



Tax



Business



Taxpayer

# The PRTD issued guidance on the Sales and Use Tax exemption

July 17, 2020

Act 57 signed on June 14, 2020 established an exemption from the special Sales and Use Tax (“SUT”) of 4% applicable to business to business services and designated professional services for the months of April, May and June of 2020 (“Temporary Period”). Recently, the Puerto Rico Department of the Treasury (“PRDT”) issued the Circular Letter of Internal Revenue 20-33 (“CC 20-33”) establishing the applicability of the 4% SUT exemption based on the merchant's accounting method.

CC 20-33 establishes that for those merchants who use the accrual basis method of accounting for SUT purposes, and that in the ordinary course of their business, do not receive the payment at the time of sale, the services billed during the Temporary Period will be considered exempt services from the 4% SUT.

On the other hand, in the case of merchants who use the cash basis method of accounting for SUT purposes, the services that will be considered exempt under the provisions of Act 57-2020 will be those that were billed during the Temporary Period, regardless of when the payment is received.

Pursuant to CC 20-33, those merchants who prior to the approval of Act 57-2020, billed the 4% SUT on their services during the Temporary Period, and have reported and remitted said tax in their Monthly SUT Return for the months of April, May and June 2020, will have to amend their returns to report said services as exempt from the 4% SUT. In these cases, the system will reflect a credit balance available in the Sales and Use account corresponding to the 4% SUT that, prior to the amendment of the return, had been remitted on the services reported as taxable. The PRTD requires the upload of the following documentation into SURI in order for the merchant to be able to amend their returns and claim the 4% SUT credit:

1. if the invoices were paid and the service provider collected the SUT, the taxpayer must upload evidence that shows that the merchant returned the 4% SUT that was paid by the clients;

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2. a merchant under the accrual method of accounting who billed the 4% SUT but has not received the payment from the clients, must upload evidence showing that the merchant issued a revised invoice including an adjustment to eliminate the IVU of 4% previously billed on the services. The adjustment in the revised invoice must contain the following description: "Temporary Exemption from the 4% Sales and Use Tax Act 57-2020"; and
3. evidence from the client acknowledging receipt of the 4% SUT returned or the revised invoice that is pending payment, eliminating the 4% SUT previously billed on the services.

#### Process to upload the evidence:

The following process must be followed to upload the required documents to the SURI system:

1. on the "Send message" screen, you must choose: (i) in the Account type box, "Sales and Use"
2. in the box for the period "Apr 30, 2020", "May 31, 2020" or "Jun 30, 2020", as applicable
3. in the category box, "Return";
4. in the type box, "Amendment to the return";
5. in the box for reason, "Other", and
6. in the subject, write the phrase "Evidence Law 57-2020 – Sales and Use Tax of 4%".

Those merchants who submit an amended IVU Monthly Return to report the Exempt Services and claim the 4% SUT remitted on said services, as a credit to their Sales and Use account, and it is demonstrated that they did not return said tax to their customers, will be subject to the penalties, interests and surcharges imposed by the Code.

#### Option of additional 3 months extension not exercised

The PRTD determines not to exercise the authority provided in Law 57-2020 to extend the Temporary Period of the SUT exemption of 4% for an additional term of three months.

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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