

March 23, 2021

## Tax Update

### ***Guidance Published by the Office of Management and Budget for the 2021-2022 Volume of Business Declaration Filing Season***

On March 11, 2021, the Office of Management and Budget of the Government of Puerto Rico (“OMB”) published Circular Letter No. 007-2021 (“CC 007-2021”) clarifying the provisions related to municipal license tax (“MLT”) under the Puerto Rico Municipal Code (“Municipal Code”). Below is an overview of CC 007-2021.

The volume of business declaration (“VOBD”) for the 2021-2022 fiscal year is due on or before April 22, 2021, and the MLT must be paid within the first 15 days of each semester of the Government’s fiscal year. However, if the MLT is paid in total at the time of filing the VOBD, the taxpayer shall enjoy a 5% discount on the MLT. Article 7.207 of the Municipal Code provides for an automatic extension of up to 6 months for filing the VOBD (“Extension”).

CC 007-2021 clarifies that, although the Extension shall be automatically approved once duly requested along with the estimated MLT payment, the Finance Director shall have the right to limit the Extension to a shorter period or to revoke it, within 60 days, if the taxpayer is not up to date with its obligations towards the municipality. The taxpayer must specify the additional time needed when filing the Extension. In cases where the Finance Director does not approve the Extension as requested, he or she shall inform the taxpayer, in writing, the exact date of expiration of the Extension which, if approved for the full 6-month period, shall expire on October 22, 2021.

CC 007-2021 also provides the following table for purposes of computing interest and additions to the MLT pursuant to Article 7.219 of the Municipal Code in those cases where the VOBD is not timely filed.

| Period                                | Interests |
|---------------------------------------|-----------|
| April 23 – May 22, 2021               | 5%        |
| May 23 – June 21, 2021                | 10%       |
| June 22 – July 21, 2021               | 15%       |
| July 22 – August 20, 2021             | 20%       |
| As of August 21, 2021, and thereafter | 25%       |

CC 007-2021 further provides the following timeframes and surcharges to be applied when the above-mentioned annual interests are imposed:

a. Late payment for first semester

| Period                    | Surcharges |
|---------------------------|------------|
| July 1 – July 30, 2021    | 0%         |
| July 31 – August 29, 2021 | 5%         |



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|                                       |     |
|---------------------------------------|-----|
| As of August 30, 2021, and thereafter | 10% |
|---------------------------------------|-----|

b. Late payment for second semester

| Period                              | Surcharges |
|-------------------------------------|------------|
| January 2 – January 31, 2022        | 0%         |
| February 1 – March 2, 2022          | 5%         |
| As of March 3, 2021, and thereafter | 10%        |

It is further clarified that the dates detailed above apply for payments required to be made physically with the municipality and, as such, the dates contemplate an extension to the next workday in case of weekends or holidays. The OMB, however, defers to municipalities where electronic payment mechanisms have been put in place to determine, at their discretion, if an extension will be afforded until the next workday.

Note that Article 7.207(c) of the Municipal Code now authorizes municipalities to deem as “not filed” any VOBD submitted without the corresponding financial statements in cases where the taxpayer’s volume of sales exceed \$3M.

The U.S. Internal Revenue Service already postponed the April 15, 2021 filing deadline to May 17, 2021, and there is much pressure for the Puerto Rico Department of the Treasury (“Treasury”) to follow suit pursuant to the authorization granted to the agency in Act 173-2020. According to such authorization, Treasury may extend the due date for filing the 2020 income tax return up until June 15, 2021. Should Treasury extend the income tax return filing deadline, we would expect the OMB to update the dates in CC 007-2021 accordingly.

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