



Due Dates for Payment and Filing Postponed Due to Hurricanes Irma and María

By: **Carlos R. González Martínez**

We hope that this newsletter finds you well and wish a speedy recovery for those of you who sustained damages due to the passing of Hurricanes Irma and María. As part of the efforts to accelerate the Island's recovery process, the Puerto Rico Treasury Department (PRTD) have issued multiple publications to postpone the filing and payment due dates of taxes and returns, to establish new procedures, suspend others previously established, or to provide for special exemptions during the aftermath of those hurricanes. Herein below, we provide a summary of the most important postponed due dates and publications from the PRTD.

Postponed Dates

Circular Letter from Internal Revenue No. 17-13 (CL 17-13) originally extended the filing and payment of tax returns and declarations, as well as deposits and payments due on September 10, 2017 to September 18, 2017 including:

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- Form SC 2225 Monthly Excise Tax Return (including its corresponding payment);
- Form SC 2222 Four-Month Return for the Environmental Protection Deposit;
- Form 480.9A Monthly Deposit for Income Tax Withheld at Source on Services; and
- Form SC 2915D Monthly Use Tax Return on Imports (including its corresponding payment).

Also, CL 17-13 postponed the filing and payment of tax returns and declarations, as well as deposits and payments due on September 15, 2017, including income tax withheld at source, estimated tax deposits, income tax returns, excise taxes under Act 154-2010 and, the first installment of the monthly sales and use tax (SUT) deposit, some until September 22, 2017 and others until September 29, 2017. The PRTD later issued Informative Bulletin of Internal Revenue No. 17-17 (IB 17-17) to clarify the postponed filing and payment due dates provided by CL 17-13 as follows:

- Every return, declaration or tax payment with an original due date of September 10, 2017 were postponed to September 18, 2017;
- Every payment or deposit with an original due date of September 15, 2017 were postponed to September 22, 2017; and
- Every return or declaration, together with its related tax payment, with an original due date of September 15, 2017 were postponed to September 29, 2017.

Furthermore, on September 18, 2017, the PRTD issued Informative Bulletin of Internal Revenue No. 17-18 (IB 17-18) to postpone the filing and payment due date of the Monthly SUT Return for the month of August, which was due on September 20, until September 27, 2017. In addition, IB 17-18 provided that the payments previously postponed by CL 17-13 until September 22, were postponed for an additional period of 5 days until September 27, 2017. On the other hand, IB 17-18 did not provide a new postponed date for the filing and payment due with respect to Forms SC 2225, SC 2222, 480.9A and SC 2915D, which were previously postponed until September 18, 2017 by CL 17-13. Then, on September 27, 2017, the PRTD

issued Informative Bulletin of Internal Revenue No. 17-21 (IB 17-21) to notify new postponed due dates as follows:

1. Taxpayers that are NOT Large Taxpayers

- a. Tax returns and declarations, including their corresponding payment, due (including extensions) between September 19 and October 20, are postponed for a period of 20 calendar days after such original (or extended) due date.
- b. Tax payments and deposits due between September 19 and October 20 are postponed for a period of 20 calendar days.
- c. Tax returns and declarations, as well as tax payments and deposits, postponed by CL 17-13, IB 17-17 and IB 17-18, are automatically postponed for an additional period of 20 calendar days.

2. Taxpayers that are Large Taxpayers

- a. The rules described above providing for the postponement of 20 additional days for the filing and payment provided to taxpayers that are NOT Large Taxpayers will also apply to Large Taxpayers, except the following transactions:
 - i. All SUT transactions required to be made through the Internal Revenue Unified System ("SURI" for its Spanish acronym) with due dates in September and October are postponed for 7 calendar days (in addition to those provided by CL 17-13, IB 17-17 and IB 17-18) including, but not limited to:
 - i) Form SC 2915D Monthly Use Tax Return on Imports (including its corresponding deposit)
 - ii) Form SC 2915 Monthly SUT Return
 - iii) Bi-weekly SUT deposit
 - ii. Act 154-2010 excise tax payment for August 2017 related to the purchase of

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Carlos is a Member at Alvarado Tax & Business Advisors LLC (AT&B) and has over twenty five years of experience in the corporate and individual tax advisory area with various international firms and industries. He provides corporate tax services for clients in telecommunications, manufacturing, service and retailing industries, and also is the Operations Manager for the Tax Resolution and Outsourcing Services divisions.

