

Tax Credits and Multi-Annual Appropriations Regulated

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On March 7, 2017, the Puerto Rico Fiscal Agency and Financial Advisory Authority (the “FAFAA”) published Administrative Order 2017-01 (“AO-2017-01”) which, among other matters, limits the authority of the Government of Puerto Rico to issue new tax credits and suspends new obligations over multi-annual special appropriations prior to fiscal year 2017. AO-2017-01 creates a committee to evaluate tax credits and multi-annual special appropriations as set forth below.

As stated in the administrative order, AO-2017-01 was enacted as a fiscal measure pursuant to Act 2-2017 (the Puerto Rico Fiscal Agency and Financial Advisory Authority Act) and Act 5-2017 (the Puerto Rico Financial Emergency and Fiscal Responsibility Act). Both statutes grant the FAFAA and the Governor of Puerto Rico the authority to take certain administrative actions over portions of the Government’s Budget as well as on contracts that affect the Government’s ability to comply with the approved Fiscal Plan.

The following summarizes the key aspects of AO-2017-01:

Suspension of Obligations over Multi-Annual Special Appropriations

AO-2017-01 orders the suspension of new obligations on multi-annual special appropriations prior to fiscal year 2017.

Restriction on New Tax Credits

AO-2017-01 suspends the issuance of new tax credits available under the following statutes:

- Act 78-1993 - The Puerto Rico Tourism Development Act of 1993
- Act 46-2000 - Puerto Rico Investment Capital Fund Act
- Act 98-2001 - Tax Credits for Special Investments in Housing Infrastructure Act
- Act 140-2001 - Tax Credits for Investment in New Construction and Rehabilitation of Rental Housing for Low or Moderate Income Families Act
- Act 183-2001 - The Puerto Rico Conservation Easement Act

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- Act 212-2002 - Urban Centers Revitalization Act
- Act 73-2008 - Economic Incentives for the Development of Puerto Rico Act
- Act 74-2010 - The Puerto Rico Tourism Development Act of 2010
- Act 27-2011 - The Puerto Rico Film Industry Economic Incentives Act
- Act 159-2011 - Act to Provide Tax Incentives for Investments in Solid Waste Reduction, Disposal, and/or Treatment Facilities
- Act 302-2012 - Act to authorize the issuance of tax credits for donations to foundations of previous governors
- Act 77-2015 - Tax Credits for Investment in the Construction or Rehabilitation of Rental Housing for Low or Moderate Income Families and Construction or Rehabilitation of Rental Housing for Elderly Persons
- Sections 1051.09, 1051.07, 1052.03 and 4050.10 of the 2011 Internal Revenue Code of Puerto Rico
- Or under any other statute

The Authorizing Committee on Tax Credits and Disbursements

AO-2017-01 establishes the Authorizing Committee on Tax Credits and Disbursements (the “Committee”) which will be tasked with:

- Analyzing and adjudicating petitions for the approval and disbursement of special assignments prior to fiscal year 2017
- Evaluating petitions for tax credits submitted but not authorized before March 7, 2017
- Establishing limits on the use of tax credits that have been granted and limit their term of use for a maximum of 4 fiscal years
- Evaluating petitions for new tax credits

The Committee will be composed of three members: the Secretary of the Puerto Rico Treasury Department, the Executive Director of the Budget Office, and the Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority, or their respective delegates.

Inventory of Tax Credits

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Finally, AO-2017-01 instructs the Puerto Rico Treasury Department to conduct an inventory of issued tax credits. Tax credit holders are required to inform the amount of tax credits they possess, as a condition to being able to claim them.

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