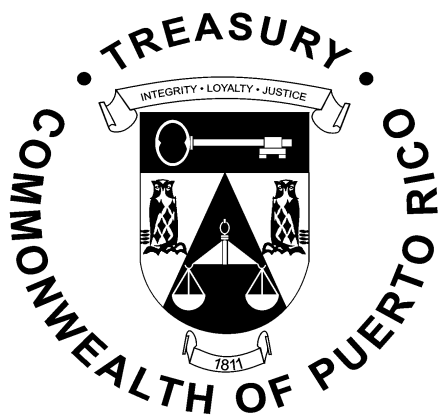


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MERCHANTS' REGISTRY GUIDE



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MERCHANTS' REGISTRY GUIDE

This guide contains questions and answers that will help to clarify issues related to the Merchants' Registry at the Department of the Treasury.

It also explains the importance of filling out Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate, so that any person who does or wishes to do business, or provides or wishes to provide services in Puerto Rico receives a Merchants' Registration Certificate. This certificate is the authorization issued by the Secretary of the Treasury to the merchant, so that he or she may do business in Puerto Rico, while confirming his or her responsibility as withholding agent.

Every reseller merchant or manufacturing plant shall also have the option to apply for an Exemption Certificate by completing Form AS 2914.1.

In order to facilitate access to the questions and answers, they are divided in the following four themes: Part I - Merchants' Registry; Part II - Application for Merchants' Registration Certificate and Exemption Certificate; Part III - Merchants' Registration Certificate; and Part IV - Exemption Certificate.

PART I - MERCHANTS' REGISTRY

1. What is the Merchants' Registry?

The approval of Act No. 117 of July 4, 2006 incorporates various amendments to the Puerto Rico Internal Revenue Code of 1994, as amended (Code), among which is Section 2801, that establishes the Merchants' Registry. This Registry is the official registry in the Department of the Treasury of all the persons who do or wish to do business, or provide or wish to provide services in Puerto Rico. This Registry shall include an account of the information submitted by each merchant.

2. Who needs to be registered in the Merchants' Registry?

Every natural or juridical person who does or wishes to do business, or provides or wishes to provide services in Puerto Rico as a merchant, itinerant business, or temporary business, and certain exhibitors, shall register at the Department of the Treasury, regardless of whether or not they have an obligation to register at the State Department or any other government dependency.

3. What is a merchant?

Every person in the business of selling taxable items, as such term is defined in Section 2301(dd) of the Code. Also, any person who, in the ordinary course of business, has the obligation to file Form SC 2915, the Monthly Return for the Sales and Use Tax, either to fulfill the obligation to

collect and remit the sales and use tax, or the obligation to pay the use tax, shall be considered a merchant. For these purposes, any natural or juridical person who does or wishes to do business of any kind in Puerto Rico shall be considered a merchant.

4. What is the process for registering in the Merchants' Registry?

To register in the Merchants' Registry, you must fill out Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate.

PART II - FORM AS 2914.1: APPLICATION FOR MERCHANTS' REGISTRATION CERTIFICATE AND EXEMPTION CERTIFICATE

5. Where can I get Form SC 2914: Application for Merchants' Registration Certificate and Exemption Certificate?

Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate can be obtained at the Collection Offices, Collection Districts, Fiscal Auditing Districts, in the Department of the Treasury's web page: www.hacienda.gobierno.pr, and at the Taxpayers Service Centers located in: San Juan, Bayamón, Caguas, Ponce, and Mayagüez.

6. What are the merchant's options for filling out and filing the Application for Merchants' Registration Certificate and Exemption Certificate?

The merchant shall have the following options for filling out and filing the application:

On the Internet: www.hacienda.gobierno.pr.

By visiting the Taxpayers Service Centers, the Collection Districts, the Collection Offices, and the Fiscal Auditing Districts.

Via facsimile, at 787-722-0489.

