

# UNOFFICIAL TRANSLATION

March 6, 2014

## ADMINISTRATIVE DETERMINATION NO. 14-06

**ATTENTION: ALL TAXPAYERS AND CERTIFIED PUBLIC ACCOUNTANTS WITH CURRENT VALID LICENSES IN PUERTO RICO**

**SUBJECT: GUIDELINES FOR THE PREPARATION OF THE SCHEDULES REQUIRED AS SUPPLEMENTARY INFORMATION**

### I. STATEMENT OF MOTIVES

On December 25, 2013 the Governor of Puerto Rico signed into Law Act No. 163-2013, known as the "Effective Mechanisms for Tax Oversight Act" ("Act No. 163-2013"). The purpose of this Act is to address the fiscal situation of our Island in a way that is responsible and fair for our citizens and to achieve a tax system in which all of its components have simple rules that facilitate its compliance but at the same time maximizes the collection of each one of the taxes.

Article 9 of Act No.163-2013 amended Section 1061.15 of the Puerto Rico Internal Revenue Code of 2011, as amended (the "Code"), to among other things, require all taxpayers under certain conditions, to submit supplementary information, underlying to the financial statements and other records used to prepare the financial statements, which have been subject to the auditing procedures applied in the audit of the financial statements by a Certified Public Accountant ("CPA") with current valid license in Puerto Rico ("Supplementary Information").

Article 2 of Act No. 163-2013 amended Section 10 of Act No. 113 of July 10, 1974, as amended, known as the "Municipal License Tax Act" to require the submission of Supplementary Information. Likewise, Article 3 of Act No. 163-2013 amended Section 6.03 of Act No. 83-1991, as amended, known as the "Municipal Property Tax Act of 1991" to also require the submission of Supplementary Information.

Article 21 of Act No. 163-2013 provides that the Department of Treasury ("Department") is authorized to regulate, through Regulations, Circular Letter or Administrative Determination, the scope, guides, guidelines and definitions, among other things, that are adequate and necessary to clarify the interpretation and implementation of the said

Act. Therefore, the Department is authorized to regulate the Supplementary Information required in Articles 2, 3 and 9 of Act No. 163-2013.

Act No. 163-2013 further provides that the Supplementary Information must be submitted electronically. Said Act authorizes the Department to establish the mechanism in which the taxpayer shall only submit by electronic means to the Department the Supplementary Information required in Articles 2, 3 and 9 of the Act. The CPA will reconcile that the information provided agrees with the information subject to the audit report on the supplementary information.

As established by Act No. 163-2013, the provisions of Articles 2, 3 and 9 shall apply to taxable years beginning after December 31, 2012, except those provisions of Article 9 whose implementation was postponed to taxable years beginning after March 31, 2013, as established in the Administrative Determination No. 13-22 (“DA 13-22”).

The purpose of this Administrative Determination is to provide the content of the Supplementary Information required by Articles 2, 3 and 9 of Act No. 163-2013 and to establish the guides for preparing and filing, with the goal of achieving an informed and consistent implementation. This Determination was prepared in collaboration with the Puerto Rico Society of Certified Public Accountants.

## II. DETERMINATION

The purpose for requiring the Supplementary Information is to provide more tools to the Department, to the Municipal Revenue Collection Center (“MRCC”) and to the Municipalities to ensure that they can carry out the audit work which is essential for our system to be perceived as a fair system to all taxpayers. The Supplementary Information is disclosed in the form of Schedules (“Schedules”), which will include the information required in Articles 2, 3 and 9 of Act No. 163-2013 obtained from the accounting records for a specific accounting period from which the financial statements to be audited are prepared. The Schedules will be subject to the audit procedures of the financial statements, using the generally accepted auditing standards in the United States of America (“US GAAS”, by its acronym in English) on Supplementary Information, underlying to the financial statements as a whole and in compliance with professional auditing standards for Supplementary Information as defined in the *“Auditing Standards Codification-Clarified-Supplementary Information in Relation to the Financial Statements as a Whole”* (“AUC 725”). Consequently, the Supplementary Information Schedules for a particular year must be audited by the same CPA who audited and expressed its opinion on the basic financial statements of that same year.

