



THE POWER OF BEING UNDERSTOOD

PREEXISTING CONTRACTS FOR THE SALE OF PERSONAL TANGIBLE PROPERTY

Year 2015 Issue #11

As you may recall, Act #72-2015 established several changes to the Sales & Use Tax (hereinafter "SUT") including an increased state portion from 6% to 10.5% effective on July 1, 2015. Also, Section 4070.01(c) of the Puerto Rico Internal Revenue Code (hereinafter "PRIRC"), as added by Act #72-2015, establishes that contracts concerning taxable property or services and preexisting as of July 1, 2015 may be excluded from the SUT rate increase applicable as of July 1, 2015, subject to certain rules and limitations.

Recently, the Puerto Rico Treasury Department (hereinafter "PRTD") issued Circular Letter 15-09 (hereinafter "CC 15-09") with the purpose of establishing the applicable SUT rules for preexisting contracts for the sale of personal tangible property.

CC 15-09 defines the contracts eligible under the dispositions of Section 4070.01(c) of the PRIRC ("Qualified Contracts"). Among the Qualified Contracts are those "written and issued before July 1, 2015, in the ordinary course of business of the merchant selling the goods, through which the selling merchant must sell goods, after June 30, 2015, at a fixed price".

Request of a Certificate for Qualified Contract

In order for a merchant to be able to charge the state SUT portion of 6% instead of the 10.5% after July 1, 2015 on a Qualified Contract, both the selling merchant and purchaser of goods must submit a joint request to the PRTD to obtain a certificate allowing such treatment. CC 15-09 establishes that the request must include the following documentation:

- ⇒ As an initial prerequisite established by the PRTD to consider the request the selling merchant must include the total amount of the contract in its June 2015 SUT return and pay the applicable 6% state rate and the 1% municipal portion (if applicable).
- ⇒ Form SC 2921 – "Request of Certification of Qualified Contract subject to the Sales & Use Tax" must be completed and notarized before a notary public by both the selling merchant and the purchaser.
- ⇒ A complete copy of the qualified contract.
- ⇒ A copy of the SUT return for the month of June 2015 including the total amount of the contract and the payment of the SUT state portion of 6% applicable.
- ⇒ In the case of requests being submitted by representatives, Form SC 2745 (Power and Declaration of Representation) must be completed and submitted as part of the request.

These requests must be submitted on or before August 10, 2015 personally at the agency's office located at: Edificio Mercantil Plaza, Ave. Ponce de León, Parada 27 ½, Hato Rey or through mail at the following address: Departamento de Hacienda, Contrato Calificado, PO Box 9024140, San Juan PR 00902-4140.

Please contact us here at RSM where we are prepared and committed to answer all your inquiries related to these new rules.

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