By mail to:

**DEPARTAMENTO DE HACIENDA
NEGOCIADO DE SERVICIOS AL CONTRIBUYENTE
(REGISTRO DE COMERCIANTES)
PO BOX 9024140
SAN JUAN PR 00902-4140**

By phone, at 1-888-721-5551.

7. In the case of a business with several establishments, should an Application for Merchants' Registration Certificate and Exemption Certificate be filed for each commercial establishment?

No. The merchant shall only fill out one Application for Merchants' Registration Certificate and Exemption Certificate for his or her business. In the application, he or she shall indicate the precise location of each one of the establishments operated by the business.

For example, Juan del Pueblo sells paintings; he has stores in Caguas, Ponce, and Bayamón. He only needs to fill out one Application for Merchants' Registration Certificate and Exemption Certificate. In Part III, line 17 of the application, and in Attachment AS 2914.1, he shall provide detailed information about each store.

8. In the case of an individual with several businesses (DBA's), how many Applications for Merchants' Registration Certificate and Exemption Certificate should he or she fill out?

In these cases, the individual merchant shall only fill out one Application for Merchants' Registration Certificate and Exemption Certificate for his or her businesses. In Part I of the application, he or she shall indicate the nature of the principal business and in Part III, line 17 of the application, and in Attachment AS 2914.1, he or she shall provide information about the businesses.

Example 1

Juan del Pueblo owns a gas station in Ponce and a bakery in San Juan. The gas station is his principal business. He shall only fill out one application. In Part I of the application, he shall indicate the nature of the principal business, and in Part III, line 17, he shall provide detailed information about each business. In this case, although only one application is filled out, the Department of the Treasury shall issue a Merchants' Registration Certificate for each establishment listed in Part III of Attachment AS 2914.1, if needed.

Example 2

Juan del Campo has an aromatic candle business, a movie rental business, and an ice cream shop, all in the same establishment.

Juan del Campo shall also fill out one application only. He shall indicate in Part I, line 15 of the application, the nature of the principal business, and in Part III, line 17, and in Attachment AS 2914.1, if needed, he shall provide detailed information about each business.

As in Example 1, even though only one application is filled out, the Department of the Treasury shall issue a Merchants' Registration Certificate for each establishment or business.

9. In the case of a married couple, where he is a salaried employee and she owns a business (which is not incorporated), who shall submit

the Application for Merchants' Registration Certificate and Exemption Certificate?

In this case, only she shall fill out and file an Application for Merchants' Registration Certificate and Exemption Certificate. She will receive a Merchants' Registration Certificate for her business.

10. In the case of a married couple, where each owns their own business (not incorporated), he is an engineer and she is an interior decorator, how shall they register in the Merchants' Registry?

In this case, both of them shall fill out and file an Application for Merchants' Registration Certificate and Exemption Certificate. Each of them will receive a Merchants' Registration Certificate for their respective business.

11. When should an Application for Merchants' Registration Certificate and Exemption Certificate be filled out and filed?

The application shall be submitted to the Secretary of the Treasury at least 30 days before the person, company, partnership, or corporation begins operating a business. However, businesses that are already operating shall be required to fill out and file an Application for Merchants' Registration Certificate and Exemption Certificate before October 15, 2006.

Example 1

Juan del Pueblo has been operating his business since 1998. To register in the Merchants' Registry at the Department of the Treasury, he shall fill out and file the Application for Merchants' Registration Certificate and Exemption Certificate before October 15, 2006.

Example 2

Juan del Campo will open a bakery on December 31, 2006. It will be the first time that he will be a merchant, since he had never had a business before. To register in the Merchants' Registry at the Department of the Treasury, Juan del Campo shall fill out and file the Application for Merchants' Registration Certificate and Exemption Certificate before December 1st, 2006.

12. What documents need to be included with the Application for Merchants' Registration Certificate and Exemption Certificate?

