

Deloitte Tax LLP Puerto Rico Tax Alert – August 2019 – Number 9

SALES AND USE TAX EXEMPTION ON SALE OF PROCESSED FOODS

On August 2, 2019 the Puerto Rico Treasury Department (PRTD) issued Administrative Determination No. 19-03 to notify the eligibility requirements and authorization process to claim the four-point five (4.5%) percent Sales and Use Tax (SUT) exemption on the sale of processed foods.

Effective October 1, 2019, prepared foods carbonate beverages, pastry products and candies are exempt from the four-point five (4.5%) percent SUT surtax, and thus only subject to a seven (7%) percent SUT rate when the Merchant complies with the following:

- Have a valid Merchant Certificate showing one of the following NAICS code:
 - ✓ 72231 – Food Service Contractors
 - ✓ 72232 – Caterers
 - ✓ 72233 – Mobile Food Services
 - ✓ 72241 – Drinking Places
 - ✓ 72251 – Restaurants and Other Eating Places
- Be in compliance with the Sales and Use Tax Returns filings;
- Have no outstanding liability with PRTD; and,
- Have a fiscal terminal in each point of sales, regardless of its volume of business or yearly transactions.

A "Processed Foods Reduced Tax – Authorized Business" Certificate (Form SC2995), for each qualifying locality, will be available in SURI to all compliant Merchants on September 23, 2019. The Certificate is effective thru September 30, 2020 and must be located in a visible place.

Merchants not receiving the Certificate will receive a communication in SURI as to its noncompliance and must continue to collect the SUT according to their business activity rules.

Furthermore, a Merchant that erroneously received the Certificate must request its cancellation.

The surtax exemption does not apply to alcoholic beverages.

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