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TAX ALERT

IVU Loto

The Puerto Rico Treasury Department ("Treasury") is currently testing its sales and use tax ("IVU" for its Spanish acronym) control program known as the "IVU Loto" with a pilot program in the Municipality of Ponce. Merchants selling certain goods and services are required to install a fiscal terminal or modify their POS terminals to accommodate the IVU Loto.

Merchants participating in the IVU Loto are required to include a lottery number on the sales receipts, giving customers the opportunity to win certain prizes to be determined by Treasury. If the IVU Loto number is not provided on the sales receipt or if the sales receipt is not provided to the customer, the customer may report the incident to Treasury.

Participation in the IVU Loto program is mandatory Island-wide and by May 1, 2011, all required fiscal or POS terminals must meet IVU Loto standards. Treasury will determine eligible merchants and the appropriate fiscal terminal to be installed by means of a questionnaire that will be mailed to merchants at their reported addresses in Treasury's Merchant Registry. Answers to the questionnaire must be completed and submitted to Treasury on or before January 31, 2011, and may only be completed online at ivuloto.pr.gov or by telephone at 787-200-7900. A personal identification number to be provided by Treasury will be needed to complete the questionnaire.

After the questionnaire is answered, the Treasury system will indicate if the merchant is required to participate in the IVU Loto program and which one of the three fiscal terminal alternatives is the most adequate for the merchant. If eligible, the system will generate an installation order that will constitute the merchant's request for the installation of the fiscal terminal or the modification of its current POS application. All merchants must have their IVU Loto program installed before April 30, 2011.

The three alternatives to comply with the IVU Loto program participation are as follows:

1. Install a fiscal terminal to be provided by Treasury;
2. Install a fiscal terminal to be provided by a certified processor; or
3. Become a certified processor, which will require a POS modification by the merchant.

Once the merchant has selected one of the three alternatives mentioned above, it will be bound to use that system for the next year. Any costs incurred in changing the installed system will be at merchant's expense and must be previously approved by the Secretary of Treasury.

A fiscal terminal is an appliance, device, machine, electronic portal, a terminal that processes banking electronic transactions, an application or other electronic mean and its collateral support systems, used for inspecting, capturing, processing or registering transactions related to goods or services, through the merchant's POS in its commercial establishment or place of business, which is later sent to a certified processor. Merchants must transmit daily the information required and captured by the IVU Loto program, to either Treasury or its authorized agent.

An authorized processor is a processor that captures and transmits the transactions that took place in a merchant's POS, through a fiscal terminal, which has been certified by the Secretary of Treasury.

Failure to furnish a receipt with the IVU Loto number to customers may result in a \$100 fine per violation. The Secretary of Treasury may also impose penalties of up to \$20,000 if the merchant does not use the IVU Loto program, interferes with the IVU Loto devices, does not cooperate with the installation of the fiscal terminals or does not modify the existing POS application or for damages to the fiscal terminals. Any system failure, cessation of operations or theft must be notified to Treasury within 24 hours.

You can follow the link to the guidelines, regulations and a presentation from Treasury with respect to the IVU Loto.

If you have any questions or would like our assistance, you may contact any of the following members of our **Tax and Retail Practice Groups**:

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