



Tax



Business



Taxpayer

Puerto Rico Sales and Use Tax Alert

July 6, 2018

Proposed Tax Free Holiday Period in Preparation for the Hurricane Season

The island of Puerto Rico will never forget the month of September 2017. Hurricanes Irma and Maria hit the island causing major damages like never before. Puerto Rico residents underestimated the strength of these hurricanes and how they were going to affect their day-to-day routine. Now, more than ever Puerto Rico residents and government know that they should take all natural threats more seriously.

Taking this previous experience into account, the Puerto Rico Senate presented Bill No. 1016 to establish a tax free holiday period in preparation for the hurricane season

A. Tax free holiday in preparation for the hurricane season

Bill 1016 proposes a Sales and Use Tax ("SUT") exemption period of three (3) days in the month of June covering the sale of essential articles needed to be prepared for a hurricane. Pursuant to Bill 1016, the Secretary of the Treasury will issue a Circular Letter on or before May 1 of each fiscal year, specifying the 3-day exemption period during the month of June. For those years in which the Puerto Rico Treasury Department ("PRTD") does not issue a Circular Letter, it will be understood that the exemption period will begin at 12:01 a.m. of the first Friday of June and will end at 11:59 p.m. of the first Sunday of June.

If the Bill is approved, for the year 2018 the tax exemption period will begin on Friday August 3, 2018 at 12:01 a.m. and will end on Sunday August 5, 2018 at 11:59 p.m.

B. List of exempt articles

The articles that will be exempt during the 3-day exemption period are the following:

1. portable light sources
2. portable radios powered by batteries, solar energy or hand-crank
3. tarps or waterproof covers
4. anchor systems, including moorings systems and ropes
5. storage containers for gasoline and diesel

6. battery packs of the following types: AAA, AA, C, D, 6-volts or 9-volts (boat and automobile batteries are excluded)
7. non-electric food storage coolers
8. portable generators used to provide electricity, communications or to preserve food in the event of a power outage
9. reusable ice packs
10. first aid kits
11. canned food, including meats, vegetables, fruits, peanut butter and other non-perishable food (already exempt from SUT under the 2011 Puerto Rico Internal Revenue Code)
12. baby food and formulas (already exempt from SUT under the 2011 Puerto Rico Internal Revenue Code)
13. unflavoured bottled water (limited to two (2) boxes per family per purchase made) (already exempt from SUT under the 2011 Puerto Rico Internal Revenue Code)

C. Lay away

The sales of articles under a lay away plan qualify for the exemption from the payment of SUT when the final payment under the lay away plan is made and the article is delivered to the buyer during the exemption period.

D. Vouchers (“rain checks”)

The articles purchased during the exemption period using a voucher qualify for the exemption regardless of when the voucher was issued.

E. Gift certificates and gift cards

The articles purchased during the exemption period using a certificate or gift card, qualify for the exemption regardless of when the gift certificate or gift card was purchased.

F. Other matters

The merchant’s records must identify the type of article sold, the date it was sold, the sales price of all articles and if applicable any SUT collected.

No special reporting is required for the exempt sales made during the exemption period. Merchants should report all the qualifying sales on the SUT Monthly Return as exempt sales.

The wait is over! There is a verdict in the case of South Dakota v. Wayfair

In the year 2017, the government of Puerto Rico approved Law 25 with the purpose of amending the nexus rules in Puerto Rico and to establish a new merchant category called "Non-Withholding Merchant". This new merchant category has several information requirements to be provided to the Department of Treasury related to their shipments to Puerto Rico. The purpose of this Act was to establish the mechanism and rules so that the government could obtain information about the shipments made to Puerto Rico by the non-resident merchants with no physical presence in the Island. Under this Act, non-resident merchants have the option to voluntarily register as SUT withholding agents to avoid all other information requirements ([See our Tax Alert related to Act 25, 2017](#)). On March 2018, the Puerto Rico Treasury Department announced that Amazon agreed to start collecting the SUT on its sales to Puerto Rico commencing on April 1, 2018. The agreement in which Amazon started collecting the Puerto Rico SUT was expected due to the requirements implemented by Act 25, 2017.

On June 21, 2018, in a 5-4 verdict, the U.S. Supreme Court has decided in *South Dakota v. Wayfair*, 17-494, that remote sellers have to collect the sales taxes in States where they have no physical presence. This decision overruled the verdict from the case *Quill v. North Dakota*, 504 U.S. 298 (1992), which provided that the lack of physical presence on remote sales exempts a seller from the obligation of collecting and remitting the sales taxes to any state.

As a result, merchants that sell and/or purchase goods online to be introduced to Puerto Rico should review how this decision will affect their operations and what changes need to be made in their accounts payable/receivable systems. For example: If purchasing goods online for which use tax is currently being paid, high level of awareness is needed in order to avoid possible double payment of the tax.

For your reference, please see full article prepared by Grant Thornton:

[Wayfair ruling overturns Quill physical presence requirement](#)

Please contact Javier Oyola, Raúl Robles or María de los A. Rivera should you need additional information regarding this or any other tax issue. We will be glad to assist you.



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