quarantine or isolation order related to COVID-19;

2) the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3) the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis,
4) the employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
5) the employee is caring for their child if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID–19 precautions;
6) the employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

An employee who is unable to work for reasons due to a COVID-19 circumstance described in 1), 2) or 3) above is entitled to paid sick leave for up to two weeks (up to 80 hours) at the employee's regular rate of pay, or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to $511 per day and $5,110 in the aggregate.

An employee who is unable to work due to a COVID-19 circumstance described in 4), 5) or 6) above is entitled to paid sick leave for up to two weeks (up to 80 hours) at 2/3 the employee's regular rate of pay or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to $200 per day and $2,000 in the aggregate.

ii. Overview of the Expanded FMLA

Under the Expanded FMLA, an employee who is unable to work (including telework) because of a need to care for a child whose school or place of care is closed or whose child care provider is unavailable due to COVID-19, as described in 5) above, is entitled to paid family and medical leave equal to 2/3 of the employee's regular pay, up to $200 per day and $10,000 in the aggregate. Up to 10 weeks of qualifying leave can be counted towards the family leave credit.

Other: Each covered employer must post a notice of the FFCRA requirements in a conspicuous place on its premises. An employer may satisfy this requirement by emailing or direct mailing this notice to employees or posting it on an employee information internal or external website.

2. Occupational Safety and Health Administration Provisions

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. The Occupational Safety and Health Administration (OSHA) has resources to help employers and workers prepare for and respond to COVID-19 in the workplace. These include links to interim guidance and other resources for preventing exposure and infection. OSHA has released many public statements related to the coronavirus pandemic including: Respirator Guidance, Protecting Workers in High-Risk Industries, Enforcing Safety in the Workplace and Offering Clear Direction for Employers. Employers should make sure to review OSHA's guidance on coronavirus preparation and response and implement safeguards to protect employees from exposure to COVID-19.

The alert is the latest effort by OSHA, listing steps employers can follow to implement social distancing in the workplace and to help protect workers from exposure to the coronavirus. OSHA has also published Guidance on Preparing Workplaces for Covid-19 a document to help workers and employers learn about ways to protect themselves and respond in the event of coronavirus in the workplace and Workers Exposure Risk to Covid-19.

OSHA Enforcement Memoranda provides agency policies and/or supplementary enforcement guidance, and some memos may include an interpretation of an OSHA standard.

C. Other Federal Measures - Small Business Administration

1. Emergency Economic Injury Grant

Emergency Economic Injury Grants (EEIG) provide an advance of up to $10,000 to small businesses and private non-profits harmed by COVID-19 within three days of applying for an SBA Economic Injury Disaster Loan (EIDL). EIDLs are lower interest loans of up to $2 million, with principal and interest deferment available for up to 4 years, that are available to pay for expenses that could have been met had the disaster not occurred. In response to the COVID-19 pandemic, small business owners in all U.S. States, Washington D.C., and territories are eligible to apply.

To access the advance, you must first apply for an EIDL and then request the advance. The advance does not need to be repaid, and may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts, rent and mortgage payments, and other operating expenses.

This program is for any small business with less than 500 employees, including:

- Small business concerns (including sole proprietorship, with or without employees)
- Independent contractors
- Self-employed individuals
- Cooperatives and employee owned businesses
- Private non-profits
- Tribal small businesses

Eligible entities must have been in operation since January 31, 2020. Businesses in certain industries may have more than 500 employees if they meet the SBA's size standards for those industries.

EEIGs will be available January 31, 2020 – December 31, 2020. The grants are backdated to January 31, 2020, to allow those who have already applied for EIDLs to be eligible to also receive a grant.

Whether you've already received an EIDL related or unrelated to COVID-19 and/or an EEIG between January 31, 2020, and June 30, 2020, you may also apply for a Paycheck Protection Program (PPP) loan. If you ultimately receive a PPP loan or refinance an EIDL into a PPP loan, any advance amount received under the EEIG Program would be subtracted from the amount forgiven in the PPP.

2. Paycheck Protection Program

NOTE: See Paycheck Protection Program Flexibility Act section for amendments on this Program.

a. Eligibility Criteria and Requirements

This loan program provides loan forgiveness for retaining employees by temporarily expanding the traditional SBA 7(a) loan program. It provides cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during this emergency. The PPP provides for forgiveness of up to 8 weeks of payroll based on employee retention and salary levels, no SBA fees and at least 6 months of deferral with maximum deferrals of up to a year.

Small businesses and other eligible entities will be able to apply if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. The program is retroactive to February 15, 2020, to help bring workers who may have already been laid off back onto payrolls.

You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and participating Farm Credit System institutions. Other regulated lenders will be available to make these loans once approved and enrolled in the program.

Some of the lenders in PR, according to the SBA's website include: Banco Popular, FirstBank, Oriental Bank, Banco Santander, Banesco USA, Banco de Desarrollo Económico, Lend Dreams and Cooperativa de Ahorro y Crédito de Arecibo. Lenders may begin processing loan applications as of April 3, 2020. The program will be available through June 30, 2020.

The following entities affected by COVID-19 may be eligible:

- Small business concerns that meet SBA's size standards
- Any business, 501(c)(3) non-profit organization, 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act:
  - that has fewer than 500 employees, or
  - fewer employees than established by the relevant industry code
- Sole proprietors, independent contractors, and eligible self-employed individuals

Eligible entities must have been in operation on February 15, 2020.

