



Tax



Puerto Rico



Sales and
Use Tax

Puerto Rico Sales and Use Tax

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Effects of Act 52, 2022 in the Puerto Rico Sales and Use Tax (“SUT”).

The approval of Act 52, 2022 (“Act 52”) on June 30, 2022, creates significant changes that affect our Puerto Rico Internal Revenue Code (“Code”) and among them, changes to the Puerto Rico Sales and Use Tax. The following are the areas which had the significant changes with the approval of Act 52.

Elimination of semi-monthly SUT deposits

Act 52 amended Section 4042.03(a)(2)(A) of the Code, to establish an ending date to the requirement of semi-monthly sales and use tax deposits previously made by Large Taxpayers and merchants whose monthly sales tax deposits for the prior year exceeded \$2,000 in average. The new language incorporated to Section 4042.03(a)(2)(A), reads as follows:

Unofficial translation:

- A. *payment of sales tax in biweekly installments. — Effective July 2017 and until June 2022, any person who complies with the provisions of clause (i) of this subsection (A) must remit the sales tax in biweekly installments, in accordance with the provisions in this paragraph.*

As a result, merchants previously required to make semi-monthly SUT installments will not have to make the deposits starting in the month of July 2022. This rule does not eliminate any exposure for previous periods in which the deposits were required.

Amendment of definitions under Section 4010.01

Act 52 also amended various definitions under Section 4010.01 of the Code as follows:

- 4010.01(aa) – Act 52, amended Section 4010.01(aa) to add the digital products as part of the definition of taxable items.
- 4010.01(jj)(1) - Establishes that a promoter may begin the sale and collection of the right of admission to a public show once the electronic endorsement information return has been submitted electronically through the Unified System of Internal Revenue (SURI). This change modifies the previous requirement of submitting the required return no later than forty-eight (48) hours prior to the first day which the sale and collection of admission rights to a public show begins.

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Collaborated in the preparation of this article.

Also, under the new provisions of the Code, the information required in the return must include the following:

- F. total quantity or percentage of tickets to be sold at a discount. The taxpayer must notify the Office of Services for Producers of Public Shows (OSPEP) in advance of the discount to be granted for tickets before the sale.
- 4010.01(ddd) – Act 52 modified the definition of market facilitator to include those who facilitate the sale of admission rights if they comply with the requirements of the Section. The admission rights were not considered prior to the amendment.
 - 4010.01(eee) – Market sellers - The market seller definition was amended to include the sale of digital products, admission rights and taxable services as part of the activities that can qualify under the market seller definition, when they are performed through a market facilitator.
 - 4010.01(fff) – Digital products (New definition added by Act 52) Includes items that can be acquired through a digital transmission (“streaming”) either by purchase or subscription; video, photographs, applications for electronic equipment, games, music, computer programs or any other item of a similar nature that is delivered to the buyer electronically or by digital transfer; Specific Digital Products and Other Digital Products.
 - 4010.01(ggg) Specific Digital Products (New definition added by Act 52)- Means digital audiovisual works transferred or delivered electronically, digital audio works, or other digital products, provided that a digital code grants a buyer the right to obtain the product, it will be treated in the same way as a specific digital product, including digital products in the form or medium of a non-fungible token or “NFT”.
 - 4010.01(hhh) Other Digital Products (New definition added by Act 52)- Includes, but is not limited to, the following: greeting cards, images, video or electronic games or entertainment, memberships to electronic groups to obtain exclusive electronic or audiovisual data, including, but not limited to theatrical products, musical products, including concerts or videos, audiovisual material with adult content, news or information products, digital storage products, computer software applications and any other product that could be considered a digital product, whether electronic or digitally delivered, transmitted or accessed.

Back-to-School Sales and Use Tax-Free Period for Fiscal Year 2022-2023

On May 31, 2022, the Puerto Rico Treasury Department (“PRTD”) issued Internal Revenue Circular Letter No. 22-10 (“CL 22-10”) to establish the dates for the back-to-school tax-free periods for the fiscal year 2022-2023. The back-to-school tax-free periods include two days in July and two days in January of each fiscal year. During the tax-free periods, the uniforms and school materials will be exempt from payment of the Sales and Use Tax (“SUT”) at the state and municipal levels.

As described in CL 22-10, for the fiscal year 2022-2023 the designated dates for the sale of uniforms and school materials free of SUT are the following:

- the first period will start the midnight on Friday, July 15, 2022, and will end at 11:59 pm on Saturday, July 16, 2022 (two days).
- the second period will begin the midnight on Friday, January 15, 2023, and will end at 11:59 p.m. on Saturday, January 16, 2023 (two days).

Among the articles considered exempt during the exemption periods are:

- **school uniforms** - according to section 4030.20(c)(1) of the code, a school uniform is clothing that is specifically required by an educational institution. The uniform should not be appropriate for general or continuous use outside the school to substitute ordinary clothes. Furthermore, a school uniform includes pieces of clothing and footwear that complement the uniform, as required by the educational institution. There are some exclusions to the term uniform that will not be subject to the exemption such as belt buckles, costume masks, patches and emblems sold separately, sewing materials, protective equipment against injuries and diseases, sports, and recreational equipment not appropriate for general use, among others.
- **school materials** - according to section 4030.20(c)(2) of the code, the school supplies included are folders, plastic and manila envelopes, backpacks, lunch boxes, calculators, tape, chalks, compasses, crayons, erasers, glue, markers, index cards, paper, pens, pencils, pencil sharpeners, rulers, scissors, and storage media, such as flash drives. Additionally, school materials of art, music, and retail instructional supplies, including paints (acrylic, tempera, and oil), brushes for artwork, clay, and enamels, drawing and sketchbooks, watercolors, musical instruments, and maps, among others will also exempt from SUT.
- **textbooks and notebooks** - according to section 4030.20(a) of the code, all printed and digital books are exempt from paying the SUT throughout the year. The exemption covers the purchase or rental of printed books, e-books, digital versions of a printed book, and notebooks, however, excludes publications by electronic media, magazines, and newspapers.

Lay-Aways and purchases by internet, phone, or mail will qualify as an exempt transaction if the items are fully paid and transferred or delivered to the buyer during the exemption period. A sale after the period of exemption does not qualify for the SUT Exemption.

Uniforms or school materials purchased with the use of rain checks, gift certificates, or gift cards during the exemption period will qualify for the exemption, regardless of the date when there were issued. Articles acquired before or after the exemption period will be subject to SUT, regardless of the date when the gift card or gift certificate was purchased during the exemption period.



The PRTD will not require a special reporting for the exempt sales made during the exemption periods. Merchants should report all the qualifying sales on the Sales and Use Tax Return as exempt sales.

We are committed to keeping you up to date with all tax-related developments. Please contact our Tax Department should additional information be required regarding this or any other tax issue. We will be glad to assist you.



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