



## TAX INSIGHTS

# Changes in sales and use tax rules for promoters of public shows and ticket seller companies

March 27, 2024

Act 52 of June 30, 2022 (“Act 52”) modified several Sales and Use Tax (“SUT”) sections of the Puerto Rico Internal Revenue Code of 2011, as amended (“the Code”), expanding the scope of the term “marketplace seller” and “marketplace facilitator” to include the sale of “admission rights”. As a result of these amendments, the Puerto Rico Treasury Department (“PRTD”) reviewed the process to be followed by ticket seller companies and promoters to comply with the new rules. This article will guide you on the post-Act 52 requirements and processes that impact these businesses.

### [New definitions of marketplace facilitators and marketplace sellers](#)

According to Section 4010.01 (ddd) of the Code, as amended by Act 52, a **marketplace facilitator** means any person, including a related entity, that facilitates the sale of tangible personal property, including specific digital products, **admission rights**, or taxable services that comply with the requirements mentioned in the Code.

On the other hand, according to Section 4010.01 (eee) of the Code, a **marketplace seller** is defined as a seller that makes retail sales of tangible personal property, specific digital products, **admission rights**, or taxable services, through any physical or electronic market, operated, or controlled by a marketplace facilitator. The definition includes any vendor that does not have the responsibility of collecting and paying the SUT, if the sale is not made through such market.

### [Promoters of public shows and ticket seller companies](#)

According to the new definitions of marketplace facilitator and marketplace seller, the PRTD considers the promoters of public shows as marketplace sellers exclusively for the sale of tickets or admission rights through Ticket Seller Companies (“TSC”). Under the new market trends, the TSC transactions are completed through platforms that bring together a series of shows or events from different venues and producers. The PRTD considers these platforms as marketplaces, because like other digital markets, they

simplify the sale of taxable items on behalf of other merchants through the platform, in this specific case, admission rights. Consequently, each TSC must register as marketplace facilitators with the PRTD, and the promoters who use these platforms must register as marketplace sellers to sell their admission rights.

In reference to the above, the PRTD issued [Circular Letter 23-10](#) to establish:

- 1) the procedure that promoters must follow as marketplace sellers, and the procedures for TSC to register as marketplace facilitators.
- 2) the procedure to be followed as of July 1, 2023, for marketplace facilitators and marketplace sellers to report the sales of admission rights in the SUT Monthly Return.
- 3) the effectiveness date to comply with these procedures.

In addition, the marketplace seller must obtain a Waiver from the Collection of the SUT (“SUT Collection Waiver”) to be released from the obligation to collect and remit the SUT on the sales made through marketplace facilitators.

Promoters can request the SUT Collection Waiver through the Unified System of Internal Revenue (SURI by its Spanish Acronym) following the procedure indicated herein below as established in [Circular Letter 20-40](#):

1. Access your SURI account.
2. On the main page, press “Summary.”
3. Look for the “Sales and Use” account, and press the link “View Returns, Periods, and Other Options.”
4. On the right side of the page, press the link “Request or Amend Collection Waiver - Marketplace Seller.”
5. Enter the merchant registration number of all the marketplace facilitators that it uses to sell its products. The marketplace seller must include the information of each marketplace facilitator that it uses and request a copy of their Merchant Registration Certificate as marketplace facilitators.
6. Review the information that appears on the screen and, if in agreement, press “Submit.”

After obtaining the Waiver, the marketplace seller should deliver a copy of its SUT Collection Waiver to each marketplace facilitator it uses and that is registered with the PRTD. The Waiver will not apply to the sales of tickets or admission rights made directly by the promoter (not using a TSC).

### [New requirements for endorsements](#)

According to Section 4010.01(jj) of the Code, an endorsement is the notification or action taken by a promoter before the PRTD Secretary for the sale and collection of rights of admission to a public show, by means of the declaration required for that purpose. Following the provisions of Code Section 4010.01 (jj), a promoter may begin the sale and collection of the admission rights to a public show once the electronic

endorsement information return has been submitted through the digital platform SURI. The responsibility of the endorsement will remain with the promoter even when, as a marketplace seller, it makes sales of admission rights through a marketplace facilitator and such facilitator is responsible for collecting and remitting the SUT on the sales of the admission rights that it sells. Prior to this change, the promoters had to request the endorsement of the tickets to the Secretary of the PRTD no later than 10 days before the start of the ticket's sale.

As part of the new requirements for the endorsements, we must highlight the following:

1. **Effective on July 1, 2023**, the promoters must inform the name of all the TSC that will sell the admission rights to the public, the amount and price of the tickets that each of them will be authorized to sell for such an event.
2. In those cases, in which the promoter is also going to sell admission rights directly, it must inform the amount and price of the tickets that will be authorized to sell for the event.
3. When the promoter performs the liquidation of the endorsement, after the end of the public show, the SUT payments on the admission rights sold, reported, and remitted to the PRTD by the TSC as marketplace facilitator with their corresponding SUT Monthly Returns, will be reflected in the liquidation of the endorsement of the promoter. For this to occur, the TSC must complete Schedule 5 of the monthly SUT return, identified as "Admissions (Public Show)" and must inform the name of the event, along with the endorsement number.
4. The promoters will continue to be responsible for collecting and remitting the SUT to the PRTD on the admission rights sold directly by them and of any other taxable item sold directly by them. These sales must be reported in the SUT Monthly Returns filed under the "Sales and Use" account whose number begins with "550-XXX-XXXXX-XXXXX".

#### Exposures for not complying with the rules for ticket sales

Section 6080.15 of the Code establishes that any promoter of public shows who fails to timely file the "Informative Return of Endorsement-Public Shows" through SURI before starting to sell and collect admission tickets, will be subject to a fine of 25% of the total sales tax due according to the endorsement issued by the PRTD. In addition to this fine, the following could apply depending on the actions taken by the ticket sellers:

- The failure to amend or apply for an endorsement could trigger penalties in a range from \$1,000 to \$10,000 depending on the admission fees and if the taxpayer is a repeat offender.
- When the owner or manager of a premise allows the celebration of a public show to be held without the promoter having applied for the endorsement, he shall be subject to an administrative fine of \$1,000 for a first offense, or \$5,000 for repeat offenders. In cases where the promoter is also the owner of the premise, fines will be applied on both capacities (promoter and owner of the venue).
- The owner or administrator who lends, assigns, leases, exchanges or rents a premise or area for conducting a show to any person who is **not** a registered promoter, or that violates any provision of

the Code, or the regulations adopted by the PRTD Secretary for public shows, shall be subject to an administrative fine of \$10,000.

- In addition, any promoter or company who is not licensed as a ticket seller, or any representative of a promoter who sells tickets through a company that is not registered with the Office of Services to Producers of Public Shows (“OSPEP” by its Spanish acronym), will be subject to an administrative fine of \$20,000 and the cancellation of the event.

The change in the rules for promoters of public shows introduces new challenges and responsibilities. They also present opportunities for promoters to innovate, enhance their practices, and deliver exceptional experiences and entertainment. Our dedicated team of Puerto Rico sales and use tax experts are available to assist you to ensure you have the knowledge you need to navigate these tax complexities. Please contact our Tax Department should you need additional information regarding this or any other tax issue. We will be glad to assist you.

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