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TAX ALERT 2017-02

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A PUBLICATION FROM THE TAX DIVISION

New Requirements for Sales Tax Fortnightly Deposits



Please contact your account service partner should you have any questions or comments or if you need additional information regarding these matters.

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In order to increase the Government's cash flow and comply with the requirements of the fiscal plan presented to the Oversight Board, on July 19, 2017, the Governor of Puerto Rico signed Act 46 (Act 46-2017) to amend the Puerto Rico Internal Revenue Code ("the Code") and require fortnightly deposits of sales tax. This requirement will apply to large taxpayers as defined by Code section 1010.01(a)(35), and to all merchants that during the prior natural year, had a monthly average of sales tax deposits exceeding \$2,000. Applicable merchants will have to make deposits of sales tax on the 15th and on the last day of each month.

As required by Act 46-2017, the amount to be deposited on each fortnight should be the lesser of:

- 80% of the sales tax determined for the particular month or;
- 70% of the sales tax deposited in the same month of the prior natural year.

Failure to make deposits as required by Act 46-2017 will be subject to a 10% penalty. The penalty will be determined over the difference between the amount that should have been deposited and the actual amount that was deposited.

In accordance with Act 46-2017, these dispositions will be effective during the month of July 2017. However, subsequent to the Act 46-2017, on July 28, 2017, the PR Treasury Department issued Administrative Determination 17-01 ("AD 17-07"), to clarify the requirements of Act 46-2017 and to establish the date in which the Act will be effective. AD 17-07 clarifies the following;

- Fortnightly deposits will apply to the state portion of the sales tax. Deposits of the 1% sales tax to the municipalities will not be affected by the Act, and will continue to be deposited no later than the 20th day of the following month in which the transaction occurred.
- Fortnightly deposits will only apply to sales tax, not use tax.
- The determination of which merchants will be required to comply with the fortnightly deposits, will be performed annually based on the sales volume of the previous natural year.
- Fortnightly deposits will be performed by electronic means only, through the SURI system.

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FORTNIGHTLY
DEPOSITS
(continued)

In order to determine if a merchant is subject to the dispositions of Act 46-2017, based on the \$2,000 average criteria, AD 17-07 provides that;

- All merchants that sell tangible personal property and services subject to the 10.5% sales and use tax (“SUT”), will be required to comply with the dispositions of Act 46-2017 if the taxable sales reported during the prior natural year exceeded \$228,600 ($\$2,000 \div 10.5\% \times 12$).
- All merchants that provide services to other merchants (B2B) or designated professional services which are subject to a 4% SUT, will be required to comply with the dispositions of Act 46-2017 if the taxable sales reported during the prior natural year exceeded \$600,000 ($\$2,000 \div 4\% \times 12$).
- For those merchants that sell both, tangible property subject to the 10.5% SUT and services subject to the 4% SUT, the fortnightly deposit requirement will apply when combined taxable sales for the prior natural year exceeded \$228,600.

Finally, AD 17-07 provides that these dispositions will be effective starting on August 15, 2017 in the case of large taxpayers and September 15, 2017 to taxpayers with average monthly sales tax deposits exceeding \$2,000. All other due dates for sales and use tax remain the same.

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