



TaxNewsFlash

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Puerto Rico: Further guidance, relief in response to hurricanes

Puerto Rico's Department of Treasury continues to provide guidance for taxpayers following the hurricanes.

After Hurricane Maria, electric services and access to telecommunications are limited. The Puerto Rico Department of Treasury is operating from a temporary remote location from which it is managing the most urgent issues and issued earlier guidance. Read [TaxNewsFlash-United States](#)

More recently, the tax authorities have issued the following guidance.

AD 17-19 (October 3, 2017)

The Puerto Rico Department of Treasury issued this administrative determination (AD) to clarify the tax treatment of donations made as a result of Hurricane Maria.

Donations of tangible personal property and services by foreign donors to the following recipients will not be subject to the payment of sales and use tax (i.e., by their nature, these donations do not reflect a purchase or sale):

- Hospitals
- Non-profit entities
- Public instrumentalities and municipalities of the governments of Puerto Rico and the United States, including its legislative and judicial branches
- Individuals

Tangible personal property introduced into the commonwealth by a merchant with the purpose of being donated will not be considered inventory and will not be subject to tax as long as the merchant can prove the purpose of such property.

However, tangible personal property introduced by a merchant but removed or retired from inventory with the purpose of being donated will be subject to sales and use tax, pursuant to Article 4010.01(rr)-1(b) of Regulation 8049 of July 22, 2011.

For purpose of this administrative determination, the term “donation” is defined to mean a transaction made for non-commercial purposes when a natural or legal person freely disposes of tangible personal property located in Puerto Rico or provide services in favor of a grantee who receives and accepts this property without any benefit in return.

AD 17-20 (October 3, 2017)

This administrative determination clarifies that for tax quarters ending on or after September 5, 2017, and on or before January 31, 2018, transfers of property to affiliates located outside of Puerto Rico in order to facilitate the property’s safekeeping in anticipation of or as a result of Hurricane Irma and Hurricane Maria, will not constitute acquisitions for purposes of excise taxes.

An “exhibit” or documentation about the property must be sent to the tax authorities at this email address—act154Info@hacienda.pr.gov—within 30 days of the transfer.

Once the property transferred is sold, it will be subject to the excise tax as it would have been during the ordinary course of business.

AD 17-21 (October 4, 2017)

This administrative determination establishes a temporary exemption with respect to certain qualified payments of disaster assistance, made by an employer in favor of its employees as a means of providing aid for repairs or to serve as compensation for damages and loss as a result of Hurricane Maria.

For these purposes, “qualified payment for disaster assistance” means any amount paid to or for the benefit of an individual:

- To meet or pay necessary and reasonable expenses of that individual or that person’s family and includes expenses for food, medicine, gasoline, housing, medical expenses, childcare expenses, dependent care expenses, the purchase of electricity generators, and funeral expenses incurred as a result of Hurricane Maria, provided that the payment is made directly to the supplier of the goods or services
- To pay necessary and reasonable expenses incurred for the repair or rehabilitation of the individual’s principal residence or the repair or replacement of the content in the residence, to the extent that the need is attributable to Hurricane Maria, and again provided that the payment is made directly to the supplier of the goods or service

- Payments made directly to an individual in the form of monetary assistance to cover the costs of any damage and loss suffered by that individual as a result of damage caused by Hurricane Maria in Puerto Rico
- Payments made by the federal, state, or local government, or agency or instrumentality thereof, as a result of the damage caused by Hurricane Maria to promote the general well-being of the individual, but only to the extent that any expense offset by such payment is not otherwise covered by insurance

The requirements for an amount received by the individual as a “qualified as a qualified payment” for disaster assistance are:

- Payments must be delivered to the individual during the period between September 21, 2017, and December 31, 2017
- Payments received by the individual must be in lieu of salary not earned during the time when that person was not able to complete the terms of employment due to the disaster

Concerning payments by employers to employees:

- The amount paid will be in addition to the compensation ordinarily received by the employee
- An employer cannot discriminate in favor of highly paid employees (as defined in section 1032,06(d)(2) of the 2011 Puerto Rico Internal Revenue Code)
- The payment made directly to the employees will be limited to \$1,000 a month and cannot be in any way attributable or related to the position or salary received by the employee.

A sworn statement must be submitted no later than January 31, 2018, that provides the name and social security of each employee and the amounts paid as “qualified payment for disaster assistance” during the period between September 21, 2017, and December 31, 2017.

The Puerto Rico Department of Treasury has indicated that it will be issuing a circular letter indicating how the statement is to be submitted. The amount paid to each employee also must be presented on Forms W-2 as “exempt income” in the box that will be provided for this matter.

These payments will be deductible as taxable income for the employer.

