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## VAT—GENERAL ASPECTS & CONSIDERATIONS

Year 2016 Issue #3

As you might recall, Acts 72 and 159, both enacted during 2015, (the “Acts”) introduced new amendments to the Puerto Rico Internal Revenue Code of 2011, as amended, (the “Code”) to be effective on July 1<sup>st</sup> and October 1<sup>st</sup> 2015. These changes were principally related to the increase of the applicable tax rate on the sales and use tax (IVU) (11.5%) and the imposition of a 4% special sales and use tax to some taxable transactions.

In addition, with the approval of these Acts, Subtitle DD titled “Value Added Tax” (“VAT”) was added to the Code. These statutes established that effective April 1, 2016; (i) the import of tangible property; (ii) the sale or transfer of taxable goods and services; (iii) the taxable sales of services rendered by a nonresident to a PR resident; (iv) and the taxable combined transactions; will be subject to either a 10.5% or 0% VAT.

Acts 72 and 159 granted the Secretary of the Treasury (“Secretary”) the authority to postpone the commencement date of the VAT. However, on December 29, 2015, the Puerto Rico Treasury Department (“PRTD”) issued the Administrative Determination Number 15-26 regarding the implementation of the VAT provisions (“DA 15-26”). On this determination the Secretary informed, among other things, that the agency will not elect to postpone the effective date of the VAT and that its commencement date will be April 1, 2016. Please refer to Tax Alert # 22-15.

DA 15-26 also indicates that the VAT will be implemented in two phases. The first one will begin on April 1<sup>st</sup> and the second one will begin on June 1<sup>st</sup>. The PRTD informed that shortly they will be issuing circular letters, administrative letters and informative bulleting establishing the guidelines for the transition to the VAT.

Contrary to the IVU, in theory, the VAT is collected at every stage of the distribution chain, which allows the merchants to claim a credit for the taxes paid at the moment of determining their tax liability for the tax charged on sales.

(Continued)

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In general terms, on April 1<sup>st</sup> 2016, with the imposition of the VAT, the applicable provisions to regulate the tax will not be very different to the current provisions. The reason for this is because some of the changes to move from an IVU to a VAT were introduced on October 1<sup>st</sup> 2015. The final consumers will continue to pay 11.5% tax at the moment of purchasing taxable merchandise.

In summary, on April 1<sup>st</sup> merchants should be aware of the following important changes:

- the applicable rate for taxable services will increase from 4% to 10.5% (plus the 1% municipal tax);
- registered merchants (not only reseller) may be able to claim a credit for the IVA tax paid on purchase of goods and services, subject to the applicable limitations;
- some of the current exemptions will be eliminated (i.e. advertising services);
- a fiscal voucher will be required to claim the credit; and
- the 1% municipal sales and use tax may also apply under the Subtitle D of the Code rules for a possible total maximum tax rate of 11.5%.

Here at RSM Puerto Rico, we are prepared to answer your concerns or inquiries regarding these new filing requirements. If you would like more information regarding this matter, please contact your tax advisor at RSM Puerto Rico.

### Reminders & Due Dates

- February 29, 2016 – Informative Returns—Independent Contractors
- March 10, 2016 – Monthly Declaration of Imports
- March 10, 2016 – Monthly Excise Tax Return
- March 10, 2016 – Deposit of Income Tax withheld on payments for services rendered
- March 15, 2016 – Informative Income Tax Return for Pass-Through entities.
- March 15, 2016 – Deposit of Income Tax withheld on salaries of those employers classified as monthly depositors
- March 20, 2016 – Monthly Sales & Use Tax Return.
- March 20, 2016 – Monthly Special 4% SUT Return.

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