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TAX ALERT

Governmental measures due to the landfall of Hurricane Fiona



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On September 17, 2022, the Governor of Puerto Rico issued Executive Order 2022-045 declaring a state of emergency due to the threat of the atmospheric event named Fiona.

The afternoon of September 18, 2020, Hurricane Fiona made its landfall in the Southwest coast of Puerto Rico bringing with it 85 mph winds and a large amount of rain. This event caused many rivers to overflow their banks, causing emergencies around the Island.

As a result of these events, the Puerto Rico Department of Treasury (“PRTD”) issued two important publications in relation to the Puerto Rico Sales and Use Tax (“SUT”), which are summarized below:

Administrative Determination 22-06 (AD 22-06)

The PRTD determined to extend until Tuesday, September 27, 2022, the deadline to file the Monthly SUT Return corresponding to August 2022, which was due no later than Tuesday, September 20, 2022. Likewise, the deadline to deposit the sales and use tax which expiration date is September 20, 2022, and which was

supposed to accompany the SUT Monthly Return, will be extended.

The PRTD also determined to eliminate the imposition of the penalties provided in Subtitle F of the Puerto Rico Internal Revenue Code (“the Code”) related to the filing and payment of the Monthly SUT Return to any taxpayer who demonstrates that has carried out all the pertinent steps in an exercise of good faith to comply with the provisions of the Code and that submits the required return and payment no later than Tuesday, September 27, 2022.

In the case of the imposition of a late filing or payment penalty, the taxpayer must request its elimination through SURI, along with the filing and payment evidence, and a copy of AD 22-06.

Municipal SUT Returns

COFIM also confirmed that the filing of the municipal SUT returns has been extended according to the date established in AD 22-06. Therefore, the Municipal filings for the month of August 2022 that will be filed through COFIM will be due on September 27, 2022.

Since some of the municipalities have their own filing and payment systems (i.e. San Juan, Guaynabo and Carolina), if you operate in a municipality whose return is not filed through COFIM, we recommend confirming with the finance office the due date of the return for August 2022.

Administrative Determination 22-07 (AD 22-07)

The PRTD determined to temporarily exempt from the state and municipal Sales Tax the Prepared Foods acquired by any natural

person located in Puerto Rico (“Temporary Exemption from SUT on Prepared Foods”). The merchant shall report such sales in the Sales and Use Tax and Import Tax Monthly Return (Form SC 2915) in the line “Sale of Exempt Tangible Movable Property” of said form.

The Temporary Exemption of SUT on Prepared Foods will begin at 12:01 a.m. on Thursday, September 22, 2022, and will conclude at 11:59 p.m. on Thursday, October 6, 2022.

The exemption shall not apply to the sale of alcoholic beverages. However, it will be applicable to Prepared Foods that are usually sold with utensils to be eaten or ingested by a natural person in Puerto Rico due to their flavor or nutritional value.

If a merchant, by action or omission, charges a consumer the SUT on a sale of Prepared Foods, the merchant will be obliged to immediately reimburse the amount of SUT charged to the consumer. According to Section 4020.08(c) of the Code, the tax collected that is not refunded to a purchaser but was collected from the purchaser under the representation that it was a tax, constitutes funds of the Government of Puerto Rico from the moment of collection.

Any breach related to the provisions of AD 22-07 may be reported through “SURI Confidencia” on the PRTD website using the link: <https://suri.hacienda.pr.gov>.

The agency also informed that despite the effects of the atmospheric event they are currently processing the excise tax and SUT declarations of imports for shipments received at the

docks. They have a group of employees working remotely assisting with the release authorizations for merchandise and cars imported.

In addition, as of Tuesday, September 20, services will be offered in the satellite offices of the Consumption Tax Bureau as well as in the collector's office at the port area of Puerto Nuevo.

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.