TAX PERSPECTIVES

a McConnell Valdés LLC publication

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TAXES FROM A DIFFERENT ANGLE

by Xenia Vélez Silva

*Perspective — n. ... **3** the relationship or proportion of the parts of a whole, regarded from a particular standpoint or point in time **4** a) a specific point of view in understanding or judging things or events, esp. one that shows them in their true relations to one another b) the ability to see things in a true relationship **5** a picture in perspective 6 a distant view, vista. Webster's New World College Dictionary, Fourth Edition.*

Welcome to Tax Perspectives, a new quarterly publication from McConnell Valdés to serve our clients and friends.

> *"It has been said that taxation is the price we pay for living in civilized society, and that of all human endeavors, taxes are the hardest to understand[2]"*

It has been said that taxation is the price we pay for living in civilized society[1], and that of all human endeavors, taxes are the hardest to understand[2]. Regardless of whether you view them as a necessary evil, a tool for economic and social development or an assault on your pocketbook, the fact still remains they are an inescapable part of modern life.

We at McConnell Valdés are proud to have in our Tax Practice Group an excellent group of professionals - most of which are either Certified Public Accountants, Masters in Tax Law or both - devoted to helping you navigate the labyrinthic interplays and nuances of the various tax systems coexisting in Puerto Rico: municipal, Commonwealth and Federal. Income taxes, property taxes, sales and use taxes, franchise taxes, license taxes ("patentes"), estate and gift taxes, excise taxes... we've seen them all and, more important to **you**, have experience **working** with them all, including representation before the applicable taxing authorities as well as litigation.

Over sixty years of experience in the field have given McConnell Valdés valuable perspective in handling tax matters. But there is one angle we have never forgotten: yours. Your bottom-line. Your protection. Your point of view.

We hope you enjoy this issue of McV's Tax Perspectives. Taxes, as they relate to **you**.

[1] Oliver Wendell Holmes, Compañía General de Tabacos de Filipinas v. Collector of Internal Revenue, 275 U.S. 87, 100 (1927) ("Taxes are what we pay for civilized society...")

[2] Franklin D. Roosevelt. Speech Oct. 21, 1936 ("Taxes, after all, are dues that we pay for the privileges of membership in an organized society.") Albert Einstein ("The hardest thing in the world to understand is the income tax.")

In this Issue...

TO EVERYTHING THERE IS A SEASON

by Carlos E. Serrano

Fall of 2006 was a hectic season for all businesses in Puerto Rico. The season marked the start of the Puerto Rico sales and use tax[1] and related registration requirements. Ever since, businesses in Puerto Rico, especially that of wholesalers and retailers, have been in a constant state of flux. With recent statements from the Governor of Puerto Rico, businesses have once again gone into a heightened sense of alert for further changes in their operations.

A time to be born

The Puerto Rico sales and use tax was introduced as a component of a new tax model that, among other things, purported to improve government's finances, broaden the tax base; and shift tax burdens from an income tax to a consumption tax.

The general excise tax of 5% (effective rate of 6.6%) was repealed in mid October 2006. Transitory provisions included relaxation of the applicable bonded warehouse regulations to permit, starting September 15, 2006, the introduction of articles (as defined in the Code) to the Island without the imposition of the tax.[2] In addition, a tax credit became available for the excise taxes paid on certain inventory that later would have been sold subject to the sales and use tax.[3] The idea behind both transitory measures was to reduce the cost of inventoried goods[4] by an amount equal to the excise tax that would have been paid on such inventory, thus reflecting an equivalent reduction in the sales price of such goods (i.e., reducing its tax base for sales and use tax purposes).

Although in some cases the transitory measures fostered a reduction in the sales price of certain articles (henceforth sold as tangible personal property for purposes of the Code), the savings became diluted in the eyes of consumers. In other words, a reduction of 6.6% in the cost of an item does not translate into a reduction of 6.6% of its sales price to final consumers. This, compounded with unchanged prices for many consumer goods and certain price increases due to factors such as fuel price increases, created a general sense of discontent with the newly enacted sales and use tax.

