



Tax



Business



Records

SUT postpones the requirement for the commercial lease exemption

October 3, 2019

Act 257 of December 10, 2018 (“Act 257-2018”), introduced important changes to the Puerto Rico tax system including the amendment of Section 4030.14 of the Puerto Rico Internal Revenue Code of 2011 (“the Code”), as amended. Under Section 4030.14 of the Code, the rental payments for the lease of real property for commercial purposes are exempt from the payment of the sales and use tax (“SUT”), including the payments for offices, storage and parking spaces.

However, Act 257-2018 establishes that in order to have the right to this exemption, the lessee must prove to the lessor that he complies with the requirement of maintaining a fiscal terminal, in those cases where it is required to have such terminal.

On May 1, 2019, the Puerto Rico Treasury Department (“PRTD”) issued Administrative Determination 19-01 to clarify that the effectiveness of the commercial lease exemption requirement was October 1, 2019. Since then, the PRTD has received several inquiries from merchants (lessees and lessors) related to the type of evidence necessary to comply with this new SUT exemption rule. As a result, the PRTD recently issued Administrative Determination 19-05 to determine that the validity of the commercial lease exemption requirement will be postponed until June 30, 2020. Therefore, as of July 1, 2020, every tenant must prove to the lessor that he/she meets the requirement to maintain a fiscal terminal.

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