The maximum loan size is $10 million. The amount determined depends on the following:

- If you were in business February 15, 2019 – June 30, 2019: your max loan is equal to 2.5 times your average monthly payroll costs during that time period. If your business employs seasonal workers, you can opt to choose March 1, 2019, as your time period start date.
- If you were not in business between February 15, 2019 – June 30, 2019: your max loan is equal to 2.5 times your average monthly payroll costs between January 1, 2020, and February 29, 2020.
- If you took out an EIDL between February 15, 2020, and June 30, 2020, and want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.

Eligible payroll costs include:

- Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent)
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of State or local tax assessed on the compensation of employees

Non-eligible payroll costs include:

- Employee/owner compensation over $100,000
- Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code
- Compensation of employees whose principal place of residence is outside the U.S
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act

The allowable uses of loan proceeds are:

- Payroll costs (as noted above)
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Employee salaries, commissions, or similar compensations
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- Rent (including rent under a lease agreement)
- Utilities
- Interest on any other debt obligations that were incurred before the covered period

The loan will be fully forgiven if the funds are used for allowable uses, and at least 75% of the forgiven amount must have been used for payroll. Forgiveness is based on the employer maintaining or rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease.

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over $100,000):

- Payroll costs
- Payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation)
- Payment on covered rent obligation
- Covered utility payments

You must apply through your lender for forgiveness on your loan. In the application, you must include:

- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities
- Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use

Borrowers may apply for PPP loans and other SBA financial assistance, including EIDLs, 7(a) loans, 504 loans, microloans, and also receive investment capital from Small Business Investment Corporations (SBICs).

Loan payments will be deferred for 6 months. No collateral or personal guarantees are required. Neither the government nor lenders will charge any fees. This loan has a maturity of 2 years and an interest rate of 1%.

b. Additional Eligibility Criteria and Requirements for Self-Employed Individuals

The SBA has established additional eligibility criteria and requirements for self-employed individuals. You are eligible if:

- You were in operation on February 15, 2020,
- Are an individual with self-employment income (such as independent contractor or sole proprietor)
- Your principal place of residence is in the United States, and
- You filed or will file a Form 1040 Schedule C for 2019.

If you are a partner in a partnership, you may not submit a separate PPP loan application for yourself as a self-employed individual. Instead, the self-employment income of general active partners may be reported as a payroll cost, up to $100,000, annualized, on a PPP loan application filed by or on behalf of the partnership.

SBA will issue additional guidance for those individuals with self-employment income who were not in operation in 2019 but who were in operation on February 15, 2019, and will file a Form 1040 Schedule C for 2020.

The maximum loan amount depends upon whether or not you employ other individuals. If you have no employees, the following methodology should be used:

- Step 1: Find your 2019 IRS Form 1040 Schedule C line 31 net profit amount. If this amount is over $100,000, reduce it to $100,000. If this amount is zero or less, you are not eligible.
- Step 2: Calculate the average monthly net profit amount (divide Step 1 by 12).
- Step 3: Multiply the average monthly net profit amount from Step 2 by 2.5.
- Step 4: Add the outstanding amount of any EIDL made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan.

Regardless of whether you have filed a 2019 tax return with the IRS, you must provide the 2019 Form 1040 Schedule C with your PPP loan application and a 2019 IRS Form 1099-MISC detailing nonemployee compensation received (box 7), invoice, bank statement, or book of record that stablishes you are self-employed. You must provide a 2020 invoice, bank statement, or book of record to establish you were in operation on February 15, 2020.

If you have employees, the following methodology should be used:

- Step 1: Compute 2019 payroll by adding the following:
  - Find your 2019 IRS Form 1040 Schedule C line 31 net profit amount. If this amount is over $100,000, reduce it to $100,000. If this amount is zero or less, set this amount to zero;
  - 2019 gross wages and tips paid to your employees whose principal place of residence is the US computed using 2019 IRS Form 941 Taxable Medicare wages & tips; subtract any amounts paid to individual employees in excess of $100,000 annualized and any amounts paid to employees whose principal place of residence is outside the US; and
  - 2019 employer health insurance contributions (health insurance component of Form 1040 Schedule C line 14), retirement contributions (line 19), and state and local taxes assessed on employee compensation (SUTA).
- Step 2: Calculate the average monthly net profit amount (divide Step 1 by 12).
- Step 3: Multiply the average monthly net profit amount from Step 2 by 2.5.
- Step 4: Add the outstanding amount of any EIDL made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan.

You must supply your Form 1040 Schedule C, Form 941 and state quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or equivalent payroll processor records, along with evidence of any retirement and health insurance contributions, if applicable. A payroll statement from the pay period that covered February 15, 2020 must be provided.

The allowable uses of loan proceeds are:

- Owner compensation replacement, calculated based on 2019 net profit
- Payroll costs
- Mortgage interest payments on any business mortgage obligation on real or personal property, Rent (including rent under a lease agreement), and Utilities. You must have claimed or be entitled to claim a deduction for such expenses on your 2019 Form 1040 Schedule C for them to be a permissible use.
- Interest on any other debt obligations that were incurred before the covered period
- Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020 (maturity will be reset to PPP's maturity of two years). Other restrictions apply on the use of proceeds.

At least 75% of the loan proceeds shall be used for payroll costs. For purposes of determining the percentage of use of proceeds for payroll costs (but not for forgiveness purposes), the amount of any refinanced EIDL will be included.

The amount eligible for forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount will depend on the total amount spent over the covered period on:

- Payroll costs including salary, wages, and tips, up to $100,000 of annualized pay per employee (for eight weeks, a maximum of $15,385 per individual), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer
- Owner compensation replacement, calculated based on 2019 net profits, with forgiveness limited to eight weeks' worth of 2019 net profit, excluding qualified sick leave or family leave for which a credit is claimed under the FFCRA
- Payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C
- Rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C, and
- Utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C.

