

June 13, 2017

## Tax Update

### *Treasury Unveils Consumption Tax Bureau's Conciliation Program*

On May 26, 2017, the Puerto Rico Treasury Department ("Treasury") issued Internal Revenue Circular Letter No. 17-09 ("IR CL 17-09") establishing the Program for the Conciliation of Controversies and Complaints resulting from Fines and Penalty Notifications ("Conciliation Program") imposed by Treasury's Consumption Tax Bureau ("Bureau").

The Conciliation Program seeks to establish an additional informal mechanism to settle controversies that gave rise to fines and penalties. Participation in the Conciliation Program is voluntary and will not deprive taxpayers from their rights under the Uniform Administrative Procedure Act, Act No. 170 of August 12, 1998, as amended ("UAP").

Below is a summary of the most important provisions of IR CL 17-09.

#### **A. Eligibility Criteria of the Conciliation Program**

Taxpayers are eligible for the Conciliation Program if they have received an adverse final determination notice of an administrative fine or penalty imposed by the Bureau ("Final Notice"). Also, if they have filed a claim before the Assistant Secretary for Adjudicative Proceedings in connection with a Final Notice and have either not received a notice setting an administrative hearing ("Notice of Hearing"); or have decided, within the period established in the Notice of Hearing, to participate in the Conciliation Program.

In addition to the above eligibility requirements, the taxpayer must meet the requirements of Section B, below.

Note that the Treasury reserves its right to not use the Conciliation Program in cases where, due to the nature of the case, an institutional or public interest in completing the adjudicative process exists.

#### **B. Participation Requirements**

Taxpayers that meet the eligibility requirements, must also comply with the following requirements:



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1. The taxpayer must not have debts with Treasury, except for the debt being challenged and those others that are under a revision process or under a payment plan.
2. The person notified has not violated any of the provisions of the Puerto Rico Internal Revenue Code of 2011, as amended, more than 3 times in the past 3 calendar years.

### C. Conciliation Program Procedure

The following is a summary of the procedure to be followed in order to participate in the Conciliation Program.

1. The taxpayer must file Form SC 3219, Application for Participation in Conciliation Program (“Application”), within **30 days** after the date of the Final Notice. Copy of the Final Notice must be included therewith.
2. In cases where a claim was not filed before the Assistant Secretary for Adjudicative Proceedings, the mere filing of the Application will interrupt the 30-day period to file such a claim. The 30-day period will again commence once the conciliation process ends.
3. A conciliation meeting (“Conciliation Meeting”) between the taxpayer and a Treasury representative will be scheduled.
4. If an agreement is reached, the taxpayer and Treasury’s representative shall subscribe an agreement in writing.
5. If an agreement is not reached, the taxpayer must subscribe a document that indicates the result of the Conciliation Meeting. Depending on whether or not a claim had been filed before the Assistant Secretary for Adjudicative Proceedings, in such document, the taxpayer will be notified that he/she has 30 days to file a claim pursuant to the UAP; or that the case will continue the formal adjudicative process.

The provisions of IR CL 17-09 will apply only to controversies arising as a result of a Final Notice sent by the Bureau. Taxpayers can start filing their Applications for the Conciliation Program as of **July 1, 2017**.

You can access IR CL 17-09 (in Spanish) [here](#).

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