For example, if CPA “X” audited the basic financial statements of the ABC Company, Inc. for the year ended December 31, 2013 and expressed its opinion on them, then CPA “X” is the only one who may issue his/her report on the Supplementary Information Schedules of ABC, Inc.’s financial statements for the year ended December 31, 2013.

### **A. Taxpayers subject to the filing of Supplementary Information**

Every business, including a sole proprietorship, corporation, partnership, special partnership, limited liability company, corporation of individuals, insurance company, registered investment company, special employee-owned corporation, association, cooperative, real estate investment trust or any other entity engaged in a trade or business or engaged in the production of income in Puerto Rico, that generates during the taxable year a volume of business equal to or greater than three million (3,000,000) dollars must submit Supplementary Information Schedules, along with the opinion of the CPA.

On the other hand, those taxpayers whose Volume of Business during the taxable year is equal to or greater than one million (1,000,000) dollars, but less than three million (3,000,000) dollars, may opt to submit the Supplementary Information with its corresponding financial statements audited by the CPA. If the taxpayer voluntarily submits the Supplementary Information, in the form and manner set forth below, and is current with their tax liability, it shall be entitled to a full or partial waiver from tax withholding at source, as provided for in Section 1062.03 of the Code, on payments received for services rendered.

### **B. Content of the Supplementary Information Schedules:**

The Supplementary Information Schedules will include the following information:

#### Supplementary Information required under Article 2 of Act No. 163-2013:

Schedule 1- Total volume of business of the entity. This schedule will include the total gross sales, gross income earned by the performance of any service and other revenues derived from the taxpayer's trade or business;

Schedule 2- Detail of the item of other income. This schedule will include the description and amount of each of the items of other income derived by the taxpayer, such as interest, dividends, royalties and capital gains, among others;

Schedule 3- Total of returns on sales ("sales returns"). This schedule will be applicable to businesses selling goods and must include the total returns on sales;

Schedule 4- Volume of gasoline sold. This schedule will include the number of gallons of gasoline sold and included in the detail of sales of Schedule 1. This schedule only applies to gas stations;

Schedule 5- Detailed of exempt and taxable income. This schedule will include a line item breakdown of the income derived by the exempted operation and those generated by the taxable operation. The total included in this Schedule must be equal to the sum of the Volume of Business reported in Schedules 1 and 2. This schedule applies to entities covered under a decree or a grant of tax exemption. If the taxpayer has more than one exemption decree, they must separately report the income generated by the exemption covered by each current decree.

The Supplementary Information required under Article 3 of Act No. 163-2013:

Schedule 6- Monthly Balance of total inventory. This schedule will include the balance of the inventory for each month of the taxpayer's economic year using any method acceptable under the Generally Accepted Accounting Principles in the United States of America ("US GAAP" by its acronym in English), except the method of inventory valuation known as "LIFO" ("Last in First Out"), and that were included in the period covered by the audit of the financial statements of the taxpayer. If the taxpayer uses the method of periodic inventory or does not use any type of accounting system, the monthly inventory balance to be included in this schedule, must be computed on the basis of the Gross Margin method established in Article 3.14 of Act No. 83-1991, as amended. In the case of taxpayers covered by a decree or grant of tax exemption, they must segregate the monthly inventory balance between exempt inventory, exonerated inventory and taxable inventory;

Schedule 7- Monthly Balance of the total inventory reserve. This schedule will include the balance of the inventory reserve account for each month of the accounting year covered by the audit of the financial statements of the taxpayer. In the case of taxpayers covered by a decree or grant of tax exemption, they must segregate the monthly reserve balance in the same manner that the inventory was segregated in Schedule 6;

Schedule 8- Balance of the cash account as of December 31st and the amount of cash deposited before January 1st, which was credited to the bank account on or after January 1st. This schedule must include the amount of cash held by the taxpayer at the closing of December 31st and the amount of cash deposited in a financial institution before January 1st, which was credited by the bank on or after

