

DELOITTE TAX LLP
PUERTO RICO TAX ALERT – SEPTEMBER 2022 – NUMBER 11

TAX ADMINISTRATIVE MEASURES - HURRICANE FIONA

The Puerto Rico Treasury Department (PRTD) issued Administrative Determination Number 22-08 (AD 22-08) to establish tax administrative measures related to the emergency caused by the passage of Hurricane Fiona through Puerto Rico.

EXTENSION OF TIME TO FILE AND PAY

Returns/Filings	Due Date	Postponed Due Date
All income tax returns for individuals, corporations, passthrough entities and other legal entities	Between September 30, 2022, and December 15, 2022	December 15, 2022
Credit for Persons 65 yrs. of Age or Older and Compensatory Credit for Low Income Pensioners Return (Form 481.1)	October 14, 2022	December 15, 2022
Sales and Use Tax and Tax on Imports Monthly Return, Form AS 2915.1 for taxable period August 2022	September 20, 2022	October 20, 2022
Individual Income Tax Estimated Payment – Second Installment	October 18, 2022	December 15, 2022
PRTD Bonds	Between September 19, 2022, and November 17, 2022	November 18, 2022
Notifications for Mathematical Error or Adjustment of Tax Return	Between September 19, 2022, and November 17, 2022	November 18, 2022
Internal Revenue License	Between September 19, 2022, and November 17, 2022	November 18, 2022
Other Administrative Procedures, not limited to, Ruling Request, Change in Accounting Period, Change in Accounting Method, Administrative Debt Review Letter	Between September 19, 2022, and November 17, 2022	November 18, 2022
Term for filing administrative claims and every term required for the presentation of information or documents required by the Office of Administrative Appeals	Between September 19, 2022, and October 17, 2022	October 18, 2022
Hearings before the Office of Administrative Appeal	September 19 and 20, 2022	Suspended until further notice

AD 22-08 does not extend the time to file or pay for transactions, declarations, returns, and payments related to: sales and use tax return for taxable periods after August 2022; excise tax; tax on alcoholic beverages; special tax imposed on foreign corporations under Act 154-2010, as amended; withholding tax on salaries; withholding tax at source on services rendered, other withholdings; and, estimated tax payments.

PRTD will suspend issuance of Collection and Garnishment Notices until November 18, 2022. All scheduled Garnishments and those that the 30-day period has not expired, were cancelled.

Taxpayers that fail to comply with an established Payment Plan may request a new Plan by December 31, 2022.

INTRODUCTION OF GOODS AND TAXABLE ITEMS FOR RESALE

Merchants with a valid Reseller Certificate will receive a Temporary Exemption Certificate to allow for the introduction of goods into Puerto Rico and the purchase of taxable items in Puerto Rico free of Sales and Use Tax (SUT) from October 1, 2022, until October 31, 2022.

Merchants will receive the Temporary Exemption Certificate automatically through SURI.

Merchants must provide copy of the Temporary Exemption Certificate and the Certificate for Exempt Purchases and for Services Subject to the 4% Special-SUT (Form SC 2916) when completing a purchase.

QUALIFIED PAYMENTS DUE TO HURRICANE FIONA

AD 22-08 establishes that Qualified Payments completed between September 19, 2022, thru December 31, 2022, will be exempt from tax.

Qualified Payments are those:

- (i) to supply, reimburse or pay the necessary and reasonable expenses, to the individual or their relatives such as food, medicine, gasoline, lodging, medical expenses, expenses for childcare, expenses for the care of dependents, expenses for the generation of electric energy, expenses to supply drinking water to the home and funeral expenses, incurred as a result of a Disaster Declared by the Governor of Puerto Rico;
- (ii) to reimburse or pay the necessary and reasonable expenses incurred for the repair and rehabilitation of a main residence or repair or replacement of the tangible personal property contained therein to the extent that the need of such repair, rehabilitation or replacement is attributable to a Disaster Declared by the Governor of Puerto Rico, is the said payment made directly to the supplier of the good or service or to the individual;
- (iii) payments made directly to an individual as monetary assistance to cover the costs of any damage or loss suffered by the individual as a result of a Disaster Declared by the Governor of Puerto Rico; or
- (iv) payments made by the federal government, the Government of Puerto Rico or any municipality, or agency or instrumentality thereof, in connection with a Disaster Declared by the Governor of Puerto Rico to promote the general welfare, but only insofar as any expense offset by such payment is not otherwise covered by insurance or otherwise.

Qualified Payments are excluded from the definition of gross income provided that said payments:

- (i) are made within the term determined by the Secretary by regulation, administrative determinations, circular letter or general informative newsletter from the Disaster Declared by the Governor of Puerto Rico;
- (ii) are additional to the compensation that the employee usually receives or to which the independent contractor is entitled;
- (iii) are not in substitution of the wage earned by the employee or the compensation of the independent contractor;
- (iv) the employee does not discriminate in favor of highly compensated employees; and
- (v) the amount paid in cash does not exceed the monthly or annual amount that the Secretary, as a result of the Disaster Declared by the Governor of Puerto Rico, determines by administrative determination, circular letter or general informative newsletter

An employer may claim as ordinary and expense deductions of Qualified Payments made.

The PRTD will issue additional guidance to establish the monthly or annual amount of Qualified Payments that will be considered excluded from gross income and the reporting requirements related to such payments.

DISTRIBUTIONS ON QUALIFIED RETIREMENT PLANS AND INDIVIDUAL RETIREMENT ACCOUNT

The PRTD issued Internal Revenue Circular Letter Number 22-13 (IR CC 22-13) to notify certain distributions from a qualified retirement plan or an individual retirement account to cover for Eligible Expenses related to damages suffered by Hurricane Fiona will be fully exempt or subject to preferential income tax rates.

The first ten thousand (\$10,000) dollars distributed to an Eligible Individual within October 6, 2022 to December 31, 2022 (Eligible Period) will be fully exempt. Amounts distributed in excess of ten thousand (\$10,000) dollars up to one hundred thousand (\$100,000) dollars will be subject to a ten (10%) percent income tax withholding at source in lieu of any other tax.

Eligible Expense means any expense that an individual may incur to correct losses or damages suffered by a Disaster Declared by the Governor of Puerto Rico and extraordinary and unforeseen expenses to cover basic needs as a result of the said disaster. The fact that the expenses have been paid by the spouse, descendants or ascendants of the participant or the beneficial owner, will not invalidate the eligibility of the same.

An Eligible Individual is a bona fide resident of Puerto Rico during the entire 2022 calendar year.

Distributions must be reported in Form 480.7C, Informative Return - Retirement Plans and Annuities or Form 480.7, Informative Return - Individual Retirement Account.



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