On March 30, 2017, the Puerto Rico Treasury Department (hereinafter the “PRTD”) issued Administrative Determination 17-01 (hereinafter the “AD”). The AD clarifies various provisions regarding the penalties imposed by the Puerto Rico Internal Revenue Code of 2011, as amended (hereinafter “the PRCode”) related to the Sales and Use Tax Regimen (hereinafter the “SUT”). The determinations established in AD should be analyzed in context with the rehabilitation process mechanism previously issued by the PRTD in the Internal Revenue Circular Letter No. 17-05 and discussed in a prior communication from our office. The AD establishes that its provisions will be applicable since March 2017. Furthermore, the AD does not mention the treatment of debts related to previous periods.

<table>
<thead>
<tr>
<th>SECTION</th>
<th>DESCRIPTION</th>
<th>PENALTY UNDER THE PRCode</th>
<th>PRTD DETERMINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>6043.04</td>
<td>Penalty for Late Payment of SUT Liability</td>
<td>Ranges from 25% to 50% of the unpaid liability. In case of a person that repeatedly fails to file the penalty, it is increased to 100% of the unpaid liability.</td>
<td>The AD provides that: 1. Unpaid liability means the total liability reduced by amounts actually deposited and any existing credit. 2. The rate of the penalty will be 5% of the unpaid amount for the first 30 days. Note that this rate is lower than the minimum rate stipulated under the PRCode which is 25%. If the debt is paid later, the rate will be increased by 5% for each 30 day period. The penalty will be limited to 50% of the unpaid amount. 3. In the case of repeated failures to pay, the limitation is increased from 50% to 100% of the unpaid amount. 4. Frequent failures means more than 2 failures in a 12 month period. 5. The PRTD will not forgive this debt unless good cause is shown.</td>
</tr>
<tr>
<td>6043.05</td>
<td>Penalty for Late Filing of SUT related returns</td>
<td>The greater of 1. 10% of the tax liability, or 2. $100.</td>
<td>The AD provides that: 1. The 10% penalty will be imposed on the unpaid amount of the liability and not the total amount. 2. The $100 penalty will not be imposed if no tax liability existed for such return.</td>
</tr>
</tbody>
</table>
NEW ADDITIONAL GUIDELINES PROVIDED FOR THE USE OF TAX CREDITS

On March 7, 2017, the Puerto Rico Fiscal Agency & Financial Advisory Authority (hereinafter referred to as “AAFAF”) issued Administrative Order 01-2017 (hereinafter “the Order”).

The Order stipulated that tax credits would now be reviewed by an oversight board known as the Committee to Authorize Disbursements and Tax Concessions (hereinafter referred to as the “CADC”). The CADC would be required to approve any issuance of new tax credits and would regulate the use of credits already approved by the Government. The Order was analyzed with more detail on a prior communication from us.

On March 22, 2017, the CADC issued Resolution 2017-01 (hereinafter “the Resolution”). Pursuant to the Resolution, Granted Credits that were approved and/or issued by the issuance date of the Order, can be used against the tax liability of tax year 2016. A list of the credits that will be considered Granted Credits is included in the Resolution. The Resolution would apply to the holder of the tax credit which includes the person that generated the credit, plus any person that acquired such them. Furthermore, although the wording of the Resolution refers to credits authorized by the effective date of the Order, it would appear that the transfer of the credit does not need to be done prior to the effective date of the Order.

Finally, the Resolution explains that the Order will not be extensive to credits not listed as a Granted Credit. Therefore, the Order with its limitation will not apply to most of the credits (except credits for local purchases) granted under the Puerto Rico Internal Revenue Code or Act 154-2010 which imposes a 4% tax on purchases from foreign affiliates.

In order to corroborate compliance with the Order and the Resolution, it is strongly advisable to contact us if you hold tax credits or are planning to purchase them for the 2016 tax due date.

VARIOUS TAX CHANGES AT MUNICIPAL LEVEL

On March 13, 2017, a fiscal plan (hereinafter “the Plan”) was approved for the Government of Puerto Rico. Pursuant to the Plan, the central government will reduce payments to municipalities by $350 million dollars per year. Such news have caused a lot of municipalities to seek alternatives to mitigate the impact of such reduction. The initiative might be extremely complex and complicated for businesses if the municipalities adopt different types of taxes with inconsistent application rules.

We provide herein a list of some of those alternatives the municipalities had established. Note that this list by no means is complete and further changes are expected in the future.

ARECIBO

The Municipality of Arecibo has notified that later this month it will announce a new environmental initiative that will require the imposition of a garbage disposal fee.
SAN LORENZO.

The Municipality of San Lorenzo is imposing an excise tax to all businesses with operations in such municipality. The charge will be computed at 50% of the municipal license tax paid for the current year or the prior year (you have to select the highest volume). It is not clear whether this excise tax is only for one year or whether is a recurring excise tax. Furthermore, the way is structured has opened discussions on the legal validity of said imposition.

SAN JUAN

Pursuant to Ordinance No. 41 Series 2016-17 of the Municipality of San Juan (hereinafter “the Ordinance”) the tax municipal rates will be increased for fiscal year 2017-2018, which is due on April 24, 2017.

Although technically the new rates apply for fiscal year 2017-2018, if the payment is done prior to July 1, 2017, then the old rates could be used. Furthermore, if the payment is done before April 24, 2017, the person would still be eligible to use the 5% discount for prompt payment. Analyzing the above included table, it would seem that parties that would derive more benefits by keeping the old rates, are those in the volume of business range of $300,000 to $1,000,000. Therefore, if your business falls into such range, it would be good to consider availing yourself to the prompt payment to avoid using the new higher rates adopted here.

Finally, the Ordinance provides a benefit to persons that prepay their tax liability for fiscal year 2018-2019. Under such initiative, any person engaged in a business for profit in such Municipality may benefit from a special tax rate of .20% for the Municipal License tax corresponding to the fiscal year 2018-2019. In order to receive such benefit, the taxpayer is required to use the volume of business declared for fiscal year 2017-2018 and must make the tax payment on or before December 15, 2017. Note that a person who opts to make the payments pursuant to the Ordinance waives his right to claim any credit or reimbursement with respect to such payment. Furthermore, once a payment is made under the provisions of the Ordinance, the Municipality of San Juan shall not hold liable the taxpayer for any increase in the volume of business previously declared. This alternative seems to be beneficial to persons with a gross volume of business of $300,000 or more. However due to the final nature of the payment, which means that is not subject to reviews or changes in the future, we would advise to contact us prior to the due date to assist you with this matter.
PLEASE CONTACT OUR TAX DEPARTMENT AT (787) 725-4545 OR AT kenneth@fpvgalindez.com, axel@fpvgalindez.com or levi@fpvgalindez.com IF FURTHER ASSISTANCE OR INFORMATION IS REQUIRED ABOUT THESE MATTERS.

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