In the case of merchants whose information does not appear in the Department of the Treasury's systems, they shall include with the Application for Merchants' Registration Certificate and Exemption Certificate a copy of the Certificate of Incorporation and any document

issued by the Federal Internal Revenue Service (IRS) confirming the employer identification number (EIN) or individual taxpayer identification number (ITIN) assigned to the merchant. In the case of individuals, they shall provide the social security number issued by the Social Security Administration.

In the case of foreign entities, they shall provide the authorization to operate and do business issued by the Puerto Rico State Department.

13. Will the information provided in the Application for Merchants' Registration Certificate and Exemption Certificate be available for public disclosure?

Most of the information provided in the Application for Merchants' Registration Certificate and Exemption Certificate is confidential. Some of the information may be subject to public disclosure, such as the information included in the Merchants' Registration Certificate issued by the Department of the Treasury, since it shall be displayed where it is visible to the public.

14. Will there be a service charge for submitting the Application for Merchants' Registration Certificate and Exemption Certificate?

Act No. 117 establishes that the Secretary of the Treasury may impose a service charge to be paid when filing the Application for Merchants' Registration Certificate and Exemption Certificate. Currently, such charge is not being collected.

15. In the case of a total or partial cessation of business operations, what should the merchant do?

Every merchant shall notify the Secretary of any partial or total cessation of operations, no later than 30 days after the event. For this purpose, the merchant shall fill out Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate. On the upper right-hand corner of the application, the merchant shall mark the "Amended" box and indicate the registration number assigned to the business that is ceasing operations. Additionally, in Part I, line 1, the merchant shall select "Cease of operations."

16. If there is any change in the information submitted in the Application for Merchants' Registration Certificate and Exemption Certificate, such as a change of address or phone number, or to add commercial establishments or activities, should I notify the Secretary?

Yes, in these cases, you shall notify the Secretary of any of such changes no later than 30 days after the change or event. You will need to fill out the Application for Merchants' Registration Certificate and Exemption

Certificate, where you shall mark the "Amended" box on the upper right-hand corner of the form. Also, you shall provide the merchant's registration number assigned to the entity or establishment that requires an amendment. You shall also fill out lines 1, 2, 3, 4, and the specific lines that require amendment.

17. Which penalty applies in case a merchant offers false information in the Application for Merchants' Registration Certificate and Exemption Certificate?

If the merchant submits false information, he or she shall be subject to a \$5,000 penalty.

18. Why is it important to fill out the Application for Merchants' Registration Certificate and Exemption Certificate?

It is important to fill out the application because the Secretary will grant the merchant a **Merchants' Registration Certificate** when it is approved. This certification states the merchant's authorization to do business in Puerto Rico and confirms the merchant's obligation as a withholding agent. Also, when filling out the application, the merchant may apply for an **Exemption Certificate**, as applicable.

PART III - MERCHANTS' REGISTRATION CERTIFICATE

19. What is the Merchants' Registration Certificate?

The Merchants' Registration Certificate is the document that the Secretary of the Treasury shall award and issue after approving the Application for Merchants' Registration Certificate and Exemption Certificate. It constitutes the merchant's authorization to do business in Puerto Rico, and confirms his or her obligation as a withholding agent.

20. Who needs to obtain a Merchants' Registration Certificate?

Any natural or juridical person who does or wishes to do business, or provides or wishes to provide services in Puerto Rico as a merchant, temporary or itinerant business, and certain exhibitors, shall register as such in the Department of the Treasury, regardless of whether or not they had an obligation to register in the State Department or any other government dependency.

21. What types of Merchants' Registration Certificates will be issued by the Department of the Treasury?

The Department of the Treasury shall issue the following types of Certificates:

merchant;
itinerant business;
temporary business; and
exhibitor.

22. For the purposes of the types of Merchants' Registration Certificates issued by the Department of the Treasury, what is a merchant?

In this case, a merchant is any person who wishes to do or does business, or who wishes to provide or provides services in Puerto Rico, except for exhibitors, itinerant businesses, and temporary businesses.

