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Puerto Rico: Reduced sales and use tax for prepared foods involving marketplace facilitators

Puerto Rico's Treasury Department published Administrative Determination No. 21-06 (*Determinación Administrativa Núm. 21-06*) (May 24, 2021) that authorizes the collection of a reduced sales and use tax on sales of prepared foods by marketplace facilitators (that is, those that provide an electronic market to sellers in the food industry).

[Administrative Determination No. 21-06 \(Spanish\)](#) also establishes the eligibility requirements and the process for collecting the reduced tax rate, and clarifies the rules applicable to the payment of the municipal portion of the sales and use tax.

Requirements

Eligible marketplace facilitators must comply with all of the following requirements:

- They have a "marketplace facilitator merchant registration certificate," and at least one marketplace seller with a sales and use tax collection waiver must show one of the codes from the North American Industry Classification System (NAICS): 72231 - Contract Food Services, 72232 - Event Food Services, 72233 - Mobile Food Services, 72241 - Bars and Canteens, 72251 - Restaurants and Other Dining Sites.
- They must be in compliance with all sales and use tax return filing requirements.
- They must be in compliance with the payment requirements of all sales and use taxes.

A tax terminal will not be required of marketplace facilitators for purposes of the reduced sales and use tax rate.

Marketplace sellers with a collection waiver must still issue a receipt on sales made through marketplace facilitators and must also continue to register sales on their tax terminals even though they are not required to collect the sales and use tax.

Marketplace facilitators must obtain Form SC 2995, "Certificate of Authorized Business – Reduced Tax Rate on Prepared Foods" (*Negocio Autorizado – Tasa Reducida Alimentos Preparados*) through their

SURI (*Sistema Unificado de Rentas Internas*) accounts after submitting an application that is ultimately evaluated, processed, and approved by Puerto Rico's Treasury. The certificate must be placed in a visible area at the entrance of the marketplace facilitator's business location (if any) in Puerto Rico or in the main page of the e-platform (if there is no Puerto Rico business location).

Marketplace facilitators with commercial premises in Puerto Rico must still use the source of the sale of tangible personal property to establish where to remit the municipal portion of the sales and use tax.

Marketplace facilitators with no commercial premises in Puerto Rico must pay the municipal portion of the sales and use tax directly to the Puerto Rico Treasury Department.

The provisions have an effective date 24 May 24, 2021.

For more information, contact a KPMG tax professional in Puerto Rico:

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