



Rev. 05.21

INSTRUCTIONS TO COMPLETE FORM AS 2877

Deemed Dividend Tax

WHO MUST FILE THIS FORM?

For taxable years commenced after December 31, 2013, foreign owners who own, directly or indirectly, 50% or more of the interests, shares or of the units of a corporation, are subject to a tax of 10% on the amount of the deemed dividend considered received by the foreign owner during any taxable year, as provided by Section 1062.13 of the Puerto Rico Internal Revenue Code of 2011, as amended (Code).

A foreign owner is:

- a nonresident individual, estate or trust;
- an entity not taxed as a corporation, not engaged in business in Puerto Rico; and
- an entity taxed as a corporation, including corporations that for the 3 taxable years ending with the tax year for which the determination is being made, has earned less than 80% of its gross income from Puerto Rico sources or effectively connected with the conduct of a trade or business in Puerto Rico.

The deemed dividend amount is the lesser of (a) the total average value of the foreign assets owned by the corporation or (b) the earnings and profits of the corporation accrued as of the closing of the taxable year.

The deemed dividend tax does not apply to:

- not for profit entities listed in Section 1101.01 of the Code;
- an International Insurer as defined by Article 61.040(4) of the Puerto Rico Insurance Code;
- an International Financial Entity as defined by Act 273-2012; and
- any foreign corporation subject to the tax on dividend equivalent amount prescribed by Section 1092.02 of the Code.

This tax shall be paid by the corporation on the date established for the payment of the income tax for the taxable year. It is not subject to estimated tax payments.

The corporation must include this form with its return even if it is not required to pay deemed dividend during the taxable year.

PART I - AVERAGE VALUE OF FOREIGN ASSETS

Columns A through E - The taxpayer shall establish the closing of the quarters corresponding to its taxable year in Columns A through D and shall include the value of each foreign asset that has been determined at the close of each quarter of the taxable year or for the period of less than 12 months during which the entity carried out operations. Column E will include the result of the sum of the amounts included in Columns A through D.

Column F - The average value of a foreign asset is the sum of the adjusted basis of each foreign asset as of the end of each quarter of the corporation's taxable year (whether or not a foreign asset as of the end of the quarter), divided by the number of quarters, or part of a quarter (that will count as one

quarter) included in the corporation's operations period during the taxable year.

To determine the average value of each asset, divide the amount in Column E by 4 or by the number of quarters included in the corporation's operations period during the taxable year and enter the result in Column F. For example, a corporation with a calendar year that began operations on May 15, 2020, will determine the average value of its assets by dividing the amount reflected in Column E by 3, since it only operated 3 quarters during the taxable year 2020.

Line 4 - The total average value of foreign assets is the sum of all the average values of foreign assets (reflected in Column F) as of the end of each taxable year, reduced by prior year deemed dividend paid and undistributed earnings and profits by the close of the taxable year.

For these purposes, any of the following assets owned by a corporation which foreign owners own 50% or more of the interest of said entity, shall be considered as Foreign Asset:

1. tangible property located outside of Puerto Rico;
2. shares of a corporation organized outside of Puerto Rico;
3. liabilities of a foreign corporation or an individual not resident of Puerto Rico; and
4. any right to use outside of Puerto Rico:
 - a. patents or copyrights,
 - b. an invention, model or design,
 - c. a secret formula or process, and
 - d. any other similar property right, acquired or developed by a corporation to be used outside of Puerto Rico.

The following are not considered foreign assets:

- obligations of the United States, or any state or territory of the United States, or political subdivision thereof and the District of Columbia;
- cash deposited in a financial institution only in the name of the corporation and for its exclusive use;
- property acquired outside of Puerto Rico to be used by the corporation in its Puerto Rico operations, located outside of Puerto Rico at the time of determining the average value of the foreign assets;
- an obligation of a foreign owner resulting from the sale of property or services rendered, provided that at any time during the taxable year the obligation amount exceeds the amount of the obligation that would result if the transaction was made between unrelated persons;
- an airplane, ship, motor vehicle or container used in the transportation of people or property in the foreign commerce and used primarily in Puerto Rico; and
- obligations or stocks of a foreign corporation that is not a foreign owner or a related person of the corporation.

If any of the above listed exceptions is used as a guarantee or collateral by, or for the benefit of, a foreign owner or related person as defined by Section 1010.05 of the Code, then it will be treated as a foreign asset.

PART II - ACCUMULATED EARNINGS AND PROFITS

The amount of the entity's earnings and profits must be determined at the end of the taxable year, considering the dividend distributions made during the current year and the amounts of deemed dividend paid during previous years.

Do not form part of the earnings and profits as of the close of the taxable year:

1. the earnings and profits from Industrial development income under the provisions of Act 73-2008, known as the "Economic Incentives Act for the Development of Puerto Rico", or any previous or subsequent similar act; from touristic development income under the provisions of Act 74-2010, known as "Puerto Rico Tourism Development Act of 2010", Act 83-2010, Act 20-2012, or any previous or subsequent similar act; or from income covered by any other special act granting tax exemption with respect to the operations, covered under a tax exemption decree, resolution or grant under said acts;
2. the earnings and profits from a bona fide agricultural business to the extent that the income from said activity is allowed as a deduction under the provisions of Section 1033.12 of the Code, or it is covered under the provisions of Act 225-1995, known as the "Puerto Rico Agricultural Tax Incentives Act";
3. the earnings and profits from activities allowed and generated by International Banking Entities organized under the provisions of Act No. 52 of 1989, known as the "International Banking Center Regulatory Act".

PART III - COMPUTATION OF THE DEEMED DIVIDEND TAX

This part must be completed to determine the deemed dividend amount that will be subject to the 10% rate.