

GMS Flash Alert

2018-043 | February 28, 2018



United States - Permissible Period of Absence Extended for Puerto Rico, Virgin Islands Residents

Many individuals residing in Puerto Rico and the U.S. Virgin Islands were displaced in September 2017 as a result of Hurricane Irma and Hurricane Maria. Many of these individuals still cannot return to their homes and, as a result, may lose their status as bona fide residents of Puerto Rico or the U.S. Virgin Islands ("USVI"). In response to this situation, the U.S. Internal Revenue Service (IRS) has released an advance version of Notice 2018-19¹ that extends the period during which an individual can be absent from the territories and still be considered a resident from 14 days to 268 days, effective beginning September 6, 2017 and ending May 31, 2018.

WHY THIS MATTERS

As a bona fide resident of Puerto Rico or the U.S. Virgin Islands, an individual may be able to exclude income from Puerto Rican or USVI sources from U.S. income taxation.² Without this extension, individuals affected by the hurricanes might not have been able to satisfy the "physical presence" test under I.R.C. section 937(a) with respect to residency in Puerto Rico or the USVI, and, as a result, might have lost their status as a "bona fide resident" of a U.S. territory.

Background

U.S. Treasury Regulation 1.937-1(c)(3)(i)(C)(1) provides that an individual will be considered present in Puerto Rico or the USVI for a period of absence of up to 14 days, if the individual is unable to return due to the occurrence of a major disaster in the relevant possession for which a Federal Emergency Management Agency Notice of a Presidential declaration of a major disaster is issued in the Federal Register.

Notice 2017-56, issued October 4, 2017, provided an extension of the usual 14-day absence period to 117 days beginning September 6, 2017, and ending December 31, 2017 (for prior coverage, see [GMS Flash Alert 2017-148](#), October 9, 2017). An individual who was absent from either Puerto Rico or the USVI on any day during this 117-day period would be treated as leaving or being unable to return to the relevant U.S. territory as a result of Hurricane Irma and Hurricane Maria on such day.

Notice 2018-19

Notice 2018-19 provides additional relief to individuals displaced from Puerto Rico and the USVI by further extending the regulatory 14-day period to 268 days, effective beginning September 6, 2017 and ending May 31, 2018.

FOOTNOTES:

1 See [Notice 2018-19](#). Notice 2018-19 will be published in *Internal Revenue Bulletin* 2018-12 on March, 19, 2018.

2 I.R.C. sections 933 and 932.

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The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

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