



THE POWER OF BEING UNDERSTOOD

SALES AND USE TAX SURCHARGE EXEMPTION ON PREPARED FOODS

Year 2019 Issue #4

Act 257-2018 amended Section 4210.01 of the Puerto Rico Internal Revenue Code of 2011 with the purpose of exempting *prepared foods, carbonated beverages, pastry products, and candy* (collectively, "prepared foods"), sold by qualifying restaurants, from the 4.5% Sales and Use Tax ("SUT") surcharge, commencing October 1, 2019. As a result, such sales would be subject to a reduced SUT rate of 7% instead of the ordinary SUT rate of 11.5%. The reduced 7% SUT rate shall **only** apply to the sale of taxable items that are considered prepared foods, therefore, this exemption is not applicable to the sale of alcoholic beverages.

On August 2, 2019, the Puerto Rico Treasury Department "PRTD" issued Administrative Determination No. 19-03 ("DA 19-03") with the purpose of establishing the eligibility requirements for this exemption and the process to obtain the authorization for the collection of the reduced SUT rate in the sale of prepared foods. Pursuant to DA 19-03, merchants will be able to obtain the proper authorization and certification for the collection and payment of the reduced 7% SUT rate if said merchants comply with the following requirements:

1. Have a valid Merchant Registration Certificate with at least one of the following "NAICS" codes:
72231- Food Services by Contract 72232-Event Food Services 72233- Mobile Food Services
72241-Bars and Canteen 72251- Restaurants and other eating places
2. Are in compliance with all their SUT obligations and all other tax liabilities with the PR Treasury Department and
3. Maintain a fiscal terminal at each point of sale

Merchants who comply with **all** the aforementioned requirements should have available through the Internal Revenue Unified System ("SURI", for its Spanish acronym) an authorization certificate, Model SC 2995- "*Authorized Business – Reduced SUT Rate on "Prepared Foods"*", for each commercial location that qualifies with the requirements of DA 19-03. This certificate authorizes the merchant to collect the 7% reduced SUT rate starting October 1, 2019.

All certificates will be valid until September 30, 2020, regardless of the date of issuance thereof. However, those merchants who continue to comply with all the requirements will receive an updated certificate automatically issued through their online SURI account. At RSM Puerto Rico we can provide you with advice regarding this matter. Please contact our tax advisors at (787) 751-6164 | tax@rsm.pr for help or more information.

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