The forgiveness amount is limited to a proportionate 8 week share of 2019 net profit, as reflected in the individual's 2019 Form 1040 Schedule C.

c. Paycheck Protection Program Flexibility Act

The Paycheck Protection Program Flexibility Act (PPPFA) was signed into law on June 5, 2020. It addresses many concerns expressed by small businesses around the PPP forgiveness requirements. PPPFA provides for the following:

- Reduces loan proceeds required to be used towards payroll from 75% to 60%.
- Extends the covered period to use the funds from 8 weeks to 24 weeks.
- Moves the deadline to rehire workers from June 30 to December 31, 2020.
- Eases rehire requirements.
- Extends repayment term from 2 to 5 years

Any borrower who received a PPP loan before the PPPFA was signed into law can opt to remain with the original terms of the loan.

Treasury Guidelines still provide for SBA Audits on all loans over $2 million and loans under that threshold at its discretion.

d. Guide to PPP Loan Forgiveness

PPP loans may be forgiven if borrowers use the proceeds to maintain their payrolls and cover other allowable expenses. The Treasury Department and the SBA released the application form and instructions for loan forgiveness. PPP borrowers must apply for loan forgiveness with the lender that processed the loan.

Process to calculate the amount of loan forgiveness:

- Determine the maximum amount of loan forgiveness based on the borrower's expenditures during the 24 weeks after the loan is made;
- Determine the amount, if any, by which the maximum loan forgiveness will be reduced because of reduced employment or reduced salaries and wages; and
- Apply the rule requiring that at least 60% of eligible loan forgiveness expenses go towards payroll costs.

i. Maximum amount of possible loan forgiveness

The following expenses incurred or paid by the borrower during the 24 weeks following loan origination are eligible for forgiveness:

- Payroll Expenses, defined as:
  - Compensation (not exceeding $15,385 per employee) in the form of:
    - gross salary, gross wages, gross commissions, and gross tips,
    - vacation, parental, family, medical, or sick leave (other than leave for which the employer was reimbursed under the Families First Coronavirus Response Act), and
    - allowance for separation or dismissal;
  - Employer contribution for employee group health care coverage;
  - Employer contribution for employee retirement plans; and
  - Payment of state and local taxes assessed on compensation of employees.
  - *Independent contractor or sole proprietor*: payroll costs only include wages, commissions, income, or net earnings from self-employment, or similar compensation.
- Non-Payroll Expenses, defined as:

- Mortgage interest payments for the business on real or personal property (debt incurred before February 15, 2020);
- Rent or lease payments for the business on real or personal property (lease in force before February 15, 2020); and
- Utility payments for the business for electricity, gas, water, transportation, telephone, or internet access (service began before February 15, 2020).
- *Independent contractor or sole proprietor*: you must have claimed or be entitled to claim a deduction for these expenses on your 2019 Form 1040 Schedule C in order to claim them as expenses eligible for PPP loan forgiveness in 2020.

The 24-week period during which expenses must be incurred or paid are determined as follows:

- The 24 weeks beginning on the day the PPP loan was disbursed, or
- December 31, 2020, whichever is earlier.

ii. Amount by which loan forgiveness will be reduced because of reduced employment or reduced salaries and wages

Loan forgiveness will be reduced based on a reduction in salaries or wages of more than 25%.

For employees who earned $100,000 or less in 2019 (or were not employed by the borrower in 2019), the borrower's loan forgiveness will be reduced for each employee whose average pay (salary or hourly wage) during the 24-week period is less than 75% of their average pay from January 1 to March 31, 2020. The amount of the reduction in loan forgiveness is based on the amount of the reduction in pay.

Borrowers can avoid having their loan forgiveness amount reduced if they restore an employee's pay.

The borrower's loan forgiveness will also be reduced if the average number of weekly full-time equivalent employees (FTEs) during the 24-week period is less than the average number of FTEs during the borrowers chosen reference period. Borrowers can choose between the following reference periods:

- February 15 to June 30, 2019,
- January 1 to February 29, 2020, or
- In the case of a seasonal employer a consecutive 12-week period between May 1 and September 15, 2019

Exceptions: Borrowers will not be penalized for any FTE reductions if either of the following occurred:

- If by December 31, 2020, an employer has the same number of FTE employees on its payroll as it had as of February 15, 2020, any reduction in the number of FTE employees during the covered period relative to the prior reference period will be disregarded and forgiveness will not be reduced. (However, the reduction in FTEs must have occurred between February 15, 2020 and April 26, 2020). This deadline to make up for reductions in FTE employees during the covered period was previously June 30, 2020.
- If, with respect to the period beginning on February 15, 2020 and ending on December 31, 2020, the borrower is able to document in good faith one of the following:
  - An inability to rehire employees who had been employed on February 15, 2020, and an inability to hire similarly qualified employees for unfilled positions by December 31, 2020.
  - An inability to return to the same level of business activity at which the borrower was operating before February 15, 2020, due to compliance with certain federal agencies' requirements or guidance set forth between March 1, 2020, and December 31, 2020, relating to standards of sanitation, social distancing, or other worker or customer safety requirements due to COVID-19. Note: the slowdown cannot be due simply to a broader economic slowdown or loss of business to a particular borrower due to COVID-19. It must be due to the federal agencies' requirements mentioned above.

iii. 60% rule

A borrower's maximum loan amount could also be reduced if the borrower's eligible non- payroll expenses exceed 40% of the total eligible expenses.

iv. Loan Amounts Not Forgiven

For any loan amounts not forgiven, the original loan terms—5-year maximum loan at 1% interest rate with payments deferred until the date on which the SBA remits to the lender the amount forgiven—will apply. There are no prepayment penalties or fees.

v. Record Keeping Requirements

Borrowers will be required to submit the following documentation with their loan forgiveness application:

- Payroll Documents:
  - Bank account statement or third-party payroll service provider reports documenting cash compensation paid to employees,

- Tax forms or equivalent third-party payroll service provider reports for periods overlapping with the 8-week period for: (1) payroll tax filings (typically Form 941), and (2) state quarterly wage reporting and unemployment insurance tax filings, and
- Payment receipts, cancelled checks, or account statements documenting payment of employer contributions to employee health insurance and retirement plan.

