

Agribusinesses



Agricultural work requires time, labor, expertise, and capital investment. As an industry, it encompasses all products derived from agricultural or agro-industrial activities for human and domestic animal use and consumption. This includes fresh or processed forms of production or preservation. It also involves products derived from livestock, including those resulting from beekeeping and poultry farming.





Due to its importance in society, the difficulties involved in its processes, decreasing local production, and an increasing dependency on imported food products, the government of Puerto Rico has established incentives for agribusinesses. These are extended to individuals and corporations alike, regardless of if they work off the land or sea, and can cover everything related to the dairy industry, mariculture (cultivation at sea), aquaculture, hydroponics, animal breeding, crops of all kinds, gamecocks, and agricultural research.

Eligible Businesses/Eligibility Requirements¹

Since 2019, the requirements for eligible agriculture and agribusinesses dropped significantly. Now, instead of demanding that farmers use 75% of their land for agricultural activities, the requisite has decreased to at least 35%. This reduction allows additional flexibility for established operators to consider supplemental income sources from tourism, small manufacturing operations, or, in some instances, conducting additional research and development activities. Furthermore, it reduces the barrier to entry for new founders looking to enter the industry.

As described below, the eligible businesses that fall under the designations of this chapter are enterprises in the agricultural sectors and those that process or produce agricultural byproducts that include or utilize raw materials, packaging, storage, and other related services.

1. Dairy Producers, Processors, or Pasteurizers

Any company that produces, processes, or pasteurizes milk

¹ Puerto Rico Incentives Code, Sec. 2080.01, 13 L.P.R.A. § 45761 (2023). <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2-ingles/60-2019.pdf>

is eligible. When compared with the other agribusinesses, the dairy industry and all businesses in the dairy supply chain receive additional benefits, including exemptions from income taxes, municipal license taxes, property taxes, excise taxes, and duties.

2. Businesses Growing Fruits, Vegetables, Spices, Seeds, and Other Similar Products

This designation includes businesses growing fruits, vegetables, spices, seeds, and various types of food for human and animal consumption, as well as for raw materials to be used in other industries. Some examples of the crops considered are citrus fruits, coffee, cinnamon, vanilla, and other similar products. The harvest of these items falls within this scope as well.

3. Animal Husbandry

This involves raising animals for the purpose of producing meat, milk, and raw materials (i.e. animal feed made from eggs and corn).

4. Breeders of Racehorses, Paso Fino Horses, and Others

This designation includes businesses who breed Paso Fino horses, horses for racing, equine therapy, and other commercial or tourism purposes.

5. Agricultural Research and Development

This type of research and development encompasses activities that involve professionals trained in science, engineering, mathematics, or any other fields, and whose knowledge is required to conduct tests, observations, analysis, and evaluations using instruments and scientific methods to solve problems or create new knowledge on scientific or technological advancements. In agriculture, this may take the form of research and development of new or more resilient plant seedlings, new fertilizers, new products or technologies for agricultural use, or the advancement and improvement of existing tools.

6. Hydroponics, Aquaponics, and Other Methods

This designation includes projects involving industrial cultivation for plants using aqueous solutions with dissolved chemical nutrients or with sterile substrates. These substrates may be sand, gravel, ground glass, or other materials. Over the last several decades, Puerto Rico has seen more of these projects proliferate across the island.²

² University of Puerto Rico at Mayagüez. "Agriculture Sector." Accessed August 26, 2024. <https://www.uprm.edu/agricultores-desventajados/wp-content/uploads/sites/413/2022/08/Chaptero2-Agriculture-Sector.pdf>.

7. Packaging Companies

These are businesses dedicated to packaging exclusively agricultural products and their byproducts. These include vegetables, seeds, meats, and other items meant for human or animal consumption, as well as packaging goods for laboratories or scientific research organizations.

8. Mariculture, Commercial Fishing, and Aquaculture

This designation includes all fishing conducted for commercial benefit. Fishermen who sell to other businesses or individuals may apply.

9. Ornamental Flowers

This focuses on the cultivation of ornamental flowers. Eligible flowers are those that, due to their aesthetic qualities, are used to decorate common or private places. Some of the most common flowers cultivated in Puerto Rico include anthuriums, orchids, and poinsettias.³

10. Breeding of Game Fowl and Reproduction of Spurs

This designation includes breeding game fowl and the reproduction of spurs. Eligible game fowls are those that are explicitly bred for cockfighting.⁴ Participating in the trade or production of these birds and/or spurs opens one to legal liability under federal statutes.

11. Grain Processing Plants

This designation includes any manufacturing or agro-processing plant that processes grains. Grain processing plants enrich the nutritional value of a variety of grains that are used on a daily basis, as fattening agents for animal feed, or in other commercial products.

12. Agribusiness Companies Purchasing Raw Materials

This designation includes any business that purchases raw materials and local goods for the production or manufacturing of a new product or byproduct. Examples of these products are fertilizers, feeds, pre-packaged salads, and other market-ready items.

