



## THE POWER OF BEING UNDERSTOOD

# VAT—CERTIFICATES, VOUCHERS & NOTES

Year 2016 Issue #4

As you may recall from our previous tax alerts, the Value Added Tax ("VAT") will start on April 1, 2016. This new tax will have several new requirements. In this tax alert we will focus on registration requirements, new certificates and the fiscal vouchers for the VAT.

### I – Certificates under the new VAT system

#### A – Merchant's Registry Certificate

Section 4160.01(a)(1) of the Puerto Rico Internal Revenue Code of 2011, as amended, (hereinafter "Code"), establishes the requirements to request a Merchant's Registry Certificate for VAT purposes. The provisions related to the Merchant's Registry Certificate remain very similar. Under the VAT regime, as in the Sales & Use Tax ("SUT") regime, "any person who does or wishes to do business in Puerto Rico", must request a merchant's registry certificate with the Puerto Rico Treasury Department ("PRTD"). For VAT purposes, the definition of "doing business in Puerto Rico" is very broad, therefore, we recommend you to contact your Tax Advisor at RSM if you believe these requirements may apply to you.

The PRTD is developing an electronic filing tool that will allow merchants to comply with their VAT filings. Although the tool is not available yet, the PRTD has expressed that the merchant's information will be automatically transferred to the new system. When merchants log into the system they should be able to see their account information including the Merchant's Registry Certificate for VAT purposes. Also, merchants will be able to print the Merchant's Registry Certificate from the new system and it will not be necessary to request a copy of the certificate from the PRTD.

#### B – Small Merchant's Registry

Act #72-2015 introduced a new certificate for small merchants. A merchant with annual gross sales of less than \$125,000 for the immediately preceding taxable year qualifies as such. In this case, at the merchant's discretion, a Small Merchant's Registry Certificate may be requested to the PRTD. Merchants with this certificate will:

- Not charge VAT on their sales;
- Not file monthly VAT returns;
- Not need to track their credits;
- **Not be exempt** from paying the VAT;
- Have to file an Annual Small Merchant Information Return within 60 days of the due date of the merchant's Puerto Rico Income Tax Return (including extensions granted).

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## VAT—CERTIFICATES, VOUCHERS & NOTES (CONTINUED)

It is important to note that the Small Merchant's Registry is optional and merchants who qualify and wish to obtain the certificate must request it to the PRTD. Also, although the Small Merchant will not charge VAT on their sales, they are not exempt from paying the VAT. Furthermore, the VAT paid on purchases of goods or services will not be available as a credit to the merchant or reimbursed by the PRTD. The PRTD will issue publications stating the procedure to request this certificate.

### C – Certificate of Exemption and Zero Rate for Manufacturing Plant

Manufacturing Plants, as defined by Code Section 4110.01(a)(51), are eligible to obtain a Certificate of Exemption and Zero Rate for Manufacturing Plant. The certificate entitles the manufacturing plant to import and acquire articles for manufacturing, as defined by Code Section 4110.01(10), free of VAT. The certificate will have an effectiveness of 3 years once requested and approved by the PRTD. The PRTD will issue official publications related to the effectiveness of the Exemption Certificates issued under the SUT regime and the procedure required to obtain the new certificates under the VAT regime.

### D – Certificate of Exempt Purchases

The Certificate of Exempt Purchases allows some persons to acquire or import goods and services exempt from VAT. These certificates must be requested to the PRTD and the persons eligible to obtain such certificate are:

- The Government of the United States, any of its states, the District of Columbia and the Commonwealth of Puerto Rico;
- Hospital units, as defined by Code Section 4110.01(a)(72);
- Merchant engaged in a tourist business, as defined by Code Section 4110.01(a)(22); and
- Bona fide farmers.

Note that purchasing merchants must submit a copy of the certificate to the selling merchant in order to be exempt from VAT.

### E – Eligible Merchant Certificate

Merchant's whose sales volume exceed \$500,000 annually for the three years immediately preceding the year for which the determination is made and that 80% or more of the total sales are subject to Zero VAT, qualify to request an Eligible Merchant Certificate from the PRTD. These certificates are also valid for a period of three years.

As a general rule, merchants are allowed to request a reimbursement for VAT overpayment only when their monthly VAT return shows an overpayment of \$10,000 or more and it is the third consecutive month in which the merchant VAT declaration results in an overpayment. However, merchants with an Eligible Merchant Certificate will be allowed to request a refund of VAT when the overpayment is \$10,000 or more without considering the three months rule.