23. What is an itinerant business?

It is a business that sells taxable items without a set and permanent establishment, in mobile units, on foot, or from places that are not attached to any specific location or real property. Some examples of itinerant businesses are sellers of hot dogs, hamburgers, hot potatoes, snow cones, vegetables, and local food, among others.

24. What is a temporary business?

A temporary business is one that operates for a period no longer than six consecutive months during the year. Some examples of temporary businesses are the sale of Christmas trees, *pasteles*, cookies, or chocolates, among others.

25. What is an exhibitor?

An exhibitor is any person who is part of an agreement in which the display of taxable items is authorized at a specialized convention or exhibition, during a specified period of time.

26. Can a merchant operate without a Registration Certificate?

No. No person shall do business as a merchant, sell, or receive anything of value in exchange for admissions, without first obtaining a Certificate.

27. Will there be any penalty for operating a business without having obtained the Merchants' Registration Certificate?

Yes. Any person who does business or provides services in Puerto Rico without having applied for the Registration Certificate shall be subject to a penalty of **\$10,000**.

28. Is the Merchants' Registration Certificate a permit to do business in Puerto Rico?

Yes, the Merchants' Registration Certificate is a permit to do business in Puerto Rico, in addition to the permits issued by other government agencies, such as the State Department, municipalities, and others.

29. How will the merchant receive the Merchants' Registration Certificate?

After processing the Application for Merchants' Registration Certificate and Exemption Certificate, the Department of the Treasury shall send the Merchants' Registration Certificate by mail to the address provided by the merchant in Form AS 2914.1.

30. What will be the effectiveness of the Merchants' Registration Certificate?

The Merchants' Registration Certificate shall be effective as long as the merchant has not requested a partial or total cessation of operations, or sold the business.

31. What are the obligations of a merchant who has been granted a Merchants' Registration Certificate that identifies such merchant as a withholding agent?

A merchant who holds a Merchants' Registration Certificate that identifies him or her as a withholding agent shall:

- withhold, report, and pay the sales and use tax;
- keep appropriate records; and
- file the Sales and Use Tax Monthly Return.

32. Where should the Merchants' Registration Certificate be displayed?

The Merchants' Registration Certificate shall be displayed at all times, in a place where it is visible to the general public, in each commercial establishment of the business for which it was issued.

In the case of stores with multiple cash registers, the Merchants' Registration Certificate shall be displayed in the customer service area of each commercial establishment. In the case of itinerant businesses, the Merchants' Registration Certificate shall be displayed in the mobile unit or the place from which the merchant makes sales. If the itinerant seller does not have a place of business, he or she shall carry the Certificate at all times.

Example:

A certificate that is displayed in the cash register, shop window, or customer service area of a business shall be considered to be properly displayed.

33. What penalty shall apply if the Merchants' Registration Certificate is not displayed?

If the Merchants' Registration Certificate is not displayed in a place where it is visible to the general public, an administrative fine of \$1,000 shall be imposed.

34. If the merchant holds a Merchants' Registration Certificate knowing that it is fraudulent, what penalty shall be applied?

In these cases, a penalty of \$10,000 shall be applicable for every Merchants' Registration Certificate that is falsified or in the merchant's possession.

35. Can a Merchants' Registration Certificate be sold, conveyed, assigned, or in any other way transferred to another merchant?

No. No merchant shall sell, convey, assign, or in any other way transfer to another merchant a Merchants' Registration Certificate. Doing so shall carry a penalty of \$5,000.

Example:

"T" has been operating a flower shop as sole proprietor for twenty-five (25) years. "T" decides to retire, and transfers the business to his daughter. "T" shall report the cease of operations to the Department 30 days after the cessation.

On the other hand, his daughter shall have to apply for a new Merchants' Registration Certificate even if the business continues to operate under the same name.

PART IV - EXEMPTION CERTIFICATE

36. Who can apply for an Exemption Certificate?

Any merchant who acquires tangible personal property for resale or manufacturing plants entitled to the exemption established in Section 2506 of the Code may apply for an Exemption Certificate.

