

TORRES CPA NEWSLETTER

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Technical Amendments to ACT 71

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Act Number. 7

On March 9, 2009 the Governor signed Act 7 known as the "Special Act Declaring a State of Fiscal Emergency and Establishing an Integral Plan for Economic Stabilization and Restoration of Puerto Rico Credit". Some of the most outstanding features of the technical correction to the tax measures of Act 7 are:

1) Alternative Minimum Tax

A) **Alternative Minimum Tax:** Act 7 established as a permanent measure the Alternative Minimum Tax for individuals. Starting on 2009, once the AMT is calculated, if it is greater than the regular tax your tax liability will be based on the AMT calculation.

The amendment to this section consist, commencing after December 31, 2009, a credit against the regular tax is allowed for AMT paid in all previous years. Also, the circular letter from the Department of Treasury clarifies that stockholders or partners from exempt business are not subject to AMT on distributions or liquidations.

In the case of corporations, the amendments to Act 7 for AMT calculation disallowed the deductions for payment of services rendered outside of Puerto Rico that are not subject to Puerto Rico income tax.

B) **Special surtax on individuals, estates, trusts, corporations and partnerships-** During a 3-year period starting on 2009, Act 7 imposes a temporary surtax of 5% on individuals, estates, trusts and corporations or partnerships. In the case of corporations or partnerships the tax applies when gross income exceeds \$100,000. And in the case of individuals, estates and trusts, the surtax continues to **apply when adjusted gross income exceeds \$100,000** (\$150,000 for married couples filing joint returns).

C) **Moratorium on tax credits-** Effective March 9, 2009, Act 7 establishes a 3-year (2009, 2010, and 2011) moratorium on certain tax credits. To be able to claim those credits in 2012 you will have to complete Form 480.71. This form is available on the Department of the Treasury website:

<http://www.hacienda.gobierno.pr/>

2) Sales and use tax (IVU)

The amendments postpone until November 1, 2009 changes to sales and use tax provision. It also reinstates the exemption certificate which Act 7 intended to eliminate for registered reseller-merchants whose volume of business is equal or greater than \$500,000 and to registered reseller-merchants whose business volume is less than \$500,000 and fully complied with the PRIRC, and so request.

As part of the Sales and use tax (IVU) implementation, the Treasury Department gave exemption certificates to reseller-merchants and manufacturers that are valid for three years from date of acquisition.

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The exemption certificate expires the last day of the month applied.

For example: If the exemption certificate expired on November 15, 2009, this certificate will expire on November 30, 2009, and successively.

The reseller-merchants whose business volume is less than \$500,000 needs to submit form SC 2914 D attached with the Municipal Tax License for each business location in order to acquire the new exemption certificate.

Form SC 2914 is available on Department of the Treasury website:

www.hacienda.gobierno.pr/formularios

The form could be filed in any Commercial District Service Center located in: San Juan, Bayamón, Carolina, Caguas, Humacao, Arecibo, Ponce, Mayaguez and Aguadilla. Or vía mail to:

Departamento de Hacienda
Negociado de Impuesto al Consumo
Certificado de Exención
PO BOX 9024140
San Juan, PR 00902-4140



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Starting on **November 1, 2009** the due date for the monthly sales and use tax return (IVU) and payments is changed from the 20th to the **10th of the following month**. It means that the retentions for November needs to be deposited and filed before, or on **December 10, 2009**. We remind you that the form to be used is SC 2915 Rev. 1 ago 07.

3) Excise tax on motorcycles

Act 7 included motorcycles in the definition of "automobiles" for purpose of the excise tax on motor vehicle.

4) Special tax on real estate.

The technical amendment extends the special tax on residential real property and to commercial real property. The special tax will be in effect for fiscal years 2009-10, 2010-2011, 2011-12 and 2012-2013, or until the tax collected amounts to \$690,000,000 whichever comes first.

The tax is payable to the Puerto Rico Treasury in two installments (on September 1 and March 1 of each year). The base used to calculate the tax is 0.591% of the value of the property determined in the Municipal Revenue Collection Center, after taking into account several exemptions and various other special laws.

Remember that in Torres CPA Group we are committed to your financial health and will help you reduce the payment of contribution within the framework that the law allows us.

For any doubts or general concerns, please contact Lizabeth Vega at lzsanttie@torrescpa.com or call at 787-752-4545.