- Full-Time Employees (FTEs):
  - Documentation showing the number of FTEs for the reference period. Documents may include payroll tax filings (typically Form 941) and state quarterly wage reporting and unemployment insurance tax filings.
- Nonpayroll Expenses:
  - Business mortgage interest payments: amortization schedule and cancelled checks or lender account statements from February 2020 and covering the 8-week period.
  - Business rent and lease payments: Copy of current lease and receipts or cancelled checks or lessor account statements from February 2020 and covering the 8-week period.
  - Business utility payments: Copy of invoices from February 2020 and the 8-week period and receipts, cancelled checks, or account statements

3. Express Bridge Loan Pilot Program

This program allows small businesses who currently have a business relationship with SBA Express Lender to access up to $25,000 quickly. If a small business has an urgent need for cash while waiting for a decision and disbursement on an EIDL they may qualify for this program.

4. Small Business Debt Relief Program

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under it, SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out loans within six months of the President signing the bill into law.

In general, businesses that meet size standards, are based in the U.S., can repay, and have a sound business purpose are eligible for a 7(a), 504 or a microloan. Each program has different requirements. SBA has a free referral service tool called Lender Match to help find a lender near you.

7(a) loans are an affordable loan product of up to $5 million for borrowers who lack credit elsewhere and need access to versatile financing, providing short-term or long-term working capital and to purchase an existing business, refinance current business debt, or purchase furniture, fixtures and supplies. In the program banks share a portion of the risk of the loan with SBA. There are many types of 7(a) loans, you can visit this site to find the one that's best for you. You apply for a 7(a) loan with a bank or a mission-based lender.

The 504 loan program provides loans of up to $5.5 million to approved small businesses with long- term, fixed-rate financing used to acquire fixed assets for expansion or modernization. It is a good option if you need to purchase real estate, buildings, and machinery. You apply through a Certified Development Company, which is a nonprofit corporation that promotes economic development.

The microloan program provides loans up to $50,000 to help small businesses and certain not-for- profit childcare centers to start up and expand. The average microloan is about $13,000. These loans are delivered through mission-based lenders who can also provide business counseling.

Disaster loans are not eligible for debt relief. Borrowers may separately apply for and take out a PPP loan, but debt relief under this program will not apply to a PPP loan.

5. **Small Business Counseling**

If you need a business counselor you can turn to your local Small Business Development Center (SBDC), Women's Business Center (WBC), or SCORE mentorship chapter. These resources will receive additional funds to better support small business owners with counseling and up-to-date information regarding COVID-19. There will soon be a joint platform that consolidates information and resources related to COVID-19 to provide consistent, timely information to small businesses.

The Minority Business Development Agency's Business Centers (MBDCs), which cater to minority business enterprises of all sizes, will also receive funding to hire staff and provide programming to help their clients respond to COVID-19. Not every state has a MBDC.

Counseling is free and training is low-cost.

SBDCs are a national network of nearly 1,000 centers that are located at leading universities, colleges, state economic development agencies and private partners. They provide counseling and training to new and existing businesses. Each state has a lead center that coordinates services for that state.

WBCs are a national network of more than 100 centers that offer one-on-one counseling, training, networking, workshops, technical assistance and mentoring to entrepreneurs on numerous business development topics. In addition to women, WBCs are mandated to serve the needs of underserved entrepreneurs, including low-income entrepreneurs.

SCORE provides free business advice through a volunteer network of over 10,000 business experts. You can meet with a mentor online.

MBDCs are a good option for minority-owned businesses, especially those seeking to penetrate new markets and grow in size and scale.

6. Coronavirus Relief Fund

The CARES Act established the $150 billion Coronavirus Relief Fund.

Treasury will make payments from the Fund to States and eligible units of local government; the District of Columbia and U.S. Territories (the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments (collectively "governments").

The CARES Act requires that the payments from the Coronavirus Relief Fund only be used to cover expenses that:

- are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
- were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
- were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Amounts paid to States, the District of Columbia, U.S. Territories, and eligible units of local government are based on population as provided in the CARES Act.

II. PR Measures in Response to COVID-19

A. PR Department of the Treasury Tax Provisions

1. Tax due dates

TAX FORM	ORIGINAL DUE DATE	NEW DUE DATE
Informative Declarations	February 28, 2020	May 31, 2020
Income Tax Return of Pass-Through Entities (Corporations of Individuals, Partnerships, Employee-owned corporations, Revocable Trusts or Grantor Trusts) including any payment due and the first installment of next tax years estimated tax	March 16, 2020	June 15, 2020
Income Tax Returns and any other Form or Declarations whose original or extended due date fell on March 16, 2020	March 16, 2020	June 15, 2020
Individual, Corporations and other Tax Return with original or extended due date of April 15, 2020. Including any payments with said returns	April 15, 2020	July 15, 2020
Other Returns, Forms or Declarations not related to Income, IVU or Excise taxes	Due on any given day during March or April	Due on the same day during the month of June, 2020.
Tax Returns and any other Forms	May 15, 2020	July 15, 2020

