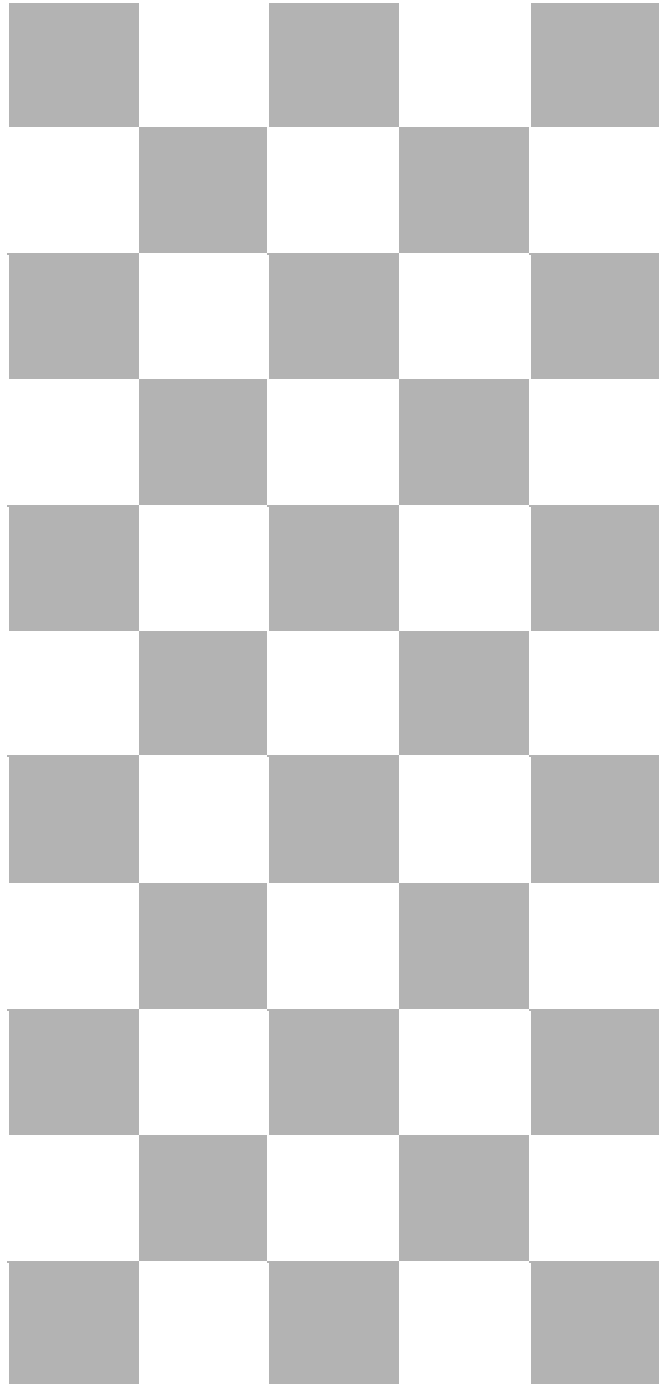


Commonwealth of Puerto Rico
DEPARTMENT OF THE TREASURY

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SALES AND USE TAX (SUT) MONTHLY RETURN



SALES AND USE TAX (SUT) MONTHLY RETURN

Effective August 1st, 2007, the collection of the 1.5% SUT is uniform and applicable to all the municipalities of Puerto Rico. The Department of the Treasury (Department) shall administer 0.5% of this total, and the municipalities shall administer 1%.

Therefore, effective August 1st, 2007, all merchants shall collect a total SUT of 7% in all the municipalities of Puerto Rico. Additionally, all merchants shall remit a total of 6% to the Department, along with the SUT Monthly Return (Monthly Return), and 1% to the municipality in which the commercial establishment for which the return is filed is located. In some cases, the municipality may have approved a municipal ordinance to impose a tax on the sale of food and food ingredients. For the purposes of the Department's Monthly Return, the sale of food and food ingredients shall be included with the merchant's exempt sales.

However, if the municipality where a merchant operates is a Participating Municipality because it has a collection agreement with the Department, the merchant shall remit the total 7% to the Department along with the Monthly Return. To see the list of Participating Municipalities, refer to the Monthly Return instructions or Internal Revenue Informative Bulletin No. 07-18.

The new Monthly Return form will begin to be used for the deposit of collections made during the month of August, 2007, whose due date is September 20, 2007. The Monthly Return forms whose revision date is prior to August 1st, 2007, as it is indicated in the upper left hand side of the form's first page, may not be used for the deposit of collections made after July 31, 2007.

