

LABOR

A series of federal and local laws govern labor relationships in Puerto Rico.

In Puerto Rico employees are entitled to:

Minimun wage

Pursuant to the local Minimum Wage Act, Act. No 47-2021, all employees covered by the Federal Fair Labor Standards Act in Puerto Rico are entitled to a minimum wage of \$ 8.50, effective January 1, 2022.

From July 1st, 2023: \$ 9.50 per hour

From July 1st, 2024: \$ 10.50 per hour

Excludes: Agricultural Workers, Government and Municipal employees, Judicial and Legislative Branch employees, as well as administrators, professionals and executives.

Vacations

Pursuant to P.R. Act. No. 180-1998 as amended by Act No. 4 of 2017, known as the Labor Transformation and Flexibility Act, employees who work at least 130 hours per month are entitled to a minimun accrual of vacation and sick leave.

Vacation minimun accrual:

- First year of service: $\frac{1}{2}$ day per month
- 2 to 4 years of service- $\frac{3}{4}$ days per month
- 5 years of service- 1 day per month
- 15 years of service- $1\frac{1}{4}$ days per month

Exemption for employers with 12 employees or less:

Vacation minimun accrual:

- $\frac{1}{2}$ per month

Sick Leave

Mininum accrual of 1 day per month.

Note: P.R. Act No. 180 does not apply to exempt employees- employees that are considered administrators, professionals and executives.

OVERTIME:

Employees may be entitled to an overtime pay that should not be less than one and one-half time their regular hourly rate of pay:

- a) After 40 hours of work in a workweek.
- b) After 8 consecutive hours in a 24 hour period.

Exemptions may apply



Christmas bonus:

Pursuant to P.R. Act. No. 148 of 1969, employees who work at least 1,350 hours between October 1st of the previous year and September 30th, of the current year, are entitled to receive a Christmas bonus of no more than 2% of their total salary, with a \$600 cap. In the case of employers with 20 employees or less, the cap is \$300.

Under certain circumstances, employers can request an exemption from payment of the Christmas bonus to the Secretary of Labor and Human Resources.

Employees hired before the enactment of P.R. Act No. 4 of 2017 will retain their previous rights and benefits.

Breastfeeding period

Pursuant to P.R. Act. No. 427 of 2000, employers are required to support breastfeeding mothers by providing them with a thirty minute break after every consecutive 4 hour work period, for lactating their children or expressing their milk.

Employers need to provide a clean, safe and private space for breastfeeding.

Probationary Period


Act No. 4 of 2017, amended Act. No. 80 of 1976, to establish an automatic probationary period of:

- 9 months for non-exempt employees
- 12 months for exempt employees (executives, administrators and professionals)

During this period, employers are allowed to terminate employees at will without being liable to civil penalties for unjust dismissal pursuant to Act. 80 of 1976.

The parties may agree to a probationary period shorter than the automatic statutory period of 9 or 12 months.

Safe Work Environment



The Occupational Safety and Health Act of 1970 (OSHA) and the Puerto Rico Occupational Safety and Health Act of 1975, impose an affirmative obligation among employers to provide a work-environment free from risks, which may cause death or physical harm to employees.

Insurances:

Workers compensation

Employers must obtain a workers' compensation insurance from the Puerto Rico State Insurance Fund Corporation (*Corporación del Fondo de Seguro del Estado*). This insurance policy compensates employees who suffer work related accidents or conditions, including occupational diseases.

Unemployment Insurance

The Department of Labor and Human Resources requires employers to submit a quarterly declaration form of wages paid to all their employees. In this form, employers must detail the number of employees who worked during the last three months and the wages they received, in order to calculate the amount of contributions that will be taxed for that quarter.

Temporary Non Occupational Disability Insurance- SINOT

Employers are required to pay SINOT contributions. This insurance provides compensation to employees who lose their income due to an illness or disease that is not work related. Does not cover car accidents.

P.R. Act. No 139 of June 26, 1968, provides the ability to be insured with a private insurance company instead of the Government's public plan

Payroll withholdings:

Income tax-PR Tax Code

Employers are required to withhold income tax at source upon the salaries and wages of their employees. There is no salary limitation for the withholding. The rate of retention will rely upon each employee's personal exemption or dependents credit.

FICA Taxes

Taxes imposed by the Federal Insurance Contributions Act. FICA taxes are used to finance the Social Security and Medicare systems. The current Social Security and Medicare rates are 6.2% and 1.45% respectively.

Retirement Plans

The P.R. tax code divides retirement plans into two categories: (1) qualified and (2) not qualified.

Qualified Plans

They are covered by the P.R. Tax Code. These plans offer a special tax treatment to the employer and the participants. The participants of a qualified retirement plan can defer taxation on the employer's contributions until they are actually received, and the employer is allowed to deduct the contributions made to the plan.

