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EMPLOYEE BENEFITS ALERT

PR Treasury Provides Guidance for Puerto Rico Qualification of Retirement Plans

Puerto Rico Treasury Department ("PR Treasury") Circular Letter num. 11-10 ("CL 11-10") provides guidance on the procedures for the qualification of retirement plans under the Puerto Rico Internal Revenue Code of 2011 (the "2011 PR Code") and for retroactive qualification under the Puerto Rico Internal Revenue Code of 1994, as amended (the "1994 PR Code"). See [our Alert](#) on the 2011 PR Code retirement plan provisions and copy of [CL 11-10](#).

CL 11-10 implements, among others, rules regarding the effectiveness of previously issued plan qualification letters and procedures to be followed in requesting determination letters as to compliance with qualification requirements under Section 1081.01(a) of the 2011 Code. Highlights of CL 11-10 are:

1. On or before the end of the plan year beginning on or after January 1, 2012 (*i.e.*, on or before December 31, 2012, for a plan with a calendar year), plans must be amended to comply with the provisions of the 2011 PR Code. Note that a plan must be managed in compliance with all 2011 PR Code provisions as of January 1, 2011 even though the plan is not amended until 2012.
2. A plan that is timely amended to comply with the 2011 PR Code must request an updated qualification letter on or before the due date, including any extension, of the participating employer's 2012 Puerto Rico income tax return (*i.e.*, April 15, 2013, or July 15, 2013 with extension, for a plan with a calendar year).
3. Guidance with respect to requests for updated qualification letters after a plan has obtained a qualification letter under the 2011 PR Code. Not all amendments will be required to be filed with the PR Treasury, as currently required in the qualification letters.
4. Updated list of documents that will be required to be included with the request for initial qualification under the 2011 PR Code and subsequent updated qualifications. Special rules will apply for plans adopted under master plans.
5. Plans that are not timely amended to comply with the 2011 PR Code provisions, plans that are not timely submitted for qualification letter under the 2011 PR Code or for retroactive qualification under the 1994 PR Code, or plans that are not timely submitted for updated qualification letters after obtaining a qualification letter under the 2011 PR Code, will be deemed non-qualified plans.
6. The qualification requirements on Circular Letter num. 11-10 are effective January 1, 2012.

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:

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