This frequently asked questions guide prepared by the Department summarizes the general concepts related to the Monthly Return.

1. Who shall file a Monthly Return?

Merchants:

Any merchant in the business of selling taxable items in the Commonwealth of Puerto Rico whose sales are less than \$500,000, shall have the option of filing the Monthly Return on paper or electronically.

However, any merchant with a sales volume equal to or greater than \$500,000 shall have the obligation of filing the Monthly Return electronically.

One return shall be filed for every establishment or activity for which the merchant has applied for and has been issued a Merchants' Registration Certificate indicating that such merchant shall be a collector of the SUT (green certificate). Consolidated returns shall not be allowed.

Example 1:

Merchant “A” has commercial establishments in Bayamón and Trujillo Alto. As requested, the Department issued a Merchants’ Registration Certificate indicating that he is a collector of the SUT (green certificate), for each commercial establishment. “A” shall file a Monthly Return for the Bayamón establishment and another one for the Trujillo Alto establishment.

Example 2:

Merchant “B” is a farmer whose Merchants’ Registration Certificate indicates that he is a collector of the SUT (green certificate). “B” only sells vegetables, which are considered food and food ingredients, as such term is defined in Section 2301(a) of the Puerto Rico Internal Revenue Code of 1994, as amended (Code). Therefore, although such vegetables are not subject to the combined 7% SUT, “B” shall have to file a Monthly Return reporting the exempt sales made during the month.

In the case of merchants whose Merchants’ Registration Certificates indicate that they shall not be collectors of the SUT (red certificate), they shall not have the obligation to file the Monthly Return to indicate their exempt sales. However, all merchants, insofar as they sell taxable items, shall have the obligation of presenting the corresponding Monthly Return.

On the other hand, when such merchants with the red certificate make any purchases subject to the use tax during the month, they shall have the obligation of filing a Monthly Return, as indicated below.

Example:

Merchant “C” holds a Merchants’ Registration Certificate that indicates that he is not a collector of the SUT (red certificate). This merchant purchased office equipment through the Internet from a merchant outside of Puerto Rico, who had no obligation of collecting the SUT. In this case, “C” is responsible for filing a Monthly Return and remitting the corresponding use tax.

Individuals who are not Merchants:

All individuals who are not merchants and who have acquired taxable items subject to the use tax, including taxable items acquired from another person who was covered by one of the exemptions provided by the Code, shall file the Monthly Return through our Web page at **www.hacienda.gobierno.pr/ivu**, by clicking on the “Tax Filing and Payment System” button.

2. When and where shall the Monthly Return be filed?

The Monthly Return and the corresponding payment are due on the 20th day of the month following the month during which the transaction that is subject to the SUT occurred.

The Monthly Return and the corresponding payment may be filed by accessing our Web page at **www.hacienda.gobierno.pr/ivu** or by calling 1-800-796-6103. They may also be handed in at Participating Financial Institutions or sent by mail to the following address:

DEPARTMENT OF THE TREASURY
SUT MONTHLY RETURN
PO BOX 9024140
SAN JUAN, PR 00902-4140

Payment shall be made by:

- check or money order made out to ‘Secretary of the Treasury - SUT’;
- electronic transfer of funds; or
- any other method established by the Secretary.

Any merchant with a sales volume of \$500,000 or higher shall have the obligation of remitting the tax through an electronic transfer of funds.

For additional information regarding payment methods, you may refer to our Web page at **www.hacienda.gobierno.pr**.

3. What information shall be included in the Monthly Return?

The following shall be included in the Monthly Return:

- purchases and imports for resale;
- purchases and imports subject to the use tax;
- self-consumption and use of inventory;
- taxable sales;
- exempt sales;
- returns;
- deposits made during the period; and
- credits.

4. What are purchases and imports for resale ?

Purchases and imports for resale include items or goods that a merchant reseller purchased or imported during the month to be sold in Puerto Rico.

☞ The total purchase price of said items or goods that he or she acquired for resale shall be reported in line 1 of the Monthly Return.

5. What are imports for use?

Imports for use include those items or goods that a merchant introduced to Puerto Rico during the month and that will not be used for resale, that is, that will be subject to the use tax.

Examples:

Items or goods that the merchant introduced to Puerto Rico, such as:

- machinery that will be used in the business (not for resale);
- office equipment;
- office supplies (paper, pencils, pens); and
- internet or telephone purchases.

➤ The total purchase price of such items or goods subject to the use tax shall be reported in line 2 of the Monthly Return.

6. What are self-consumption and use of inventory?

Self-consumption and use of inventory occur when the merchant removes property available for resale from inventory for any purpose other than resale. This includes removal from inventory for personal use, for business use, for distribution as samples or as promotional items, for distribution as donations, or because of deterioration or wear and tear of such inventory.