Example: 401(k)

Non-qualified Retirement Plans

The contributions made to these plans are usually taxable. They fall out of the scope of the P.R. Tax Code and Federal ERISA.

These plans are often used to provide a special sort of compensation to executive employees.

ERISA

The Employee Retirement Income Security Act of 1974.

ERISA is the Federal law that governs most types of employee benefit plans. These includes: retirement plans, life and disability insurance, healthcare plans and severance policies.

Some qualified retirement plans under the P.R. tax code can also qualify to be considered Dual Qualified Plans under ERISA. Dual qualified plans and its enabling trusts are treated as U.S. tax qualified plans under Section 401(a) of the U.S. Code. ERISA imposes certain disclosure, coverage, vesting and funding requirements for most retirement plans.

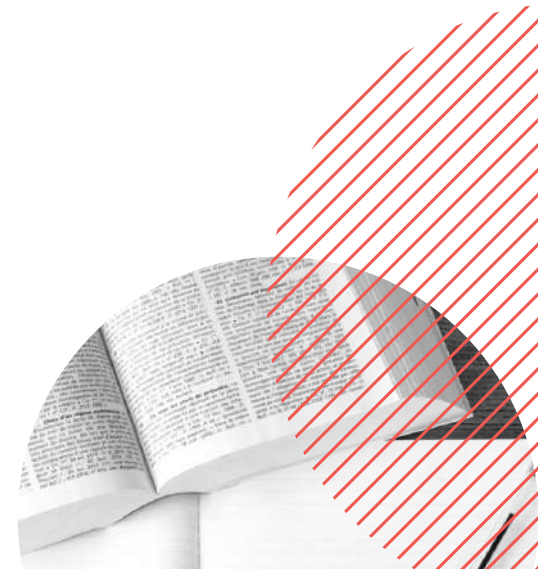
Main Employment Protection Legislation:

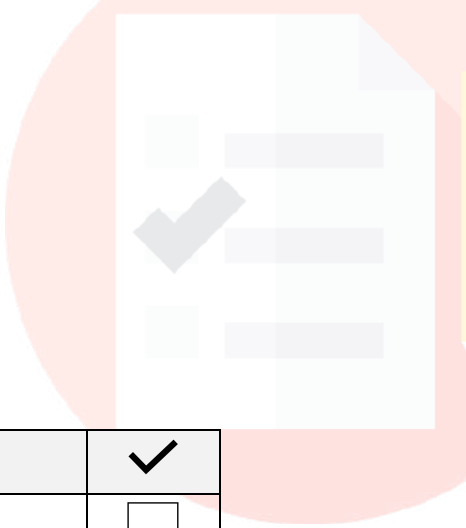
Federal

- Title VII of the Civil Rights Act;
- Age Discrimination in Employment Act (ADEA);
- Americans with Disability Act (ADA);
- Equal Pay Act of 1963.

Puerto Rico

- P.R. Act No. 80 of May 30, 1976 (Unjust Dismissal Act);
- P.R. Act No. 115 of December 20, 1991 (Anti-Retaliation);
- P.R. Act No. 44 of July 2, 1985 (Prohibit Discrimination Against Persons with Physical, Mental or Sensory Impairments);
- P.R. Act No. 17 of April 22, 1988 (Prohibits Sexual Harrassment in Employment);
- P.R. Act No. 180 of July 27, 1998. (Minimun Wage, Vacations and Sick Leave Act);
- P.R. Act No. 3 of March 13, 1942 (Protection of Working Mothers);
- Act No. 379 of May 15, 1948 (Work schedule).





HUMAN RESOURCES CHECKLIST

RECRUITMENT AND ONBOARDING	✓
Application for Employment Form	<input type="checkbox"/>
Offer Letter	<input type="checkbox"/>
Employment Contract	<input type="checkbox"/>
Background Check	<input type="checkbox"/>
Job Description and Acknowledgement of Receipt	<input type="checkbox"/>
Employee Handbook and Acknowledgement of Receipt	<input type="checkbox"/>
Orientation and Training Acknowledgement of Receipt	<input type="checkbox"/>
Employment Agreements Non-compete, Solicitation, etc.	<input type="checkbox"/>
Confidentiality and Non-disclosure Agreements	<input type="checkbox"/>
Time and Attendance /Time-sheet Card	<input type="checkbox"/>
Payroll Management System	<input type="checkbox"/>
Direct Deposit Form	<input type="checkbox"/>
Performance Evaluation Forms	<input type="checkbox"/>
Forms for requesting time-off and/ or Leave of Absence	<input type="checkbox"/>
Compensation and Benefits	<input type="checkbox"/>
Employment Tax Forms: For additional information about payroll taxes, filing, withholding requirements, and insurance requirements, please refer to the Corporate and Taxes Checklist.	<input type="checkbox"/>
SEPARATION OF EMPLOYMENT	✓
Separation and Release of Claims Agreement	<input type="checkbox"/>

