

Kevane mailbag





December 23, 2015 – Issue 57

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Our Kevane mailbag is your link to all our communications related to the operations of businesses in Puerto Rico. Our purpose is to offer you up-to-date information concerning tax, accounting and any other matters that might have an impact on the way you conduct business in Puerto Rico.

The Alerts contained in our mailbags can also be accessed through our website under the Publications tab\Professional Articles section or by downloading our business and tax application for mobile, tablets and iPad for free through the App Store and Google Play. We welcome your feedback at kgt@pr.gt.com

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| <h3>Audit</h3> <p>FASB has recently issued ASU which simplifies the presentation of the deferred income taxes on balance sheets.</p> <p> Read more</p> | <h3>Tax</h3> <p>The Puerto Rico Treasury Department has issued new guidance for the evaluation and approval of payment plans.</p> <p> Read more</p> | <h3>Advisory</h3> <p>The Puerto Rico Office of Commissioner of Insurance is requiring board of directors of domestic insurers and health service organizations to disclose to its shareholders or members certain financial information as part of their Annual Report.</p> <p> Read more</p> | <h3>Outsourcing</h3> <p>The Puerto Rico Treasury Department has released new guidance in relation with the preparation and electronic filing of W2s-PR and informative returns.</p> <p> Read more</p> |
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General Information Due to Holiday festivities our offices will be closed on December 24 and 25, 2015 and January 6, 2016. Best wishes and prosperity in 2016!

Audit Alert: ASU simplifies presentation of deferred income taxes on balance sheet

The FASB recently issued [ASU 2015-17, Balance Sheet Classification of Deferred Taxes](#), which is intended to simplify and improve how deferred taxes are classified on the balance sheet. The guidance in the ASU eliminates the current requirement to present deferred tax assets and liabilities as current and noncurrent in a classified balance sheet and now requires entities to classify all deferred tax assets and liabilities as noncurrent.

Public companies are required to apply the guidance for annual periods beginning after December 15, 2016 and for interim periods within those annual periods. Private companies, not-for-profit organizations, and employee benefit plans are required to apply the guidance for annual periods beginning after December 15, 2017 and for interim periods within annual periods beginning after December 15, 2018.

Early adoption is permitted for all organizations as of the beginning of an interim or annual reporting period.-

Source: Grant Thornton, *On The Horizon*, December 3, 2015



We are committed to keep you updated of all developments that may affect the way you do business in Puerto Rico. Please contact us for further assistance in relation to this or any other matter.



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December 8, 2015

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Tax Alert: Requirements for the evaluation and approval of payment plans

On December 9, 2015, the Puerto Rico Treasury Department (“PRTD”) issued Internal Revenue Circular Letter No. 15-02-RI (“CL 15-02”), to reiterate the types of tax debts that are not subject to payment plan arrangements, and to establish changes in the evaluation and approval procedures for payment plans.

Tax Debts Not Subject to Payment Plans:

On CL 15-02, the PRTD reaffirms that it will award no payment plans for tax debts related to:

- Sales and Use Taxes;
- salary and wages;
- professional services subject to the 7% withholding at source;
- withholding at source to Non-residents; and
- royalties, among others.

Payment Plan Requirements

In order to procure a Payment Plan Agreement (the “Plan” or the “Agreement”) with the PRTD, the taxpayer must comply with the following requirements:

- either visit the nearest Collections office or contact the PRTD’s Call Center at (787) 722-0216. If the taxpayer employs a representative, the corresponding Power

- of Attorney (Form SC 2745) must be duly completed.
- complete Form SC 3506, “Request and Approval of Payment Plan of Tax Debts”, whereby the taxpayer surrenders its right to the statute of limitations on the tax debts included in the Plan until these are paid in full.
- complete Form SC 3325, *Individual’s Balance Sheet Statement*, or Form SC 3326, *Business and Corporate Balance Sheet Statement*, whichever is applicable.
- the Plan must include the total outstanding tax debt. Once said amount is determined and assessed, the Plan will set a monthly amount to be paid on or before the tenth (10th) day of each month. The executed Agreement can’t exceed three (3) years. Nonetheless, on exceptional circumstances and with the prior authorization of the Assistant Secretary of Internal Revenue, it may be extended for up to five (5) years.
- the Plan must be signed by both husband and wife if the tax debt included in the plan was incurred as a married couple.
- tax return filings must be kept up to date.
- if the taxpayer is a government employee, a wage garnishment or discount will be required as part of the Agreement.



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- the taxpayer agrees to meet any future tax liability, including both prior and subsequent debts that have not been assessed at the time of the execution of the Plan. If the taxpayer is not current in its tax responsibilities, Treasury may annul the Agreement and all of the balance will be due.
- at the execution of the agreement, the taxpayer must pay the required down payment and the balance will be distributed in equal monthly installments throughout the term approved by the PRTD. The taxpayer can make additional contributions to the monthly term and may settle the balance owed at any time. The PRTD will not establish payment plans with a residual payment or "balloon payment" at the end of the term.
- the taxpayer may pay off the balance before the expiration of the established term.
- the payment plan's structure will depend on the individuals, corporations and flow-thru entity's gross income, as well as the amount of the debt.

