

TAX NEWSLETTER

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PUERTO RICO DEPARTMENT OF TREASURY ISSUES TRANSITION RULES FOR THE VALUE ADDED TAX



On April 18, 2016 the Puerto Rico Department of Treasury (the “Treasury”) issued [Administrative Determination No. 16-07](#) (“AD 16-07”) informing all merchants on: (1) the general guidelines for the implementation of the Value Added Tax (“VAT”) effective on June 1, 2016; (2) the new electronic platform where VAT related transactions will be reported; (3) specific circumstances where PICO platform will still be used; (4) instructions related to registration procedures and VAT related certificates; and, (5) transition rules for certain merchants.

UNIFIED INTERNAL REVENUE SYSTEM

Starting on June 1, 2016, the Treasury will launch a new electronic platform known as the Unified Internal Revenue System platform (“SURI” by its Spanish acronym) that will be used to declare, manage and pay all the transactions related to the VAT including: (i) filing the new monthly VAT Return; (ii) effecting VAT payments; and, (iii) applying for merchant’s registration certificates (including Small Merchant Certificates).

The information currently existing on the Integrated Merchant Portal (“PICO” by its Spanish acronym) platform will be automatically transferred to the new platform and existing users will receive a notice email using the same login information currently used in PICO. The Merchant Number existing under PICO will not change as consequence of the data transfer.

The Treasury’s medium and long term objectives are to unify under SURI all current and existing reporting platforms for all types of taxes.

New Value Added Tax Return

Every merchant, except those who have obtained a Small Merchant Certificate, will have to file a Monthly Value Added Tax Return ("VAT Return") no later than the twentieth day of the month following the month in which the VAT is collected. Any Merchant who is entitled to a credit against the VAT collected may claim it on this return.

The first VAT Return to be filed in SURI corresponds to the month of June 2016 and is due on July 20, 2016. SURI will be available for filing the VAT Return on or after July 1, 2016. In this return, the Treasury will transfer the outstanding balance of Sales and Use Tax ("SUT") credits that resulted from the filed Sales and Use Tax return for May 2016. Merchants will have to exhaust all existing SUT credits in subsequent VAT returns before starting to claim credits for VAT paid starting on June 1, 2016.

The new VAT Return will consist of a single form, which will provide for electronically computing the credits for VAT paid.



PICO

During the transition, PICO will continue to be used to file declarations of imports, the monthly Imports Return and to file and amend SUT monthly returns for those periods before June 2016.

Merchant Registration Certificates

All SUT Merchant Registration Certificates will expire on July 20, 2016. In order to facilitate merchants obtain the new Merchant Registration Certificates, the Treasury will inform merchants by electronic mail when they can access SURI to validate their information and print the new VAT Merchant Registration Certificates. All merchants must have the new Merchant Registration Certificate on or before July 20, 2016 which is the due date of the first VAT Return. Fines may be imposed to those Merchants that fail to update their certificates.

Small Merchants

Qualifying Small Merchants are those whose volume of business (gross sales) for the prior taxable year are under \$125,000. Special rules apply for new businesses for determining the \$125,000 threshold. Small Merchants: (i) will not collect VAT; (ii) will not be required to file VAT Returns; (iii) will not tally VAT credits; (iv) will not have to issue Fiscal Vouchers; and, (v) will not receive Fiscal Vouchers. However, since their sales are deemed exempt, they cannot credit the VAT paid upon the purchase of business inputs.

Qualifying Merchants will have to request a Small Merchant Certificate through SURI. The Treasury will issue a provisional Small Merchant Certificate valid for 90 days until the Treasury evaluates the information provided. At that time, the Treasury will issue the Small Merchant Certificate that the Merchant must procure through SURI.

