

October 14, 2015

Tax Update

Treasury Notifies the Cancellation of the IVU Loto Program Draws and Issues Guidance on the Applicability of Fiscal Terminals

On September 28, 2015, the Puerto Rico Treasury Department (“Treasury”) issued Tax Policy Informative Bulletin No. 15-14 (“IB 15-14”), notifying the cancellation of the IVU Loto Program draws, and Administrative Determination No. 15-20 (“AD 15-20”), notifying changes with respect to the obligation to install, allow to install or modify, as applicable, and maintain a fiscal terminal.

Below we summarize the most significant provisions of IB 15-14 and AD 15-20.

IB 15-14

Effective September 29, 2015, Treasury cancelled the IVU Loto Program draws. Please note that merchants are still required to comply with the use of a fiscal terminal. Merchants shall continue collecting the sales and use tax (“SUT”), recording their sales in the fiscal terminal, providing customer receipts with the sales price and the SUT separately stated, and remitting the SUT to Treasury. Note, however, that merchants will not be required to include the number previously used to participate in the IVU Loto’s draw in the sales receipts.

You may access IB 15-14 (in Spanish) [here](#).

AD 15-20

Obligation of Installing, Owning and Maintaining a Fiscal Terminal

Effective October 30, 2015, only merchants whose total annual sales volume exceeds \$125,000 will be required to install, own and maintain a fiscal terminal that complies with Treasury’s specifications in each point of sale they have at their commercial establishments.

Merchants whose aggregated annual sales volume is more than \$1,000,000 shall have either a fiscal terminal integrated to each of their points of sale, or a cash register capable of transmitting data or information to Treasury.

Exceptions

The requirement to install, allow to install or modify, as applicable, and maintain a fiscal device will not apply to the following merchants, establishments or points of sale:

1. Merchants whose aggregated annual sales volume for the immediately preceding taxable year (ended on or before October 30, 2015) does not exceed \$125,000;



For more information on this Legal Update, please contact:

Carlos E. Serrano

cserrano@reichardescalera.com

787.777.8815

Alba I. Joubert Pereira

ajoubert@reichardescalera.com

787.777.8825

Bibiana A. Cruz

bcruz@reichardescalera.com

787.777.8813

Javier J. Bayón

jbayon@reichardescalera.com

787.777.8802

2. Merchants that are only dedicated to rendering professional services subject to the 4% SUT effective October 1, 2015;
3. Establishments that carry out, exclusively, credit transactions through a system of accounts receivable or periodic payments (billing system);
4. Except for those whose principal business is the sale of prepared foods, merchants that exclusively carry out transactions of sales of goods and services in which the buyer is not present at any time at the point of sale, such as: mail transactions, Internet or "E-commerce" transactions, and telephone transactions;
5. Vending machines, admission fee vending machines, or automatic teller machines;
6. Merchants that exclusively carry out services transactions in the establishment of the buyer where a point of sales does not exist;
7. Agencies of the Commonwealth of Puerto Rico or the Government of the United States of America;
8. Merchants' establishments that exclusively provide educational services;
9. Merchants' establishments that exclusively provide health care or medical-hospital services;
10. Merchants that carry out less than five transactions a month during each of the months of any taxable year;
11. Merchants that are principally dedicated to providing financial or financial intermediation services;
12. Merchants that are principally dedicated to insurance and insurance commission based services;
13. Merchants that are exclusively dedicated to residential or commercial real estate property leasing services;
14. Merchants registered as temporary businesses for operating for less than six consecutive months during the year; and
15. Independent contractors that only render services to merchants pursuant to a Multilevel Closing Agreement with Treasury, and have received a certification from Treasury to such effect.

Merchant's Responsibility of Complying with the Requirements of Installing, Owning and Maintaining a Fiscal Terminal

Effective October 30, 2015, it will be the merchant's responsibility to acquire and maintain a fiscal terminal provided by a processor certified by Treasury. The cost to acquire, install and maintain a fiscal terminal, as well as any costs associated with the transmission of information to Treasury will be the merchant's sole responsibility.

Merchants that currently have a Fiscal Terminal provided by Treasury

As of October 29, 2015, fiscal terminals that have been provided by Treasury will

no longer work. Therefore, merchants that currently have a fiscal terminal provided by Treasury, and maintain the obligation of having a fiscal terminal pursuant to AD 15-20, will have until October 30, 2015 to acquire and install a new fiscal terminal provided by any of the suppliers certified by Treasury.

Collection and Remittance of the SUT

Please note that a merchant shall comply with the filing of the SUT return through Treasury's Merchant Integrated Portal and make the corresponding payment, even if it does not have the obligation of maintaining a fiscal terminal.

Penalties

A penalty of up to \$20,000 will be imposed for each transaction not processed through the fiscal terminal, in addition to any other penalty that may apply for failing to collect the SUT.

You may access AD 15-20 (in Spanish) [here](#).

This communication is for information purposes only and does not constitute legal advice. This communication may be based on authorities that are subject to change and is not a substitute for professional advice or services. You should consult a qualified professional advisor before taking any action based on the information herein. This communication does not create an attorney-client relationship between Reichard & Escalera and the recipient.

[Unsubscribe](#).