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NEW SPECIAL TAX APPLICATION ON SERVICES PROVIDED BY NON-RESIDENTS OF PUERTO RICO

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Earlier this week, the Puerto Rico Treasury Department (hereinafter "PRTD") issued Administrative Determination 15-21 with the purpose of clarifying the recent amendments introduced by Act #159-2015, mainly related to the Sale & Use Special Tax of 4% (hereinafter the "Special Tax").

As mentioned in our previous Tax Alerts, the Special Tax became effective on October 1, 2015 and we would like to emphasize the following dispositions that may directly or indirectly affect your company operations in Puerto Rico.

As of October 1, 2015 any service stated below, among others, will be subject to this new Special Tax:

- Charges related to services rendered by a **related company** not doing business in Puerto Rico to a company doing business in Puerto Rico; and
- Services provided by a **non-resident** company or individual to a company doing business in Puerto Rico.

In these cases, the entity doing business in Puerto Rico will be responsible for the Special Tax reporting and payment.

In order to ascertain whether or not this new Special Tax applies to your company, we recommend evaluating and segregating your intercompany charges made from the company not doing business in PR to the company doing business in the island to determine what portion is related to services provided.

Also, please note that this new Special Tax will be reported and paid through a **new** filing form separate from the regular Sale & Use tax return. The return is due on the 20th day of the following month when the transaction took place; therefore, the first return related to this Special Tax is due on November 20th 2015. The PRTD requires filing the declaration and paying the corresponding taxes electronically.

It is important to note that these intercompany services subject to the Special Tax of 4% will not be deductible in the Puerto Rico income tax return if the Sales and Use Tax is not paid. This Special Tax on services provided by non-residents of Puerto Rico may not apply if the PR entity has been granted with a tax exemption decree under Acts #73-2008, #83-2010 or #20-2012; or falls under one of the Special Tax exemptions.

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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