January 1<sup>st</sup>. In the case of taxpayers covered by a decree or grant of tax exemption, they must separately disclose the amount of cash derived by the exempted operation and by the taxable operation;

Schedule 9- Total book value of those assets that as of January 1st are not being used in the operation covered by an exemption decree. This schedule only applies to entities operating a business under a decree or grant of tax exemption. The schedule must separately disclose the book value ("*net book value*") as of January 1st (or at the closing of the preceding December 31st) of the assets used in the exempt operation and those used in the taxable operation. The value of the following assets must be included: (1) investments; (2) materials and supplies, (3) machinery and equipment; (4) improvements; (5) furniture and fixtures, computers, office equipment and any other property subject to personal property tax. Taxpayers with an economic year other than calendar year (December 31<sup>st</sup>), shall inform the book value of the assets as of December 31<sup>st</sup> within their economic year;

Schedule 10- Monthly amount of inventory adjustments for transactions not subject to an exchange ("Exchange Transactions"). This schedule will include the total all adjustments made to the inventory accounts for each of the months of the accounting period covered by the audit of the financial statements of the taxpayer. In the case of taxpayers covered by a decree of tax exemption, they must segregate the balance attributable to exempt, exonerated and taxable operations.

Supplementary Information required under Article 9 of Act No. 163-2013:

Schedule 11-Withholdings on salary payments and their corresponding payments, as required by Section 1062.01 of the Code. The purpose of this schedule is to inform the amounts withheld and deposited by the taxpayer on the payment of salaries to employees. This schedule will include the opening balance of the amounts withheld and not deposited at the closing of the previous year on payments of salaries and compensation to employees, the amounts withheld from payroll payments during the audited period, and the total deposited with the Department. The total of deposits must include the total amount deposited corresponding to the previous year's withholding and to the current year's withholding. In addition, it must include the balance at the closing of the taxpayer's accounting year. This schedule shall include a disclosure on payments related to withholdings due, made after the closing of the

accounting period audited, but prior to the issuance of the audited financial statements. This schedule does not require that the CPA determines that the withholding and amounts deposited were made in accordance with the provisions of Section 1062.01 of the Code and with the withholding tables published by the Department;

Schedule 12-Withholding on payments for services rendered and their corresponding deposits as required by Section 1062.03 of the Code. The purpose of this schedule is to inform the amounts withheld and paid by the taxpayer in the payment for services to independent contractors and their suppliers. This schedule will include the opening balance of the amounts withheld and not deposited at the closing of the previous year on payments for services rendered, the amounts withheld from payments for services rendered during the audited period and the total amount deposited with the Department. The total deposits must include the total amount deposited corresponding to the previous year's withholding and to the current year's withholding. In addition, it must include the balance at the closing of the taxpayer's accounting year. The schedule shall include a disclosure on payments related to withholdings due, made after the closing of the accounting period audited, but prior to the issuance of audited financial statements. This schedule will not require that the CPA determines that the withholding and the payment amounts were made in accordance with Section 1062.03 of the Code;

Schedule 13-Withholding on payments to nonresidents and the corresponding deposits as required in Subchapter B of Chapter 6 of Subtitle A of the Code. The purpose of this schedule is to inform the amounts withheld and deposited by the taxpayer on payments to nonresidents. This schedule will include the opening balance of the withholding amounts and not deposited at the close of the previous year on payments to nonresidents, the amounts withheld on payments to nonresidents during the audited period, and the total deposited with the Department. The total deposits must include the total amount deposited corresponding to the previous year's withholding and to the current year's withholding. In addition, it must include the balance at the closing of the taxpayer's accounting year. The schedule will include a disclosure of payments related to withholdings due, made after the closing of the accounting period audited, but prior to the issuance of audited financial statements. This schedule will not require that the CPA determines that the withholding and the amounts deposited were made in accordance

with the provisions of Subchapter B of Chapter 6 of Subtitle A of the Code;

Schedule 14- Use tax informed and deposited pursuant Subtitle D of the Code. This schedule will include: (1) the initial balance of the informed and unpaid Use Tax, if any, (2) the total Use Tax reported in the Monthly Sales and Use Tax returns (Model AS 2915) filed by the taxpayer; and (3) the amount paid during the audited period. The schedule will include a disclosure of the payments related to the Use Tax informed and due, made after the closing of the audited accounting period, but prior to the issuance of the audited financial statements. Also, it will include the final balance due, if any. This schedule will not require that the CPA determines that imported goods paid the corresponding Use Tax, as imposed in the Subtitle D of the Code.