For CL 15-02 purposes, the term *gross income* will be defined pursuant to Section 1031.01 of Puerto Rico Internal Revenue Code of 2011, as amended (the "Code"), without the benefit of the exemptions under Section 1031.02 nor costs or expenses.

- if the taxpayer has not generated gross income (including members of its controlled group, as such term is defined in the Code), either in the preceding year or in the current year, the debt is taken into account only to determine the parameters of the payment plan.

- taxpayers with a gross income ranging between \$1,000,000 and \$3,000,000 may not establish payment plans for tax debts lower than \$25,000.
- taxpayers with gross income greater than \$3,000,000 may not establish payment plans for tax debts lower than \$50,000.

Payment Plan for Individuals whose total determined tax debt does not exceed \$2,000

In those cases, where an Individual's total debt does not exceed \$2,000, the PRTD may allow for a short-term payment plan, under the following terms:

- the individual shall comply with the requirements of this Circular Letter.
- up to 12 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Individuals with a total determined tax debt exceeding \$2,000 but no greater than \$5,000

- the individual shall comply with the requirements of this Circular Letter.
- up to 24 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Individuals with a total determined tax debt exceeding \$5,000 but no greater than \$10,000

- the individual shall comply with the requirements of this Circular Letter.
- up to 36 months to pay off the balance.
- a 25% down payment of the total balance due.

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Payment Plan for Individuals with a total determined tax debt exceeding \$10,000 but no greater than \$100,000

- the individual shall comply with the requirements of this Circular Letter.
- up to 60 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Individuals with a total determined tax debt in excess of \$100,000

- the individual shall comply with the requirements of this Circular Letter.
- up to 60 months to pay off the balance.
- a 40% down payment of the total balance due.
- must submit a bond along with Form SC 6019, "*Bond to Secure the Payment of Contributions, Interest and Penalties*", and include the supplemental documents, according to the type of bond presented for approval.
- approval from the Assistant Secretary of Internal Revenue.

Payment Plan for Taxpayers with gross income between \$1,000,000 and \$3,000,000, and a total determined tax debt between \$25,000 and \$50,000

- the taxpayer shall comply with the requirements of this Circular Letter.
- up to 12 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Taxpayers with gross income between \$1,000,000 and \$3,000,000, and with a total determined tax debt between \$50,001 and \$100,000

- the taxpayer shall comply with the requirements of this Circular Letter.
- up to 24 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plans for Taxpayers with gross income between \$1,000,000 and \$3,000,000, and with a total determined tax debt between \$100,001 and \$500,000

- the taxpayer shall comply with the requirements of this Circular Letter.
- up to 36 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Taxpayers with a gross income between \$1,000,000 and \$3,000,000, and with a total determined tax debt in excess of \$500,000

- the taxpayer shall comply with the requirements of this Circular Letter.
- up to 60 months to pay off the balance.
- a 40% down payment of the total balance due.
- must submit a bond along with Form SC 6019, "*Bond to Secure the Payment of Contributions, Interest and Penalties*", and include the supplemental documents, according to the type of bond presented for approval.
- approval from the Assistant Secretary of Internal Revenue.

Payment Plan for Taxpayers with gross income greater than \$3,000,000, and with a total determined tax debt between \$50,001 and \$100,000

- the taxpayer shall comply with the requirements of this Circular Letter.
- up to 12 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Taxpayers with gross income greater than \$3,000,000, and with a total determined tax debt between \$100,001 and \$500,000

- the individual shall comply with the requirements of this Circular Letter.
- up to 24 months to pay off the balance.
- a 25% down payment of the total balance due.

Payment Plan for Taxpayers with gross income greater than \$3,000,000, and with a total determined tax debt between \$500,001 and \$1,000,000

- the individual shall comply with the requirements of this Circular letter.
- up to 36 months to pay off the balance.
- a 40% down payment of the total balance due.
- must submit a bond along with Form SC 6019, "*Bond to Secure the Payment of Contributions, Interest and Penalties*", and include the supplemental documents, according to the type of bond presented for approval.
- approval from the Assistant Secretary of Internal Revenue.

Payment Plan of Taxpayers with gross income greater than \$3,000,000, and with a total determined tax debt in excess of \$1,000,000

- the individual shall comply with the requirements of this Circular Letter.
- up to 48 months to pay off the balance.
- a 40% down payment of the total balance due.
- must submit a bond along with Form SC 6019, "*Bond to Secure the Payment of Contributions, Interest and Penalties*", and include the supplemental documents, according to the type of bond presented for approval.
- approval from the Assistant Secretary of Internal Revenue.

