

Employee Retention Tax Benefit for Employers Affected by the 2020 Disasters

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An McV Tax Alert

June 24, 2025

On June 6, 2025, the Secretary of the Puerto Rico Department of the Treasury (“PRDT”) issued Internal Revenue Circular Letter No. 25-14 (“IRCL 25-14,” available here) to set forth the eligibility requirements and the steps that must be followed by certain eligible employers to apply for an employee retention tax benefit (the “Benefit”) pursuant to the *United States Tax Certainty and Disaster Tax Relief Act of 2020*. The Benefit is available to employers who continued paying wages while their businesses were inoperant (“Eligible Employers”) because of the damages caused by one or more of the major natural disasters that hit Puerto Rico in 2020: i) Earthquakes; ii) Tropical Storm Isaiás, and iii) Floods (the “Qualified Disasters”).

The Benefit can only be requested **electronically** through the PRDT Unified Internal Revenue System (known as “SURI”) from **June 6, 2025 to December 1, 2025**.

Benefit Eligibility Requirements

In general, to be eligible to claim the Benefit, the Eligible Employer must meet these requirements:

- had a business within one of the Affected Municipalities, as listed in the table below, when said municipality was impacted by the Qualified Disaster;
- had one or more employees at the time of the Qualified Disaster within an Affected Municipality, who was/ were hired before the Incident Period -day or period during which the Qualified Disaster occurred-, as described below (“Eligible Employee”);
- during the Eligible Period (defined in the table below), paid wages to Eligible Employee(s) while the Employer’s business was not operating due to one or more of the following circumstances caused by the Qualified Disaster: (i) loss of electrical power, (ii) loss of drinking water, (iii) lack of, or unstable, telecommunications services, (iv) structural damages to the business, (v) business premises were not accessible to employees and clients, and (vii) the business could not receive necessary materials or inventory to operate (“Qualified Wages”); and

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- filed all required payroll tax reports for the taxable years 2019, 2020 and 2021:
 - i) Wage Withholding Statements, Form 499R-2/W-2PR, ii) Employer's Quarterly Return of Income Tax Withheld, Form 499 R-1B, iii) Quarterly Declaration of Unemployment and Disability Taxes, Form PR-SD-10), and iv) Employer's Quarterly Federal Tax Return, Form 941-PR.

Employers cannot claim the Benefit on wages used to claim benefits under other federal programs or statutory provisions of the U.S. Internal Revenue Code, such as the *Employee Retention Credit under the Coronavirus Aid, Relief, and Economic Security Act*, or the *Paycheck Protection Program* under the *Small Business Act*.

The table below shows for each Qualified Disaster, which is the Incident Period, the Affected Municipalities, and the Eligible Period:

Qualified Disaster	Incident Period	Affected Municipalities	Eligible Period
Earthquakes	From December 28, 2019 to July 3, 2020	Adjuntas, Aguada, Añasco, Arecibo, Barceloneta, Cabo Rojo, Ciales, Coamo, Corozal, Guánica, Guayanilla, Hormigueros, Jayuya, Juana Díaz, Lajas, Lares, Las Marías, Maricao, Mayagüez, Moca, Morovis, Naranjito, Orocovi, Peñuelas, Ponce, Rincón, Sabana Grande, Salinas, San Germán, San Sebastián, Santa Isabel, Utuado, Villalba, and Yauco.	From December 28, 2019 to November 30, 2020, or until the date operations resumed, whichever occurred first
Tropical Storm Isaias	July 29-31, 2020	Aguada, Hormigueros, Mayagüez, and Rincón	From July 29, 2020 to December 28, 2020, or until the date operations resumed, whichever occurred first.
Floods	September 13, 2020	Arecibo	From September 13, 2020 to February 10, 2021, or until the date operations resumed, whichever occurred first

Benefit

The Benefit will be determined as follows:

- If an Eligible Employer generated over \$10 million of net taxable income for the 2020 taxable year, the Benefit will be 26% of the first \$6,000 of Qualified Wages paid per Eligible Employee (i.e., cap of \$1,560 per Eligible Employee); or
- If an Eligible Employer generated \$10 million or less of net taxable income for the 2020 taxable year, the Benefit will be 32% of the \$6,000 of Qualified Wages paid per Eligible Employee (i.e., cap of \$1,920 per Eligible Employee).

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The Benefit **will not be** considered income subject to Puerto Rico income taxation or alternative minimum tax.

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