Prior to joining ATBA, Carlos had a seven-year-plus career with Puerto Rico Telephone Company (PRTC) as Executive Tax Advisor in charge of the corporate tax division, and a three-year career with Caribe General Electric as Tax Manager. Prior to that, he worked for ten years in public accounting firms, including experience in both audit and tax, with KPMG, Price Waterhouse LLP's Corporate Tax Practice and Arthur Andersen's Tax Practice. While at PRTC, Carlos was the project leader and successfully implemented the new sales and use tax rules, modifying more than ten different systems and affecting the operating guidelines of fourteen departments.

Carlos has a BBA major in Accounting from the University of Puerto Rico. He is a member of the Puerto Rico Society of Certified Public Accountants and the American Institute of Certified Public Accountants.

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certain personal property and services from related parties – New due date is October 6, 2017.

- iii. Act 154-2010 excise tax payment for September 2017 related to the purchase of certain personal property and services from related parties – New due date is October 20, 2017.

IB 17-21 also provides that if the new postponed due date falls on a Saturday, Sunday or holiday, the due date will be the first working date after that date.

3. Information Requests by the PRTD

- a. The information requested in Form SC 6048 Request for Information of Tax Credits Reported in Form 480.71 is postponed for two weeks from the date of issuance of IB 17-21. Therefore, the new due date would be October 10, 2017.
- b. All other requests for information from the PRTD, including regular and mail audits, are postponed for a period of 30 additional days from the due date established in the original request.

4. Taxpayer's Rehabilitation Plan

On March 17, 2017, the PRTD established a Taxpayer's Rehabilitation Plan to provide a mechanism for taxpayers to become current on their tax payment responsibilities. Such plan requires the execution of a Payment Plan. Under IB 17-21, all existing payment plans with the PRTD as of September 1, 2017, including those not made under a Taxpayer's Rehabilitation Plan, will not be subject to additional interest, fines and penalties for the period from September 1 to December 31, 2017.

5. Licenses

The licenses issued by the PRTD that must be renewed during the months of September and October 2017 will be valid during that

period and will be extended for an automatic provisional period of two months from the date it expires. Once the provisional extended period ends, the taxpayer must complete the renewal process and, if approved, the PRTD will issue the license retroactively to the date such license expired.

6. Other transactions

Any other document, requirement, payment or transaction not specifically covered on IB 17-21 will have a postponed due date of 30 additional calendar days.

Finally, on September 29, 2017, the PRTD issued Informative Bulletin of Internal Revenue No. 17-22 to clarify that no interest, penalties, fines or surcharges will be imposed to taxpayers for late filing or late payment, to the extent they comply with the due dates established on IB 17-21.

New Temporary Procedure at the Ports

The PRTD published Informative Bulletin of Internal Revenue No. 17-19 (IB 17-19) to provide a temporary procedure to authorize the release of merchandise at the ports for the following items:

- Food
- Medicines
- Raw material
- Animals
- Perishable items
- Power plants or generators
- Items imported by bonded importers

The procedure established by IB 17-19 includes the following steps:

1. Visit the PRTD Office of the Consumption Tax Bureau at the Isla Grande Port Zone to submit the bill of lading, manifest, copy of a valid bond (if a bonded importer), evidence of payment of applicable excise tax (if applicable), name of consignee and evidence of the cost of the merchandise. The PRTD recommends taxpayers to send all the above documents to the following e-mail address: puertos@hacienda.pr.gov. The Internal Revenue agent will provide Form SC 2005 if there is a requirement to pay excise taxes on

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the merchandise, which must be paid prior to obtaining the release.

2. If the documentation submitted complies with all the requirements, the Internal Revenue agent will authorize the release of the merchandise by including the following phrase on the bill of lading: "Se autoriza levante" with his name and signature, date and his agent's badge number.
3. A copy of the bill of lading will be made, which will be given to

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the importer to obtain the release. The original signed bill of lading will be sent to the Director's Office of the Consumption Tax Bureau.

