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## EMPLOYEE BENEFITS ALERT

### ***Puerto Rico Treasury Department Clarifies Rules of Taxation Applicable to Distributions made by Retirement Plans***

On January 9, 2013, the Puerto Rico Treasury Department adopted [Regulation Number 8324](#) ("Reg. 8324") clarifying the rules of taxation applicable to distributions made by retirement plans. It becomes effective on February 8, 2013.

Reg. 8324 now provides when plan participants will be required to include as gross income the value of the contributions made by the employer to a plan if: (1) the plan is tax qualified; (2) the plan is not tax qualified; (3) the plan is not tax qualified when the contributions were made but secured such qualification thereafter; and (4) the plan is tax qualified when the contributions were made but is disqualified at some point thereafter.

It also provides when the beneficiaries of a plan participant will be required to include as gross income the benefit received from the plan: (1) upon the death of the plan participant; (2) as alimony; (3) as child support; or (4) as the share of the participant's former spouse in the marital properties.

The regulations also cover the determination of the taxable and non-taxable portion of plan distributions (i.e., as the employee's plan basis) and the consequences arising from in-kind distributions, including the distribution of employer stock, annuities and life insurance contracts, and properties for less than their fair market value.

Finally, Reg. 8324 defines for the first time the terms "lump-sum distributions", "annuities" and "installment payments" for purposes of determining their tax consequences (including the applicable tax withholding rules) and their eligibility for tax deferral as rollover distributions.

If you have any questions or would like our assistance regarding this matter, you may contact any of the following members of our Employee Benefits Practice Team:

Yamary González	787.250.5687	<a href="mailto:yg@mcvpr.com">yg@mcvpr.com</a>
Angel S. Ruiz Rodríguez	787.250.2602	<a href="mailto:asr@mcvpr.com">asr@mcvpr.com</a>
Lourdes del R. Fontanillas	787.250.5655	<a href="mailto:ldf@mcvpr.com">ldf@mcvpr.com</a>
Leyla González	787.250.5696	<a href="mailto:lgi@mcvpr.com">lgi@mcvpr.com</a>
Alba I. Joubert	787.250.5649	<a href="mailto:aj@mcvpr.com">aj@mcvpr.com</a>
Lillian Toro Mojica	787.250.2608	<a href="mailto:ltm@mcvpr.com">ltm@mcvpr.com</a>
Mayleen Santiago	787.250.2616	<a href="mailto:msg@mcvpr.com">msg@mcvpr.com</a>