

## Puerto Rico Changes Annual Return Filing Requirements for Retirement Plans

Instead of Form 480.7(OE), Puerto Rico retirement plan sponsors will now be required to file Form 6042 — either as an attachment to their Puerto Rico income tax return, or as a stand-alone form if they do not file a Puerto Rico income tax return.

### Background

Puerto Rico's Internal Revenue Code contains a requirement for retirement plan sponsors to file an annual return detailing the gross income of the plan, as well as its receipts and disbursements. To a large extent, this information, which was required to be reported on Hacienda [Form 480.7\(OE\)](#), was the same information required on Form 5500 to satisfy ERISA's annual reporting requirements.

On February 13, 2012, Hacienda issued [Circular Letter 12-02](#), which eased the burden of Puerto Rico retirement plan sponsors by allowing filers of Form 5500 (or Form 5500-SF) with the US DOL to meet the Puerto Rico annual return requirement by attaching a complete copy of their 5500 series return to the first page of Puerto Rico Form 480.7(OE) — in lieu of completing the entire Form 480.7(OE).

Separately, employers required to file income tax returns in Puerto Rico are required to file Hacienda Form 6042 with their tax returns. (The English language version of the form is [AS 6042](#); the Spanish language version is [SC 6042](#)). Form 6042 is used to determine the deductibility of the employer's contributions to the plan, and to determine certain penalty taxes related to qualified plans. Form 6042 also requires the plan sponsor to provide general plan information — including the plan's original effective date, the date Hacienda issued the plan's last qualification letter, the date the employer last filed for a qualification letter, employee and plan participant counts as of the last day of the plan year, and compensation information for covered participants.



## Requirement to File Form 480.7(OE) Eliminated, Replaced with Form 6042

On March 11, 2016, Hacienda issued [Administrative Determination #16-05](#), which eliminates the requirement for Puerto Rico retirement plan sponsors to file Form 480.7(OE) for taxable years beginning on January 1, 2015 and later. Plan sponsors required to file a Puerto Rico income tax return will be deemed to meet the requirement of filing an annual return for their retirement plan if they attach Form 6042 to their Puerto Rico income tax return by its filing due date.

Puerto Rico plan sponsors who are not required to file a Puerto Rico income tax return will be required to separately file Form 6042 with Hacienda by no later than the 7<sup>th</sup> month after the end of the plan's taxable year (i.e., July 31 for plans with calendar year plan years) — or the 15<sup>th</sup> day of the 10<sup>th</sup> month after the end of the plan's taxable year (i.e., October 15 for plans with calendar year plan years) if an automatic extension is timely requested before the initial due date.

Hacienda also noted that Form 480.2 (Corporate Income Tax Return) must be used to report and pay tax on any unrelated business income realized by a Puerto Rico qualified plan's trust, if any.

### In Closing

The new reporting requirements will immediately affect sponsors of Puerto Rico retirement plans, who will need to ensure that Form 6042 is completed in a timely manner to avoid late filing penalties.

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