



270 Muñoz Rivera Avenue
San Juan, Puerto Rico 00918
PO Box 364225
San Juan, Puerto Rico 00936
T 787.759.9292

SALES AND USE TAX ALERT

April 20, 2010

Revocation Parameters for the Sales and Use Tax Exemption Certificate

On April 5, 2010, the Puerto Rico Treasury Department (“Treasury”) issued Internal Revenue Informative Bulletin No. 10-09 (“IB 10-09”) informing merchants of the circumstances in which the Reseller Exemption Certificate and the Manufacturer Exemption Certificate (“Certificates”) can be revoked and the consequences thereof.

Pursuant to IB 10-09, Treasury will monthly evaluate sales and use tax filing and payment compliance patterns pursuant to Subchapter BB of the Puerto Rico Internal Revenue Code of 1994, as amended (“Code”). Based on the results of such evaluations, it will revoke Certificates for the following reasons:

- failure to file the Sales and Use Tax Monthly Return (“Monthly Return”) for 3 consecutive months in the 12 month period prior to the evaluation month;
- failure to timely deposit the tax collected in 3 or more occasions in the 12 month period prior to the evaluation month;
- the assessment of a deficiency by Fiscal Audit Bureau that exceeds 25% of the sales and use tax reported; and
- inadequate use of the Certificate.

Treasury may at any time, without prior notice, modify the above mentioned criteria and may also revoke Certificates in the case of non-compliance with other provisions of Subtitle BB of the Code.

IB 10-09 also establishes that merchants whose Certificate has been revoked will have to pay the sales and use tax when purchasing products for resale or manufacture, as the case may be, and claim the respective credit on the Monthly Return (note that the credit is limited to 5.9%, not the full 7% to be paid). Note however that, pursuant to the Code, the credit may only be claimed by resellers and does not apply to manufacturers. Further guidance from Treasury may be forthcoming.

A new Certificate may be requested after a year from the revocation date, as long as the merchant complies with the requirements provided in section 2502 of the Code. The provisions of IB 10-09 are effective immediately.

For updates on this matter, you may contact any of the attorneys listed below, all members of our Tax Practice Group.

Carlos E. Serrano	787-250-5698	ces@mcvpr.com
Juan Luis Alonso	787-250-5655	jla@mcvpr.com
Roberto L. Cabañas	787-250-5611	rlc@mcvpr.com
Liz A. Pérez	787-250-2615	lap@mcvpr.com
Edwin O. Figueroa	787-250-5690	eof@mcvpr.com

The content of this Tax Alert has been prepared by us for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this Tax Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC. If you would like to be notified when certain articles and bulletins are published, you can register online:

<http://www.mcconnellvaldes.com/CM/Custom/TOCContactUs.asp>