The Payment Plan should be kept updated at all times. Otherwise, pursuant to Subtitle F, Chapter 6 of the Code, the PRTD can employ, among others, any of the following payment mechanisms to recover the balance due: (1) require the taxpayer's financial institution to withhold the debt payment from taxpayer's bank accounts; (2) seize and auction the taxpayer's personal and/or real property expeditiously; and/or (3) order the withholding of payments if taxpayer is of supplier of goods and services to the Commonwealth of Puerto Rico.

Moreover, the PRTD will proceed to notify the Credit Bureau of the aforesaid default.

Please contact our Tax Department should you require additional information regarding this or any other tax issue; we will be glad to assist you.

Advisory Alert: OCI Ruling Letter – Reports to be submitted at shareholder or partner’s meetings

The Office of the Commissioner of Insurance (the “OCI”) considers that it is of vital importance that the shareholders or members of domestic insurers be aware of the financial circumstances of the insurer or health services organization. As such, on November 23, 2015, the OCI issued [Ruling Letter CN-2015-191AF](#), which requires from all domestic insurers and health service organizations the submission of certain financial information that is disclosed in the Annual Report required by the OCI, to shareholders or members of the organization. Specifically, the purpose of this new Ruling Letter is to require that the boards of directors of said entities provide the information included in the Annual Report as per the Insurance Code and Rule 14 of the Code as part of the reports to be submitted to the shareholders or members of the organization.

As part of the annual meetings required under provisions of Sections 29.140 and 34.100 of the Puerto Rico Insurance Code, officers of insurers are currently submitting business reports to the shareholders or members of the organization that normally includes information shown in the Annual Report. These reports are presented in accordance to the statutory accounting principles (STAT) provided by the National Association of

Insurance Commissioners (NAIC), which emphasize the

financial situation of the organization, focusing on the solvency of the insurer and their capacity to meet its obligations. As this information is prepared based on principles other than the generally accepted accounting principles (GAAP) used in financial statements, it will be helpful to shareholders and members of the organizations to understand regulatory actions that may affect them. With this Ruling Letter, the OCI is formalizing this process by establishing standard requirements in the submission of said information.



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The OCI will consider that a report submitted to the shareholders or members to be in compliance with the Ruling Letter if the report includes elements of the Annual Report that has been filed or will be filed with the OCI and contains at least the following parts of the report:

- a. Comparative Financial Statements
- b. Comparative Statement of Income and Expenses
- c. Cash Flow Statement
- d. Capital Statement
- e. Compliance with Risk-based Capital, under Chapter 45 of the Insurance Code



If the summary of the Annual Report that is provided does not misrepresent or modify any of the items of the Annual Report that has been filed and will be filed with the OCI, it will be considered that the Ruling Letter has been complied with, in terms of facilitating the submission and interpretation of the report. Amendments to the Annual Report made in due course after the annual shareholders' or members' meeting will not be considered to be a failure of compliance with the Letter.

If you need assistance on this matter, call us to make an appointment with one of our experienced advisors. We will be glad to assist you.

The provisions of this Rule are enforceable with regard to the Annual Report for the calendar year 2015, to be submitted to the shareholders or members in the annual meetings during the 2016 calendar year and subsequent years.

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Outsourcing Alert: Update on payroll withholding statements and informative returns filing requirements in Puerto Rico

The Puerto Rico Treasury Department has issued Publications **15-04**: Form 499R-2/W-2PR Electronic Filing Requirements and **15-06**: Informative Returns Electronic Filing Requirements intending to inform employers and withholding agents on changes in the preparation and electronic filing of the W-2PR forms and informative returns for taxable year 2015.

What's New

- The Department of the Treasury has required the electronic filing of Form AS 2727 "Request of Extension of Time to File the Withholding Statement (W-2PR) and Reconciliation Statement of Income Tax Withheld (499R-3), starting with taxable year 2015. The electronic application is available through the PRTD's website. Filings in paper form, via fax, mail or any other method will be considered as not filed.
- The social security wage base for the taxable year 2015 is \$118,500.
- The Contributions to CODA cannot exceed \$19,500.
- There are some editorial changes and corrections for clarification purposes.

Reminders

The Treasury Department will not accept payroll or informative returns printed forms without the confirmation number. Handwritten or typed confirmation numbers on returns will automatically invalidate the forms.

If you have less than 250 of these forms, you can use the *2015 W-2 and Informative Returns Program* available through the Department of Treasury website. Otherwise, use the specifications provided in these publications.

Links:

Publication 15-04

http://www.hacienda.gobierno.pr/sites/default/files/publicaciones/2015/10/publication_15-04.pdf

Publication 15-06

http://www.hacienda.gobierno.pr/sites/default/files/publicaciones/2015/12/publication_15-06_0.pdf

At Kevane Grant Thornton we provide our clients with personalized attention, valuable advice and recommendations, tailored solutions and direct access to technical experts to help clients resolve issues and identify opportunities.



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