

15 May 2020

Indirect Tax Alert

News from EY Americas Tax

Puerto Rico's Treasury Department further extends sales tax exemption for necessities and prepared food as a result of COVID-19

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Because of the COVID-19 pandemic and the recently announced extension of the lockdown period by the Governor of Puerto Rico through 25 May 2020, the Puerto Rico Treasury Department (PRTD) has further extended (Administrative Determination (AD) 20-12) the exemption from state and municipal sales tax for necessities. The PRTD is also providing additional time (AD 20-13) to acquire prepared food without paying the state and municipal sales tax.

First necessities - AD 20-12

AD 20-12 extends the sales tax exemption previously granted through AD 20-07, from 30 April 2020 to 31 May 2020. Merchants will report the exempt sales on the line for sales of tangible property on the *Monthly Sales and Use Tax Return*. If a merchant collects sales tax from a customer, the merchant must immediately refund the sales tax collected. The PRTD indicates that even though the sales tax exemption is extended, the provisions of AD 20-07 still apply. For items subject to the exemption under AD 20-07, merchants should indicate "Sale of Exempt Tangible Personal Property" at the top of their monthly sales and use tax returns.

The following items will be exempt from state and municipal sales tax under AD 20-07:

- ▶ Hand sanitizers
- ▶ Personal disinfection items, such as soap, shampoo and wet wipes
- ▶ Tissues
- ▶ Face masks
- ▶ Isopropyl alcohol
- ▶ Disinfectants and antiseptics
- ▶ Articles for disinfection or home cleaning, such as soap, detergents, bleach
- ▶ Vinyl gloves
- ▶ Analgesics and medicines with acetaminophen or ibuprofen
- ▶ Cold medicine, including antihistamines

Prepared food – AD 20-13

AD 20-13 extends further previous sales tax-free periods (AD 20-08 and AD 20-11) from the most recent one that ended on 3 May 2020 to 25 May 2020. Merchants will report the sales on the “Sale of Exempt Tangible Property”

line of the *Monthly Sales and Use Tax Return*. If a merchant collects sales tax from a consumer, the merchant must immediately reimburse the consumer for the amount of sales tax collected. Pursuant to the original determination in AD 20-08, items covered by the sales tax exemption period are prepared food, carbonated beverages, confectionary products, and candies.

Implications

AD 20-13 on the prepared food sales tax exemption is not applicable to alcoholic beverages.

Also, these COVID-19 exemptions both for prepared food and necessities are, in essence, applicable to the sales of those items. However, those items may be fully exempt from tax in the distribution chain during the tax-free periods because the PRTD previously issued AD 20-10, which allows merchant resellers to import or acquire taxable items without paying the sales and use tax, as applicable. The exemption period under AD 20-10 began on 6 April 2020 and ends on 30 June 2020.

For additional information with respect to this Alert, please contact the following:

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EYG no. 003196-20Gbl

1508-1600216 NY
ED None

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