



Tax



Business



Taxpayer

Application of overpayments against other taxes approved by the PRTD

June 26, 2020

On March 24, 2020, the Puerto Rico Treasury Department (“PRTD”) issued Administrative Determination 20-10 allowing the application of refunds and overpayments from certain type of taxes, against debts from another type of tax such as: (i) income taxes, (ii) excise taxes, (iii) alcoholic beverages taxes, and (iv) credits for the payment of sales and use tax (“SUT”) on the imports of taxable items for resale.

As a result, the PRTD recently issued Circular Letter 20-28 establishing the process and eligibility requirements to request the application of overpayments against other taxes (“Application of Overpayments against Other Taxes”).

Every taxpayer may request the Application of Overpayments against Other Taxes through SURI by indicating the type of taxes for which an overpayment is available, or a refund has been claimed and not yet received, as well as informing the intent to use such funds to offset a debt corresponding to another type of tax. However, such treatment will not be applicable when the type of tax reflecting a debt is the SUT account.

The request for Application of Overpayments against Other Taxes can only be submitted by the Master Administrator, Secondary Administrator or by any user with the access level of “File and Pay” through the following process:

1. login into the SURI account.
2. in the “I Want To” menu, click on the link “More Options”.
3. in the “Financial” section, click on the link “Transfer overpayments against other taxes”.
4. select the account type for which you have an overpayment, enter the amount you want to transfer and select the account type that will receive the transfer.
5. upload any supporting documentation about the existence of the overpayment and evidence of the refund request previously submitted.

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This request is available for the following type of taxes:

- A. income taxes
 - a. any taxpayer that has claimed a refund for the concept of income taxes on tax returns corresponding to taxable years including 2019 or prior years, can request the application of such refund against any other tax debt.
 - b. supporting documentation
 - i. copy of the return reflecting the refund claimed and its filing evidence.
 - ii. if the refund claimed in the return arises from an overpayment applied from a previous taxable period, it is required to include copies of the returns corresponding to all the taxable years that show the source of the overpayment and the tracking on how such payment was applied during future tax periods.
 - iii. other documents necessary to demonstrate the source of the overpayment.
- B. income tax withholding at source
 - a. in the case of amounts deposited in excess of income taxes withheld, the withholding agent may also request that such amounts deposited in excess be accredited against other type of taxes, except SUT debts.
 - b. applies to overpayments reflected in the following SURI Tax Accounts: Wages Withholding, Services Rendered Withholding, Other Income Withholding and Non-resident Withholding
- C. excise and alcoholic beverage taxes
 - a. in the case of overpayments from excise taxes or alcoholic beverages taxes, for which a claim for refund has been submitted and approved by the PRTD, but not yet received by the taxpayer as a refund, the latter may submit the request for Application of Overpayments against Other Taxes for said refund to be applied to a debt of another type of taxes, except SUT debts.
 - b. supporting documentation
 - i. copy of the refund request submitted to the PRTD.
 - ii. evidence that the claim was evaluated and approved by the PRTD.
 - iii. certify that, as of the filing date of the request for Application of Overpayments against Other Taxes, said refund has not been received by the taxpayer.
- D. credit for SUT paid on imports of taxable items
 - a. any merchant that is a reseller and holds a valid Reseller Certificate can request to apply the SUT credit against other taxes.
 - b. those merchants holding an Eligible Reseller Certificate cannot make the request for Application of Overpayments against Other Taxes.

Once the request and its supporting documentation have been duly evaluated by the PRTD, a notification of approval or denial will be issued through SURI.

In other matters, back on February 19, 2020, the PRTD issued Circular Letter 20-09 (“CL 20-09”) establishing the applicable rules for special distributions from qualified retirement plans and Individual Retirement Accounts (“IRA Account”) due to the earthquakes in Puerto Rico. According to CL 20-09, those payments or cash distributions made from a qualified retirement plan or an IRA Account during the period between February 20, 2020 and June 30, 2020 (“Eligible Period”), and that have been requested by an individual to cover eligible expenses, will qualify as special disaster distributions and enjoy the tax benefits. The PRTD then issued Circular Letter 20-23 (“CL 20-23”) extending the provisions from CL 20-09 regarding special disaster distributions due to the COVID-19.



The PRTD understands that it is necessary to extend the Eligible Period established in CL 20-09 to grant an additional period of time for individuals to access retirements funds and IRA Accounts to the extent their economic conditions allow it.

Therefore, the PRTD recently issued Circular Letter 20-29 amending the CL 20-09 and CL 20-03 to establish that the Eligible Period to make the special disaster distributions will be valid until December 31, 2020.

We are committed to keep you up to date with all tax-related developments. 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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