Loans to employees, without interest

Employers can offer loans to employees, without interest—interest-free loans—during the period between September 21, 2017, and June 30, 2018, to provide assistance and to help cover necessary and reasonable expenses for the employee and the employee’s family and also for the expenses for construction or repair of the principal residence of the employees as a result of Hurricane Maria.

Employees will not have to recognize as income, such loans as long as the total amount of the loan does not exceed \$20,000. These loans can be offered to employees as an additional help to the qualified payment for disaster assistance (described above).

AD 17-15 (September 28, 2017)

This administrative determination provides taxpayers required to remit installments of sales and use tax (per Code section 4042.03(a)(2)(A)(i)(II)) will not have to remit the installments for the period starting on September 1, 2017, through the period ending November 30, 2017.

Starting December 1, 2017, taxpayers must again be computing and paying sales and use tax installments.

Merchants considered to be “large taxpayers” (under section 1010.01(a)(35)) must continue making sales and use tax installments.

AD 17-14 (September 26, 2017)

Gasoline retailers that have submitted all of the documentation to the Puerto Rico Department of Treasury to obtain the gasoline retailer’s license rights (Class A and Class B) on or before September 20, 2017, can obtain an expedited provisional license by applying to puertos@hacienda.pr.gov. This email mailbox will only be used to reply concerning authorizations to operate as a gasoline retailer with a provisional license. The provisional license will be effective for 60 calendar days.

AD 17-13 (September 26, 2017)

The Puerto Rico Department of Treasury extended the exemption for sales and use tax on prepared meals (pursuant to AD 17-12), until 11:59 pm on Sunday, October 8, 2017.

CC RI 17-14 (October 1, 2017)

This circular letter establishes the temporary procedure for the manual release of the motor vehicles imported to Puerto Rico. The temporary procedure (“manual release”) provides:

- The importer must obtain the bill of lading and the appraisal document of the imported vehicles (merchandise).

- The importer must visit the satellite office for the consumption tax (“satellite NIC office”) corresponding to that of the maritime importer used to bring the motor vehicles to Puerto Rico and must submit the following:
 - Bill of lading
 - Appraisal document
 - Copy of bond document (if bonded)
 - Cost of merchandise evidence (in the case of new vehicles for a concessionaire, dealer or distributor)
- A tax agent will review documents and prepare the imports declaration.
- The importer will visit the tax collector’s office located in the Crowley facilities within the Isla Grande port zone and pay the excise tax determined on the imports declaration.
- Once the tax is paid, the importer will re-visit the satellite NIC office to present the payment evidence and obtain the release authorization.

AD 17-18 (October 3, 2017)

This administrative determination postpones for a period of 30 additional calendar days, the period for the filing of administrative complaints and information or documents required by the office of administrative appeals of the Puerto Rico Department of Treasury. This relief is additional to the additional time established under AD 17-10 and AD 17-11 and will apply to the expired terms during the period between September 5, 2017, and September 26, 2017—now be due on Friday, October 27, 2017.

Additionally, the period for filing administrative complaints and information or documents required by the office of administrative appeals that has a due date between September 27, 2017, and October 20, 2017, is extended for 30 calendar days.

AD 17-17 (October 1, 2017)

This administrative decision extended an exemption of sales and use tax on prepared meals, previously extended by AD 17-13, until further notice.

AD 17-16 (October 2, 2017)

This administrative determination exempted from payment and deposit of the additional excise tax of \$3.25 (established under section 3020.07A(a)(ii)) imposed on diesel fuel for dealers, to the extent that the dealers establish distribution routes consistent with the priorities and needs determined by the governor of Puerto Rico starting on September 24, 2017.

Administrative Order No. 2017-0002 (Municipal Revenue Collection Center)

The Municipal Revenue Collection Center issued this administrative order, granting a moratorium on the payment of interest, surcharges, and penalties until December 31, 2017, on payments of real property tax. Under this relief, the following conditions apply:

- The moratorium applies to the payment of real property taxes corresponding to the first semester of fiscal year 2017-2018 (July 2017).
- If the taxpayer was in a previous default and/or non-compliance status that included interest, the interest accrual will be suspended from the date of the emergency declaration (September 21, 2017) through December 31, 2017.
- This moratorium will apply to taxpayers making payments under a past tax amnesty program. Late payment for the months of September, October, and November will not constitute a penalty or cancellation of amnesty.
- For taxpayers with payment plans, the relief under this moratorium is automatically granted under the clauses and conditions of the payment plan until December 31, 2017. The months under this moratorium will be added at the end of the projected date of the payment plan.
- Taxpayers paying “supplements” issued as of August 1, 2017, will pay the principal and will not accrue interest, surcharges, and penalties until December 31, 2017; and issued as of September 1, 2017, and October 1, 2017, will be entitled to discounts and will not accumulate interest, surcharges, and penalties until December 31, 2017

For more information, contact a tax professional with KPMG in Puerto Rico:

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