

Notification Requirement for Tax Credits

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An McV Tax Alert

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The Puerto Rico Treasury Department (“Treasury”) published Internal Revenue Circular Letter 17-07 (“CL 17-07”) notifying the procedure to report electronically certain tax credits. CL 17-07 was issued pursuant to Administrative Order 2017-01 of the Puerto Rico Fiscal Agency and Financial Advisory Authority, which limits the authority of the Government of Puerto Rico to issue new tax credits, and orders the Secretary of the Treasury (the “Secretary”) to prepare an inventory of granted credits that must be informed by the holders as a condition to claim them.

The following summarizes the key aspects of CL 17-07:

A. Tax Credits to be Included on Form 480.71 as per CL 17-07

All holders of granted credits available for use in taxable year 2016 and subsequent taxable years must complete and file electronically Form 480.71, Informative Return on Tax Credits Held (“Form 480.71”). A “holder” is defined as any natural or juridical person that generated or acquired a granted credit. “Taxable year 2016” is calendar year 2016, and for fiscal year taxpayers, the taxable year that started during calendar year 2016. “Granted credits” are defined in Resolution 2017-01 of March 22, 2017 issued by the Committee for the Authorization of Disbursements and Tax Concessions, which, in general terms, are the following:

- Tax credits authorized under Act 98-2001 (Investment in Housing Infrastructure), Act 183-2001 (Puerto Rico Conservation Easement), Act 212-2002 (Revitalization of Urban Centers), Act 159-2011 (Tax Incentives for the Treatment of Solid Waste), 83-2010 (Energy Tax Incentives), Section 5.A of Act 135-1997 and Section 6 of Act 73-2008 (Industrial Investment Credits), if the Secretary issued a determination prior to March 7, 2017.
- Tax credits authorized under Act 78-1993 and Act 74-2010 (Tourism Incentives) approved by the Tourism Director as of March 7, 2017.
- Tax Credits authorized under Act 362-1999 and Act 27-2011 (Film Industry Incentives) if the holder filed the final certification from an Auditor prior to March 7, 2017.

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- Tax credits authorized under Act 140-2001, as amended (Construction or Rehabilitation of Social Interest Housing), if the Housing Authority Executive Director issued a certification prior to March 7, 2017.
- Tax credits authorized under Sections 3(b) and 5 of Act 135-1997, and Section 5 of Act 73-2008 (Industrial Incentives Credits), if generated and reported in the original income tax return for taxable year 2016.
- Tax credits authorized under Act 302-2012 (gifts to ex-governor foundations) if the entity that received the gift issued a certification prior to March 7, 2017.
- Tax credits authorized under Sections 1051.04 (investment in qualified business securities), 1051.05 (additional investment credit), 1051.06 (donations to Santa Catalina Palace Patrimony), 1051.07 (purchase of P.R. agricultural products), 1051.09 (purchase of products manufactured in P.R.), 1051.14 (P.R. television programming) and 4050.10 (purchase of products manufactured in P.R.) of the Puerto Rico Internal Revenue Code of 2011, as amended (the “Code”), if generated and reported in the original income tax return for taxable year 2016.
- Tax credits granted under closing agreements signed by the Secretary before March 7, 2017.

The reporting requirement applies to Granted credits. The tax credits authorized under Act 154-2010 (the excise tax on the purchase of products manufactured in Puerto Rico by affiliates) and other tax credits authorized under the Code not expressly mentioned above, are not included in the list of Granted credits.

The Granted credits to be included on Form 480.71 must be held as of April 19, 2017 and must meet at least one of the following requirements: (1) all or part of the credit was or will be claimed against the income tax liability for taxable year 2016, and/or (2) any credit balance will be sold or claimed against the income tax liability for taxable year 2017 and subsequent taxable years.

B. Information Required on Form 480.71 for each Tax Credit

The tax credit holder must provide the following information for each credit to be included on Form 480.71:

1. Originator Holder:

1. Act under which the credit was granted;

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2. Total amount of the credit originally granted;
3. Total amount of the credit sold as of April 19, 2017 and/or claimed by the Originator Holder in its income tax returns for taxable years prior to taxable year 2016; and
4. Total amount of the original credit granted that was claimed or will be claimed by the Originator Holder in its income tax return for taxable year 2016.

2. Purchaser Holder:

1. Act under which the acquired credit was granted;
2. Balance of the credit acquired as of April 19, 2016 that was claimed or will be claimed in the income tax return for taxable year 2016 and subsequent taxable years; and
3. Amount of the credit acquired as of April 19, 2016 that was claimed or will be claimed in the income tax return for taxable year 2016.

Treasury may request copy of the documents that evidence the granting and approval of the tax credits informed on Form 480.71.

C. Procedure to File Form 480.71

Form 480.71 must be completed and filed exclusively through the electronic system established by Treasury, which is available in the Internet page: www.hacienda.pr.gov, in the Virtual Treasury area, under the link “Form 480.71 – Informative Return on Tax Credits Held” located in the “Online Services” section. Once filed, the system will provide a document evidencing that the taxpayer met the tax credit reporting requirement.

The deadline to file this form is by May 15, 2017. Credit holders that fail to file Form 480.71 electronically will not be able to sell or claim the Granted credit in its income tax return for taxable year 2016 and subsequent taxable years. For this reason, each taxpayer should conduct a careful review of its credits to determine which ones should be reported.

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