

March 31, 2011 www.mcvpr.com**TAX ALERT*****IRS issues notice on creditability of Act 154 Excise Tax***

The IRS issued Notice 2011-29 which addresses the enactment of Act No. 154 of October 25, 2010 ("Act 154"), which contains new rules that characterize certain income of nonresident corporations, partnerships and individuals as effectively connected with the conduct of a trade or business in Puerto Rico and, therefore, subject to Puerto Rico taxation. Notice 2011-29 also addresses the new excise tax ("Excise Tax") imposed by Act 154 on a controlled group member's acquisition from another group member of certain personal property manufactured or produced in Puerto Rico and certain services performed in Puerto Rico.

It has been the position of the Government of Puerto Rico that the Excise Tax is a tax imposed in substitution of the generally imposed income tax and that, as such, under Section 903 of the US Code, US taxpayers can claim a foreign tax credit for amounts paid.

Notice 2011-29 provides that the determination of the creditability of the Excise Tax requires the resolution of a number of legal and factual issues, and that pending the resolution of those issues the IRS will not challenge a taxpayer's position that the Excise Tax is a tax in lieu of an income tax under section 903.

Notice 2011-29 is expected to be published in Internal Revenue Bulletin 2011-16 on April 18, 2011.

If you have any questions or would like our assistance to submit your comments, you may call any of the following members of our [Tax](#) and [Tax Exemption](#) groups:

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