



Commonwealth of Puerto Rico
DEPARTMENT OF THE TREASURY

COMPUTATION OF TAX DETERMINED UNDER SECTION 1032.09(d) OF THE CODE - BACK PAY

Serial Number
(For Internal Use)

Taxable year beginning on _____ and ending on _____

Taxpayer's Name: _____ Fill in one: Taxpayer Spouse Both Social Security Number: _____

Part I COMPUTATION OF THE EXCESS OF THE TAX DETERMINED OVER THE TAX PAID OR ASSESSED
Part II COMPUTATION OF THE TAX CORRESPONDING TO THE TAXABLE YEAR IN WHICH THE BACK PAY WAS RECEIVED
Part III COMPUTATION OF THE TAX UNDER SECTION 1032.09(d) OF THE CODE

INSTRUCTIONS TO COMPLETE THE FORM

WHO MUST COMPLETE THIS FORM?

In order to determine if you can elect the computation of the tax provided in Section 1032.09(d) of the Puerto Rico Internal Revenue Code of 2011, as amended (Code), corresponding to the back pay, you must determine which percentage of the taxpayer's gross income for the current taxable year corresponds to the back pay. Such percentage of back pay that the taxpayer receives during the taxable year, must exceed 15% of the current taxable year's gross income.

WHAT IS BACK PAY?

Section 1032.09(d)(2) of the Code defines "back pay" as remuneration, wages, salaries, pensions or retirement payment received or accrued during the taxable year, by an employee for services rendered prior to the taxable year for his/her employer and which would have been paid prior to the taxable year except for the occurrence of any of the following events:

1. employer's bankruptcy or receivership;
2. dispute as to the employer's obligation to pay such remuneration, determined after the beginning of a court proceeding;
3. if the employer is the Commonwealth of Puerto Rico, the United States, a state, a territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds assigned to pay such remuneration; or
4. any other event of similar nature under regulations prescribed by the Secretary of the Treasury.

Back pay also includes retroactive wage or salary increases, received or earned for services rendered by an employee to his/her employer in a previous taxable year which have been ordered, recommended, or approved by any federal agency or from the Commonwealth of Puerto Rico, and made retroactive to any period prior to the taxable year. Also, back pay includes payments received or earned during the taxable year as a result of an alleged violation by an employer of any Federal law or from the Commonwealth of Puerto Rico, related to labor standards or practices, and which are determined to be attributable to a prior taxable year.

HOW TO FILE THIS FORM?

This form must be filed together with the income tax return corresponding to the taxable year in which the back pay was received.

COLUMN OF CENTS

While completing this form, the column of cents will not be used. That way we can expedite its processing. It is important to remind you that it is not about rounding off, but eliminating the cents. See the following example:

\$480.90 = \$480

\$475.25 = \$475

TAXPAYER'S ASSISTANCE

For additional information on the technical content of this form or to clarify any doubts, please call (787) 722-0216, option 8.

DOCUMENTS THAT MUST BE INCLUDED WITH THIS FORM

Every taxpayer that elects to benefit from the back pay provided in Section 1032.09(d) of the Code, must submit together with the income tax return corresponding to the taxable year in which the back pay is received, a certification from the employer indicating that:

1. the payment consists of back pay;
2. the amount of such back pay;
3. the years to which the back pay corresponds;
4. the date of the payment; and
5. the event that originated the back pay.

Also, you must include the Withholding Statement (Form 499R-2/W-2PR). In the same the employer will inform the salary earned during the current taxable year, if any, as well as the total amount received as back pay, even if such back pay corresponds to previous years.

HEADING OF THE FORM

Indicate the beginning and ending of the taxable year to which the back pay was received. This year must be the same as the taxable year of the income tax return to which this form is been submitted. Print in ink or type, the information required in the indicated spaces. It is important that you enter your social security number in the corresponding space. **Your social security number is necessary to process the form.**

PART I – COMPUTATION OF THE EXCESS OF THE TAX DETERMINED OVER THE TAX PAID OR ASSESSED

An individual has to compute his/her net income for any taxable year to which the back pay is attributed, even if he/she is not required to file an income tax return for such year. This way, all amounts properly includible as gross income for any taxable year to which the back pay is attributed, must be included in the computation. The legal expenses incurred for purposes of claiming an income, either from the year under consideration or from other years, are incurred and paid in the year in which the income in dispute is received. For this reason, the same constitute an ordinary and necessary expense

deductible in the year they are paid, subject to the limitations established in the Code, and cannot be apportioned to the previous years affected by the back pay. However, the amounts discounted from the payment made, such as union dues and contributions to Retirement Systems, can be claimed as a deduction against the corresponding income from each year under consideration. On the other hand, any other deduction based in the income, for example, medical expenses and charitable contributions, can be recalculated based on the increase in the gross income of each one of the years to which the back pay is attributed.

