

**COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF THE TREASURY**

INDEX

TITLE: "Regulation on payment alternatives for services licensed in Puerto Rico under Act No. 42-2015."

CONTENTS:

Article 1 - Title.....	2
Article 2 - Legal Basis	2
Article 3 - Statement of Purposes and Applicability.....	2
Article 4 - Definitions	3
Article 5 - Obligations.....	4
Article 6 - Responsibilities of the Department of the Treasury	5
Article 7 - Complaints.....	5
Article 8 - Violations	5
Article 9 - Signage.....	6
Article 10- Obligation to maintain records	6
Article 11- Separability	7
Article 12- Effectiveness	7

REGULATION ON PAYMENT ALTERNATIVES FOR SERVICES LICENSED IN PUERTO RICO UNDER ACT NO. 42-2015

Article 1 - Title

This Regulation shall be known and cited as the “Regulation on payment alternatives for services licensed in Puerto Rico under Act No. 42-2015.”

Article 2 - Legal Basis

Act No. 42-2015 promotes the establishment of different payment alternatives for the services provided by persons licensed to provide them in the Commonwealth of Puerto Rico. This initiative seeks to reduce the serious tax evasion problem in Puerto Rico in the areas of services where only cash payments are accepted.

Specifically, Act No. 42-2015 provides that any person, natural or juridical, who provides services for which a license or legal authorization is required, as a condition for their provision within the jurisdiction of the Commonwealth of Puerto Rico, shall offer at least two (2) payment alternatives to their clients, such as credit or debit cards, cash, checks, money order, electronic funds transfer, Internet payment, or direct payment. Also, the Act requires the Secretary of the Department of the Treasury to assure compliance with Act No. 42-2015 and, to such effect, authorizes the Secretary to promulgate the regulation that he or she deems relevant.

Article 3 – Statement of Purposes and Applicability

This Regulation is adopted in accordance with Article 2 and Article 6 of Act No. 42-2015. This Regulation has the purpose of facilitating the implementation of Act No. 42-2015 by providing guidelines regarding the obligation to report the provisions of the statute, the process of inspections, and the management of complaints that could turn into referrals because noncompliance is considered a misdemeanor with applicable sanctions.

This Regulation applies to any person, natural or juridical, who provides services for which a license or legal authorization is required within the jurisdiction of the Commonwealth of Puerto Rico.

Article 4 - Definitions

- A. AIFC – Spanish acronym for the Intelligence and Tax Fraud Area of the Department of the Treasury.

- B. Code – Act No. 1-2011, better known as the “Puerto Rico Internal Revenue Code of 2011,” as amended.
- C. Check – Document, draft, or order issued against a Financial Institution, requiring payment upon its presentation against deposited funds.
- D. Certified check – A check for which a Financial Institution certifies the existence of available funds in the issuing account to cover its payment.
- E. Department – Refers to the Department of the Treasury of the Commonwealth of Puerto Rico.
- F. Financial Institution – As such term is defined in paragraph (4) of subsection (f) of Section 1033.17 of the Code.
- G. Commercial Establishment – A business establishment through which the entire or partial commercial activity of a business is carried out, and which must be registered in the Department’s Registry of Merchants in accordance with Section 4060.01 of the Puerto Rico Internal Revenue Code of 2011, as amended.
- H. Person – Means and includes an individual, trust or estate, partnership, limited liability company, or corporation.
- I. Licensed Services - any service rendered by a Person that is required a license or legal authorization as a condition for providing such services within the jurisdiction of the Commonwealth of Puerto Rico. These include, but are not limited to, physicians, lawyers, architects, plumbers, electricians, certified public accountants, engineers, and notary publics, among others.
- J. Debit Card - Means the plastic card issued by a Financial Institution so that its holder can separate from their bank account, through an electronic transaction, the money that they wish to pay for the Licensed Services.
- K. Credit Card - Means the plastic card issued by a Financial Institution or creditor that allows the holder to obtain borrowed money and acquire goods, services, or cash advances, according to a previously established credit agreement.
- L. Holder – Means the person responsible for the bank account or debit card in whose name the card was issued, or the person authorized by them and to whom the Financial Institution has issued a supplementary card.

M. Electronic transfer – Means any transfer of money, including those made through electronic means, cable, telephone, computer, or through any other means, through which a Financial Institution is instructed or authorized to debit or credit an account.

Article 5 – Obligations

Every Person that provides Licensed Services shall be required to inform the general public about the application of the provisions of Act No. 42-2015 and, therefore, about the payment alternatives available. Every Commercial Establishment shall identify that they are in compliance with Act No. 42-2015 by posting a sign, in a place where it is visible and accessible to the general public, informing the availability of at least two (2) payment alternatives for all clients. Payment alternatives shall mean that the Commercial Establishment provides alternatives for paying in cash, check, money order, electronic transfer, credit or debit cards, Internet payments, or direct payments. Article 10 of this Regulation provides additional guidelines about the contents of such signage.

If the Licensed Services are provided outside the Commercial Establishment, at least two (2) payment alternatives must be offered to clients and the merchant shall provide adequate notification of such alternatives in accordance with this Regulation.

