

An aerial photograph of a coastal city, likely San Juan, Puerto Rico. The image shows a harbor on the left with several buildings and a pier. In the center, there are modern, multi-story residential buildings with curved facades. To the right, a large stadium with a green field and red track is visible. The ocean is in the background, and the sky is clear. A white rectangular box with a thin blue border is overlaid on the center of the image, containing text.

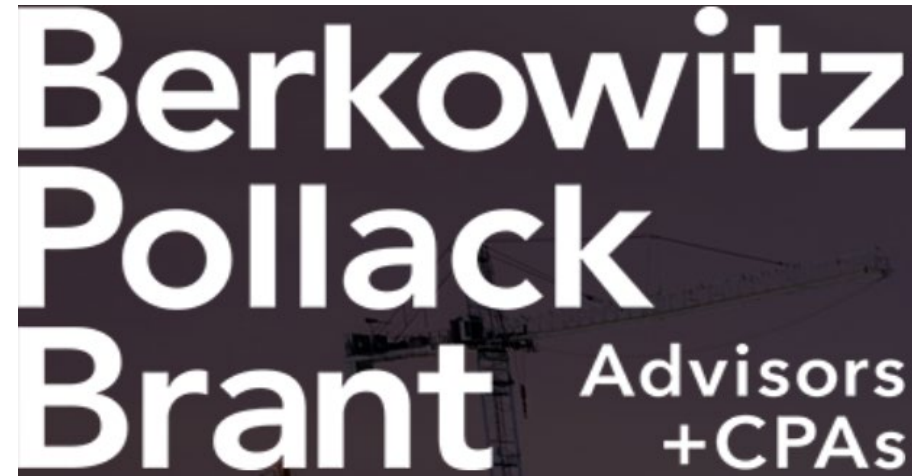
**Puerto Rico Residency
Are you doing it correctly?**



Puerto Rico Advantage

One-stop shop to set you up for success

- Obtain Act 60 incentives (all types)
- Set up new businesses
- Form your team of local advisers
- Understand how it all works
- Establish legal PR residency
- Relocate and acclimate to Puerto Rico



Berkowitz Pollack Brant

- Full-Service CPA Firm Located in South Florida with 40+ years of experience
- Highly experienced US tax practitioners that are fully capable of assisting with US tax planning relative to relocating to Puerto Rico

Agenda

- Benefits of Puerto Rico Residency
- IRS Residency Tests
- Importance of Compliance
- Possible Considerations
- Year of the Move Exception
- Frequently Asked Questions
- References
- Contact Details



Benefits of Puerto Rico Residency

Avoid double-taxation (& perhaps obtain no-taxation)

- US citizens and residents are subject to US taxation anywhere in the world except in certain US territories.
- In many foreign countries, a US citizen might owe tax to the IRS AND tax to the local jurisdiction.

Puerto Rico tax incentives

- PR has enacted a comprehensive program of incentives for:
 - Investors
 - Services and trading businesses
 - Manufacturing and R&D businesses
 - Tourism
 - Creative businesses

PR lifestyle

- Caribbean weather with great beaches
- “1st world” amenities
- Part of the US, no need to relinquish your passport

IRS Residency Tests

Enjoying the PR tax benefits requires diligent compliance with the IRS rules for bona-fide residency.

1) Physical Presence Test

There are 5 different ways to meet this:

1. 183 day rule – present in PR for at least 183 days
2. 549 days over 3 years rule – present in PR for 549 days in current year plus last 2 years
3. 90 day rule – in mainland US \leq 90 days and in PR 1 more day than in the mainland US
4. US income \leq \$3K and in PR 1 more day than in the mainland US
5. No significant connection to the mainland US

2) Tax Home Test

A resident of Puerto Rico must not have a tax home outside of Puerto Rico during the tax year.

3) Closer Connection Test

A very subjective test, assessing whether there is a greater actual connection to PR than to anywhere else in the world.

Importance of Compliance

IRS audit risk

- If the IRS were to audit you and invalidate your PR residency, you could owe significant fines and back taxes.
 - Current developments show that residency will be scrutinized.
 - It's important to understand the rules and maintain compliance with them.
- The IRS is highly likely to audit US taxpayers that claim to be bona fide residents of PR.
 - A new IRS office was recently established in PR with 50+ agent located or to-be-located there.

“Gaming the system”

- We sometimes encounter potential clients looking to fake PR residency, or do the bare minimum to pass a potential audit.
- We don't recommend this, as it is risky.
- Legal residency is key to the PR tax advantage strategy.

Possible Considerations

- Travel abroad
 - You can count up to 30 days of travel abroad toward your Puerto Rico days. (You must still spend at least one more day in PR than you spent in the mainland that year.)
 - However, consider how this applies to the other two tests (tax home and closer connection).
 - If in transit between two non-US locations and have a US stopover of less than 24 hours, this time does not count toward mainland days.
- Medical care
 - Days spent in the mainland for qualifying medical care do not count toward mainland days that year for:
 - Receiving qualifying medical care yourself
 - Accompanying a parent, spouse, or child who is receiving qualifying medical care
- National emergency days
 - If you leave PR before or during a major disaster or evacuation, these days don't count toward mainland days.
 - It is important to monitor the IRS guidance on these matters.

Year of the Move Exception

- In the year moving TO Puerto Rico, you must:
 - establish PR residency by the mid-point of the year
 - meet one of the presence tests, even if only in PR part of the year
 - not have been a PR resident in the past 3 years
 - maintain PR residency for the next 3 tax years
 - accordingly, consider moving at the end of the prior year
- In the year moving FROM Puerto Rico, you must:
 - meet one of the presence tests, even if only in PR part of the year
 - have been a PR resident for the past 2 years
 - maintain a closer connection to PR for the portion of the year that you were a resident there

Frequently asked questions

- When can I consider my PR residency to have begun - what are the minimum actions to do to start the residency?
- Will it count for establishing residency if I stay in an AirBnB or hotel as my first address as a PR resident?
- How long do I have to maintain residency?
- Can I keep my house and car in the place I moved to PR from, and use them when I am traveling outside of PR?
- Can I have a W2 job with a non-PR company?
- What if my spouse doesn't move to PR with me?
- What can I expect to provide as proof of residency if I get audited?

References

Here are some sources of additional information:

- [IRS guide to bona-fide residency](#)
- [Treasury Regulation §1.937-1](#)



Contact Information

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Questions?

Thank You