or Declarations	June 15, 2020	July 15, 2020
Sales and Use Tax Return including any payments due with said returns	February 20, 2020 March 20, 2020 April 20, 2020 May 20, 2020	April 20, 2020 May 20, 2020 June 22, 2020 July 20, 2020
Tax on Imports Monthly Returns including any payment due with said returns	March 10, 2020 April 10, 2020 May 10, 2020	May 10, 2020 June 10, 2020 July 10, 2020
Biweekly Sales and Use Tax Deposit	March 15, 2020, through June 30, 2020	No penalties imposed if IVU owed is paid in full along with the filing monthly return.
Sales and Use Tax on necessities, Ex.: hand sanitizer, disinfectants and OTC	Temporary Exemption	From March 23, 2020, until June 30, 2020
PRTD Bonds	Every bond with expiration between March 15 and April 30, 2020	Extended until May 31, 2020
Payment Plan Agreements	Installment payments due between March 16, 2020, and April 30, 2020 (moratorium period)	Taxpayers are not required to remit payments during the moratorium period.
Internal Revenue Licenses	Expiration date between March 15, 2020 and June 30, 2020	July 31, 2020

Sales and Use Tax Distribution Chain	No sales and use tax in the distribution chain Temporary Exemption Certificate	Temporary Exemption Period from April 6, 2020, until June 30, 2020
Tax withheld at source Professional Services	No withholding at source from March 23, 2020, until June 30, 2020	Taxpayers who elected the Optional Tax and obtained Partial Release Certificate for 2020 must ensure to fulfill their tax liability no later than the last installment payment of estimate tax of 2020
Notifications for Mathematical Error or Adjustment of Tax Return	Various	Extended for 90 days, commencing on the date of the due date
Term for filing administrative claims and every term required for the presentation of information or documents required by the Office of Administrative Appeals	Due dates falling after March 12, 2020	Extended for 90, commencing on the date of the due date
Hearings before the Office of Administrative Appeals	Every hearing schedule between March 16, 2020, and June 15, 2020	Automatically suspended until further notice

2. Tax credits and deductions

a. Application of Refunds and Excess Payments against other contributions

Any taxpayer who has an overpayment and has requested a refund or reimbursement may request to apply said payment in excess to another type of tax imposed by the Code.

The Puerto Rico Department of the Treasury (PRDT) will be issuing the rules establishing the process and the period during which taxpayers may submit the request for the application of refunds and overpayments against other contributions.

b. Installment Payment Option for 2019 Return

Taxpayers can request to pay the balance pending on their income tax return in monthly installments if at the filing date they do not have the financial resources to remit such balance. The Installment Payment option will only be available to those taxpayers who have not filed an Extension Request to File the Income Tax Return. The total amount due must be satisfied by March 31, 2021. Once the Taxpayer pays the debt according to the Installment Payment - the PRDT will eliminate the corresponding interest, surcharges and penalties.

The PRDT will be issuing the rules, terms and conditions and the application process that must be followed by all taxpayers who are interested in this option.

c. Project of the House of Representatives 2468: Complementary Act to Address the Effects of the Puerto Rican Economy Caused by the Covid-19 Emergency

The proposed Act which has yet to be approved seeks to establish the following:

- Expedited payment of accounts payable to suppliers of the Government of PR
- Reimbursable tax credit to businesses for payroll paid
- Carry back net losses in operations to previous years
- Net loss on operations to be carried forward to subsequent tax years
- Temporary exemption for services rendered to other businesses
- Temporary postponement of the Alternative Minimum Tax to corporations
- Postponement of the filing of informative returns
- Temporarily postpone the requirement of Agreed Upon Procedures Reports
- Special bonus to critical infrastructure workers of the Electric Power Authority
- Exclude debt cancellation and subsidies from gross income, for income tax purposes and municipal tax
- Special contribution to advance payment of long-term capital gains
- Special contribution to distributions of dividends or implicit dividends
- Retroactive effect of applications for decrees under Act No. 60-2019, automatic compliance with eligible requirements of incentive decrees
- Financial assistance programs for public and private hospitals
- Program for centralization of critical equipment purchases
- Special business or industry opening hours

3. Income Exclusions

e. Special distributions on qualified retirement plans and individual retirement accounts

Treasury has classified as special disaster distributions costs incurred to cover extraordinary and unforeseen expenses for basic needs as a result of the COVID-19 emergency declaration, including income loss due to the curfew declared by the Government. These expenses are considered special disaster distributions if they occurred during the eligible period from February 20, 2020, through June 30, 2020, and are subject to a limit of $10,000, regardless of whether they are used to cover eligible expenses resulting from earthquakes, COVID-19, or both. Any amount distributed exceeding $10,000 is subject to a 10% retention, otherwise all the distribution loses the income exclusion treatment.

f. Qualified payments and loans for disaster relief to employees and independent contractors

The PRTD extended the qualified payments to those provided to employees and independent contractors as a result of the state of emergency declared due to COVID-19. These payments also include those made to non-exempt employees who have not worked during the total closing period and the employer paid them for mere liberality as a help during the emergency, and interest free loans offered to employees and independent contractors to cover expenses related to the emergency.

Payments made will be limited to $2,000 per month, or $4,000 during the eligible period, February 1, 2020 to June 30, 2020, for each employee or independent contractor, and they may not be in any way attributable to or related to the position or salary the employee receives. The sum of all loans granted during said period should not exceed $20,000. The employer may offer these loans to the employee as additional aid to the qualified payments.

