



Additional Economic Measures Due to COVID-19 Emergency

By: Denisse Galarza-Mora

The Governor of Puerto Rico has just signed into law (Act 57-2020) a new package of economic measures in response to the COVID-19 state of emergency. These economic measures were approved with the purpose of subsidizing some of the current tax and economic burdens merchants are currently experiencing in their businesses. We hereby summarize these measures and advise how they could be of use in your entity's cash flow and tax planning structures.

As you know, the Puerto Rico Treasury Department ("PRTD") has issued several publications allowing for the extension of due dates to file returns and renew licenses. It also has authorized the temporary elimination of sales and use tax on items for resale and also the temporary elimination of the requirement to withhold income tax at source on services rendered. Act 57-2020 incorporates these provisions to the Puerto Rico Internal Revenue Code of 2011, as amended, but it also enacts new economic measures that may serve as opportunities to the economic sector. Some of the additional economic measures include:

- Temporary elimination of the 4% sales and use tax on services between merchants and designated professionals, commonly known as the B2B for the months of April, May and June 2020.
- Elimination of the Agreed Upon Procedure Report requirement for taxable year 2019.

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Additional Economic Measures... Continued from Page 1

- Enactment of a net operating loss carryback program for taxpayers with volume of business that is less than \$10,000,000. The maximum carryback loss is \$200,000 and the claim can generate a maximum overpayment of \$50,000.
- Elimination of the \$500 Minimum Tentative Contribution for taxable year 2019.
- Municipal license tax volume of business and income tax gross income exclusion of emergency loan forgiveness amounts as well as any other subsidies received during COVID-19 emergency.
- Automatic compliance with certain eligibility requirements for benefits under the tax incentive acts for taxable year 2020.
- Fast-track payment to government suppliers.
- Additional due date extension for the filing of the 2019 Income Tax Return for flow-through entities. These entities must file their tax returns by July 15, 2020 or request a 6-month extension on such date.

ATBA Comments

We expect the PRTD to issue guidance that could clarify key aspects of the implementation of these measures. For example, Act 57-2020 establishes that the 4% B2B Sales and Use Tax on services will not be collected for the months of April, May and June 2020. Nonetheless, since the Act was signed into law during the month of June, clarification would be necessary as to the tax that was already billed and/or collected by merchants during the months of April, May and a portion of the month of June. Some merchants might have already remitted this tax to the PRTD. Therefore, it is expected that the PRTD issues guidance as to how to proceed and if the tax should be reimbursed to merchants that have already paid this tax.

Merchants will likely experience a significant tax benefit with the elimination of the Agreed Upon Procedures Report. This report was required to merchants to deduct certain expenses for Alternative Minimum Tax or Alternate Basic Tax purposes, as applicable. With the elimination of this requirement for taxable year 2019, merchants will be able to deduct these expenses without having to analyze the cost benefit of hiring an auditor for the issuance of this report.

Also, the net operating loss carryback program represents an opportunity for taxpayers with unused losses to go back two taxable years and claim unused net operating losses caused by COVID-19 emergency.

Our team can help you identify the tax measures that could maximize your entity's tax savings. We will keep you updated as to additional guidance issued in this regard.

*** Pursuant to the guidelines established by The Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA"), all fiscal and economic measures should be authorized and approved by the Fiscal Oversight & Management Board for Puerto Rico ("FOMB"). As of the issuance of this article, the FOMB has not certified or expressed its approval for the economic measures enacted and summarized herein. Therefore, please take this into consideration before implementing any of these measures in your business.

ABOUT THE AUTHOR


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Denisse is a Senior Manager at Alvarado Tax & Business Advisors and has over ten years of experience in the corporate and individual tax advisory areas with various international and local clients. She provides corporate and individual tax services for clients in the retail, manufacturing, and service industries, among other.

With regards to the areas of technical experience and consulting, Denisse has provided sales and use tax consulting services to various municipalities, governmental agencies and private industry clients. She has assisted multiple corporate clients with the implementation of the recent changes to the Sales and Use Tax provisions, which provide for the collection and remittance of this tax. She has also assisted manufacturers and wholesalers in obtaining sales tax waivers from the Puerto Rico Treasury Department to allow them to continue buying and selling their goods without sales and use tax. Denisse represents clients before the Puerto Rico Treasury Department on income and sales and use tax investigations and has participated in the preparation of closing agreements and ruling requests.

Denisse is member of the Puerto Rico Certified Public Accountants and has a Bachelor degree in Business Administration, major in Accounting and Finance from the University of Puerto Rico.

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Continues on Page 3

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