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Tax Alert: Relief Benefits and Economic Measures Available to Businesses Due to COVID-19 Crisis

Following a summary of certain Puerto Rico and United States relief and economic measures established as part of their response to the COVID-19 pandemic. These measures provide alternatives for economic support to the business sector.

United States Government Relief Benefits and Economic Measures

The measures established by the U.S. Government are:

United States Government		
Available Benefits	Department/Agency	Description of Benefit
SBA Economic Injury Disaster Loan (“EIDL”)	Small Business Administration (SBA)	<ul style="list-style-type: none"> • Loan of up to \$2,000,000 to small businesses that have suffered economic loss. • Interest of up to 3.75%, and a repayment term of up to 30 years. Terms are established on a case by case scenario, based on repayment capacity. • Application process should last from 2 to 3 weeks. • SBA will analyze group of affiliated entities. • Amongst the documents that will be requested, the SBA will request the Income Tax Returns of the entities, and of the owners with more than 20% participation. https://disasterloan.sba.gov/apply-for-disaster-loan/index.html • Available up to December 18, 2020.
SBA Emergency Economic Injury Grant	Small Business Administration (SBA)	<ul style="list-style-type: none"> • Includes an advance of \$10,000, in the first 3 days after the application for an “EIDL” loan. • Such advance DOES NOT have to be repaid, even if the EIDL loan is not approved. • Available for businesses that were operating on January 31, 2020.
SBA Paycheck Protection Program (“PPP”) Loans (Based on Interim Final Rule)	Small Business Administration (SBA)	<ul style="list-style-type: none"> • Loans for businesses operating on February 15, 2020, that continued to pay the payroll during the emergency. The loan and the accrued interest can be forgiven. • Loan maximum of \$10,000,000. For a business that was operating in 2/15/2020, the loan amount will be equal to the average monthly payroll (defined below), during the previous 12 months, prior to applying for the loan. • For amounts not forgiven, maximum repayment term of 2 years, maximum interests of 1%, zero loan fees and zero prepayment fee. • Available for businesses with less than 500 employees, subject to certain exceptions. • Payroll includes: Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent), Payment for vacation, parental, family, medical, or sick leave, Allowance for dismissal or separation, Payment required for the provisions of group health care benefits, including insurance premiums, Payment of any retirement benefit (such as 401k contribution), Payment of State or local tax assessed on the compensation of employees. • Payroll does not include: Employee/owner compensation in excess of \$100,000 (in other words, wages over \$100,000 will not qualify), Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS Code, Compensation of employees whose principal place of residence is outside of the U.S., Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the <i>Families First Coronavirus Response Act</i>. • The allowable uses of the loan proceeds are: Payroll costs (as noted above), Costs related to the continuation of group health care benefits during periods of paid sick,

		<p>medical, or family leave, and insurance premiums, Employee salaries, commissions, or similar compensations (see exclusions above), Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation), Rent (including rent under a lease agreement), Utilities, Interest on any other debt obligations that were incurred before the covered period.</p> <ul style="list-style-type: none"> ○ At least 75% of the PPP loan proceeds shall be used for payroll costs, in order for the loan to be forgiven. <ul style="list-style-type: none"> • Loans available up to June 30, 2020.
Employee Retention Credit (ERC) (Section 2301 of the CARES Act)	Internal Revenue Service (IRS)	<ul style="list-style-type: none"> • The credit is available to all employers regardless of size, including tax-exempt organizations. The credit will not be available to: <i>State and local governments and their instrumentalities and small businesses that received a small business interruption loan under the PPP program described above.</i> • Credit to be used to offset the 6.2% of Social Security (employer contribution), while the difference may be refundable. • The credit is available if: <ul style="list-style-type: none"> ○ 1) The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter. ○ 2) The employer's business continued its operations but experienced a significant reduction in sales (gross receipts are below 50% of the comparable quarter in 2019). Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter. • The amount of the credit is 50% of qualifying wages paid up to \$10,000 in total. Wages taken into account are not limited to cash payments, but also include a portion of the cost of employer provided health care; therefore, the maximum credit is <u>\$5,000 per employee</u>. • Employers with less than 100 employees: If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit. • Employers with more than 100 employees: If the employer had more than 100 employees on average during 2019, it may only consider qualified wages payments made to employees not providing services. • Wages paid after March 12, 2020, and before Jan. 1, 2021, are eligible for the credit.

Note: The same entity can request both (EIDL and PPP), if there's no duplicity of the use of the funds.

Puerto Rico Government Relief Benefits and Economic Measures

The measures established by the Puerto Rico Government are:

Puerto Rico Government		
Available Benefits	Department/Agency	Description of Benefit
Payment to Small and Medium Merchants (PYME)	Department of Treasury and DDEC	<ul style="list-style-type: none"> • Check of \$1,500 for every small and medium merchant (PYME) in Puerto Rico, subject to the requirements established by the DDEC, in consultation with the PR Treasury. • It will be considered small and medium merchants (PYME) an entity with less than 50 employees and a volume of business of less than \$10,000,000. • The benefit is available for each entity. • The benefit will be available from March 31st, through the following link: http://www.refuerzoeconomico.com/

At RSM Puerto Rico we can help you determine which benefit is appropriate for your business and support you on the application process. Please contact our tax advisors at (787) 751-6164 | tax@rsm.pr for help or more information.