



Tax



Small
Businesses



Taxpayer

Tax Alert: Sales and Use Tax exemption to certain merchants

November 16, 2017

On November 8, 2017, the Governor of Puerto Rico issued Executive Order 2017-68 in which authorizes the Secretary of the Treasury to take all the necessary tax measures in helping taxpayers during this state of emergency as a result of the passage of Hurricane María. Specifically, small and medium businesses (known by its Spanish acronym “PYMES”) which have an important role in the economy of Puerto Rico. Additionally, on November 10, 2017, the Puerto Rico Treasury Department (“PRTD”) issued Administrative Determination 17-26 (“AD 17-26”) providing certain PYMES a temporary exemption period from the collection of the sales and use tax (“SUT”) on their sales and from the payment of use tax on the purchase of inventory for resale.

The provisions included in AD 17-26 are the following:

- there will be a temporary exemption period from November 20, 2017 through December 31, 2017, that will allow Exempt Merchants to be exempt from collecting the SUT.
- for purposes of AD 17-26, the term “Exempt Merchants” means merchants with gross annual sales of \$1,000,000 or less and that are not classified as Large Taxpayers. In order to be considered an Exempt Merchant, the gross annual sales will be determined using the sales (exempt and taxable) reported in the SUT Monthly Return for the 12 month period from August 2016 through July 2017.
- for new merchants that began operations after July 31, 2017 and for merchants that began operations after August 31, 2016, the procedure to determine the gross annual sales will be different.
- merchants that are considered withholding agents and that have filed all the SUT Monthly Returns until July 2017 will be eligible for the temporary exemption period.

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- the PRTD will review the SUT Monthly Returns filed from August 2016 through July 2017 and will issue a Temporary Certificate of Exempt Merchants through SURI showing that the merchant is now a non-withholding agent.
- this temporary certificate will be available in SURI on November 15, 2017.
- on the other hand, those merchants that understand they qualify to be considered exempt merchants and did not received the temporary certificate, must request it through SURI using the link “Send Message” in the user’s home page.
- exempt merchants will have to report the sales covered by the temporary exemption period in the Exempt Sales section of the SUT Monthly Return, until such period is ended.
- exempt merchants will be granted with another exemption, but this time related to use tax, only in the purchase of inventory for resale.
- in order to obtain the use tax exemption, exempt merchants must provide the Certificate of Exempt Purchases (Form AS 2916.1) to the vendor along with a copy of the Temporary Certificate of Exempt Merchants.
- the use tax exemption does not apply to the purchase of tangible personal property for use or to services received.
- in the case of merchants using the accrual basis method, the transactions invoiced during the temporary exempt period will be exempt if they are sold by an exempt merchant.
- in the case of merchants using the cash basis method, the transactions that are considered exempt will be those whose collection or payment is received within the temporary exempt period.
- those merchants covered by the temporary exemption period and charges the SUT on their sales, will be subject to penalties of \$100 for each, receipt, invoice, ticket or other evidence of sale.

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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