

May 6, 2016

Tax Update

Puerto Rico House of Representatives and Senate Vote to Repeal the VAT Before its Effectiveness

Recent Developments

As announced in our May 2, 2016 Legal Update, on Friday, April 29th, the Treasury and Budget Commission of the Puerto Rico House of Representatives proposed a bill to eliminate the value added tax ("VAT") provisions in the Puerto Rico Internal Revenue Code of 2011, as amended ("Code") letting the current sales and use tax ("SUT") to continue in effect at a rate of 10.5% on most taxable transactions with a special 4% SUT on most business-to-business ("B2B") services.

By last Monday, the House of Representatives approved such bill with 45 ayes and no nays, while by yesterday, the Senate had done the same with 23 ayes and no nays. That is, with more than 2/3 of the vote in favor in both chambers. While the Governor of Puerto Rico, Alejandro García Padilla has publicly anticipated his veto of the measure, strong bipartisan support points towards a probable override of such veto.

What This Means to Business

As currently enacted, the VAT is set to commence on June 1, 2016. Therefore, chances are that your business, as has the Puerto Rico Treasury Department, has spent several months working on required programming changes to implement the VAT. To date, nothing has occurred to change the statutory reality of having to be ready for VAT compliance on that date. However, at this point having to continue the current SUT regime is likely. Planning for a probable stop of readiness measures is advised.

While consumer level transactions will see no material changes if the repeal materializes, business will neither see the change from the special 4% SUT on B2B services to the 10.5% VAT, nor will they realize the possibility of crediting taxation on their inputs related to taxable sales.

More to Come

At this time, certainty on the tax consequences of commercial transactions for June 1, 2016 and thereafter is unattainable. The bill, as approved, will hopefully make its way quickly to La Fortaleza to either become law or be vetoed and in the eventuality of the latter, the outcome will continue to be uncertain until a potentially unprecedented vote at both the House and Senate. If anything can be assured, it is that there will not be a dull moment in the long running saga of Puerto Rico's attempt at a comprehensive tax reform.



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