

## PROPOSED AMENDMENTS TO SUT PROVISIONS

By Vanesa Franco

On May 11<sup>th</sup>, 2009 and May 12<sup>th</sup>, 2009, the Senate and the House of Representatives of Puerto Rico, respectively, presented the Senate Bill 874 and the House Bill 1640 (hereinafter referred together as the "Bills") to provide the technical amendments to Act 7 of March 9<sup>th</sup>, 2009.

Due to the importance of the amendments included in the Bills with regards to the Sales and Use Tax (SUT) provisions, we are issuing this early bulletin specifically to discuss the SUT amendments and how they will impact the merchants doing business in Puerto Rico. On the following days, we will issue additional bulletins to discuss the other amendments included in the Bills.

The Bills propose the retention of the Reseller Exemption Certificates with certain conditions and limitations.

The Bills brings back Section 2407 that was revoked by Act 7, which provides relieve to sellers from collection of SUT on sales for resale when the Reseller Exemption Certificate and the required documents are presented by the buyer. This amendment is important because the regulations under this section establishes: the definition of a reseller; the re-

quirements to retain copy of the Exemption Certificate; the requirement to request the Certificate for Exempt Purchases for each transaction; and provides the alternate methods available. This means, that even though the Bills introduce new requirements for issuing the Reseller Exemption Certificate, the requirements regarding the evidence and documentation to grant an exemption to a client would not change.

The most important amendment is to Section 2502, with regards to the Exemption Certificates. Act 7 eliminated the Reseller Exemption Certificate; the Bills reincorporates the certificate but established a threshold. The Secretary of the Treasury will issue the Reseller Exemption Certificate automatically to resellers with an annual volume of business of at least \$500,000. Those resellers with an annual volume of business of less than \$500,000 will have to prove to the Secretary they are in "good standing" with Treasury Department in order to obtain the Reseller Exemption Certificate. "Good standing" means: all returns must be filed (income tax, SUT, etc), no debt with Treasury and copy of Municipal Volume of Business Declaration for every municipality in which they are engaged in business.

In addition, the Bills propose to amend Section 6189 to provide

a Municipal Reseller Exemption Certificate, to be issued by the Secretary, for resellers that don't qualify for a Reseller Exemption Certificate as provided in Section 2502, as amended by the Bills. It also clarifies that the credit provided in Section 2704 for reseller without an Exemption Certificate will not apply for municipal sales tax.

The effective date of the amendments regarding the SUT provisions included in the Bills will come into effect on November 1<sup>st</sup>, 2009. Therefore, the reseller exemption will continue operating as they currently are until October 31<sup>st</sup>, 2009.

It is necessary to point out that the Bill doesn't include amendments to Sections 2602, 2606 and 2607 of the Code with regards to the filing date of the monthly sales and use tax return and the remission date of the tax. Therefore, the amendments incorporated by Act 7 changing the due date of the returns and remission of tax from the 20<sup>th</sup> day of the following month to the 10<sup>th</sup> day of the following month, will become effective on July 10<sup>th</sup>, 2009 as provided in Act 15 of April 23<sup>rd</sup>, 2009. Act 15 postponed the effective date of the amendments to the Subtitle BB of the Code to June 1<sup>st</sup>, 2009.

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