Enter in Columns A through J, the taxable year to which the back pay is attributed.

Line 1 – Adjusted Gross Income

Enter in Columns A through J, as applicable, the adjusted gross income, without including the back pay, of the taxable year indicated in the heading of each column.

Line 2 – Back Pay

Enter in Columns A through J, as applicable, the back pay attributable to the taxable year indicated in the heading of each column.

Line 4 – Deductions

Enter in Columns A through J, as applicable, the allowable deductions under Section 1033.15(a) of the Code or the standard deduction or itemized deductions allowable under Section 1023(aa) of the Puerto Rico Internal Revenue Code of 1994, as amended ("1994 Code"), as applicable.

Line 6 – Personal Exemption and Exemption for Dependents

Enter in Columns A through J, as applicable, the allowable exemptions under Section 1033.18 of the Code or under Section 1025 of the 1994 Code, as applicable.

Line 8 – Tax Determined

Enter in Columns A through J, as applicable, the tax determined for each taxable year, according to the applicable tax rates for the corresponding taxable year. Totalize the Tax Determined for each taxable year included in Columns A through J in Column K.

Line 10 – Deductions

Enter in Columns A through J, as applicable, the allowable deductions claimed, as per the income tax return filed for the taxable year to which the back pay is attributable.

Line 12 – Personal Exemption and Exemption for Dependents

Enter in Columns A through J, as applicable, the allowable exemptions under Section 1033.18 of the Code or under Section 1025 of the 1994 Code, as applicable, claimed as per the income tax return filed for the taxable year to which the back pay is attributable.

Line 14 – Tax Paid or Assessed

Enter in Columns A through J, as applicable, the tax determined for each taxable year as per the income tax return filed for the taxable year to which the back pay is attributable, according to the tax rates applicable to the corresponding taxable year. Totalize the Tax Determined or Assessed for each taxable year included in Columns A through J in Column K.

PART III – COMPUTATION OF THE TAX UNDER SECTION 1032.09(d) OF THE CODE

The tax for the current taxable year is the smaller of:

1. the tax computed including in gross income the total of back pay received or accrued in the current taxable year, or
2. the tax computed without including any part of such back pay in the computation of the gross income for the current taxable year, plus the total increase in taxes that had resulted from the inclusion of the respective parts of such back pay in the computation of the gross income for each taxable year to which each one of such parts is respectively attributable.

EXAMPLE

Following is an example:

"X", a single individual and without dependents, files his return on a calendar year basis (December 31) and uses the cash basis method of accounting. "X" does not claim deductions applicable to taxpayers that are individuals and claims the special deduction for certain individuals established in Section 1033.16 of the Code, if he qualifies for such deduction.

In taxable year 2014, "X" receives \$50,000 of income, of which \$20,000 correspond to back pay attributable to taxable years 2012 and 2013 (\$11,000 and \$9,000, respectively). The adjusted gross income of "X", as reported in the 2012 and 2013 taxable years individual income tax returns, was \$15,000 and \$18,000, respectively.

"X" elects to determine the 2014 tax based on the provisions of Section 1032.09(d) of the Code (Back Pay). "X" tax for the 2014 taxable year is \$2,692, determined as follows:



COMPUTATION OF TAX DETERMINED UNDER SECTION 1032.09(d) OF THE CODE - BACK PAY

Serial Number
(For Internal Use)