Possessing a Small Merchant Certificate does not necessarily mean that the Merchant will be exempt from Municipal SUT. Municipal SUT exemption for services rendered by persons whose volume of business does not exceed \$50,000 is maintained. Therefore, merchants engaged in the sale of tangible personal property and merchants engaged in the provision of taxable services and, in the case of

the latter, who generate a volume of business of \$ 50,000 or more must collect the 1% Municipal SUT, even if they hold a Small Merchant Certificate.

VAT Exemption Certificates

Until further notice, exemption certificates, including the Reseller's and Municipal Exemption Certificate and the Manufacturing Plant Exemption Certificate that were in force as of December 31, 2015 will continue to be valid until the Treasury issues an official statement with regards to the application process and requirements to request VAT Exemption Certificates. The Eligible Reseller Certificate, however, will continue in force until June 30, 2016.

Until further notice, Form SC 2916 will continue to be used to document VAT exempt transactions.

The Treasury will issue the corresponding publications soon to establish formal procedures for requesting certificates under the VAT.

Fiscal Vouchers and Debit and Credit Notes

The Fiscal Voucher will be a document issued by a vendor merchant to a buyer merchant of a sales transaction. An important component of the VAT system is that the VAT paid is substantiated in order to credit it against the VAT liability. Therefore, the acquisition of business inputs must be evidenced by means of a Fiscal Voucher. Under the transition rules and until further notice the receipts issued by the cash registers will serve as "Fiscal Voucher".

In general, merchants are not required to attach the fiscal vouchers to the VAT Return in order to claim VAT credits. However, merchants must save the receipts for at least six years. Merchants with an annual volume of business of \$40,000,000 or more must include a spreadsheet

with a breakdown of the VAT paid. The Treasury will provide further guidance on the worksheet to provide this breakdown afterwards.

Merchants will not be required to issue debit and credit notes (fiscal voucher adjustments) until the Treasury establishes the appropriate procedures. However, the merchant must save the evidence and computations used to adjust the VAT paid.



Administrative Determinations and Final Agreements under the Sales and Use Tax Regime

Merchants that entered into final agreements and/or obtained an administrative determinations ("ruling") with respect to the Sales and Use Tax must obtain a "Letter of Ratification" from the Treasury as long as the same treatment is accorded under the VAT. The Letter of Ratification must follow the process for requesting rulings from the Treasury and must be filed with the office of the Assistant Secretary for Tax Policy.

Merchants Who Provide Designated Professional Services

Providers of designated professional services are the only merchants that can elect to report the VAT using a method of accounting different to that used for financial purposes. Hence, a

provider of designated professional services under 'accrual basis' method of accounting may opt to use 'cash basis' for VAT reporting purposes. Under the current sales and use tax, services rendered by designated professional services providers are subject to a sale and use tax rate of 4% through May 31, 2016 ("Special SUT").

All invoices related to services rendered before June 1, 2016 must be issued and remitted to the client by June 20, 2016. Invoices issued and remitted after that date will be deemed for services rendered as of the date of the invoice and subject to the 10.5% VAT.

Merchants under "cash basis" must opt in to apply for this accounting method on the June 2016 SUT Return. Accordingly, PICO will be available for that month and subsequent months in order to report the collection of the 4% sales and use tax on services rendered before June 1, 2016. Merchants must request the Treasury to maintain PICO available for six additional months to reflect collections of the SUT on services provided before June 1, 2016.

VAT Refunds

In general an eligible merchant can claim a refund in any month that reflects a VAT overpayment of more than \$10,000. An eligible merchant is one whose: (i) sales exceeds of

\$500,000 for the last three prior years (or the applicable period) and (ii) at least 80% of its sales are subject to a 0% tax rate.

A merchant that meets these requirements must obtain an "Eligible Merchant Certificate".

All other merchants must meet the requirement of reflecting a VAT overpayment of more than \$10,000 during the 3-month accumulation period. Said period will begin June 1, 2016. Thus, any overpayment in excess of \$10,000 can be requested by August 2016.

For more information do not hesitate to contact any of the following professionals:

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