

TAX ALERT
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Puerto Rico Treasury Department Changes Sales and Use Tax Reporting Requirements for Telecommunication and Cable or Satellite Services

The Puerto Rico Treasury Department ("Department") issued Administrative Determination Number 08-06 ("AD 08-06") to "clarify" the rules for reporting and filing of monthly sales and use tax ("IVU" for its Spanish acronym) returns to providers of telecommunication and cable or satellite services .

Effective July 1, 2008, providers of telecommunication and cable or satellite services must file a monthly sales and use tax return for all municipalities in which they have clients to whom services were billed. Such returns will be required whether or not the telecommunications company has a commercial location in the municipality.

Pursuant to the changes introduced by Act 80 of July 29, 2007 ("Act 80"), Puerto Rico was considered as one single taxing jurisdiction. The sales and use taxes of 5.5% and 1.5% were clearly imposed by the Puerto Rico Internal Revenue Code of 1994, as amended, and administered jointly with the municipalities.¹ Thereafter, providers of telecommunication and cable or satellite services were required to file monthly sales and use tax returns only in municipalities where they had a registered commercial location.

The enactment of AD 08-06 raises several considerations as to whether it implicitly amends Act 80 or whether Act 80, by not explicitly amending all reporting provisions in the Code, fell short of its intent. As advanced in AD 08-06 Treasury will revise its regulations presumably to consider Puerto Rico and its municipalities as separate taxing jurisdictions with regards to telecommunications, cable and satellite services, thus eliminating the "uniformity" intended by Act 80 in this sector.

Reporting and Filing Issues

AD 08-06 states that the Department will create the "municipal locations" that telecommunications, cable or satellite services providers must use to report their sales. Such registration of "locations" has begun. Treasury issued to telecommunications, cable or satellite services providers additional registration numbers to be used for the required reporting and filing in each municipality; separate registration certificates will follow. According to information from Treasury, companies will have to either file returns for each of the 78 municipalities or

¹ Act 80 was approved to provide for the sales and use tax "uniformity".

cancel registrations for those municipalities in which they have no customers. While the Department deals with the “municipal locations,” merchants will have to deal with filing monthly sales and use tax returns according to the address of the client to whom the services are billed and by “participant” and “non participant” municipalities.

For example, before AD 08-06, providers of telecommunication, cable or satellite services with a commercial location in Bayamón were required to file only one sales and use tax return and remit the 7% collected to the Department (Bayamón is a participant municipality). After AD 08-06, said providers would have to file a monthly return in each municipality where they have a client.

If you have any questions or comments, or wish additional information regarding the matters discussed herein, you may contact any of the attorneys in our Tax Practice Group listed below.

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