POLICIES <i>These policies may be included in the Employee Handbook</i>	✓
Compliance with Employment Protection Legislation	<input type="checkbox"/>
Anti-Harassment and Non-Discrimination Policy	<input type="checkbox"/>
Sexual Harassment	<input type="checkbox"/>
Equal Opportunities	<input type="checkbox"/>
Time and Attendance	<input type="checkbox"/>
Meal and Break Periods	<input type="checkbox"/>
Discipline and Termination	<input type="checkbox"/>
Grievance Procedures	<input type="checkbox"/>
Health and Safety in the Workplace	<input type="checkbox"/>
Reasonable Acommodation	<input type="checkbox"/>
Conflict of Interest	<input type="checkbox"/>
Drugs and Alcohol	<input type="checkbox"/>
Dress Code	<input type="checkbox"/>
Cellphone Use	<input type="checkbox"/>
Training	<input type="checkbox"/>
Covid-19 Related Policies	<input type="checkbox"/>
Policy Changes Reserve your company's right to change policies.	<input type="checkbox"/>

DISCLAIMER:

Please note that the information furnished herein comprehends basic guidelines and suggestions regarding human resources management and does not intent to substitute professional counseling. We strongly encourage you to seek professional legal advice.

For additional information and personalized counseling, you may contact us at: 787-300-3200 or evazquez@ecija.com .

Doing Business in Puerto Rico: CORPORATE AND TAXES CHECKLIST

FORMS TO BE FILED BEFORE COMMENCING OPERATIONS	<input checked="" type="checkbox"/>
Incorporation or registration to do business in Puerto Rico http://www.estado.gobierno.pr/	<input type="checkbox"/>
Federal Employer Identification Number https://sa.www4.irs.gov/modiein/individual/index.jsp	<input type="checkbox"/>
Employer Account Number (Puerto Rico)	<input type="checkbox"/>
Waiver Certificate for Corporations Rendering Services in Puerto Rico (May be requested if the Company meets eligibility criteria)	<input type="checkbox"/>
Merchant Sales Tax Registration	<input type="checkbox"/>
Municipal License Tax	<input type="checkbox"/>
FILING REQUIREMENTS AFTER COMMENCING OPERATIONS	<input checked="" type="checkbox"/>
Corporate Income Tax Return-Puerto Rico Treasury Department	<input type="checkbox"/>
Sales Tax- Puerto Rico Treasury Department	<input type="checkbox"/>
Municipal Sales Tax (If applicable)	<input type="checkbox"/>
Informative Returns- Puerto Rico Treasury Department	<input type="checkbox"/>
Municipal License Tax (" <i>patente municipal</i> ")	<input type="checkbox"/>
Municipal Revenue Collection Center- Personal Property Taxes http://www.crimpr.net/	<input type="checkbox"/>
Corporate Annual Reports- P.R. Department of State https://www.estado.pr.gov/es/formularios-para-corporaciones/	<input type="checkbox"/>
Payroll Filing Requirements	<input checked="" type="checkbox"/>
Social Security and Medicare Taxes (FICA Taxes) Electronic deposit- U.S. Department of Treasury	<input type="checkbox"/>
Employer's Quarterly Federal Tax Return (If social security and Medicare were withheld for the quarter)	<input type="checkbox"/>
Withholding Statement (W-2/499R2/W2PR)	<input type="checkbox"/>
Quarterly return of Income Tax Withheld- Puerto Rico Treasury Department	<input type="checkbox"/>
Monthly Deposit of Income Tax Withheld - Puerto Rico Treasury Department	<input type="checkbox"/>

Reconciliation Statement- Puerto Rico Treasury Department On or before January 31 of each year	<input type="checkbox"/>
Chauffer's Insurance For employers with employees who drives motor vehicles: https://www.trabajo.pr.gov/seguro_choferil.asp	<input type="checkbox"/>
State Unemployment and Disability Insurance https://patronos.trabajo.pr.gov/patronos/acercade.aspx?Id=228&M=286&F=12	<input type="checkbox"/>
Workers Compensation Insurance- PR State Insurance Fund https://portal.fondopr.com/account/signin	<input type="checkbox"/>

DISCLAIMER:

Please note that the information furnished herein discusses major tax requirements, reports, returns, forms, and notices applicable to Corporations doing business in Puerto Rico. Notwithstanding, additional requirements may apply to certain type of businesses. We strongly encourage you to seek professional legal and tax advice.

CIRC.230 Notice: Any U.S. Fed. tax advice that may be contained in this communication (including attachments) is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding any tax penalties or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein

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