Schedule 15-Sales tax informed and deposited pursuant to Subtitle D of the Code. This schedule will include: (1) the opening balance of sales tax collected from customers and not deposited, if any; (2) the total sales tax as reported in the Monthly Sales and Use Tax returns (Model AS 2915) filed by the taxpayer; (3) the amount deposited during the audited accounting period; and (4) the amount of credit claimed for sales tax paid at the purchase of tangible personal property acquired for resale, to which it is entitled, as required in Subtitle D of the Code. The schedule will include a disclosure of payments related to the sales tax informed and due, made after the closing of the audited accounting period, but prior to the issuance of the audited financial statements. Also, it will include the final balance due, if any. This schedule will not require that the CPA determines that the items sold paid the sales tax, as imposed in the Subtitle D of the Code.

Schedule 16- The total sales tax credits generated in the purchase of tangible personal property acquired for resale, as prescribed by Subtitle D of the Code. This schedule will include: (1) the cost of all items acquired by the taxpayer for resale during the audited period, as well as the sales tax paid on such purchases; (2) the total sales tax collected on sales during the same period; (3) the amount of credit claimed in the Monthly Sales and Use Tax returns (Model AS 2915); and (4) the credits available for sales taxes paid. Also, the schedule will include roll forward of the credits pending to be used for the audited year. This roll forward must include the beginning balance of credits pending to be used and the sales tax paid on the acquisition of tangible property during the audited year. This sum

will be the total sales tax paid subject to the credit. The credits used during the year will be subtracted from this balance, and this amount may not exceed the total sales tax subject to credit. This schedule will not require that the CPA determines the transactions subject to the SUT pursuant to Subtitle D of the Code;

Schedule 17- This schedule was postponed by the AD 13-22.

Schedule 18- Sales and Use Tax paid on the disposition of tangible personal property for less than its cost, in exchange for signing a service or maintenance contract. This schedule will include: (1) the total cost of the property that has been disposed of in exchange for a service or maintenance contract; (2) the disposal value per such contract; (3) the excess of the cost over the disposal value; (4) the total use tax payable; (5) payments made during the audited accounting period; and (6) the balance of the tax payable at the closing of such period. The schedule will include a disclosure of payments related to sales tax informed and due, made after the closing of the accounting period audited, but prior to the issuance of the audited financial statements. Also, it will include the final balance due, if any. This schedule will not require that the CPA determines the transactions subject to tax pursuant to Subtitle D of the Code.

Schedule 19- Salary amounts informed in Forms 499R-2/W-2PR, as well as other payments, reimbursements or compensations informed in Forms 480.6A and 480.6B to the owners, shareholders, partners or members, including payments made on their behalf, if any. This schedule will include amounts informed as salaries, commissions, allowances, reimbursements or other types of compensation that were paid to the owners, shareholders or partners that have a share of twenty-five percent (25%) or more in the entity that makes the payment. The schedule will only show what is reported in the Forms 499R-2/W-2PR or in the Forms 480.6A and 480.6B filed during the audited accounting period. The information must be detailed separately for each of the shareholders, partners or members;

Schedule 20- Reconciliation that the total salaries paid during the year agrees with the amount informed in the form W-3PR. This schedule will include a reconciliation of the salaries paid by the taxpayer during the audited year with the information reported in the Form 499R-3 or Form W-3PR. This schedule will include the following information: (1) Total salaries paid and withholdings made during the audited accounting period; (2) total salaries and withholdings as



informed in the Form 499R-2/W-2PR, Form 499R-3 and Form W-3PR filed during the audited accounting period; (3) amounts reported as salaries and withholdings in each of the quarterly tax returns (Form 499 R-1B) filed for each quarter covered by the audit; (4) the amount reported as salary expense in the income tax return for the audited period; and (5) a reconciliation of the total salaries paid, reimbursed expenses, amounts withheld and amounts deposited during the audited accounting period. In the event that the taxpayer's accounting year closing does not agree with the calendar year, the information that will be included will be from the quarterly tax returns (Form 499 R-1B) of the quarters included in the audited accounting period.