Qualified payments are those made to an employee or to an independent contractor:

- To supply, reimburse or pay necessary and reasonable expenses such as food, medicines, gasoline lodging, medical expenses, childcare expenses and others incurred as a result of the declared disaster
- To reimburse necessary and reasonable expenses for the repair or rehabilitation of a primary residence or repair or replacement of tangible personal property contained therein to the extent that the need for such repair, rehabilitation or replacement is attributable to a declared disaster

- As monetary assistance to cover costs of any damage and loss suffered by said individual because of a disaster declared by the Governor of PR, or
- Payments made by the Federal government, the Government of PR or any municipality, agency or instrumentality thereof, related to a disaster declared by the Governor of PR to promote the general welfare, but only to the extent that any expense compensated for such payment is not otherwise covered by insurance or otherwise.

4. **Other provisions:**

   a. **Revocation or immediate suspension of Internal Revenue licenses for non-compliance with the provisions of Executive Order No. OE-2020-23**

The PRDT stated that any business, site, warehouse or commercial establishment that possesses an internal revenue license that does not comply with the provisions of EO 2020-23 will entail immediate suspension of such licenses for a term of no less than 6 months. The suspension of alcoholic traffickers' license will be independent of the imposition of any fine or criminal sanction applicable under EO 2020-23.

B. PR Municipal Revenue Collection Center Tax Provisions

1. Personal Property Tax Return

The filing date of the Personal Property Tax Return or Extension Request is extended until August 1, 2020. The automatic extension term for all taxpayers will end on November 2, 2020. No interest, surcharges and penalties will be imposed on payments made in full with the filing of the Return or Extension on or before the established date. All payments in full with the filing of the Return or Extension will be entitled to 5% of discount, regardless of having made all estimated payments for the financial year.

2. Property Tax

Taxpayers can make their real estate property tax payments for the second half of fiscal year 2019-20, which expire on March 31, 2020, on or before May 29, 2020, without being imposed, interest, surcharges or penalties. The PR Municipal Revenue Collection Center (CRIM) automatically grants a moratorium on payment plan agreements until May 29, 2020, said payments will be added to the end of the plan.

Supplements issued on January 1, 2020, February 1, 2020, and March 1, 2020, will not accumulate interest, surcharges or penalties until May 29, 2020. The term to request administrative review of the supplements issued on March 1, 2020, is extended through May 29, 2020, thus the 30-day term for CRIM to determine if it accepts the request for administrative review will begin to run from the date of the filing of the request.

Supplements issued on February 1, 2020, and March 1, 2020, retain their 5% and 10% discount, respectively until May 29, 2020.

C. PR Office of Management and Budget Tax Provisions

1. Volume of Business Declaration

The Volume of Business Declaration and its extension filing date have been extended until July 22, 2020. Taxpayers can deduct the 5% discount when the total tax is paid on or before July 22, 2019. Due dates for the imposition of interest and other additions for failing to file have also been extended as follows: 5% interest imposition until August 21, 2020; 10% interest imposition until September 20, 2020; 15% interest imposition until October 20, 2020; 20% interest imposition until November 19, 2020, and; 25% interest imposition for filings after November 20, 2020.

D. PR Department of Labor and Human Resources Provisions

1. Applicable licenses to exempt and non-exempt employees of the private sector during the lockdown period

PR-Department of Labor and Human Resources (DLHR), encourages employers to pay the wages of their non-exempt employees without charge to any license so that they can provide for their basic needs the lockdown. If employers are unable to voluntarily compensate for time not worked, as applicable and requested by the worker, the employer may allow to carry this period to any other license to which they are entitled, such as sick leave or vacation.

Exempt employees must be compensated for each workweek in which they do some work. The employer may, at its discretion, charge the hours or days on which the exempt employee did not perform work, to the licenses available, unless otherwise agreed, provided that the employee receives the same weekly salary entitled. Employers are not obliged to compensate for full workweeks during which the exempt employee does not perform any work, whether on-site or remote. However, the employer may at his discretion charge that week to some leave to which the exempt employee is entitled or may voluntarily compensate that week without charge to any benefit.

Act 37 of April 9, 2020 amends Act 180-1998 as amended, to establish a special five (5) day license with pay when a State of Emergency is Declares due to a disease or epidemic in Puerto Rico. This special leave is different from sick leave but would be paid after the employee has exhausted sick and other leave to which he is entitled but continues to be sick as part of the epidemic that has caused the State of Emergency decreed.

This special license is not accumulative, nor it is subject to monetary settlements in favor of the employee and its use shall not be considered as time worked for purposes of accruing vacation and sick leave.

2. **Employers obligation to notify unemployment insurance benefits to laid off or work time reduced. employees**

Under the provision of the Federal Emergency Unemployment Insurance Stabilization and Access Act of 2020 employers are required to notify laid off or reduced work hours employees of the availability of unemployment insurance benefits. The DLHR has issued Circular Letter No. CC 2020-20 which contains the specific text of such notice which can be delivered by letter, email, brochure, or text message.

3. **New Licenses applicable under Federal Legislation**

Please refer to the US-DOL provisions as those are applicable to Puerto Rico.

Employers are required to publish and maintain in a visible a notice of the provisions applicable under this licenses and information on how to file complaints for noncompliance. Although the FFCRA and the Federal Regulations do not establish language requirements, the DLHR encourages PR employers t publish and/or distribute the information in Spanish.

The employer may require employees to follow reasonable notification procedures to the use of these licenses. However, the employer is not permitted to require that such notification be made in advance. If an employee fails to give proper notice, the employer must provide an opportunity to furnish evidence before proceeding to deny the employee's license application.

Other important clarifications applicable to Puerto Rico: to qualify for theses leaves, the employer must have work for the employee. Thus, If the workplace closed prior to April 1, 2020, the date FFCRA took effect, either because of lack of business or because it was required to close, the employer is not required to provide federal licenses until operations has been resumed. If the employer closes on or after 1April 2020, but before the employee begins to take leave, the latter shall not be eligible until their work has been resumed. If the employer shuts down operations while the employee is using one of these licenses, he must compensate for the days enjoyed up to the time of closure. After the closing the employee will not have right of leave until work resumes. If the employer remains open, but fires or suspends the employee for not having enough work, the employee will not be entitled to federal leave. If the employer closes the workplace on or after the 1st of April 2020, to reopen in the future, the employee will not be entitled to these licenses until the operations resume and he or she starts to work.