37. How can a merchant apply for an Exemption Certificate?

To apply for an Exemption Certificate, the merchant shall fill out and file Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate. In Part IV, line 19 of the form, the merchant shall indicate whether he or she wishes to apply for an Exemption Certificate.

38. What additional information must a reseller include in the application to obtain an Exemption Certificate issued by the Department of the Treasury?

Every merchant who is a reseller shall include in the application a description of the activity performed and of the tangible personal property that will be purchased for resale in the ordinary course of business.

Example:

"L" is in the business of selling office furniture and wishes to apply for an Exemption Certificate to avoid paying the sales tax when he purchases the furniture that he will resell.

For this purpose, he shall fill out Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate, and apply for the Exemption Certificate. Also, he shall describe in the application the merchandise that he will purchase for resale: office furniture.

39. What additional information shall a manufacturing plant include in the application to obtain an Exemption Certificate issued by the Department of the Treasury?

Every manufacturing plant shall provide in the application the manufacturer identification number issued by the Department of the Treasury for the purposes of Subtitle B - Excise Taxes of the Code, the number of the exemption decree, or a description of the raw material or equipment to be acquired.

40. How will the merchant receive the Exemption Certificate?

After processing the application, when applicable, the Secretary shall issue an Exemption Certificate, which shall be sent by mail to the address provided by the merchant in Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate.

41. What information will be included in the Exemption Certificate?

The Exemption Certificate shall include a description of the activity carried out by the merchant, and it shall detail the tangible personal property that the merchant shall resell, the raw material or machinery that the manufacturing plant shall acquire, the manufacturer identification number issued by the Department of the Treasury for the purposes of Subtitle B – Excise Taxes of the Code, or the number of the exemption decree, as reported in the application by said merchant.

42. Why is the Exemption Certificate important?

Every merchant who has been issued an Exemption Certificate shall not have to pay the sales tax when he or she purchases the items listed in the Certificate.

43. Is it possible to request duplicates of the Exemption Certificate?

Yes. The Secretary shall allow the issuance of duplicates of the Exemption Certificate in the cases of legal entities that have several commercial establishments or several commercial activities, or when the individual situation of a merchant requires it.

When the merchant applies for the Exemption Certificate, the Department of the Treasury shall issue only one certificate. However, the merchant may request one or more duplicates.

44. What is the procedure for requesting duplicates of the Exemption Certificate?

The merchant shall indicate in Part IV, line 20 of Form AS 2914.1: Application for Merchants' Registration Certificate and Exemption Certificate, the number of duplicates needed.

Example:

“M” is in the business of selling bicycles. He has commercial establishments in Arecibo and San Lorenzo. When he fills out the application, he shall indicate in Part IV, line 20, that he needs two (2) additional duplicates. The Department of the Treasury shall issue the original Exemption Certificate and two additional duplicates for the other establishments.

45.What is the effectiveness of the Exemption Certificate?

The Exemption Certificate shall be effective for a period of three (3) years. Every merchant who holds an Exemption Certificate may renew it at any time.

46.When can the Department of the Treasury revoke a merchant's Exemption Certificate?

The Department of the Treasury can revoke a merchant's Exemption Certificate when:

- the Certificate is used to acquire tangible personal property that was not included in Form AS 2914.1;
- the certificate's titleholder assigns, conveys, or in any other way transfers it to another person; or
- the Merchants' Registration Certificate has been revoked.

47.When a merchant's Exemption Certificate has been revoked, can such merchant apply for a new one?

Yes. When a merchant's Exemption Certificate has been revoked, such merchant may apply for a new one. Also, such merchant could be subject to post a bond.

48.What penalty will be applied for possession of a fraudulent Exemption Certificate?

Any person who, in any way falsifies or holds an Exemption Certificate knowing that it is fraudulent, shall be subject to a penalty of \$10,000 for each fraudulent certificate held.