

Tax Alert: Proposed regulations for the deduction of automobiles expenses in Puerto Rico

On December 28, 2016, the Puerto Rico Treasury Department (“PRTD”) issued a *Proposed Regulation* to amend Articles 1033.07(a)(3)(G)-1 through 1033.07(a)(3)(G)-7 and to repeal Articles 1031.02(a)(33)-1 to 1031.02(a)(33)-6 of Regulation No. 8049 of July 21, 2011, as amended (“Regulation 8049”), which allows taxpayers to elect how will they compute and claim the deduction for expenses incurred or paid for the use and maintenance of automobiles in the trade or business, or for the production of income in Puerto Rico.

State of Affairs prior to new Proposed Regulation

Section 1033.07(a)(3)(G) of the 2011 Internal Revenue Code for a New Puerto Rico (the “Code”) states that the automobile expenses deduction will be based on a standard mileage rate attributable to said trade or business, in lieu of actual expenses incurred, at a rate to be determined by the Secretary of the Treasury through further Regulation.

Further communications were issued to state a standard mileage rate of \$0.60 and to allow the deduction of actual automobile related expenses incurred until December 31, 2013.

As noted in our January 23, 2015 Tax Alert, the PRTD submitted Regulation No. 8297 (“Regulation 8297”) to the Puerto Rico State Department for the purpose of regulating Sections 1031.02(a)(33) and 1033.07(a)(3)(G) of the Code and to incorporate related regulations into Regulation 8049.

Due to constant difficulties in the practical application, and after various extensions postponing the effectiveness of the Regulation 8297, the PRTD repealed Articles 1031.02(a)(33)-1 thru 1031.02(a)(33)-6 and 1033.07(a)(3)(G)-1 thru 1033.07(a)(3)(G)-7 from Regulation 8049, through Administrative Determination No. 15-01.



Proposed Regulation to amend Articles 1033.07(a)(3)(G)-1 thru 1033.07(a)(3)(G)-7 of Regulation 8049
The new *Proposed Regulation* seeks to clarify the computation of automobile expense deduction by allowing taxpayers subject to Section 1033.07(a)(3)(G) of the Code to claim the above-mentioned deduction based on the following alternatives:



Contact us

For assistance in this matter, please contact us via maria.rivera@pr.gt.com, francisco.luis@pr.gt.com, lina.morales@pr.gt.com or isabel.hernandez@pr.gt.com



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- computation of expense will be based on a standard mileage rate of \$0.60 for each mile attributable to the production of income;
- or
- actual expenses for the use and maintenance of automobiles incurred during the production of income, including those properly disclosed under an accountable plan established by an employer.

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

Once an alternative has been chosen, the taxpayer must use the same alternative during the entire tax period.

Recordkeeping related to the use and maintenance of automobiles

It is important to keep complete records to substantiate deductible automobile expenses reported on the taxpayer's return.

To claim the standard mileage rate, appropriate and detailed records must be available for the review of the PRTD.

In addition, if an employer provides a car that is also available for the employee's personal use, it must use an allocation procedure to determine what will be consider personal vs. business use.

Note: As highlighted in our July 1, 2016 Tax Alert, the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), seeks, among other things, to provide Puerto Rico with fiscal and economic discipline through the creation of a control board. Virtually every fiscal decision by the Government of Puerto Rico will be made or approved by the Oversight Board (the "Board") created by PROMESA. On this regard, the Board has authority to prevent the execution or enforcement of a contract, rule, executive order or regulation to the extent that it is inconsistent with the approved fiscal plan.

We will monitor the development of this proposed regulation and keep you updated through our Tax Alerts.

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