



Non-withholding Agents required to submit quarterly reports

April 27, 2018

Act 25 of 2017 created a new category of merchants known as “Non-withholding Agent”. These merchants are engaged in the business of “mail order sales” and their only contact with Puerto Rico is that the buyer is a resident of Puerto Rico or a person carrying on a trade or business in Puerto Rico.

This type of Non-withholding Agents are required to send Quarterly Reports to the Puerto Rico Treasury Department (“PRTD”) for all the sales made to Puerto Rico buyers during a quarter. The obligation to remit such Quarterly Report became effective on July 1, 2017. However, due to the passage of Hurricane María, the PRTD waived the requirement to file the Quarterly Reports corresponding to the quarter beginning on July 1, 2017 and ending on September 30, 2017, and the quarter beginning on October 1, 2017 and ending on December 31, 2017.

Nevertheless, on April 20, 2018, the PRTD issued Internal Revenue Circular Letter 18-07 to establish that every Non-withholding Agent must submit through SURI the Quarterly Report corresponding to the quarter that began on January 1, 2018 and ended on March 31, 2018. This report is due on April 30, 2018.

The procedure to submit the Quarterly Reports is the following:

1. access SURI: <https://suri.hacienda.pr.gov>.
2. in the Home Page, in the “Downloads” menu, click the “Quarterly Report – Internet Sales” link to access the most recent version of the template.
3. complete the information of all the sales made to Puerto Rico buyers during the quarter.
4. once you complete the required information of the Quarterly Report, access the SURI home page and in the “Quick Links” menu, click “File a Quarterly Internet Sales Report”.
5. complete the seller information requested and submit the information.
6. select the year and quarter for which the Quarterly Report is being submitted and click “Next”.
7. click the “Upload Template” link in order to upload the Quarterly Report. Browse the file that was saved with the information to upload and click “Save”.
8. once the file has been uploaded, the system will show you the information of the Quarterly Report to be submitted. If you agree with the information, click “Submit”
9. in order to proceed with the electronic filing of the Quarterly Report, the system will require you to enter your email address as an electronic signature.

10. once the Quarterly Report is filed, the system will provide you with an electronic filing confirmation number.

Remember that Non-withholding Agents may voluntarily request to become a Sales and Use Tax (“SUT”) withholding agent, and thus, be required to collect and remit the SUT subject to the terms and conditions of a voluntary agreement with the Secretary of the Treasury. Those Non-withholding Agents that have entered into a voluntary agreement are not required to submit the Quarterly Reports.

Non-withholding Agents that wish to voluntarily collect the SUT on their sales to a person in Puerto Rico can submit a closing agreement request to the following email address:

acuerdofinal@hacienda.pr.gov.

Puerto Rico and many states are still waiting for the decision of the U.S. Supreme Court in the case *South Dakota v. Wayfair*, 17-494 on whether remote sellers that do not have physical presence in a state can be required to collect and remit the SUT on online sales.

The good news is that on April 17, 2018, the U.S. Supreme Court heard oral arguments related to this case. However, throughout the hearing it was evident how the Justices’ views differed in regards to this topic. Also, it reflected that each party has its own valid opinion in support of its arguments. On this regard, this case can be expected to cause controversy irrespective of the U.S. Supreme Court’s final decision.

For your reference, please see full article prepared by Grant Thornton: [Supreme Court considers landmark Wayfair case](#)

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



María de los Angeles Rivera
Partner Head of Tax and
IBC Director
E maria.rivera@pr.gt.com



Lina Morales
Tax Partner
E lina.morales@pr.gt.com



Francisco Luis
Tax Partner
E francisco.luis@pr.gt.com



Isabel Hernández
Tax Partner
E isabel.hernandez@pr.gt.com



DISCLAIMER: This update and its content do not constitute advice. Clients should not act solely on the basis of the material contained in this publication. It is intended for information purposes only and should not be regarded as specific advice. In addition, advice from proper consultant should be obtained prior to taking action on any issue dealt with this update.

© 2018 Kevane Grant Thornton LLP All rights reserved. Kevane Grant Thornton LLP is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. Services are delivered by the member firms. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another’s acts or omissions. Please visit www.grantthornton.pr for further details.