Subject to the provisions of the Code and its regulations, in the case of removal from inventory because of deterioration or wear and tear, the merchant shall report 50% of the purchase price of the item or good thus removed from inventory. On the other hand, in the case of all other removals from inventory, the merchant shall report the total purchase price of the items or goods removed from inventory.

➤ The total amount of self-consumption and use shall be reported in line 3 of the Monthly Return.

Example 1:

Merchant “D” removed from his inventory for resale a box of paper to donate it to a school. Said box cost “D” \$35. If this was the only removal from inventory for resale for other purposes, “D” shall report \$35 in line 3 of the Monthly Return.

Example 2:

In January 2007, a merchant bought automotive parts for resale at a cost of \$2,000. In August 2007, said merchant made an inspection of the inventory for resale and found that one fourth of that inventory was rusty and could not be sold. That is, the value of the damaged inventory was \$500 ($\$2,000 \div 4$). The merchant decided to remove

such parts from inventory. Therefore, in this case, the merchant shall only display \$250 ($\$500 \times 50\%$) for self-consumption in line 3 of the Monthly Return for the month of August.

7. What are taxable sales?

Taxable sales include the sale of items that are subject to the sales tax. These taxable items are: tangible personal property, taxable services, admission fees, and bundled transactions.

8. What is tangible personal property?

For the purposes of the SUT, the term “tangible personal property” is defined in subsection (jj) of Section 2301 of the Code and refers to items or personal property that can be seen, weighed, measured, or felt, or that are, in any manner susceptible to the senses or to appropriation, regardless of the means of delivery or transfer.

The term “tangible personal property” includes, but is not limited to:

- furniture;
- apparel;
- toys;
- computer software;
- prepaid calling cards;
- prepaid cellular telephones; and
- motorcycles.

The term “tangible personal property” excludes the following:

- money or money equivalents, stocks, bonds, notes, bills, mortgages, insurance, securities, or other obligations;
- automobiles, truck tractors, buses, and trucks;
- intangibles;
- gasoline, aviation fuel, gas oil, diesel oil, crude oil, partially-processed and finished products derived from oil, and any other hydrocarbon mixture;
- the electricity generated by the Puerto Rico Electric Power Authority or any other electricity-generating entity; and
- the water supplied by the Puerto Rico Aqueduct and Sewer Authority or any other entity authorized by it to supply water.

On the other hand, the Code and its regulations establish certain exemptions and exclusions that are applicable to tangible personal property. The following tangible personal property constitutes property that is exempt from payment of the SUT:

- items and goods for resale;
- food and food ingredients, as such term is defined in subsection (a) of Section 2301 of the Code;

- medications for human consumption that may be acquired solely and exclusively with a medical prescription if they meet the requirements established in Section 2512 of the Code; and
- any other sale of tangible personal property that qualifies for any of the exemptions established in the Code.

For other exclusions and exemptions applicable to tangible personal property, you shall refer to the Code and its regulations.

☞ The total amount of sales of taxable tangible personal property generated during the month shall be reported in line 5 of the Monthly Return. If the merchant carried out bundled transactions, as such term is defined in subsection (uu) of Section 2301 of the Code, which should be considered as sale of tangible personal property, he or she should also indicate the total amount of such sales in line 5 of the Monthly Return.

☞ The total amount of sales of exempt tangible personal property generated during the month shall be reported in line 10 of the Monthly Return.

Example:

During the month of August, pharmacy “E” sold \$80,000 in medicines prescribed by physicians authorized to practice their profession in Puerto Rico and sold by pharmacists duly licensed under Puerto Rico laws. In this case, “E” shall report the \$80,000 in line 10 of the Monthly Return.

9. What are taxable services?

The term “taxable services” is defined in subsection (pp) of Section 2301 of the Code and refers to all kinds of services rendered to any person. The term “taxable services” excludes the services indicated below:

- services rendered to a person engaged in business;
- services provided by the Commonwealth of Puerto Rico and by the Government of the United States;
- educational services (including registration costs);
- interest and other charges for the use of money;
- charges for services provided by financial institutions;
- insurance commissions and services;
- health or medical hospital services;
- services rendered by individuals whose annual business volume does not exceed \$50,000; and
- designated professional services.

The exempt services indicated above are defined in subsection (pp) of Section 2301 of the Code and in paragraph (pp) of Article 2301-1 of Regulation No. 7249 of November 14, 2006 (Regulation No. 7249).

