



Acosta & Ramírez Law Office, LLC Tax E-News Alert | Vol. 2015 | No. 7



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In our A&R Tax E-News Alert, Vol. 2015 | No. 6 | October 7, 2015 we summarized the amendments brought by the enactment of Act 159-2015 (“Act159”). We wished to clarify our discussion related to the sales and use tax (“SUT”) to be imposed on services rendered by non-resident persons to persons located within Puerto Rico particularly in light of issuance by the Puerto Rico Department of the Treasury of Administrative Determination Number 15-21 of October 5, 2015 (“AD 15-21”).

Act 159 clarified that services rendered by a non- resident to a person located within Puerto Rico, notwithstanding the place where the services are rendered, and that are directly or indirectly related to the Puerto Rico operations or activities of the person located in Puerto Rico receiving the services, will be subject to the 4% SUT on BtoB Services and Designated Professional Services and the 10.5% SUT on Taxable Services. This SUT will be self-imposed by the person receiving the services.

Act 159 also provides that Taxable Services, BtoB Services and Designated Professional Services rendered by a non-resident person to a related person that is a grantee operating under the provisions of Act 73-2008, Act 83-2010, Act 20-2012, or any analogous prior or subsequent law, or to a banking entity organized under the Banking Act or the National Bank Act will be exempt from the SUT. However, note that AD-15-21 provides that this exemption does not apply to amounts that consist of

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reimbursement of expenses incurred by the related service provider in connection with services rendered by third parties. AD 15-21 includes an example where parent company pays for the audit fees of the subsidiary financial statements, and subsequently charged the subsidiary to recover the fees previously paid. AD 15-21 holds that such charge is subject to the 4% SUT, under the assumption that they would have been subject to tax had they been contracted directly by the subsidiary.

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