



Tax



Reform



Taxpayer

# Tax update: Puerto Rico recent tax legislation

**July 24, 2018**

Below we provide a brief overview of recently enacted (during the last extraordinary session) tax statutes in Puerto Rico. The much-awaited Tax Reform and Incentives Code were not approved during this session, though it is expected that they will be considered in the August session.

## **Act No. 122-2018**

Article 3.42 of the Municipal Property Tax Act of 1991, as amended, authorizes the Executive Director of the Municipal Revenue Collection Center (the “CRIM” for its acronym in Spanish) to grant payment plans to taxpayers who are undergoing adverse financial circumstances.

Recognizing that the concession of these plans – and in some cases, the complete exoneration from payment – directly affects the beneficiaries of the CRIM’s efforts (i.e. the municipalities), Act No. 122 of June 29, 2018 (“Act 122-2018”) amends Article 3.42 to require the CRIM to secure the acquiescence of the Municipality where the property is located, prior to the execution of any payment plan or tax exoneration where the unpaid amount exceeds \$100,000. The Municipality will have a 5-day window to express its opinion as to the CRIM’s plan. If the term elapses without the Municipality’s opinion, the CRIM’s plan will proceed.

Act 122-2018 is effective immediately.

## **Act No. 133-2018**

Act No. 133 of July 10, 2018 amends Section 36 of the Municipal License Tax Act of 1974 to reduce the applicable

interest rate on administrative refunds or credits from a six percent (6%) to a three percent (3%).

## **Act No. 137-2018**

Act No. 272 of 2003, commonly known as the *Room Tax Act*, was put in place to transfer the obligation of collecting the room tax from the Puerto Rico Treasury Department to the Puerto Rico Tourism Company, and to establish the distribution formula for said tax.



The economic crisis, coupled with hurricane Maria, has left many hoteliers in dire straits – with a considerable few unable to fulfill their room tax obligation. In view of this particular set of circumstances, Act No. 137 was approved on July 10, 2018 to establish a payment plan (the “Plan”) for outstanding room tax debts – be it through a single payment or installment payments.

If the hotelier or its duly authorized representative opts for a single payment, interest, surcharges and penalties will be waived. In the alternative, if installment payments are the preferred course, the hotelier or its duly authorized representative must make an initial payment equal to twenty percent (20%) of the principal amount as part of the Plan. Under this installments option, seventy-five percent (75%) of the interest, surcharges and penalties will be waived and the residual twenty-five percent (25%) will be added to the remaining principal amount (i.e. 80%) and included in the Plan.

This special payment plan incentive under Act 137-2018 will run for a one hundred eighty (180) day period, counted from the enactment date of the Act.

### Act No. 138

Section 1101.01 of the 2011 Internal Revenue Code for a New Puerto Rico (the “Code”) establishes a series of income tax exemptions for corporations and non-profit entities. Particularly, Subsection 5 provides income tax exemption to associations of property owners.

The express language of Sec. 1101.01(5)(A) states that the exemption applies *residential property and condominiums*, which has curtailed the application of the exemption to property owner associations on mixed-use condominiums. Act 138-2018 extends the exemption under 1101.01(5) to those associations that administer residential property within a mixed-use condominium.

We continue with our commitment to keep you abreast of all tax developments. Please contact our Tax Department should you need additional information regarding this or any other issue. We will be glad to assist you.



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