

March 1, 2017

Tax Update

New Treasury Publications – Income Tax Withholding on Payments for Services Rendered

On February 3, 2017 and February 16, 2017, the Puerto Rico Treasury Department (“Treasury”) issued Internal Revenue Informative Bulletin No. 17-02 (“IR IB 17-02”) and Internal Revenue Circular Letter No. 17-02 (“IR CL 17-02”), respectively, addressing matters related to income tax withholding on payments for services rendered.

Below we summarize the most significant provisions of IR IB 17-02 and IR CL 17-02, which are effective immediately.

IR IB 17-02

IR IB 17-02 clarifies the procedure that must be followed to report payments subject to withholding on Treasury Form 480.6B, “Informative Return – Income Subject to Withholding” (“Form”), when such payments include reimbursement of expenses incurred by the service provider.

Pursuant to IR IB 17-02, reimbursement of expenses must be informed in the “Amount Paid” column of lines 1 or 2 of the Form, as applicable. In addition, the amount withheld at source by the withholding agent on the amount of the payment that is subject to withholding pursuant to Section 1062.03 of the Puerto Rico Internal Revenue Code of 2011, as amended (“Code”), shall be reported in the “Amount Withheld” column of lines 1 or 2 of the Form, as applicable. Because in these cases the withholding tax may be less than 7% of the amount reported in the “Amount Paid” column in excess of \$1,500, the withholding agent shall enter the following code in the Form’s box titled “Num. of Waiver Certificate Regarding the Withholding at Source on Payment for Services Rendered:” BIRI020161702.

Please note that the provisions of IR IB 17-02 apply for filing Forms corresponding to year 2016.

You may access IR IB 17-02 (in Spanish) [here](#).

IR CL 17-02

IR CL 17-02 modifies the information that needs to be included with the sworn statement (“Sworn Statement”) that the person rendering services must submit annually to the withholding agent in order to evidence exemption from tax withholding. Pursuant to IR CL 17-02, the Sworn Statement must include the following information:

- Full name;
- Physical and mailing address;



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

- Social security number or employer identification number;
- Merchant registry number (new requirement); and
- Statement indicating that the payment received is exempt from withholding pursuant to the provisions of Section 1062.03(b) of the Code.

The Sworn Statement will be valid throughout the natural year for which it was subscribed. Please note that IR CL 17-02, which you may access (in Spanish) [here](#), includes an example of the Sworn Statement.

Pursuant to IR CL 17-02, the Sworn Statement requirement will also apply to:

- Insurance premiums;
- Rent or sale of personal or real property;
- Printing;
- Sale of newspapers, magazines, and other publications (including placement of ads);
- Broadcast time in radio and television;
- Payments for services rendered by a driver of a transportation network; and
- Payments for services rendered not subject to withholding pursuant to a Treasury's administrative determination, circular letter or informative bulletin.

IR CL 17-02 clarifies that the following payments for services rendered are not subject to the 7% income tax withholding, without having to present copy of a Sworn Statement to the withholding agent:

- The first one thousand five hundred dollars (\$1,500) paid during the calendar year to the person who rendered the service;
- Payments for services rendered by nonresident individuals or foreign corporations or partnerships not engaged in trade or business in Puerto Rico subject to withholding under Sections 1062.08 and 1062.11 of the Code;
- Payments of salaries subject to withholding under Section 1062.01 of the Code;
- Payments for services to individuals, corporations and partnerships during the first three (3) years of their commencement of a rendering or services activity. In these cases, the taxpayer must request a waiver to Treasury by completing and submitting Form SC 2678 or Form SC 2680, as applicable; and
- Payments to the Government of Puerto Rico, its agencies, public corporations and political subdivisions.

Finally, IR CL 17-02 repeals Treasury Circular Letters No. 02-09 and No. 02-13, and reiterates the validity of Treasury Circular Letter No. 02-10.

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