4. Loans that can be granted to employees during the emergency

Employers are allowed to provide their non-exempt employees loans or equipment, materials or goods directly related to the state of emergency. These loans are not subject to any interest, and must be agreed in writing, including its repayment plan. Discounts from payroll, for said reimbursement, should not exceed 20% of the non-exempt employee net payroll.

Exempt employees are not subject to the provisions discussed above, it is permissible to agree voluntarily on wage deductions as long as the agreement does not violate the law, the moral, nor public order.

None of the above prevents an employer from providing free equipment, materials or goods or make voluntary payments to assist or reward their workers.

5. COVID-19 Exposure Control Plan for employers

Employers are responsible of maintaining a safe workplace for their employees, the DTRH issued a statement with the basic elements that a COVID-19 Exposure Control Plan must have, which every employer must develop and implement.

Employers also must implement workplace risk controls following OSHA's hierarchy of controls. In this regard, DTRH recommends that employers reinforce Engineering Controls, Administrative Controls and Personal Protective Equipment (PPE). In addition, the Department of Labor states that employers must consider the effects of the indoor air quality of buildings that have been closed or partially functioning for long periods of time because there is a risk of "sick building syndrome", which could set back efforts to prevent the spread of COVID-19 in the workplace.

The DLHR has created an Employer's Self-Certification, that must be send with the Control Plan, prior to the opening of every business. Failure to have a COVID-19 Exposure Control Plan in place could lead to OSHA violations and the applicable penalties.

DTRH establishes that each COVID-19 Exposure Control Plan:

- Must be a written document that considers the specific conditions and needs of the workplace.
- Must include general information about COVID-19 and recommendations made by the relevant agencies.
- Must specify the monitoring and screening process of personnel prior to entering the workplace and the protocol when an employee has symptoms or is positive to COVID-19.
- Must indicate the number of employees assigned to work per day, indicating if rotating shifts will be worked and the control measures that will be taken to preserve distancing between employees.
- Must include the methods that are being implemented for cleaning and disinfecting the facility and specifics as to how the process is being performed, frequency and equipment/products used.
- Must detail employee hygiene methods.
- Must indicate and provide evidence of the Personal Protective Equipment (PPE) that was determined necessary for employees and be provided free of cost to them.
- Must train employees in the correct use, limitations, and disposal of PPE.
- Must identify a designated person to constantly evaluate the work areas and monitor the development of new risks and needs in relation to the COVID-19 pandemic.
- Must include evidence of having discussed the contingency plan with staff.

E. PR Department of State

The Department of State has extended the 2019 Annual Reports' due date until July 15, 2020. It is not necessary to file an extension. For those entities who had filed extensions as of April 13, 2020 (the date of the Administrative Order 2020-02 ordering the extension) the due date will also be extended until July 15, 2020.

F. Other Measures

1. PR Department of the Treasury Incentive for Self Employed Workers

The Government of Puerto Rico approved $500 cash deposits for eligible self-employed workers. Eligibility requirements include:

- Being a resident of PR
- Conduct an industry or business in PR
- Income must be subject to Federal Social Security
- Registered as a merchant in the Internal Revenue Unified System (SURI)

- Merchant’s Registration Certificate current as of March 15, 2020 (If not current, it must be renewed on or before May 1, 2020.)

The application period for the incentive has been extended from March 30, 2020 through June 30, 2020. To request:

- Enter your SURI account
- In the “Alerts” section press “Economic Incentive”
- Answer the questions, enter your bank account information and submit

The cash received is exempt from income tax.

2. **PR Department of the Treasury Self Employment Assistance Program**

Section 50010 of the Cares Act created a Coronavirus Relief Fund for all states and territories in the United States. The Government of Puerto Rico, through Executive Order EO-2020-40, established the Strategic Disbursement Plan (“Strategic Plan”) for the funds received

The Strategic Plan includes the Self-Employment Assistance Program, which provides a second round of emergency assistance of up to $1,000 per self-employed individuals. To be eligible, the self-employed individual must be duly registered in SURI and must certify that the COVID-19 emergency has caused a loss of at least $1,000. In addition, the individual will have until December 30, 2020 to use the incentive received.

Any self-employed individual who received the $500 Incentive, shall be deemed to have complied with the requirements of the Strategic Plan to receive the self-employment assistance payment and shall be presumed to have suffered an economic loss exceeding $1,500.

The Department automatically send the payment to all individuals who received the $500 Incentive as of May 14, 2020.

The Department will issue instructions to those self-employed individuals who have not received the $500 incentive, so that they may submit evidence that they are self-employed individuals and may apply for the Self-Employment Assistance to the extent that they meet the requirements to be established by the Department

The cash received is exempt from income tax.

3. PR Department of the Treasury Private Sector Health Professionals Incentive

The Government of Puerto Rico approved the following cash deposits for eligible health professionals:

• Licensed nurse practitioner – employee	$3,000
• Licensed registered nurse - employee	$3,000
• Licensed nurse practitioner professional services contract	$3,500
• Licensed registered nurse professional services contract	$3,500
• Medical technologist	$1,000
• Medical residents	$1,000

Eligibility requirements include:

- Being a resident and domiciled in PR as of March 2020
- Duly authorized to practice their respective eligible profession
- Being actively practicing their professional by March 2020
- Not being on paid leave as of March 2020
- Being a private sector employee or practicing under a professional services contract

The application period for the incentive is from May 30, 2020 through June 30, 2020. To request:

- Enter your SURI account
- In the “Alerts” section press “Health Professionals Incentive – Private Sector”

Professionals with no access to SURI account, may complete the application trough the equally titled link on the SURI home page.