Schedule 21- Reconciliation of the payments for services claimed as expenses with the Forms 480.6A and 480.6B submitted or to be submitted to the Department plus the payments for services rendered under five hundred dollars (\$500). This schedule will include: (1) total payments informed or to be informed on Forms 480.6A and 480.6B; (2) the payments for services rendered not informed on Forms 480.6A and 480.6B; (3) professional services expenses as included in the audited financial statements; (4) expenses for professional services as claimed on the income tax return; (5) the withholdings made during the year; (6) the amounts withheld deposited with the Department during the year; and (7) the balance at the end of the period, if any. The schedule will include a disclosure on payments for services rendered and due, made after the closing of the audited accounting period, but prior to the issuance of the audited financial statements. In the event that the taxpayer's economic year does not agree with the calendar year, they must include the information included in Forms 480.6A and 480.6B filed during the economic year of the basic financial statements.

Schedule 22- Rental expense. This schedule must include: (1) the total rental expense according to the taxpayer's books; (2) the total rental payments as reported on the Forms 480.6A and 480.6B; and (3) the total rent claimed in the income tax return. In the event that the taxpayer's economic year does not agree with the calendar year, they must include the information included in Forms 480.6A and 480.6B filed during the economic year of the basic financial statements.

Schedule 23- Detail of the balance at the closing of the audited accounting period, of the loans to partners, members or shareholders, or if it is applicable, to members of the controlled group, as defined in

Section 1010.04 of the Code, or to a group of related entities, as such term is defined in Section 1010.05 of the Code. This schedule will include the name and the last four digits of the social security number or employer's identification number of the person or related entity to whom the loan is due. In addition to the loans, it must include all account receivables balances of related persons or entities ("Due from affiliates"). Accounts receivable from related persons or entities must be shown net of the accounts payable to the same related person or entity.

Schedule 24- This Schedule was postponed by the AD 13-22.

Schedule 25- Use Tax on the purchases of imported construction materials. This schedule applies to taxpayers dedicated to the construction business and must include the information of each construction contract that exceeds one million (1,000,000) dollars. The schedule will include: (1) the total of sales and use tax on the purchase of construction materials; (2) the deposits of those taxes; and (3) the final balance, if any. This schedule will not require that the CPA determines the transactions subject to the tax imposed pursuant to Subtitle D of the Code.

Schedule 26- This Schedule was postponed by the AD 13-22.

Schedule 27- This Schedule was postponed by the AD 13-22.

Schedule 28- Reconciliation that the amount that is shown in the books as withholding represents the total amounts withheld for the jobs or projects that have not been accepted as completed by the owner of the job or developer. This schedule applies to taxpayers engaged to the construction business for contracts that exceed one million (1,000,000) dollars. This schedule will include: (1) the name or description of the project; (2) the amounts withheld for the jobs or projects; and (3) if they are accepted as completed.

Schedule 29- This Schedule was postponed by the AD 13-22.

Schedule 30- This Schedule was postponed by the AD 13-22.

Schedule 31- This Schedule was postponed by the AD 13-22.

Schedule 32- This Schedule was postponed by the AD 13-22.

### C. Form for Filing Supplementary Information:

As prescribed in Article 9(b)(3) of Act 163-2013, the Supplementary Information must be filed by the taxpayer and will be verified by the CPA by electronic means. To that effect, the Department is in the process of establishing a form for the data collection ("*Data Collection Form*") ("*Form*"). Each taxpayer must create an account with a minimum of two users, one for the taxpayer and other for the CPA. It will be the responsibility of the taxpayer to submit the data of the Schedules in the Data Collection Form electronic system of the Department. Once the data is entered into the electronic system, the CPA auditor will be responsible of determining that the information provided in such Form comes from the Supplementary Information that was subject to the audit procedures of the audited financial statements in accordance to the standards of the profession. The CPA must upload ("*upload*") in the system a copy, in portable document format ("*PDF*"), of the Schedules that constitute the Supplementary Information, together with the opinion signed by the CPA and with the stamp of the PR Society of CPAs adhered to it.