Every Person that provides the Licensed Service shall keep a record of the accepted methods of payment subject to possible inspection and in accordance with the provisions of Article 11 of this Regulation. However, the option to use one of the methods of payment available in the Commercial Establishment is, at all times, at the discretion of the client requesting the service. That is, at no time shall the Person that provides the Licensed Service lead or coerce a client to use one of the specific methods of payment that they notified as acceptable in said Commercial Establishment.

When the merchant has notified the availability of only two (2) payment alternatives and, for any reason, one of them is not available when the client is about to pay for the services received, the Person that provides the Licensed Service shall provide to their clients an additional alternative for paying for the services received. That is, the client must have two (2) or more payment alternatives at all times.

Article 6 – Responsibility of the Department of the Treasury

The Department will carry out periodic visual inspections at the Commercial Establishments of the Persons who provide Licensed Services to verify the implementation and full compliance with Act 42-2015 and its related Regulation. These visual inspections may be done on the Department's initiative or as part of an investigation based on a formal complaint received pursuant to the provisions of Article 7 of this Regulation.

Any violations found, along with the documentation and other evidence collected by personnel of the Department during the visual inspections, shall be documented and brought to the attention of the Assistant Secretary of the AIFC. After analyzing their legitimacy, considering the documentation and the corresponding evidence, appropriate legal measures shall be taken.

Article 7 – Complaints

Due to the fact that noncompliance with Act No. 42-2015 is defined as a misdemeanor, any person with any knowledge of a violation of these provisions may file a formal Complaint before the AIFC, the Puerto Rico Police, or any Municipal Police Headquarters. Complaints before the AIFC may be filed electronically, by e-mail, at: querellasalternativasdepago@hacienda.pr.gov; by regular mail, at: Oficina de AIFC, PO Box 9024140, San Juan Puerto Rico 00902-4140; or delivered in person, at: Oficina 411, Edificio Intendente Ramírez Paseo Covadonga #10, San Juan Puerto Rico 00919.

The Department will also accept telephone communications for the purpose of investigating tips of alleged violations to Act No. 42-2015, at (787) 721-2020 (ext. 3406). These tips will be considered part of the visual inspections carried out by the Department pursuant to the provisions of Article 6 of this Regulation.

The personnel of the AIFC shall investigate the Complaint filed within a reasonable term after its presentation in the Department. If it finds that there is any real and objective evidence of a violation of the law, the Department shall take the appropriate measures.

Article 8 – Violations

In accordance with Article 3 of Act No. 42-2015, any Person that provides Licensed Services and violates the provisions of this act as regulated, shall incur in a misdemeanor. If convicted, they shall be sanctioned in their first infraction with a penalty of no less than five hundred dollars (\$500) and no more than three

thousand dollars (\$3,000). Subsequent infractions shall be sanctioned with a penalty of no less than five thousand dollars (\$5,000) and no more than ten thousand dollars (\$10,000).

Article 9 - Signage

Every Person that provides Licensed Services shall place a sign in the Commercial Establishment where the services are provided. The sign shall contain a brief description of Act No. 42-2015 and this Regulation, as follows: “Act No. 42-2015 establishes the obligation that all persons, natural or juridical, that provide services for which a license or legal authorization is required as a condition for their provision within the jurisdiction of the Commonwealth of Puerto Rico, shall provide at least two (2) payment alternatives for their clients.” Also, the sign shall inform and outline the available payment alternatives accepted by the Person who provides the Licensed Service, as well as the form and manner in which any citizen can file a complaint in accordance with the provisions of Article 7 of this Regulation. The Department shall provide through its website, <http://www.hacienda.pr.gov>, a model of a sign containing the information required by the Department and which may be used to identify compliance with Act No. 42-2015 and this Regulation.

This signage must be readily visible and legible in the Commercial Establishment where the services are provided. The following are considered visible and accessible places for the general public: the area designated for payment of services, the main entrance doors leading into the commercial establishment, and the service counter or reception area of the Commercial Establishment, among others.

Providers that do not offer their services at an office or establishment will be responsible of informing their clients verbally or in writing about the provisions of Act No. 42-2015 and about payment alternatives. Proper notification may be given to clients verbally or in writing through annotations in letters offering services, invoices, or payment receipts used.

Article 10 – Obligation to maintain records.

Every Person that provides Licensed Services shall include in their permanent record of daily transactions, whether manual or electronic, the date when the service was provided, the amount received for the service, and the payment method received. Every Person that provides Licensed Services shall preserve the record and have it available for inspection by the Department, for a period of no less than six (6) years.

Article 11 – Separability

If any word, subsection, article, section, or part of this Regulation were declared unconstitutional or null by a court of law, such declaration shall not affect, impair, or invalidate the remaining provisions and parts of this Regulation, but their effect shall be limited to the word, subsection, sentence, article, section, or specific part declared unconstitutional or null, and the nullity or invalidity of any word, subsection, sentence, article, section, or part of any case, shall not affect or impair in any way its application or effectiveness in any other case.

Article 12 – Effectiveness

This Regulation shall become effective thirty (30) days after its filing in the Department of State in accordance with the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act.”

Approved in San Juan, Puerto Rico, on June __, 2015.

Secretary of the Treasury

Filed in the Department of State on June __, 2015.