Employers or health care providers are required to provide the eligible individual their legal name and employer identification number information, so that the Eligible Individual can complete the application.

Any individual who is unable to complete the application, but understands that meets the requirements, must submit a claim application, along with evidence supporting his eligibility. This claim must be submitted to the Department of Health.

The cash received is exempt from income tax.

4. Assistance Program to Small and Medium Businesses

As part of the Corona Relief Fund, the Strategic Plan includes a monetary assistance of $5,000 for those small businesses that have 2 to 49 employees and $10,000 for those medium sized businesses with 50 to 500 employees on their payroll as of March 2020. The PR Department of the Treasury will distribute the incentive following the parameters established by the Disbursement Oversight Committee.

Applications will be submitted by electronic form using the SURI Program administered by the Puerto Rico Department of the Treasury. Eligible Applicants must meet all the following criteria:

- Be a small business, or micro-enterprise, with between 2 and 49 employees, including non-profit organizations that provide direct assistance or services to the citizenry.
- Be duly registered in the Merchants Registry of the Department of the Treasury.
- Have incurred or planned necessary expenditures related to the COVID-19 emergency and maintain documentation that reliably demonstrates the expenses.
- Commit to abiding by the terms and conditions of the Program, including requests for documentation and auditing requests.
- Agree to return the Grant funds, if it is determined that they did not comply with any of the Program eligibility requirements or if the Grant funds were not spent on eligible expenses by December 30, 2020.
- Agree that, while receipt of other funds for COVID-19 related assistance does not preclude an Applicant from receiving Grant funds under the Program, only expenses that, 1) have not been covered or reimbursed, and 2) will not be covered in the future, by other state, federal, or private programs; and
- Agree and Certify that receipt of these funds will not be used for payroll expenses if Applicant has received, will receive, or plans on applying and receiving aid under the Payment Protection Program administered by the Small Business Administration or a state administered Payment Protection Program funded through a State or territory Coronavirus Relief Fund disbursement plan.
- Submit a copy of Form 941, Employer's Quarterly Federal Income Tax Return, for the quarter ending March 31, 2020, along with filling evidence.

The CARES Act requires that the payments from the Coronavirus Relief Fund only be used to cover expenses that—

- are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);

- were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
- were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The acceptance of the terms and conditions as well as the subsequent receipt of the Grant funds will constitute a legally binding agreement between the business and The Government of Puerto Rico and lays out the terms and restrictions for the use of Grant funds.

The incentive received is exempt from income tax.

5. **PR Department of Economic Development and Commerce Incentives for Small Businesses**

   a. **Cash disbursement for small businesses**

The PR Department of Economic Development and Commerce (DDEC) approved a $1,500 cash disbursement for small businesses. The application requests were to be filed through www.refuerzoeconomico.com on or before May 1, 2020, however, as of April 6, 2020, the $60 million governmental appropriation for this purpose had been depleted. It is yet to be determined if the Government will assign additional funds for this purpose.

Eligibility requirements included:

- Small businesses with 50 employees or less
- Volume of business of less than $10 million
- Registered as a merchant in SURI
- Merchant's Registration Certificate current as of March 15, 2020 (If not current, it must be renewed on or before May 1, 2020.)

   b. **Labor Development Program**

The Labor Development Program is a fund to help businesses not have to lay off employees during this emergency. A maximum of $50,000 may be assigned to up to 160 employers who can demonstrate that they incurred in extraordinary expenses to provide personal protection equipment such as masks, gowns, disinfectant products, and office materials and electronic equipment that promote social distancing, and said expenses have put them in such an economic position that they would have to lay off employees if they did not have this grant.

The application request for funds will be available at www.refuerzoeconomico.com from April 13 to June 15, upon availability of funds.

Eligibility requirements include:

- Bona fide employer with 500 employees or less (including those who are self-employed)
- No outstanding debt with the Government of PR, or has Payment Plan in good standing in place, and
- The employer can demonstrate that the extraordinary expenses incurred to maintain its operation, or to resume it, could result in the dismissal of its human capital.

The DDEC announced that other initiatives that will be available to promote workforce development.

6. Other Resources for Local Businesses

Other resources that might be available for local businesses include:

- Kiva PR: See new products of up to $15,000 and 0% interest.
- Colmena 66: See their "Levanta tu Negocio PR" initiatives.
- Lendreams: See their microloan program (partnered with the SBA).
- Facebook for Business: Has launched a $100 million grant program.
- PR Department of Housing and Urban Development: See their loan program for business recovery and expansion.
- For information on COVID-19 Aid Resources for the Travel and Tourism Sector visit: https://prtc-covid19.com

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FGA PR LLC
PO BOX 800965
Coto Laurel PR 00780

www.fgapr.com

IV. Profile

Yaimé M. Rullán-Cabrera, Founder

Mrs. Rullán-Cabrera is the litigation support leader at FGA. She is a licensed Certified Public Accountant (CPA), an Attorney with approved Federal Bar and PR State Bar, and a Certified Insolvency and Restructuring Advisor (CIRA) with over 15 years of experience in accounting, legal and business consulting matters.

Elvia M. Vargas-Figueroa, Partner

Mrs. Vargas-Figueroa is the client advisory services leader at FGA. She is a Certified Public Accountant (CPA), Attorney and Notary Public with over 15 years of experience in accounting, finance, business operations, corporate, tax and legal matters.