



THE POWER
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RECENT CHANGES TO ESTATE AND GIFT TAXATION

Year 2017 Issue #7

I. Gift & Estate Taxes

On August 6, 2017, the Governor of Puerto Rico signed Act #76-2017 (hereinafter "Act #76"), substantially changing our current taxation rules for property obtained by bequest or transferred by donations.

a. Estate Taxes

Before the bill was enacted, as a general rule, the taxable estate was calculated based on the fair market value of the property transferred by the decedent at the time of death reduced by the fixed deduction of \$1,000,000, stated in Section 2023.08 Puerto Rico Internal Revenue Code ("Code"), and the deduction for property located in Puerto Rico.

With the changes introduced under Act #76, the estate of every decedent whose date of death is after December 31, 2017 will not be taxable and, therefore, the fixed deduction and the deduction for property located in Puerto Rico will no longer be applicable. Furthermore, if you may recall, the tax basis of the assets transferred by the decedent at the time of death was affected by several factors including the fixed deduction and the deduction for property located in Puerto Rico. With the new changes the tax basis of the property acquired from the decedent by bequest, devise or inheritance after December 31, 2017 will be the same basis that the property had in the hands of the decedent.

Although Act #76 eliminated the estate taxation, the filing of a return is still required. Act #76 substituted the estate tax return with an informative return. This new informative return is due 12 months after the decedent's passing date and does not require the valuation of the property; however, it requires a detailed description of each asset included in the estate.

Among other changes, Act #76 established that upon filing of the informative return mentioned above, the Puerto Rico Treasury Department must immediately issue the certificate of cancelation of lien if the debts guaranteed by the lien have been paid in full. This certificate must be obtained before distributing the estate's property to the heirs.

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RECENT CHANGES TO ESTATE AND GIFT TAXATION (CONTINUED)

b. Gift Taxes

Act #76 also eliminated the taxation on donations or transfers occurring after December 31, 2017. The basis of the property donated shall be the same basis that property had in the hands of the donor at the time of the donation.

Furthermore, the gift tax return was substituted by an informative return which is required whenever the annual transfers or gifts exceed a total of \$10,000. This informative return is due on January 31 of the next year after the donations occur and it requires a detailed description of the donated property as well as an estimate of the market value of the property donated. Also, before being able to donate property, the donor must pay all personal and real property taxes due.

As a general rule, after Act #76, there is no step-up of basis for property obtained by bequest or transferred by donations. Therefore, these new rules may substantially affect the tax liability upon the disposition of the assets obtained in such manner.

At RSM Puerto Rico we are ready to help you with these matters. If you have any questions or comments related to the content of this Tax Alert, please feel free to contact your Tax Advisor at RSM Puerto Rico.

Reminders & Due Dates

- September 18, 2017 – Monthly Declaration of Imports
- September 18, 2017 – Monthly Excise Tax Return
- September 18, 2017 – Deposit of Income Tax withheld on payments for services rendered
- September 22, 2017 – Deposit of Income Tax withheld on salaries of those employers classified as monthly depositors
- September 22, 2017 – Deposit of Sales Tax for merchants required to make bi-monthly deposits.
- September 20, 2017 – Monthly Sales & Use Tax Return