



## Application of Refunds and Overpayments Against Other Taxes and Various Tax Alerts

By: **Vicente J. Cajigas-Campbell**

As mentioned in our Newsletter from March 2020, the Puerto Rico Treasury Department (“PRTD”) issued Administrative Determination 20-10 (“AD 20-10”) to provide certain cash-flow relief measures due to the COVID-19 impact. Among the measures, AD 20-10 provides for the transfer of requests for refunds (not received by the taxpayer) and overpayments to other taxes imposed by the Puerto Rico Internal Revenue Code of 2011, as amended (the “Code”). On June 22, 2020, the PRTD issued Circular Letter of Internal Revenue 20-28 (“CL 20-28”) to establish the procedures to request the application of refunds and excess payments against other taxes of the Code, pursuant to AD 20-10. Below we will highlight some of the provisions of CL 20-28:

1. The application shall be submitted through the Internal Revenue Unified System (“SURI” for its Spanish acronym).
2. No refunds or overpayments can be applied against sales and use tax (“SUT”) debts.
3. The application can only be submitted by the Master Administrator of the SURI account, the Secondary Administrator, or any user with the privilege to “file and pay” on behalf of the taxpayer.
4. The following supporting documents must be uploaded into SURI:
  - a. Income Tax - Refund
    - i. Copy of the income tax return that reflects the refund being transferred, along with its filing evidence. If the refund was generated from overpayments

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Continues on Page 2

## Application of Refunds and... Continued from Page 1

from prior years, copy of all the returns since the inception of the overpayment must be submitted.

- ii. Supporting documents for the overpayment (i.e. evidence of the estimated income tax payments).
- b. Income Tax Withholding - Overpayment
- i. No upload of supporting documents is required in this case. However, the overpayment to be transferred against other taxes is limited to the overpayment reflected in SURI. This measure is available to overpayments reflected in the following modules:
    - Wages Withholding.
    - Services Rendered Withholding.
    - Other Income Withholding.
    - Non-Resident Withholding.
- c. Excise and Alcoholic Beverages Taxes - Refund
- i. Copy of the refund request together with its supporting documents.
  - ii. Evidence of the refund request's approval.
  - iii. A certification stating that as of the filing date of the transfer request, the refund has not been received by the taxpayer.
- d. Credit for SUT payments on Imports of Taxable Items for Resale
- i. As in the case of the income tax withholding transfers, no upload of supporting documents is required. Likewise, the credit to be

transferred against other taxes is limited to the credit reflected in the last return filed through SURI.

It is important to point out that this measure is available only to Resellers with a valid Reseller Certificate and is not available to Merchants with an Eligible Reseller Certificate.

5. Once the application is processed, the PRTD will inform through SURI whether the request was approved or denied. If denied, the taxpayer has 30 days to appeal.
6. The transaction shall be considered effective the date in which the application was submitted.
7. Transfers are limited to outstanding balances reflected in SURI. The system does not allow to transfer amounts exceeding the balance of the debts.

### [Tax Alert: Memorandum Number 2020-06 – PR Department of Labor and Human Resources \(“PRDL”\)](#)

On June 25, 2020, the Secretary of the PRDL issued Memorandum Number 2020-06 to establish the new due dates to file the quarterly returns which are filed with this agency (i.e., State Unemployment, Disability and Chauffeurs' Insurance). Accordingly, the new due dates are as follows:

- Quarterly returns for the quarter ended 3/31/2020 (Q1-2020): July 31, 2020.
- Quarterly returns for the quarter ended 6/30/2020 (Q2-2020): August 31, 2020.

### [Tax Alert: Payroll Declaration for the Period Ended 6/30/2020 - PR State Insurance Fund](#)

As a result of the COVID-19 situation, the Administrator of the PR State Insurance Fund granted an automatic extension to file the payroll declaration for the period 7/1/2019 - 6/30/2020 until August 4, 2020. Also, the agency stressed the fact that most employers that keep employees working remotely after 6/30/2020 must include in its payroll declaration the risk code 8871-350 (“working remotely”). Additionally, the employer must complete Form 02-129, to provide details about the employees working remotely.

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**Vicente** is a Manager at Alvarado Tax & Business Advisors. Before joining the firm he worked as Tax Senior Consultant at Deloitte Tax LLP where he provided tax compliance and consulting services to several multinational clients. His Curriculum Vitae includes experience in the corporate and individual tax advisory practice representing clients before the Puerto Rico Treasury Department on complex cases as well as also participated in the development of Closing Agreements with different governmental agencies.

With regards to specific areas of technical expertise, Vicente provides corporate and individual tax services for clients in the retail, manufacturing, and service industries, among others. At present, he manages an outsourcing division in our Firm providing finance and accounting services to local and international business entities doing business in Puerto Rico.

Vicente is member of the Puerto Rico Certified Public Accountants Society and the American Institute of Certified Public Accountants. He is also Certified in Financial Forensics and is a Chartered Global Management Accountant. He has a Bachelor degree in Business Administration, major in Accounting and Marketing from the University of Puerto Rico.

### [Tax Alert: Administrative Order 2020-05 – PR Department of State](#)

On July 1, 2020, the Secretary of State issued Administrative Order 2020-05 to postpone the due date to file the 2019 Corporate Annual Report to July 31, 2020. If additional time to file this report is needed, the taxpayer may file a first and second extension (both are required) to extend the due date until August 17, 2020.

**Continues on Page 3**

**Application of Refunds and...**  
**Continued from Page 2**

**ATBA Comments**

Applying refunds or overpayments against other taxes could represent a cash-flow relief, specially in cases in which the realization of overpayments seems far away. We encourage you to assess the available overpayments and refund requests to see if transferring them to other taxes of the Code is the way to go. At our Company, we are ready to assist with this assessment and or the transfer process.

If you have experienced problems or have concerns about the information available in SURI, contact us and our tax professionals will be available to assist. We will continue to keep you informed of new COVID-19 changes and legislations that may affect your business.

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