

TAX ALERT**February 20, 2009****ANNUAL SALES AND USE TAX RETURN**

On February 6, 2009, the Puerto Rico Treasury Department ("Treasury") published Informative Bulletin 09-02 ("IB 09-02") for the purpose of notifying all merchants of their obligation to file an Informative Sales and Use Tax Annual Return ("Annual Return") using the recently approved Form SC2935 (issued only in Spanish). Consistent with Section 2603 of the Puerto Rico Internal Revenue Code of 1994, as amended, IB 09-02 provides that all merchants, regardless of whether they are withholding agents (green certificate) or not (red certificate), have the obligation to file the Annual Return on or before the 15th day of the third month following the close of the merchant's taxable year. In the case of taxable years ending on December 31, the filing due date is March 15.

Notwithstanding the above, IB 09-02 has created some confusion among merchants and tax advisors. Article 2603-1 of Treasury Regulation No. 7249 of November 14, 2006, as amended, provides that, for taxable years beginning after December 31, 2007, only merchants who do not have the obligation to file one or more Sales and Use Tax Monthly Returns, Forms SC2915, showing their total sales, must file the Annual Return.

Urgent clarification on the above issue has been requested by the Puerto Rico Association of Certified Public Accountants to the Secretary of the Treasury before the filing due date for taxable year ended on December 31, 2008 (next March 15, 2009).

For updates on this matter, you may contact any of the attorneys listed below, all members of our Tax Practice Group.

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