

Puerto Rico Treasury Issues Guidelines to Clarify Application of the AMT

ATTORNEYS

- Isis Carballo-Irigoyen
- Yamary I. González-Berríos
- Rubén Muñiz-Bonilla
- Lillian Toro-Mojica
- Mariana M. Contreras-Gómez
- Leyla González-Ibarría
- Xenia Vélez

PRACTICE AREAS

- Retail
- Tax
- Tax Litigation

An McV Tax Alert

October 4, 2016

As a result of the holding in Wal-Mart Puerto Rico, Inc. v. Juan C. Zaragoza Gómez, Civil No. 3:15-cv-03018 (JAF), the Secretary of the Treasury of Puerto Rico issued on September 30, 2016 Administrative Determination No. 16-11 (“AD”) to (i) clarify the applicability of the alternative minimum tax (“AMT”) for taxable year 2016, and (ii) establish the procedure to claim as a credit the taxes paid in excess for taxable year 2015. A copy of the AD can be accessed here.

Following is a summary of the most important provisions of the AD:

- Taxpayers will not be required to include the components for intercompany expense allocation and affiliated company purchases (the “Transfer Pricing Components”) in the computation of the AMT for taxable years 2015, 2016 and subsequent taxable years.
- Taxpayers subject to AMT
 - with estimated tax installments for taxable year 2016 that have not expired, will not have to include the Transfer Pricing Components in the computation of the estimated tax
 - with estimated tax installments that have already elapsed and have been deposited for taxable year 2016, will not be required to make the remaining estimated tax payments if the estimated taxes deposited are equal to, or greater than, the estimated tax determined without including the Transfer Pricing Components

Any portion of the estimated taxes installments paid for taxable year 2016 attributable to the Transfer Pricing Components can be applied entirely against the income tax liability of the taxpayer for such year. If the AMT paid with the original income tax return filed for taxable year 2015 is greater than the revised AMT, the taxpayer will have the right to claim a credit, but not a refund, for the amount paid in excess for such taxable year.

- Taxpayers with the right to claim a credit for the AMT paid in excess can elect to:

Puerto Rico Treasury Issues Guidelines to Clarify Application of the AMT

1. use such excess as an AMT credit in subsequent taxable years (subject to the limitations of PR Code Section 1051.02); or
 2. use such excess as an excess payment creditable against the estimated tax for taxable year 2016.
- Taxpayers that elect (2) above, will have to file an Amended Income Tax Return for taxable year 2015 together with the new Form 483.3, “Transmittal Form Schedule A Corporation – Part V 2015 Taxable Year.” This new Form is available [here](#).
 - The Secretary of the Treasury clarified that the 51% disallowance (for purposes of computing the regular income tax liability) of expenses incurred or paid to a related party not engaged in trade or business in Puerto Rico or to the home office located outside Puerto Rico of PR Code Section 1033.17(a) (17) is still valid and in force.

The content of this McV Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this McV Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.