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Puerto Rico: AMT guidance reflecting district court's decision

The Puerto Rico Treasury Department issued guidance concerning the alternative minimum tax (AMT).

Administrative Determination No. 16-11 (September 30, 2016) provides guidance in the wake of the March 2016 decision of the federal district court:

- To clarify applicability of the AMT under Puerto Rico tax law (section 1022.03) for tax year 2016
- To establish the procedure to claim a credit for any tax paid in excess of AMT under paragraph (b)(2) of section 1022.03 for tax year 2015

Background

The U.S. District Court for the District of Puerto Rico in March 2016 issued an opinion and order permanently enjoining the Secretary of the Puerto Rico Treasury from enforcing a component of the commonwealth's AMT. *Wal-Mart Puerto Rico, Inc. v. Zaragoza Gómez*, No. 3:15-cv-03018 (D. P.R. 2016):

Notably, in the view of the federal district court, the AMT imposed on tangible property and services transferred from an "out-of-island entity" to a Puerto Rico affiliate discriminated against interstate commerce and also violated the Equal Protection Clause. Read [**TaxNewsFlash-United States**](#)

AMT computation

The guidance—Administrative Determination No. 16-11—provides that for tax years beginning on or after January 1, 2016, taxpayers will not be required to include in their AMT computation certain components (e.g., intercompany expense allocations and related-party purchase components).

For eligible taxpayers, the AMT computation will be 30% of the amount by which their AMT income for the tax year exceeds the exempt amount, reduced by the alternative minimum credit for taxes paid in foreign jurisdictions for that year.

Estimated tax payment for 2016

For those taxpayers whose estimated tax payments for tax year 2016 have not yet been made (that is, the payment date has not lapsed), these taxpayers will not have to include AMT components expressly excluded from the computation. If any portion of the already remitted estimated tax payments are attributable to the excluded components, the amounts may be fully applied against taxable income for 2016.

For those taxpayers whose estimated tax installment payments have already been made and deposited for tax year 2016—and the aggregate amount already paid is equal to or greater than the required estimated tax payment, determined after a re-computation to reflect the holding in the federal district court's case—no further payments are required for the remaining estimated tax installments for the tax year.

AMT credit for 2015

Taxpayers that paid AMT for tax year 2015, with the AMT being based on the excluded components, will be entitled to re-determine their AMT for 2015 without the excluded components. If the amount of AMT paid with the originally filed return for tax year 2015 exceeds the revised AMT, the taxpayer would be entitled to a credit for the amount overpaid for the tax year.

Taxpayers that are eligible for a credit relating to any amount of such overpaid AMT can: (1) apply the excess as an AMT credit contribution in subsequent years (subject to the limitations set forth in section 1051.02); or (2) apply the excess amount as a payment to their tax year 2016 estimate.

Taxpayers electing option (2), must file an amended income tax return for tax year 2015 along with Form 483.3, *Step Form Schedule a Corporation - Part V Taxable Year 2015*.

Administrative Determination No. 16-11 further clarifies that the 51% disallowance for expenses paid (or to be paid) by a taxpayer to a related person that does not conduct business in Puerto Rico, or paid to the head office (or home office) located outside of Puerto Rico, continues to be valid.

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