

## Technical Amendments Act - Administrative Provisions

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### PRACTICE AREAS

- Tax

### An McV Tax Alert

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Following is a summary of the technical amendments approved by the recently enacted Act 40-2020 (“Act 40”) which incorporates technical amendments to the Puerto Rico Internal Revenue Code of 2011, as amended (“PR Code”).

This summary specifically addresses provisions under the PR Code related to Administrative Matters. **Unless otherwise stated, the amendments become effective as of April 17, 2020, when Act 40 was approved.**

#### **Payment Allocation**

When a taxpayer makes payments to the Secretary of Treasury (“Secretary”) and owes taxes, deficiencies, interests, surcharges or penalties for one or more taxable periods, the Secretary will allocate such payments to the oldest enforceable debt assessed in strict order of maturity.

#### **Penalties for Failure to File Informative Returns, Tax Returns and Reconciliation Statements, Transaction Reports, Brokers or Dealers Declarations**

The penalties for failure to file informative returns, tax returns and reconciliation statements, transaction reports, brokers or dealer declarations will not apply to the following, even if they are filed after their due date:

- Informative Returns required by Section 1063.01 where the amount reported is less than \$500, or
- An item for which the PR Code does not require reporting in an informative return and that is voluntarily reported by the taxpayer only to claim a deduction to determine the Alternative Basic Tax or Alternative Minimum Tax, without submitting an Agreed Upon Procedures Report or Compliance Attestation Report prepared by a CPA, such as:
  - Services rendered outside of Puerto Rico by non-residents
  - Membership fees
  - Water and electric power services
  - Continuing Education for Professionals

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- Maintenance fees paid to homeowners' associations
- Telecommunications, internet or cable or satellite television services in Puerto Rico, or any combination of these, advertisement or insurance premiums

### **Crimes Related to Cigarettes**

A cigarette-related license held by any legal or natural person will be suspended for a term of 12 months, and a fine of \$10,000 will be imposed, if said person:

- Sells, donates, dispenses or distributes vaporizers used for tobacco consumption (“Vaporizers”) to a person under 18 years of age.
- Sells, donates, dispenses or distributes Vaporizers to a person who appears to be under 27 years of age without requesting a valid photo identification that shows that the person is over 18 years of age.
- Fails to place a visible sign within the business warning that it is illegal to sell, donate, dispense or distribute Vaporizers (or any tobacco product) to persons under 18 years of age.

### **Secretary’s Authority to Issue Regulations**

Act 40 amends the PR Code to grant the Secretary the authority to issue regulations in connection with any special law that affects tax matters or that modifies or causes any alteration to the taxes imposed by the PR Code. Act 40 establishes, however, that any regulation issued in connection with Act 60-2019, known as the “Puerto Rico Incentives Code,” must be prepared in collaboration with the Secretary of Economic Development.

### **Secretary’s Authority to Implement Necessary Tax Measures During an Atmospheric Phenomenon or a Disaster Declared by the Governor of Puerto Rico (“Disaster”)**

In the event of a Disaster, the Secretary has the authority to implement all the tax measures that he considers reasonably prudent and necessary to assist taxpayers during the Disaster and ensure taxpayers’ compliance with the PR Code. This authority cannot be interpreted as an extension of power to the Secretary to reduce, exempt or waive the payment of a tax.

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