☞ The total amount of sales of taxable services generated during the month shall be reported in line 6 of the Monthly Return. If the merchant carried out bundled transactions, as such term is defined in subsection (uu) of Section 2301 of the Code, which are considered sales of taxable services due to their nature, he or she should also indicate the total amount of such sales in line 6 of the Monthly Return.

☞ The total amount of sales of exempt services generated during the month shall be reported in line 11 of the Monthly Return.

10. What is an admission fee?

The term “admission fees” is defined in subsection (n) of Section 2301 of the Code and, in general, refers to the amount of money paid to admit one person to a place of entertainment, sports, or recreation.

Examples:

- tickets for movies, theatres, and other public shows
- gym memberships

On the other hand, Section 2510 of the Code provides an exemption for certain types of admission fees, including the sale of admission fees for sports events or other types of events sponsored by public or private elementary schools, intermediate schools, high schools, universities or colleges that provide educational services. In this case, such exemption shall be claimed by the entity that will carry out the activity for which admission fees will be paid, when the approval of the tickets that represent the admission fee is requested, as required by Article 2301-1(n) of Regulation No. 7249.

☞ The total amount of sales of taxable admission fees generated during the month shall be reported in line 7 of the Monthly Return.

☞ The total amount of sales of exempt admission fees generated during the month shall be reported in line 12 of the Monthly Return.

11. How are returns of taxable items reported in the Monthly Return?

Returns of taxable items are reported as a deduction in the Monthly Return. This deduction shall be reported in the return corresponding to the month during which the returns were made, regardless of the date of the sale.

☞ The sales price corresponding to the taxable items that were returned during the month, and for which the purchasers were reimbursed for the amount of the tax originally collected shall be reported in line 8 of the Monthly Return.

Example:

In June 2007, furniture store "F," located in a Participating Municipality, sold furniture to a customer for \$300 and collected a SUT of \$21. In August 2007, the customer returned the furniture and "F" returned the \$300 of the sales price and the \$21 of the SUT to the customer. In this case, "F" may deduct this return of a taxable item in the Monthly Return. "F" shall report \$300 in line 8 of the Monthly Return, if this was the only return he received in August.

12. How are the returns of exempt items (that were not subject to the sales tax) reported in the Monthly Return?

The sales price corresponding to the exempt items that were returned during the month shall be reported in the return corresponding to the month during which the returns were made, regardless of the date of the sale.

➤ Such returns of exempt items shall be reported in line 13 of the Monthly Return.

Example:

In June 2007, grocery store "G," located in a Participating Municipality, sold a case of tomato sauce to a customer for \$15. In August 2007, the customer returned the case of tomato sauce and "G" reimbursed him the \$15 of the sales price. In this case, "G" shall deduct this return of an exempt item in the Monthly Return. "G" shall report \$15 in line 13 of the Monthly Return, if this was the only return of exempt items that he had in August.

13. How is the Amount Subject to the Sales and Use Tax determined?

Line 15 of the Monthly Return, Amount Subject to the Sales and Use Tax, is determined by adding the Amount Subject to the Use Tax (line 4 of the Monthly Return) and the Total Taxable Sales (line 9 of the Monthly Return).

This sum represents the total taxable sales and use (excluding the sale of food and food ingredients) that are subject to the uniform 5.5% and 1.5% SUT, for a combined total of 7%.

14. How is the amount of the SUT that shall be remitted to the Department determined?

To determine the amount of the SUT that shall be remitted to the Department, multiply line 15 of the Monthly Return, Amount Subject to the Sales and Use Tax, by 6%. The total shall be reported in line 16 of the Monthly Return.

➤ Line 16 of the Monthly Return shall be used to calculate the 6% tax (5.5% indicated in Sections 2401 and 2402 of the Code and 0.5% indicated in Section 6189 of the Code and administered by the Department).

Example:

Assume that line 15 of the Monthly Return, Amount Subject to the Sales and Use Tax, is \$10,328. In this case, the 6% tax shall be \$619.68. For the purposes of the return, you shall indicate \$619 in line 16 of the Monthly Return. Remember that you shall only eliminate cents. Do not round.

15. How is the amount of the SUT that shall be remitted to a Participating Municipality determined?

To determine the amount of the SUT that shall be remitted to a Participating Municipality, multiply line 15 of the Monthly Return, Amount Subject to the Sales and Use Tax, by 1%. The total shall be reported in line 17 of the Monthly Return.

➤ Line 17 of the Monthly Return shall be used to calculate the 1% tax.

