



Update on the Deduction of Automobile Expenses

By Vicente J. Cajigas-Campbell

On January 9, 2015, the Puerto Rico Treasury Department (“PRTD”) issued Administrative Determination 15-01 (“AD 15-01”) to, once again, address the deductibility of expenses for the use and maintenance of motor vehicles provided by Section 1033.07(a)(3)(G) of the Puerto Rico Internal Revenue Code of 2011 (“PR Tax Code”).

Background

As you may recall from our Special Bulletins of The Tax Advisor of December of 2010, July 2012, and January 2013, Section 1033.07(a)(3)(G) of the PR Tax Code provides that in lieu of deducting the actual expenses paid or incurred for the use and maintenance of motor vehicles (as defined by the PR Tax Code), the taxpayer shall deduct an amount based on a standard mileage rate (“SMR”), which shall be determined by regulations. The provisions of this Section are ruled by Regulation 8297, approved in December 18, 2012 (the “Regulation”).

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The following table illustrates the expenses that are covered by the SMR and the ones that are not covered because they are excluded from the definition of use and maintenance expenses:

Expenses Covered by the SMR	Expenses not Covered by the SMR
Gasoline	Depreciation
Repairs	Leases
Oil and filter change	Parking expenses
Car wash	Tolls
Tires	
Insurance	
Annual license rights ("marbete")	
Other routine maintenance expenses of similar nature	

According to the Regulation, the SMR shall be sixty cents (\$0.60) until further notice is issued by the PRTD. Also, the Regulation conditioned the deduction for the use and maintenance of motor vehicles to keeping a daily mileage journal to support the deduction related to the SMR. As mentioned in past bulletins, this daily journal must include the following:

- date;
- destiny;
- purpose;
- odometer reading before and after the trip or alternate odometer reading provided by the Regulation;
- number of traveled miles; and
- total miles traveled during the year.

The requirement of keeping a daily mileage journal to support the motor vehicle expenses as well as other provisions of the Regulation, created many doubts in employers and taxpayers engaged in the trade or business in Puerto Rico.

Consequently, the PRTD has been postponing the applicability of these new requirements, allowing taxpayers the option to deduct the actual expenses paid or incurred for the use and maintenance of motor vehicles. The last postponement was made by the PRTD with Administrative Determination 13-18 ("AD 13-18") which extended the applicability of the new determinations until the last day of the taxable year 2013. As such, taxpayers with a natural accounting year were able to deduct actual motor vehicle expenses paid or incurred until December 31, 2013.

AD 15-01

According to AD 15-01, the PRTD evaluated situations brought by taxpayers and considered necessary to repeal the provisions of the Regulation until it conducts a comprehensive analysis taking into consideration the PR Tax Code and the situations brought by taxpayers in view of the current work related to the upcoming Tax Reform.

To such effects, the PRTD determined the following:

1. To present a regulation in the Puerto Rico Department of State that will expressly repeal the Regulation, and
2. To allow taxpayers to choose one of the following options to determine its deduction for the use and maintenance of motor vehicle expenses until the agency issues a new regulation:
 - a. the mileage related to the trade or business times sixty cents (\$0.60); or
 - b. the actual expenses paid or incurred in the trade or business for the use and maintenance of the motor vehicles, including those duly substantiated by employees under an employer's reimbursement or accountable plan.

Every taxpayer that opted to deduct the motor vehicle expenses in accordance with the SMR during the term of the Regulation, will be allowed with the deduction as long as it has complied with all the provisions of the same.

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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.

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It is important to mention that once the taxpayer elects the method that will be used to deduct its motor vehicle expenses, it shall be obligated to use the same method for the whole taxable year.

ATBA Comments

Due to the existing uncertainty regarding the effectiveness of the Regulation, AD 15-01 brings a temporary relief to taxpayers that have business expenses related to motor vehicles and have not followed the use of the SMR. However, keep in mind that AD 15-01 was issued in January 9, 2015 and the previous postponement of AD 13-18 was valid until tax year 2013. Thus, we encourage you to verify how are the motor-vehicle related expenses being treated for the taxable year 2014 in order to ensure compliance with AD 15-01 and the PR Tax Code. Our experts are ready to assist you in determining compliance with the PR Tax Code.

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