

Use of Tax Credits for Tax Year 2017

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PRACTICE AREAS

- Tax

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On June 20, 2017, the Disbursement and Tax Concession Authorization Committee (“Committee”) issued Resolution 2017-05, to establish the rules for tax year 2017 and thereafter, with respect to the use of tax credits granted as of March 7, 2017, that is, the date of Puerto Rico Fiscal Agency and Financial Advisory Authority’s (“FAFAA”) Administrative Order 2017-01.

“Granted credits” include, but are not limited to, certain tax credits granted by the Puerto Rico Tourism Company, the Puerto Rico Secretary of the Treasury, and the Housing Financing Authority (“AFV” for its Spanish acronym), among other types of credits listed in the Committee’s Resolution 2017-01 (“Credits”).

Holders of Credits will be subject to the following rules:

- Credits available to be used in tax year 2017 and subsequent years may be claimed up to 25% of the holder’s income tax liability for each tax year. This limitation applies through tax years 2017-2020, but may, upon written request of the Credit holder, be extended by the Committee for up to 3 additional years as long as said extension is compatible with the Certified Fiscal Plan and the Liquidity Plan of the General Fund. During this period, the Credit holder may, subject to the law applicable to said Credit, sell or assign the Credit. However, the buyer or assignee of said Credit will be subject to these limitations. Any unused Credit, or portion thereof, will expire at the conclusion of this period or its approved extension.
- Credits that, pursuant to the law under which they were granted, are available to be used for the first time in tax year 2017 will not be subject to the limitations described in the preceding paragraph during tax year 2017, but will be subject to such limitations beginning in tax year 2018 through tax year 2021 (unless an extension is granted by the Committee).
- In order for the holder to claim Credits available to be used in tax year 2017 and subsequent years, the Credits must have been reported to the Puerto Rico Department of the Treasury using Form 480.71.

These rules will not apply to any unused credit remnant which was available for tax year 2016 or prior years, nor to Credits granted through closing agreements signed before March 7, 2017. Moreover, the Committee may issue waivers from

such limitations.

Credits granted pursuant to Section 1051.01 (foreign tax credit), 1051.02 (alternative minimum tax), and 105103 (foreign tax credit for alternative minimum tax) of the Puerto Rico Internal Revenue Code of 2011 (“2011 Code”), Subchapter B (reimbursable credits) and C (credit for taxes withheld or paid) of Chapter 5 of Subtitle A of the 2011 Code, as well as those available against Act 154-2010 (Act 154 excise tax), are not subject to the above rules.

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