

## **GOVERNMENT ADOPTS NEW LIMITATIONS ON ISSUANCE AND USE OF TAX CREDITS**

### **TAX ALERT**

**MARCH 2017**

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*The issuance of new tax credits pursuant to various incentives laws has been stayed effective March 7, 2017.*

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*The consideration and issuance of new tax credits will fall upon a new interagency Committee.*

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On March 7, 2017, the Puerto Rico Fiscal Agency & Financial Advisory Authority ("AAFAF" by its Spanish acronym) issued Administrative Order OA-2017-01 to stay the issuance of new tax credits pursuant to various tax incentives laws, including the ones listed below (the "Order"). The consideration and issuance of new tax credits under those tax incentives laws, including applications that have been submitted but are pending authorization, will fall upon a new committee created by the Order to be known as the Committee for the Authorization of Disbursements and Tax Concessions (the "Committee"). The Committee will be comprised of the Executive Director of the AAFAF, the Secretary of the Treasury, and the Executive Director of the Office of Management and Budget, or their delegates.

The Committee is also authorized to establish limitations to the use of credits that have been granted, including a term restriction of a maximum of four years for the use of the credits. The Order directs the Secretary of the Treasury to prepare a list of the tax credits that have been granted and request the holders of tax credits to report the amount of such tax credits, in the form and manner established by the Secretary of the Treasury for these purposes. The tax credit holders that do not comply with this requirement will not be allowed to claim such credits.

The responsibility of analyzing and authorizing requests for disbursements related to special assignments from previous fiscal years is also delegated into the Committee.

The list of statutes granting tax credits that has been included in the Order, which is not exhaustive, is as follows:

1. Act No. 78-1993, known as the "Puerto Rico Tourism Development Act of 1993"
2. Act No. 46-2000, known as the "Puerto Rico Investment Capital Fund Act of 1999"
3. Act No. 98-2001, known as the "Tax Credits for Investment in Housing Infrastructure Act"
4. Act No. 140-2001, known as the "Tax Credits for Investment in New Construction and Rehabilitation Affordable Housing Act"
5. Act No. 183-2001, known as the "Puerto Rico Conservation Easement Act"
6. Act No. 212-2002, known as the "Urban Centers Revitalization Act"
7. Act No. 73-2008, known as the "Economic Incentives Act for the Development of Puerto Rico"
8. Act No. 74-2010, known as the "Puerto Rico Tourism Development Act of 2010"

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*Limitations to the use  
of credits may be  
established by the new  
Committee.*

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9. Act No. 27-2011, known as the “Puerto Rico Film Industry Economic Incentives Act”
10. Act No. 159-2011, known as the “Act to Provide Tax Incentives for Investments in Solid Waste Reduction, Disposal, and/or Treatment Facilities”
11. Act No. 302-2012, which amends the Puerto Rico Internal Revenue Code of 2011 to grant a tax credit to donations to foundations of former governors, among others
12. Act No. 77-2015, known as the “Tax Credits for Investment in Construction or Rehabilitation of Housing for Rent to Low or Moderate Income Families and for Tax Credits for Investment in the Acquisition, Construction or Rehabilitation of Affordable Housing for Rent to Elderly People”
13. Sections 1051.09 (Credit for Purchase of Products Manufactured in Puerto Rico), 1051.07 (Credit for Incremental Purchase of Agricultural Products), 1052.03 (Tax Credits Program for the Purchase of Newly Constructed Housing) and 4050.10 Credit for Purchase of Products Manufactured in Puerto Rico) of Act No. 1-2011, known as the “Puerto Rico Internal Revenue Code of 2011”

The Order does not contain enough information to determine with certainty what will be the impact on tax credits that have been granted, the availability of tax credits for new projects or new investments, or the procedures that will have to be followed under each tax incentives law. Therefore, the development of the implementation of this Order should be closely monitored.

**Note:** *This Newsletter contains only a general summary of certain aspects of the Order and is not intended to be a comprehensive summary of such matter. Because of the general nature and informative purpose of this newsletter, nothing herein should be considered as legal advice or a legal opinion or that it establishes in any way whatsoever an attorney-client relation or engagement for legal services with any reader. For further information, please contact our Tax Practice Group.*

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