

Tax Alert: Tax credit holders required to complete a new Informative Return in Puerto Rico

Overview of Administrative Order OA-2017-01

Issued by the Puerto Rico Fiscal Agency & Financial Advisory Authority (“AAFAF” for its acronym in Spanish) on March 8, 2017, Administrative Order No. OA-2017-01 was put in place to, among other things, (i) stay the issuance of new tax credits under the various Puerto Rico incentive laws and (ii) transfer the evaluation of pending and future tax credits requests, as well as the approval and disbursement of prior years’ special assignments, to the newly-constituted Committee for the Authorization of Disbursements and Tax Concessions (the “Committee”).

In connection with the latter, OA-2017-01 directs the Secretary of the Treasury Department (the “Secretary”) to conduct an inventory of issued tax credits and to require their holders to provide all of the information that the Secretary deems necessary to support their concession.

Circular Letter 17-07

Pursuant to the discretion granted to Secretary under OA-2017-01, the PRTD will now require that every holder of issued and available Tax Credits for taxable years 2016 and onwards, complete and e-file Form 480.71, INFORMATIVE RETURN FOR TAX CREDITS HOLDERS.

To the terms “holder”, “issued tax credit” and “taxable year 2016” will have the same definition that is found in the Committee’s

Resolution No. 2017-01, which we discussed on our April 11, 2017 Tax Alert.

Tax Credits to be included on Form 480.71

If (i) the whole amount, or part, of a Tax Credit was or will be claimed against income taxes due for the 2016 Taxable Year, or (ii) a remaining balance of the Tax Credit can be sold or claimed for the Taxable Years 2017 and onwards, then the Tax Credit holder must complete Form 480.71 and provide the required information that is enumerated below for each the issued Tax Credits. In order to determine the possession of a Tax Credit, CL 17-07 identifies April 19, 2017 as the reference date.

Therefore, Form 480.71 must disclose every Tax Credit that has not been sold by the holder that generated the credit (the “Original Holder”) by April 19, 2017, and (i) was claimed or will be claimed for the Taxable Year 2016, (ii) can be claimed for the Taxable Years 2017 and onwards, or (iii) is available for sale after April 19, 2017.

In the case of Tax Credits that were acquired as part of a purchase, assignment or transfer that was effective by April 19, 2017, the Acquiring Holder must include the total amount of Tax Credits acquired by April 19, 2017, that were claimed or will be claim against its income tax liability for the Taxable Year 2016 and onwards.



Contact us

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CL 17-07 specifies that Tax Credits granted under Section 5 of Act No. 73 of 2008, which are part of the INTEGRATED TAX CREDITS SYSTEM (known as “CCI”, for its Spanish acronym), must also be disclosed through Form 480.71 if they meet at least one of the criteria listed above.

Required Information under Form 480.71

To properly complete Form 480.71, the following information must be submitted:

1. Original Holder

- Incentives Act under which the Tax Credits were granted;
- Total Amount of Tax Credits granted;
- Amount of Tax Credits that was sold as of April 19, 2017, or claimed by the Original Holder on its Income Tax Return prior to the Taxable Year 2016; and
- Total amount of the granted Tax Credit that was claimed or will be claimed by the Original Holder on its 2016 Income Tax Return.

2. Acquiring Holder

- Incentives Act under which the Tax Credits were granted;
- Amount of Tax Credits acquired as of April 19, 2017, that was claimed or is available to be claimed on the 2016 Income Tax Return and subsequent years; AND
- Amount of Tax Credits acquired as of April 19, 2017, that was claimed or is available to be claimed on the 2016 Income Tax Return.

The PRTD may require that the Holder substantiate the ownership of the Tax Credits

in question through the presentation of documents that evidence that granting and approval of the Tax Credits.

Filing of Form 480.71

Form 480.71 must be completed and filed through the PRTD’s online system by **May 15, 2017**. Once the Form is duly filed, the system will provide a confirmation document to evidence the Holder’s compliance.

Not complying with the requirements and filing date will disqualify the Tax Credit Holder from claiming the credit from 2016 Income Tax Return and subsequent years.

Note: As highlighted in our Tax Alert dated July 1, 2016, the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), seeks to provide Puerto Rico with fiscal and economic discipline through the creation of a control board, among other things. Virtually every fiscal decision by the Government of Puerto Rico will be made or approved by the Oversight Board created by PROMESA. On this regard, the board has authority to prevent the execution or enforcement of a contract, rule, executive order or regulation to the extent that it is inconsistent with the approved fiscal plan.

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