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## VAT—CERTIFICATES, VOUCHERS & NOTES (CONTINUED)

When a merchant with an Eligible Merchant's Certificate requests from the PRTD a refund for VAT overpaid, if the merchant is entitled to make such request, the PRTD must issue a determination, denying or granting the request, within a period not greater than 30 working days from the filing of such request. If the request is approved, the PRTD must reimburse the amount within 5 working days of granting the request for refund. Also, the PRTD will apply the amount overpaid to other outstanding debts that the merchant has with the PRTD and the remaining portion of the overpayment will be refunded to the merchant.

It is important to note that the purpose of the Eligible Merchant Certificate to be issued under the VAT regime is different from the Eligible Reseller's Certificate that is used under the SUT regime. The PRTD issued Administrative Determination #15-26 ("AD 15-26") which states that that the Eligible **Reseller's** Certificate will only will be effective until June 1, 2016.

### II – Fiscal Vouchers, Debit Notes and Credit Notes

#### A – Fiscal Vouchers

Fiscal vouchers are documents issued by a selling merchant in order for a purchasing merchant to be able to claim the credit for VAT paid on their monthly VAT returns.

Purchasing merchants can request a fiscal voucher from selling merchants who withheld VAT on the sales. The purchasing merchant must request the fiscal voucher within 30 days from the date the goods or services subject to the VAT were received and the selling merchant will have up to 30 days of the request to issue said voucher. The selling merchant will not issue a fiscal voucher when:

- All goods and services that would be included on the fiscal voucher are exempt or subject to rate of zero percent;
- The seller has a Small Merchant's Registry; or
- The transaction is a retail sale.

As of the date of issue of this Tax Alert, the PRTD has not published official communications explaining how the vouchers should be prepared. However, AD 15-26 states that the fiscal vouchers will be temporarily accepted through a manual or alternate method and that the PRTD will later issue official publications related to these documents. Also, the PRTD has issued a proposed regulation for VAT purposes which states that in the cases of recurring clients, the selling merchant, with the consent of the purchasing merchant, may issue only one monthly fiscal voucher including the applicable transactions for the month.

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## VAT—CERTIFICATES, VOUCHERS & NOTES (CONTINUED)

Furthermore, Code Section 4130.02(b)(4) states that the fiscal vouchers must include the following information:

- The title “Value Added Tax Fiscal Voucher”;
- Name, address and registration number of selling merchant;
- Name, address and registration number of purchasing merchant;
- Issue date of the fiscal voucher;
- Sequential number of the fiscal voucher;
- A description of goods sold or services rendered;
- The value of the sale;
- The amount of VAT;
- Total of the invoice, including the value added tax; and
- Any other information determined by the PRTD through official publications.

### **B – Debit and Credit Notes**

Under the VAT regime, Debit and Credit Notes are used when the value of a transaction for which a fiscal voucher was already issued is later modified.

When the value of the sale in a transaction for which a fiscal voucher was already issued increases, the purchasing merchant shall request a debit note from the selling merchant within 30 days of notice of the adjustment. Further, the selling merchant must issue the debit note within 30 days of the request from the purchasing merchant.

When the value of the sale in a transaction for which a fiscal voucher was already issued decreases, the purchasing merchant shall request a credit note from the selling merchant within 30 days of notice of the adjustment. Further, the selling merchant must issue the debit note within 30 days of the request from the purchasing merchant. Decreases in value of sale may occur in certain events including, but not limited to: corrections, uncollectible accounts, returns, additional discounts, etc.

### **III – Other Matters**

#### **A – Effectiveness of Current Certificates**

AD 15–26 states that the certificates issued under the SUT regime will remain effective until its equivalent certifications are issued under the VAT regime or the PRTD states otherwise. However, as mentioned above, the Eligible Reseller’s Certificate will be valid only until June 1, 2016.

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## VAT—CERTIFICATES, VOUCHERS & NOTES (CONTINUED)

### B – VAT returns filing mechanism

The PRTD is currently working on the website tool that will allow merchants to complete the filings related to the VAT. The website is not available yet, but AD 15-26 states that the website will become available before April 1, 2016.

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

### Reminders & Due Dates

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|---------------------|--|
| • 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.   |