



THE POWER OF BEING UNDERSTOOD

Partial Waiver Request for the Optional Tax Election- Six Percent

Act 257-2018, known as the “Puerto Rico Tax Reform of 2018”, introduced an Optional Tax available to self-employed individuals and corporations engaged in rendering services. The Optional Tax allows for the payment of a reduced fixed tax rate and it is imposed over gross income. In the case of self-employed individuals and corporations engaged substantially in rendering services, the fixed Optional Tax rates are as follows:

Gross Income	Tax Rate
Less than \$100,000	6%
In excess of \$100,000, but less than \$200,000	10%
In excess of \$200,000, but less than \$300,000	13%
In excess of \$300,000, but less than \$400,000	15%
In excess of \$400,000, but less than \$500,000	17%
Over \$500,000	20%

On February 1, 2019, the Puerto Rico Treasury Department (“PRTD”) issued Internal Revenue Circular Letter No. 19-02 (“CC 19-02”) with the purpose of establishing the process to make an Optional Tax election for the application of the 6% optional tax.

Ordinarily, the Optional Tax election should be made annually when filing the Income Tax Return. However, to avoid any withholdings in excess of the tax liability, individuals and corporations whose gross income does not exceed \$100,000 could request a Partial Waiver so that the applicable withholding be reduced to 6% instead of the ordinary 10% withholding rate. *The Partial Waiver request will be considered a deemed election to be taxed under the Optional Tax.*

I. Eligibility Requirements

Pursuant to CC 19-02, self-employed individuals and corporations engaged substantially in rendering services may make an Optional Tax election by requesting a Partial Waiver for taxable year 2019 *only* if the following requirements are met:

1. Projected gross income from services rendered for taxable year 2019 does not exceed \$100,000;
2. Income must be *substantially* derived from rendering services (income derived from rendering services must represent 80% or more of total income);
3. All income received during the taxable year must be reported in an informative return;
4. All income received must be subject to withholding at the source or estimated tax payments.

Self-employed individuals or corporations who receive income from sources other than services rendered (which cannot exceed 20% in order to qualify for the Optional Tax), must cover the tax attributable to said income through additional withholding or estimated payments. In other words, there should not be a balance to be paid with the income tax return in order to be subject to this optional tax of 6%.

II. Partial Waiver Request/Sworn Statement

In CC 19-02, the PRTD determined that eligible self-employed individuals and corporations may request a reduced withholding rate of 6% by filing a Sworn Statement that should be delivered to each payor. The Sworn Statement will be treated as the equivalent of the Partial Waiver. By filing the Sworn Statement, the eligible self-employed individual or corporation will be electing to be subject to the Optional Tax for taxable year 2019. For additional information about the content of the Sworn Statement, please refer to CC 19-02.

At RSM Puerto Rico we can advise you with respect to the implications of the Optional Tax election available to eligible self-employed individuals and corporations. Please contact our tax advisors at (787) 751-6164 | tax@rsm.pr for help or more information.