13. Other Businesses Related to Agriculture

Other business that are considered to be agribusinesses and are recommended by the Secretary of the DDEC, together

3 José A. Mari Mut, Flores comunes de Puerto Rico (Aguadilla: Ediciones Digitales, 2015), <https://issuu.com/coleccionpuertorriquena/docs/florescomuneslres>.

4 Since 2021, the Supreme Court of the United States has deemed cockfights illegal. As a result, the transportation of roosters to countries where this practice is still legal will be fined.

with a recommendation of the Secretary of Agriculture, are also eligible. These include corporations that conduct significant agricultural activities but may not fit under any of the designations defined in the Incentives Code.

The Benefits

| | |
|-------------------------------|---------------------------|
| Decree Length in Years | 15 |
| Personal Income Tax Exemption | 90% |
| Corporate Income Tax | 4% |
| Personal Property Exemption | 75% |
| Real Estate Tax Exemption | 50% |
| Sales and Use Tax Exemption | 100% on Eligible Purchase |
| Local Purchase Tax Credit | 25% |
| Research and Development | 50% |
| Municipal Patent Exemption | 75% |
| Dividends Exemption | 100% |
| Excise Tax Exemption | 100% |

General Benefits

This incentive includes the Bona Fide Farmer Incentive, which refers to a person or corporation that obtains more than 51% of its income from agricultural work. The general benefits and exemptions are as follows:

1. The incentive has a duration of 15 years. It can be extended for 15 additional years upon request, which would provide up to 30 years of preferential tax treatment to a business.
2. The corporate income tax rate is 4%.
 - a. However, if a company is under 3 years old and has yet to surpass \$3,000,000 in gross revenues when applying for the incentive, the eligible business may obtain a 2% corporate income tax during the first 5 years of operations as a new SME (see Chapter 1).
2. The incentive has a 90% exemption on personal income tax from agricultural or agro-industrial revenues. This excludes income from dividends, interests, royalties, or capital gains from the sale of assets.
3. It offers 25% in tax credits for purchasing goods manufactured in Puerto Rico. The credit may increase to 30% during the first 5 years if the business is a new SME (see Chapter 1).

4. It has a 100% exemption from income tax on interest bonds, promissory notes, and other debt instruments.
5. It has a 100% exemption from property taxes, including on real, personal, tangible, and intangible property (land building, equipment, accessories, and vehicles), as long as the property is used by a Bona Fide Farmer and at least 35% of the property's activities qualify as eligible activities.
6. It has a 100% exemption from municipal license taxes.
7. It has a 100% exemption from the sales and use tax only when purchasing specific agricultural equipment, including machinery, power generators, incubators, brooders, honey, molasses, some vehicles, tractors, diesel, and irrigation systems, among others. Farmers acquiring tax-free items must have an Exempt Purchases Certificate.
8. The incentive has a 100% exemption from stamps and registration fees of real estate property.
9. There are up to 50% in tax credits for all eligible research and development activities.
10. There is an annual bonus per agriculture worker equivalent to \$165.00, or 4% of the annual salary per employee, whichever is greater. The amount is capped at \$235.00 per worker per year.
11. A wage subsidy program is provided to eligible farmers.

Agro-Lodging Designation

As part of the tourism incentives included in Chapter 5, the Incentives Code provides a special designation for Bona Fide Farmers who aspire to host guests and tourists on their property. Bona Fide Farmers may apply for this second incentive if the income derived from tourism activities is at most 49% of the total income of their respective farms. This designation requires that the owner develop at least 3 units (bedrooms with private or communal bathrooms), that an operator resides on the property, and that breakfast is provided to each guest every morning.

Farmers with both agriculture and tourism incentives may use the revenue from the tourism activity to increase the production of agricultural goods inside their farms. This may be through the reinvestment of proceeds to purchase new seedlings, new equipment, or commence research and development activities. Applying for this designation (See Chapter 5) may grant the operator an additional 30% to 40% tax credit for the purchase of the property, remodeling or construction, and the operational costs during the first 12 months.

