

**TAX ALERT**  
**September 28, 2009**

**Sales and Use Taxes: Forms and Exemption Certificates**

**I. Informative Bulletin No. 09-06 ("IB 09-06"): Revised Sales and Use Tax Returns**

On July 30, 2009, the Puerto Rico Treasury Department ("Treasury") issued IB 09-06, to notify that beginning August 1, 2009, sales and use tax returns [Forms SC 2915 (Spanish) and AS 2915.1 (English)], with revision dates preceding August 1, 2007 will not be accepted by Treasury. This determination applies to merchants filing the monthly sales and use tax returns in paper. Note that the Regulations adopted under the Puerto Rico Internal Revenue Code of 1994, as amended ("Code"), require that merchants with volume of business in excess of \$500,000 to file the monthly sales and use tax returns through electronic means.

**II. Administrative Determination 09-06 ("AD 09-06"): Exemption Certificates**

Treasury also issued AD 09-06 on September 3, 2009, to provide guidelines with respect to the renewal of the Exemption Certificates. The validity of the Exemption Certificates was extended for a limited period of time to facilitate the renovation process.

Certificates expiring on or before October 30, 2009, will be valid until October 31, 2009. Further, certificates expiring on or after November 1, 2009, will remain valid until the last day of the month corresponding to its expiration month.

AD 09-06 also explains the following three scenarios related to the renewal process:

- Merchants that have a volume of business of \$500,000 or more and are current in their tax obligations (i.e., they have no debts outstanding with the Treasury and have filed the income tax returns) will automatically receive their new Exemption Certificates.
- Merchants that have a volume of business of \$500,000 or more, but are not current in their tax obligations (i.e., have outstanding debts with the Treasury or are in not compliance with their income tax return filing obligations) will receive a notice from the Treasury that will identify the "noncompliance". Said merchants will have to clear the noncompliance with Treasury in order to receive/renew their corresponding Exemption Certificates.

- Merchants that have a volume of business under \$500,000 may request an Exemption Certificate by filing [Form SC2914D](#) (Application for Exemption Certificate), together with a copy of the last Volume of Business Declaration filed in the municipalities in which they are engaged in business. These merchants must be in compliance with their tax obligations.

Informally, Treasury representatives have indicated that the new Exemption Certificates will be sent by mid October and they will be different from the current certificates in order to differentiate them from the Registration Certificates.

Section 2407(b) of the Code and Article 2407-1(c)(2) of the Regulations state that on the first sale to a holder of an Exemption Certificate, the merchant seller shall document the exempt nature of the transaction by reviewing the original copy of the purchaser's valid Exemption Certificate and by keeping a copy of such Certificate. Although neither the Code nor the Regulations impose a continuing obligation to confirm "validity" of exemption certificates, we suggest verification of client records in order to ascertain the expiration dates of the Exemption Certificates and request of new Exemption Certificates, as applicable.

If you have any questions or comments, or wish additional information regarding the matters discussed herein, please contact any of the attorneys listed below, all members of our Tax Practice Group:

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