

## SUT Exemptions during Puerto Rico's Lockdown

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### PRACTICE AREAS

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### An McV Tax Alert

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Further to our **Tax Alert of March 18, 2020**, the Puerto Rico Department of the Treasury ("PR Treasury") issued various publications on the applicability of the sales and use tax ("SUT") during the lockdown mandated by the Government of Puerto Rico to reduce the risk of Coronavirus transmission ("lockdown").

Through PR Treasury's Administrative Determination No. 20-07 ("AD 20-07"), Administrative Determination No. 20-08 ("AD 20-08") and Internal Revenue Informative Bulletin No. 20-09 ("IB 20-09"), PR Treasury provides guidance on the SUT Exemption on certain essential articles and the authorization for release of imported articles during the lockdown.

### **AD 20-07 & 20-08 – Sales Tax Exemption on Essential Articles and Prepared Foods**

From midnight (12:00 a.m.) on Monday, March 23, 2020 until 11:59 p.m. on Thursday, April 30, 2020 ("Essential Articles Exemption Period"), **only** the following articles acquired by a person located in Puerto Rico will be considered as essential articles exempt from the state and municipal ***sales tax*** ("Essential Articles"):

- Hand sanitizers;
- Personal disinfectants (soap, shampoo and wet wipes);
- Disposable handkerchiefs or tissue paper;
- Facemasks;
- Isopropyl alcohol;
- Disinfectants and antiseptics;
- Household cleansers and/or disinfectants (soaps, detergents, chlorine and disinfectants);
- Vinyl gloves;
- Pain relievers and acetaminophen or ibuprofen medications (tablets, suppositories, liquid); and
- Anti-cold medications, including antihistamines.

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To access AD 20-07, **please follow this link.**

From midnight (12:00 a.m.) on Friday, March 20, 2020 until 11:59 p.m. on Sunday, April 19, 2020 (“Prepared Foods Exemption Period”), the sale of prepared food items, carbonated beverages, candies and pastry shop items (collectively referred to as “Prepared Foods”) acquired by a person located in Puerto Rico, will be exempt from the state and municipal **sales tax**. This exemption will not apply to the sale of alcoholic beverages.

To access AD 20-08, **please follow this link.**

The sale of the above Essential Articles and Prepared Foods must be reported as exempt sales in the “Sales and Use Tax Monthly Return” (Form AS 2915.1) for the applicable reporting period.

In AD 20-07 PR Treasury further determined that necessary programming services required to update a merchant’s system to comply with the Essential Articles Exemption Period will be considered an essential service **only** during the 5-day period from the issuance of AD 20-07 until the Essential Articles Exemption Period’s effective date (i.e. from March 18, 2020 through March 23, 2020). Consequently, during this 5-day period, programmers can go their workplace or visit commercial establishments (i.e., during the 5:00am to 9:00pm curfew for essential services during the lockdown) to make the updates necessary for a merchant to process the sale of an Essential Article exempt from the sales tax.

In the case of the Prepared Foods Exemption Period, the necessary programming services will be considered as an essential service **only** on March 19, 2020, as determined in AD 20-08. Thus, only on said day will programmers be allowed to go their workplace or visit commercial establishments (also during the 5:00am to 9:00pm lockdown curfew) to make the updates necessary for a merchant to process the sale of Prepared Foods exempt from the sales tax.

The programming service provider should have a copy of AD 20-07 and AD 20-08, as applicable, while commuting to support that he/she is undertaking an essential service during the lockdown.

Any merchant that collects the sales tax on Essential Articles or Prepared Foods must immediately refund the tax to the customer.

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### **IB 20-09- Authorization of Release on Certain Imported Articles**

IB 20-09 indicates that importers engaged in the wholesale distribution or manufacturing of goods and food (“Exempt Activities”) are not subject to the lockdown because these articles are considered as essential to maintain a stable food distribution chain. Therefore, personnel working for these importers are authorized to obtain release of their merchandise at the ports and to transport the merchandise to the importer’s warehouse or commercial establishment. However, this authorization for release of food and goods is not to be considered as authorization to sell goods not otherwise authorized for sale during the lockdown.

As informed in IB 20-09, the merchandise release procedure will continue its normal course and all merchants will be allowed to take possession of their merchandise upon completing the declaration process through SURI.

The transporter of the goods or food should have a copy of IB 20-09 while commuting to support that he/she is undertaking an essential service.

To access IB 20-09, **please follow this link.**

If you have any questions regarding these important notifications, please contact any of the attorneys listed below. Please note that all our attorneys are working remotely and can be reached by email or by phone. We will keep sending updates as events unfold.

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