Agro-Lodging Balance Sheet Example

| | Base Investment Amount + \$1 | For Illustrative Purposes Only | | |
|--------------------------------------|------------------------------------|--------------------------------|--------------|------------|
| | 2023 | Stabilized Year of Operations | | |
| Number of Units | 4 | Agriculture Income: | 54.99% | |
| Occupancy | 52.30% | Tourism Income | 45.01% | |
| Average Rate | \$ 105.00 | \$ 125.00 | | |
| Rev ARPU | \$ 54.92 | w/ service charge | | |
| Beds Occupied | 2,092 | | | |
| Revenues | Amount | Percent | \$/Avail Bed | \$/Occ Bed |
| Private Bedrooms | \$ 80,175.90 | 36.26% | \$ 20,043.98 | \$ 306.60 |
| Agricultural Business | \$ 93,530.65 | 42.30% | \$ 23,382.66 | \$ 357.67 |
| Agricultural Tours and On-Site Sales | \$ 28,059.20 | 12.69% | \$ 7,014.80 | \$ 127.74 |
| Other Departments | \$ 4,073.67 | 1.84% | \$ 1,018.42 | \$ 15.58 |
| Service Charge | \$ 15,271.60 | 6.91% | \$ 3,817.90 | \$ 58.40 |
| Total Revenues | \$ 221,111.02 | 100.00% | \$ 55,277.75 | \$ 865.99 |
| | | | | |
| Department Expenses | | | | |
| Private Bedrooms | \$ 13,950.61 | 17.40% | \$ 3,487.65 | \$ 53.35 |
| Other Operated Areas (Reception) | \$ 998.63 | 1.25% | \$ 249.66 | \$ 3.82 |
| Total Departmental Expenses | \$ 14,949.24 | 18.65% | \$ 3,737.31 | \$ 57.17 |
| | | | | |
| Undistributed Operating Expenses | | | | |
| Payroll (Farm and Lodging) | \$ 62,019.00 | 28.05% | \$ 15,504.75 | \$ 237.17 |
| Marketing | \$ 7,681.00 | 3.47% | \$ 1,920.25 | \$ 29.37 |
| Prep Oper and Maintenance | \$ 6,300.00 | 2.85% | \$ 1,575.00 | \$ 24.09 |
| Utilities (Energy, Water, Telecom) | \$ 16,917.60 | 7.65% | \$ 4,229.40 | \$ 64.69 |
| Total UDOEs | \$ 92,917.60 | 42.02% | \$ 23,229.40 | \$ 355.33 |
| Fixed Charges | | | | |
| Management Fee | \$ 11,055.55 | 5.00% | \$ 2,763.89 | \$ 42.28 |
| Mortgage | \$ 11,964.00 | 5.41% | \$ 2,991.00 | \$ 45.75 |
| Property Tax | \$ 1,977.00 | 0.89% | \$ 494.25 | \$ 7.56 |
| Insurance | \$ 1,177.00 | 0.53% | \$ 294.25 | \$ 4.50 |
| Reserve for Replacement | \$ 5,800.00 | 2.62% | \$ 1,450.00 | \$ 22.18 |
| Total Fixed Charges | \$ 31,973.55 | 14.46% | \$ 7,993.39 | \$ 122.27 |
| | | | | |
| Net Income | \$ 81,270.63 | 24.87% | \$ 20,317.66 | \$ 331.22 |

Illustrative Example

After Carmen's uncle passed away, she decided to help her aunt, Lorena, manage their 12-acre ornamental flower farm. Lorena always dreamed of opening a bed and breakfast where visitors could experience the flowers' serene beauty while staying in charming cottages scattered across the property.

Carmen created a new LLC called Flower Farm PR, transferred the family property into the business, and registered in the Bona Fide Agricultural Program. She then renovated the main farmhouse to include 4 guest suites. Carmen collaborated with the Puerto Rico Tourism Company to secure 30-40% tax credits for her renovation and operating expenses in the first year (see Chapter 5).

To qualify for the tax benefits, Carmen ensured that 51% of Flower Farm activities remained focused on ornamental flowers while the remaining 49% were tourism related. The business is now eligible for a 15-year tax decree, a 2% corporate income tax rate, a 90% exemption on personal income derived from the farming operation, and a 100% exemption on property taxes.

Cost to File

Prior to filing the application under the desired designation or program, the Puerto Rico Department of Agriculture must provide the corresponding certification. Once an eligible business sets out to apply for the Bona Fide Farmer Program, it is essential to select the appropriate designation that aligns with the eligibility criteria of the business. If the business is currently operational, it is crucial to ensure that all corporate documents, such as bylaws and operating agreements, are up to date and free from any outstanding debts.

Fishermen who wish to apply for the Bona Fide Farmer Program must verify that licenses with the Department of Natural and Environmental Resources (DRNA, by its Spanish acronym) are current. Similarly, dairy farmers have to confirm that licenses with the Milk Industry Regulation Office (ORIL, by its Spanish acronym) are in good standing.

The filing cost for the Bona Fide Farmer Certification with the Puerto Rico Department of Agriculture may vary depending on the industry and business formation (individual, corporation, LLC). However, it is important to note that the cost to file for the tax incentive at the DDEC is a fixed amount. Businesses applying for the incentive for the first time should budget at least \$1,930 for filing costs and servicing fees. These fees are paid directly to the government of Puerto Rico through the incentives.ddec.pr.gov website and do not include any



additional charges. When preparing the application, it is advisable to consider the expenses associated with hiring a business consultant, accountant, lawyer, or other service professionals who have experience designing and submitting tax decree applications.

Cost to File

| Filing | Transaction Fee | Service Fee |
|--|-----------------|----------------|
| Bona Fide Farmer | \$5 | \$100 |
| Incentives for Agricultural Research and Development | \$5 | \$100 |
| Decree Extension | \$5 | \$1,000 |
| Annual Report | \$5 | \$500 |
| Acceptance of Decree | \$5 | \$100 |
| Notification of Commencement of Operations | \$5 | \$100 |
| Total | \$30 | \$1,900 |