

April 4, 2017

Tax Update

Rules for the Use of Tax Credits Granted Before the Order of Suspension of Issuance of Tax Credits

On March 7, 2017, the Puerto Rico Fiscal Agency and Financial Advisory Authority issued Administrative Order 2017-01 ("AO-2017-01") which, among other things, created the Disbursement Authorization and Tax Concession Committee ("Committee") to establish limitations on the use of tax credits granted before the issuance of AO-2017-01 ("Granted Credits"). You may access our Legal Update [here](#).

On March 22, 2017, the Committee issued Resolution 2017-01 ("Resolution"), effective immediately, establishing the rules for the use of Granted Credits. Pursuant to the Resolution, the Committee has authorized the use of Granted Credits for the 2016 taxable year.

"Granted Credits" include:

- Tax credits authorized under Act No. 98-2001, Act No. 183-2001, Act No. 212-2002, Act No. 159-2011, Act No. 83-2010, Section 5-A. of No. 135-1997 ("Act 135") and Section 6 of Act No. 73-2008 ("Act 73"), for which the Secretary of the Puerto Rico Treasury Department ("Secretary") has issued, before the date of AO-2017-01, an administrative determination to the effect that the applicant of the credit complied with all the requirements of law and has the right to use the credit in accordance with the conditions and limitations provided by each such act;
- Tax credits authorized under Act No. 78-1993 and Act No. 74-2010, which such grant of exemption and tax credits shall have been approved by the Director of the Puerto Rico Tourism Company as of the date of AO-2017-01;
- Tax credits authorized under Act No. 362-1999 and Act No. 27-2011, for which the tax concessionary has submitted before the date of AO-2017-01, the final certification from the auditor in which the entire credit is certified. In addition, it includes the advance of the credit for which the concessionary has submitted before the date of AO-2017-01, the partial certification of the auditor or has posted the bond designating the Secretary as beneficiary, as required under Article 7.3(f) of Act No. 27-2011;
- Tax credits authorized before the date of AO-2017-01 under Act No. 140-2001, as amended by Act No. 77-2015, which such credit certification, as required under Article 2.6 of the Act, has been issued by the Executive Director of the Puerto Rico Housing Finance Authority before the date of AO-2017-01;



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

- Tax credits authorized before the date of AO-2017-01 under Section 3(b) and Section 5 of Act 135 and Section 5 of Act 73 which have been generated and duly reported by the exempt business in its income tax return for taxable year 2016. However, for these purposes, tax credits reported in amended tax returns filed after the date of AO-2017-01 shall not be considered;
- Tax credits authorized under Act No. 302-2012 corresponding to donations made to foundations of ex-governors through calendar year 2016 for which the receiving entity has issued a certification before the date of AO-2017-01;
- Tax credits authorized under Sections 1051.04, 1051.05, 1051.06, 1051.07, 1051.09, 1051.14, 1113.14 and 4050.10 of the Puerto Rico Internal Revenue Code of 2011, as amended (“Code”), which shall have been generated and duly reported in the income tax return of the taxpayer for the taxable year 2016, excluding tax credits reported in amended return filed after the date of AO-2017-01; and
- Tax credits granted by final agreements that have been signed by the Secretary before the date of AO-2017-01.

The Resolution provides that in cases where a special act allows it, the Granted Credits may be sold or claimed against the income tax, without any further limitations or conditions than those already included in the Code, the corresponding special act, or any other act valid on the date of AO-2017-01.

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