

## ***Sales and Use Tax Certificate Revocation***

By: Maritza Avilés Santiago

### **Sales and Use Tax Exemption Certificate**

As part of the Sale and Use Tax implementation under Act. No. 117 of July 4, 2006, the Puerto Rico Treasury Department (PRTD) issued Exemption Certificates (from now on "Certificates") for resellers and manufacturers. These Certificates are valid for a three year period and the expiration date is printed at the bottom of the certificate.

The Certificate allows any reseller or manufacturer to make their purchases without paying the sales and use tax on all articles bought in Puerto Rico, only **for resale**.

#### **Could this Certificate be revoked?**

Yes. The PRTD Secretary has the power to revoke the Certificate to any person for noncompliance with any of the requirements under Subtitle BB of the Internal Revenue Code of P.R.

The PRTD Secretary issued Informative Bulletin number 10-09 detailing the guidelines they will follow for revoking the Certificates.

As part of the process to revoke the Certificates, the PRTD will evaluate monthly the filings and payments of the monthly sale and use tax returns and will revoke any certificate that:

1. Within a 12 month period prior to the month of evaluation, the merchant has not filed the monthly return for 3 consecutive months; or,

2. Within a 12 month period prior to the month of evaluation, the merchant made late deposits for 3 times or more.

In addition, The Secretary will revoke Certificates to those merchants who:

1. The Department of Fiscal Audits has determined a deficiency exceeding 25% of the sales and use tax reported.
2. The merchant is using the Certificate improperly.

The Secretary can modify at any time without prior notification, the established parameters under Section 2502 of the Code.

#### **Effects of a Certificate Revocation**

Any person whose Certificate is revoked will pay the sales tax when purchasing goods for resale or manufacturing and claim a credit in the monthly return. After one year from the date of the revocation, the merchant can request a new certificate if complies with the requirements of Section 2502 of the P.R. Internal Revenue Code. The requirements include:

- a) Be a seller or holder of an exemption as a reseller or manufacturer,
- b) Be register as a merchant,
- c) For resellers, must provide the PRTD Secretary a detailed description of the tangible property purchased for resale in the ordinary course of business.

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## ***Lien in Favor of the ELA for Department Taxpayer***

By: Joan Otero Rodriguez

In January 20, 2010 Law Number 12 was established amending Sections 6150 and 6156 of the P.R. Internal Revenue Code. With this law the PRTD Secretary will achieve **more rapidly the property seizure process**, maximizing the collection of taxes due.

This law creates a lien in favor of the Commonwealth of Puerto Rico on any real and personal property in the amount of unpaid taxes plus penalties, interest and sub charges.

If a taxpayer fails to pay or refuses to pay the taxes, the Secretary will proceed to collect any taxes due by seizing and selling the property of the debtor.

- Serial number notification, and
- Validity of the charge.

This Lien Certificate will automatically constitute a lien against all **current and future** real estate property that the debtor owns until is totally paid. Copy of this certificate will be sent to the debtor by certified mail and the PRTD Secretary will post in the internet web page a seizure notification. During this process, the properties cannot be sold or mortgaged.

The debtor whose personal property has been seized because lack of payment for any outstanding debt could challenge in court the lien within the period established in the notification.

### **Lien Certificate Contribution**

Before proceeding with the seizure of the property, the Secretary could file a Lien Certificate in the Property Registers Office. The Certificate will include:

- Name,
- Residence of the taxpayer,
- Amount of taxes due, including fines, interest, surcharges and penalties,



### **Law Application to Older or Terminally Ill Taxpayer**

The Secretary could postpone the sale of real estate property subject to lien in case of elderly or terminally ill taxpayer whose provide medical certification and if the following events occur:

- a) Is the principal and only permanent residence, and
- b) The taxpayer does not have enough properties or income for payment of any outstanding debt.



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