4. The importer must keep his copy of the manually approved bill of lading for purposes of preparing the Monthly Use Tax Return on Imports.

Furthermore, on September 22, 2017, the PRTD issued Informative Bulletin of Internal Revenue No. 17-20 to establish the temporary procedure provided by IB 17-19 extensive to all kinds of merchandise introduced into Puerto Rico.

Biweekly Sales and Use Tax Payment Postponed

The requirement to pay the SUT on a biweekly basis was suspended by the PRTD during the period of September 1 to November 30, 2017 by the issuance of Administrative Determination No. 17-15 (AD 17-15). Taxpayers who are required to comply with the biweekly deposit of the SUT must commence submitting the SUT deposits twice a month in December 2017. However, such suspension does not apply to Large Taxpayers, who commenced to submit the biweekly SUT deposits last August, and must continue complying with such rules.

Special Sales and Use Tax Exemption on Prepared Food

The PRTD has also published various communications to exempt "prepared food" as defined by the Puerto Rico Internal Revenue Code of 2011, as amended (the Code) from the imposition of the state and municipal SUT. The exemption period is provided as follows:

- Administrative Determination No. 17-12 – From September 21 thru September 24, 2017
- Administrative Determination No. 17-13 – From September 25 thru October 8, 2017
- Administrative Determination No. 17-17 – From October 9 until the PRTD notifies

Please note that alcoholic beverages are not covered by this

exemption. Sales of prepared food under these administrative determinations must be reported in the monthly SUT return as "Sale of Exempt Tangible Personal Property".

Sales and Use Tax Exemption on Donations

On October 3, 2017, the PRTD issued Administrative Determination No. 17-19 (AD 17-19) which provides the treatment of donations of tangible personal property and of services provided by individuals not residents of Puerto Rico or of foreign entities not engaged in a trade or business in Puerto Rico (herein after referred together as "Foreign Donators").

The PRTD has determined that the import of tangible personal property by Foreign Donators to (1) hospitals, (2) non-profit organizations, (3) instrumentalities of the municipalities, the Government of Puerto Rico or the Government of the United States, or (4) individuals (herein after referred together as "Beneficiaries") will not be subject to SUT because they do not have a purchase or sale price.

Also, the tangible personal property introduced by merchants to be donated, and which is not considered inventory of the merchant, will not be subject to SUT to the extent that the merchant may prove, to the satisfaction of the Secretary of the Treasury, that the tangible personal property is not inventory for resale and that it was introduced into Puerto Rico to be donated. Tangible personal property introduced by a merchant and, subsequently, retired from inventory to be donated will be subject to use tax.

The PRTD reserves the right to evaluate the nature and amount of property received, as well as who imports the merchandise, to determine if there is any commercial purpose in the transaction. Furthermore, services provided by any natural or legal person without compensation, for the benefit of the Beneficiaries, will be considered as donations within the purposes of AD 17-19. Therefore, those services will be exempt from SUT.

Other Communications Related to Gasoline and Diesel

On September 26, 2017, the PRTD published Administrative Determination No. 17-14 (AD 17-14) to authorize the

expedite issuance of provisional licenses for the retail sale of gasoline to gas stations who had submitted all the required documentation by September 20, 2017. AD 17-14 requires such retailers to submit copy of all the documentation to the following e-mail address and wait for a response from the PRTD: puertos@hacienda.pr.gov.

Finally, the PRTD issued Administrative Determination No. 17-16 on October 2, 2017 to exempt certain retailers and importers from an additional excise tax of \$3.25 per barrel or fraction on the diesel oil to the extent they establish distribution routes consistent with the priorities and needs determined by the Puerto Rico Governor.

ATBA Comments:

This hurricane season will definitely be remembered as the worst in the history of the Island. Many companies suffered losses, and the lack of internet, power and water makes it difficult to get back to business and to be up to speed with the ever-changing rules to comply with the PRTD's requirements. We hope the above-summary helps you identify certain benefits in the form of postponed filings and payments. If you have doubts or concerns, or if you need any help with compliance issues, while you manage to get your business back up, please feel free to contact us.



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