



Tax



Records



Taxpayer

Tax Alert: Internal Revenue Circular Letter No. 17-12

August 15, 2017

On August 3, the Puerto Rico Treasury Department (the “PRTD”) issued Internal Revenue Circular Letter No. 17-12 (“CL 17-12”) to establish an alternative and expedient option to taxpayers under Correspondence Audits.

What are Correspondence Audits?

Pursuant to Section 6051.02 of the 2011 Internal Revenue Code for a New Puerto Rico, as amended (the “Code”), in determining the correctness of any tax return or statement, the Secretary of the Treasury (the “Secretary”) is authorized to examine all documents that he or she deems pertinent for that purpose. It is in the exercise of this prerogative that the PRTD can send a particular taxpayer a Request for Information (“RFI”) in those cases where there are potential adjustments to a tax deficiency related to what was declared in a tax return or statement. These are known as **Correspondence Audits**.

Given the considerable back and forth between the taxpayer and the PRTD, these Correspondence Audits tend to be cumbersome and time-consuming for both parties involved.

Eager to expedite the process for everyone involved, through the enactment of CL 17-12, Treasury has established an alternate method whereby, instead of recurring to the ordinary Correspondence Audit, the taxpayer enters into a settlement agreement (“Acuerdo y Compromiso”) with the PRTD and pays the potential tax deficiency adjustment with a discount.

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How will this Settlement Agreement under CL 17-12 work?

The PRTD will send a RFI to particular taxpayers in those cases where it estimates that a potential tax deficiency adjustment will take place with regards to Individual Income Tax Return' Industry o Business Income (i.e. Schedules K, L, M & N).

Along with the RFI, the PRTD will include the Settlement Agreement which will lay out the following two (2) options for the taxpayer to benefit from:

1. **payment in full** of the potential tax deficiency adjustment, with a twenty-five percent (25%) discount, plus applicable interests but without any surcharges.
2. enter into **payment plan** of the potential tax deficiency adjustment under the Taxpayer Rehabilitation Program prescribed on Circular Letter No. 17-05, with a twenty-five percent (25%) discount, plus applicable interests **and** surcharges.

The taxpayer will have a thirty (30) day window, from the date of the RFI, to choose either of the above and send the duly completed and signed Settlement Agreement. Once the PRTD receives it, the auditor in charge will issue the taxpayer a summary of the investigation (Form SC 3114), which will then be filed by the taxpayer, along with the elected payment plan.

If the taxpayer does not agree with the above referenced plans, an ordinary Correspondence Audit will take place and the taxpayer will have the aforesaid 30-day period, from the date of the RFI, to procure and submit:

1. procure and submit copies of commercial invoices and evidence of payment requested on the RFI that validate the amounts that were declared on the Individual's Income Tax Return that is currently being subject to the audit procedure;
2. download and complete the EXCEL spreadsheet that is part of CL 17-12. Both invoices and payments must properly identify the corresponding operational expense that was claimed in the Income Tax Return.
3. send the requested the documents, along with the EXCEL spreadsheet, in PDF format to the following email address: porpuertorico@hacienda.pr.gov

In addition, the taxpayer will not be able to benefit from the ten percent (10%) abatement of penalties that Circular Letter No. 17-05 affords and will be liable for a 10% penalty on unpaid amount attributable to estimated payments under Sections 1061.20, 1061.21 and 6041.09.

If the taxpayer does not comply with the RFI within the 30-day period, the PRTD will proceed to notify a tax deficiency pursuant to Section 6010.02 of the Code.

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



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