Taxable year beginning on January 1, 2014 and ending on December 31, 2014

Taxpayer's Name: X

Fill in one: Taxpayer Spouse Both

Social Security Number: X

| Part I COMPUTATION OF THE EXCESS OF THE TAX DETERMINED OVER THE TAX PAID OR ASSESSED | | | | | | | | | | | |
|--|------------------------|------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------|
| Taxable Year to which the Back Pay is Attributable | Column A YEAR: 2012 | Column B YEAR: 2013 | Column C YEAR: _____ | Column D YEAR: _____ | Column E YEAR: _____ | Column F YEAR: _____ | Column G YEAR: _____ | Column H YEAR: _____ | Column I YEAR: _____ | Column J YEAR: _____ | Column K TOTAL |
| For Internal Use Only | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | SERIAL: _____ | |
| REVISION OF THE TAX COMPUTATION (INCLUDING THE BACK PAY) | | | | | | | | | | | |
| 1. Adjusted Gross Income | 15,000 | 18,000 | | | | | | | | | |
| 2. Back Pay | 11,000 | 9,000 | | | | | | | | | |
| 3. Total (Add lines 1 and 2) | 26,000 | 27,000 | | | | | | | | | |
| 4. Deductions | 5,330 | 3,355 | | | | | | | | | |
| 5. Net Income (Subtract line 4 from line 3) | 20,670 | 23,645 | | | | | | | | | |
| 6. Personal Exemption and Exemption for Dependents | 3,500 | 3,500 | | | | | | | | | |
| 7. Net Taxable Income (Subtract line 6 from line 5) | 17,170 | 20,145 | | | | | | | | | |
| 8. Tax Determined | 747 | 780 | | | | | | | | | 1,527 |
| COMPUTATION OF TAX AS PER THE INCOME TAX RETURN (NOT INCLUDING THE BACK PAY) | | | | | | | | | | | |
| 9. Adjusted Gross Income (Same as line 1) | 15,000 | 18,000 | | | | | | | | | |
| 10. Deductions | 7,850 | 5,350 | | | | | | | | | |
| 11. Net Income (Subtract line 10 from line 9) | 7,150 | 12,650 | | | | | | | | | |
| 12. Personal Exemption and Exemption for Dependents | 3,500 | 3,500 | | | | | | | | | |
| 13. Net Income (Subtract line 12 from line 11) | 3,650 | 9,150 | | | | | | | | | |
| 14. Tax Paid or Assessed | 0 | 11 | | | | | | | | | 11 |
| 15. Excess of the Tax Determined over the Tax Paid or Assessed (Subtract line 14, Column K from line 8, Column K) | | | | | | | | | | | 1,516 |
| Part II COMPUTATION OF THE TAX CORRESPONDING TO THE TAXABLE YEAR IN WHICH THE BACK PAY WAS RECEIVED | | | | | | | | | | | |
| 1. Taxable Year in which the Back Pay was Received | | | | | | | | | | | 2014 |
| 2. Computation of the Tax Including the Back Pay: | | | | | | | | | | | |
| (a) Gross Income | | | | | | | | | | | 30,000 |
| (b) Back Pay | | | | | | | | | | | 20,000 |
| (c) Total Gross Income Including the Back Pay (Add lines 2(a) and 2(b)) | | | | | | | | | | | 50,000 |
| (d) Deductions | | | | | | | | | | | 0 |
| (e) Personal Exemption and Exemption for Dependents | | | | | | | | | | | 3,500 |
| (f) Net Taxable Income (Subtract lines 2(d) and 2(e) from line 2(c)) | | | | | | | | | | | 46,500 |
| (g) Tax | | | | | | | | | | | 4,680 |
| 3. Computation of the Tax without Including the Back Pay: | | | | | | | | | | | |
| (a) Gross Income | | | | | | | | | | | 30,000 |
| (b) Deductions | | | | | | | | | | | 1,100 |
| (c) Personal Exemption and Exemption for Dependents | | | | | | | | | | | 3,500 |
| (d) Net Taxable Income (Subtract lines 3(b) and 3(c) from line 3(a)) | | | | | | | | | | | 25,400 |
| (e) Tax | | | | | | | | | | | 1,176 |
| 4. Difference Attributable to Back Pay (Subtract line 3(e) from line 2(g)) | | | | | | | | | | | 3,504 |
| Part III COMPUTATION OF THE TAX UNDER SECTION 1032.09(d) OF THE CODE | | | | | | | | | | | |
| 1. Basic Tax (Line 3(e) of Part II) | | | | | | | | | | | 1,176 |
| 2. Tax on Back Pay Including it Completely in the Current Year (Line 4 of Part II) | | | | | | | | | | | 3,504 |
| 3. Tax on Back Pay Including it in the Taxable Years to which the Back Pay Corresponds (Line 15 of Part I) | | | | | | | | | | | 1,516 |
| 4. Enter the Smaller between Line 2 and Line 3 | | | | | | | | | | | 1,516 |
| 5. Tax Determined under Section 1032.09(d) of the Code (Add lines 1 and 4. Transfer the result to Part 3, Tax line of the return and select oval 4 "Form AS 2668.1") | | | | | | | | | | | 2,692 |