

GOVERNMENT OF PUERTO RICO

DISBURSEMENT AUTHORIZATION AND TAX CONCESSION COMMITTEE

RESOLUTION 2017-10

NOVEMBER 6, 2017

RESOLUTION OF THE DISBURSEMENT AUTHORIZATION AND TAX CONCESSION COMMITTEE (THE "COMMITTEE") ADOPTING SPECIAL RULES IN CONNECTION WITH THE LIMITATIONS ON THE USE OF TAX CREDITS GRANTED PURSUANT TO RESOLUTION 2017-05, RESOLUTION 2017-08 AND RESOLUTION 2017-09 TO ASSIST THE GOVERNMENT IN ITS EFFORTS TO REACTIVATE THE PUERTO RICO ECONOMY FOLLOWING HURRICANE MARÍA.

WHEREAS, on March 7, 2017, the Fiscal Agency and Financial Advisory Authority (the "Authority") issued Administrative Order AO 2017-01 (the "Order") suspending the concession of tax credits and creating the Committee, with authority to control the concession and use of tax credits;

WHEREAS, on June 20, 2017, the Committee issued Resolution 2017-05 to limit the use of the tax credits granted on or before the date of the Order (March 7, 2017) for tax year 2017 and subsequent years;

WHEREAS, on July 25, 2017, the Committee issued Resolutions 2017-08 and 2017-09 to establish the procedures to approve applications of tax credits and limit the use of the credits issued pursuant to said resolutions;

WHEREAS, Resolution 2017-05, Resolution 2017-08 and Resolution 2017-09 of the Committee (collectively, the "Tax Credit Resolutions") established that tax credits granted may be used to offset up to a maximum of twenty-five percent (25%) of the income tax liability of the holder for the pertinent taxable year, as determined under the provisions of Subtitle A of the PR Code or any applicable special law ("25% Limitation Rule");

WHEREAS, the Tax Credit Resolutions also established that the tax credits granted will be available for use during a maximum term of four (4) consecutive taxable years (the "Four Year Period"), with an optional extension of three additional (3) taxable years (the "Additional Three Year Period") (collectively with the "Four Year Period" the "Time Limitation");

WHEREAS, on September 17, 2017, the Governor signed Executive Order Number 2017-047 to declare a state of emergency throughout Puerto Rico as a result of the impending Hurricane María and its potential impact on the island;

WHEREAS, on September 20, 2017, Hurricane María, a category four hurricane, directly impacted Puerto Rico causing catastrophic and severely damaged to Puerto Rico's infrastructure, its economy and the services provided to all Puerto Rico residents;

WHEREAS, the Government of Puerto Rico is currently implementing all necessary measures to recover and reactivate the economy of Puerto Rico;

WHEREAS, the Committee understands that certain economic and fiscal measures are required to incentive private investment to support the Government's efforts on the monumental task of rebuilding Puerto Rico;

WHEREAS, the Committee acknowledges that, as a result of the devastation brought upon Hurricane María, some businesses have remained closed and those that have managed to remain in operations struggle with the increment in operational costs due to the lack of electricity and telecommunications, among others. Thus, it is expected that many businesses will experience losses in their in taxable year 2017.

NOW, THEREFORE, BE IT RESOLVED that in order to assist in the Government's efforts to reactive the Puerto Rico economy following Hurricane María, the Committee hereby amends the 25% Limitation Rule of Resolution 2017-08 and adopts special rules in connection with the Time Limitation Rule of the Tax Credit Resolutions.





I. DEFINITIONS

For purposes of this resolution, all terms defined in the Tax Credit Resolutions, and not otherwise defined herein, are hereby incorporated by reference.

In addition, **Eligible Holder** – means any holder of a granted credit available for use in tax year 2017, which experienced a tax loss on its Puerto Rico Income Tax Return ("PR Tax Return") for such year and holds the granted credit on the filing date of its PR Tax Return corresponding to tax year 2017.

II. WAIVER TO THE 25% LIMITATION RULE

Tax credits granted pursuant to Resolution 2017-08, excluding Pending Tax Credits Applications, as this term is defined in Resolution 2017-08, will not be subject to the 25% Limitation Rule, provided that such tax credits will be subject instead to the rules of use established by the applicable Tax Incentive Law and the PR Code.




In the case of credits granted pursuant to Pending Tax Credit Applications under Resolution 2017-08 and Completed Tax Credit Applications under Resolution 2017-09, the Committee shall have the authority to grant a full or partial waiver of the 25% Limitation Rule ("Waiver"). The Waiver may be granted upon written request by the Holder after showing that such waiver will contribute to the Government's efforts to reactivate the Puerto Rico

economy, in terms of new investments and job creation following the passing of hurricane María.

If a full waiver is granted the tax credit will be subject instead to the rules of use established by the applicable Tax Incentive Law and the PR Code.

The Committee hereby delegates on the Secretary of Treasury the establishment of an annual cap on the amount of credits that may be granted by the Committee per Tax Incentive Law, provided that such cap will respond to the liquidity needs of the Government of Puerto Rico. The cap established, which shall be published by the Secretary no later than March 15 of every year, can modify or differ from any cap already established in Tax Incentive Laws. The Secretary may also increase or decrease the cap throughout the year to respond to the Government's liquidity needs.

III. SPECIAL USE RULE FOR HOLDERS THAT SUSTAINED A TAX LOSS DURING THE TAXABLE YEAR 2017

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- 1) An Eligible Holder may request a one-year extension to the Four Year Period established in the Tax Credit Resolutions ("One Year Extension"). As such, an Eligible Holder may be able to use the granted credits for up to a maximum term of four (4) consecutive tax years commencing on tax year 2018, instead of tax year 2017. The One Year Extension is only available if the Eligible Holder files its PR Tax Return for tax year 2017 on or before the due date established by the PR Code, including extensions.
 - 2) In the case of an Eligible Holder that requests the One Year Extension with respect to tax credits governed by Part III(B) of Resolution 2017-05, the limitations established in paragraph (A) of such Resolution shall apply beginning in tax year 2019 instead of tax year 2018. Therefore, such credit may be claimed against the income tax liability of the Eligible Holder, as determined under the provisions of Subtitle A of the PR Code or any applicable special law, without the 25% Limitation during tax year 2018.
 - 3) If an Eligible Holder requests the One Year Extension and subsequently sells or assigns all or part of a tax credit, as allowed by the Tax Incentive Law under which it was granted, the extension will automatically apply to the Buyer.
 - 4) The Committee authorizes the Puerto Rico Treasury Department to establish the procedures necessary to execute the provisions of Section III of this Resolution.

IV. SCOPE AND APPLICABILITY

This resolution shall not apply to a Credit Self-Determined by the Applicant, as defined in Resolution 2017-09.

This resolution amends, modifies and supplements the Limitation Rule. All other rules and provisions of the Tax Credit Resolutions not specifically amended hereby shall remain in full force and effect and are hereby ratified and confirmed by the Committee.

The provisions of this resolution shall apply prospectively. The Committee hereby ratifies any tax credits granted by the Committee pursuant to the Tax Credit Resolutions before the execution of this resolution.

V. EFFECTIVENESS

This resolution will be valid immediately after its approval.

IN WITNESS WHEREOF, we, the members of the Committee sign this resolution on this 6th day of November 2017.



Gerardo José Portela Franco
President of the Committee
Executive Director of FAFAA



Raúl Maldonado Gautier, Esq., CPA
Member of the Committee
Secretary of Treasury



José I. Marrero Rosario, Esq., CPA
Member of the Committee
Director of OGP