The filing of the Form together with the CPA's opinion and the Schedules must be made not later than the last day of the month following to the due date for filing the income tax return, including extensions.

As an example, X is a corporation which closes of its accounting period in December 31. The tax return for X is due on April 15, but it is entitled to request an automatic extension for 3 months until July 15. In this case, the Supplementary Information and the CPA's opinion on the Schedules must be filed with the Department not later than August 31, which is not later than the last day of the month following to the due date of the return, including extensions.

The CPA that issues his opinion on the Schedules of the Supplementary Information must be the same CPA that audited and issued his opinion on the basic financial statements. However, the document with the opinion on the Schedules must be a separate document from the financial statements that accompany the income tax return, the personal property tax return and the volume of business tax declarations. The audited financial statements, together with the CPA's opinion shall be included with the corresponding income tax return, personal property and volume of business tax at the moment they are filed. The Schedules of Supplementary Information and the corresponding opinion of the CPA will be only submitted, and in PDF format, at the data collection electronic system of the Department, in accordance with the provisions of Act 163-2013 and this Administrative Determination. The Department, the MRCC, and the Municipalities will have access to the information included in such electronic system. Consequently, the Schedules of Supplementary Information and the corresponding opinion of the CPA **do not** need to be

submitted at the time the following returns are filed: Personal Property Tax Return and Volume of Business Tax Declaration.

### **III. EFFECTIVE DATE FOR SUBMITTING SUPPLEMENTARY INFORMATION**

As established in Act 163-2013, the requirement to submit Supplementary Information applies to taxable years beginning after December 31, 2012. This means that the income tax returns for taxpayers engaged in a trade or business with a volume of business for 2013 equal to or greater than one million (1,000,000) dollars must (voluntarily or as required by law) submit the Supplementary Information for the taxable year 2013 in accordance with the provisions of this Administrative Determination.

However, as established in the AD 13-22, the Department allowed taxpayers some additional time to implement the changes imposed by some of the provisions of Article 9 of Act 163-2013. Consequently, the content and the preparation and filing guidelines for the following Schedules will be considered in an Administrative Determination to be issued soon:

- Schedule 17 – Detail of expense accounts that include personal expenses for partners, shareholders, members, owners, employees or the relatives of any of these;
- Schedule 24 - Compliance with the requirements of the decree or tax exemption grant;
- Schedule 26 – Income recognition method;
- Schedule 27 - Confirmation that the completion percentages used in each project were certified by an engineer;
- Schedule 29 - Confirmation that the amount reported as “eligible payroll” complies with the definition of this term under Act 168 of 1968, and that the credit claimed in the return by the hospital unit complies with the requirements established in Section 1(a) of such Act;
- Schedule 30 - Confirmation that the amount reported as interest expense on the income tax return does not include interest expense attributable to income from exempt interest from exempt obligations acquired after December 31, 1987, according to the provisions of Section 1033.17(f) of the Code;
- Schedule 31 - Confirmation that the amounts reported as expenses, that are not interest expense, do not include expenses attributable to exempt income; and
- Schedule 32 - Description of the methodology used to determine nondeductible expenses pursuant to Schedule 31.

Attached to this Administrative Determination is an English version of the Schedules that constitute the Supplementary Information.

This Administrative Determination is made considering the duty of this Department to appropriately manage the provisions of the Code.

#### **IV. EFFECTIVE DATE**

The provisions of this Administrative Determination are effective immediately.

For additional information related to the provisions of this Administrative Determination, please contact the General Consulting Section at (787) 722-0216, option 8.

Cordially,

Melba I. Acosta Febo

Schedules

Unofficial Translation