➤ If your business is not located in a Participating Municipality, you shall indicate zero in line 17. The merchant shall be responsible for remitting the amount corresponding to 1% of line 15 of the Monthly Return, Amount Subject to the Sales and Use Tax, directly to the Municipality. If a municipality has determined that the sale of food and food ingredients shall be subject to a 1% tax, the merchant, as applicable, shall indicate to the municipality the portion of the sales reported as exempt in the Department's Monthly Return that corresponds to the sale of food and food ingredients, and calculate his or her tax in accordance with the provisions of the municipal ordinance approved for such purpose.

Example:

Assume that line 15 of the Monthly Return, Amount Subject to the Sales and Use Tax, is \$10,328. In this case, the 1% tax shall be \$103.28. For the purpose of the return, you shall indicate \$103 in line 17 of the Monthly Return. Remember that you shall only eliminate cents. Do not round.

16. What is a Participating Municipality?

The term "Participating Municipality" refers to a municipality that has an agreement with the Department which establishes that the Department shall act as a centralized administrator and collect the total amount of the 1.5% tax indicated in Section 6189 of the Code.

17. If a deposit for the period for which the Monthly Return is filed is made before filing such return, where shall said amount be reported?

In those cases where the merchant has made payments for the period for which the Monthly Return is filed, before filing said return with the Department, the merchant shall report said deposits in line 18 of the Monthly Return.

18. What is the Credit for Sale of Merchant's Property?

In general, the Credit for Sale of Merchant's Property refers to the amount of the SUT paid by a merchant when acquiring a taxable item for personal use which is later sold without having been used.

☞ The total amount of the Credit for Sale of Merchant's Property is claimed in line 19 of the Monthly Return.

Example:

Merchant "H" has a computer sales business. "H" orders a computer from the United States to use it in his Accounts Receivable Division. He receives the computer and pays the use tax. Before getting it out of the box, a customer sees it and offers to purchase it. "H" sells the computer to his customer, and collects the sales tax for it.

In this case, "H" is entitled to a credit for the amount of the use tax paid for that computer.

19. What is the Credit for Bad Debts?

In general terms, the Credit for Bad Debts applies to merchants who use the accrual method to report their income. Such credit shall be for the total or a part of an account receivable that becomes a bad debt during the month for which the Monthly Return is filed.

To determine the amount of the credit, only the direct write-off method shall be allowed. For those purposes, the use of the reserve method shall not be allowed.

☞ The total amount of the Credit for Bad Debts is claimed in line 20 of the Monthly Return.

20. What is the Credit for Taxes Paid by the Merchant?

The Credit for Taxes Paid by the Merchant applies to any merchant who holds an Exemption Certificate and who has paid or has been charged the SUT wrongfully or excessively in the purchase of taxable items for resale. This credit may be claimed in the Monthly Return for the period in which such tax was paid. This credit does not apply to manufacturers.

➤ The total amount of the Credit for Taxes Paid by the Merchant is claimed in line 21 of the Monthly Return.

Example:

Merchant “J” was purchasing some items for resale. At the time of payment, he did not have the Exemption Certificate to evidence his right to purchase items for resale free from payment of the SUT. In this case, “J” shall have to pay the corresponding SUT and on the Monthly Return for the period in which said tax was paid, he may claim a credit for the SUT paid.

21. What documentation or evidence shall the merchant send along with the Monthly Return to evidence the items presented?

The merchant shall not have to remit any evidence along with the Monthly Return. He or she shall retain for a period of at least 6 years all the documentation needed to evidence the items presented for when the Department requires them later on.

22. If the amount of the SUT to be paid is not remitted to the Department on time, will interest and surcharges be collected?

If payment of the SUT was not made on or before the 20th day of the month following the month during which the transaction that is subject to such tax occurred, the merchant shall include interest calculated at an annual rate of 10%, from the twentieth (20) day of the month until the date when payment is made.

In all cases in which payment of interest proceeds, a surcharge equivalent to 5% of the unpaid total shall also be paid if the delay in payment exceeds 30 days, but does not exceed 60 days; or 10% of the unpaid total, if the delay exceeds 60 days.

➤ The amount of interest shall be reported in line 23 of the Monthly Return.

➤ The amount of surcharges shall be reported in line 24 of the Monthly Return.

23. What is the penalty if a Monthly Return is not filed or is filed late?

A progressive penalty shall be imposed for failing to file the Monthly Return, unless it is shown that such omission was due to a reasonable cause and not voluntary carelessness. An additional 5% shall be added to the SUT balance if the omission does not exceed 30 days, and an additional 10% for every additional 30-day period or period fraction while the omission subsists, without exceeding 25% in total.

➤ The amount of the penalty shall be reported in line 25 of the Monthly Return.