Be that as it may, **the sales and use tax has been doing what it was supposed to do:** levy a combined 7% sales and use tax on the sales price of most tangible personal property and consumer services sold (or to be used) on the Island. It also forced business to comply with a new way of doing things: eliminate processes related to import logistics, get set up to collect and remit the tax: manage tax exemption certificates, etc.

The result has been a tax system that has consistently collected for the government twice the tax revenues as the general excise tax did. Further, it permitted the creation of the Corporation for the Financing of Infrastructure (COFINA for its Spanish acronym) to refinance $6 billion in outstanding government debt by pledging collections equivalent to 1/7th or 1% of the sales and use tax.

A time to die

In his "state of the state" address, the Governor of Puerto Rico unveiled a proposal for a plan to alleviate taxpayers in a recessionary economy. The plan is based on the following premises: (1) that the sales and use tax has negatively affected the economy by impairing consumer confidence, thus affecting business and (2) that price levels after the repeal of the excise tax were not reduced because, in reality, businesses used to bear the cost of the tax without affecting their sales prices.

The plan consists of the partial elimination of the sales and use tax and a return to the general excise tax system, which would be paid by importers, not consumers. Under the plan, effective July 1, 2008, the new sales and use tax rate would be set at 2.5% (to cover 1% pledged to COFINA and maintain a 1.5% municipal tax) in addition to the re-introduction of the general excise tax on all articles except medicines, food and food ingredients.

Reactions to the plan were immediate and have not stopped ever since. From a negative watch on the COFINA bonds by both Standard & Poor's Rating Services and Fitch Ratings, to glee from consumer groups and taxpayers. On March 14, 2008, HB 4123 was filed proposing a reduction of the sales and use tax without identifying a corresponding revenue raising measure to offset the reduction. HB 4123 has low probabilities of becoming legislation. To quote an important leader of the Puerto Rico Senate, this bill "has a snowball's chance in hell fo being approved".

The current season promises to bring a great amount of discussion on the sales and use tax. While there is no substitute for awareness of potential changes and readiness to react, a viable proposal for changes in the sales and use tax is yet to be seen. Whether the next season brings a time to gain or a time to lose will depend on the specific components of any proposal that makes it to legislation. The truth is that, as enacted, the sales and use tax provisions have room for improvement and this may be the season to turn the system into a more efficient one. We will continue to monitor activity on this front and facilitate participation as needed. McV

[1] Subtitle BB of the Puerto Rico Internal Revenue Code of 1994, as amended (the "Code").

[2] Circular Letter 06-14 issued by the Secretary of the Treasury.

[3] Act No. 229 of October 17, 2006.

[4] One of the arguments behind the repeal of the general excise tax was its so-called "cascade effect", which forced importers to bear the tax, thus ultimately increasing sales prices through higher valuation of inventories for property tax purposes, higher financing costs for inventory on everyone throughout the delivery chain of goods consumed in the island.

INCREASING RETIREMENT SAVINGS THROUGH AUTOMATIC ENROLLMENT

by Ariadna Alvarez

Inertia - A tendency to do nothing or to remain unchanged. – A property of matter by which it continues in its existing state of rest or uniform motion, unless changed by an external force.

Inertia accurately describes the attitude displayed by an all too large number of employees when it comes to planning for their retirement. Even having the ability to significantly increase retirement savings by contributing pre-tax dollars into their employer-sponsored savings plans (401(k) or 1165 (e)) and collecting employer matching contributions in the process, many employees sit motionless, without taking advantage of the many benefits these retirement programs have to offer.

Employers are now exerting the external force that will increase employee participation in their savings plans by amending them to include "automatic enrollment" provisions. Automatic enrollment clauses usually provide that an employee will automatically begin participation in the plan at a certain pre-determined time (e.g. upon commencement of employment, after 90 days of employment, among other alternatives). When the triggering date is reached, the employer will begin to automatically withhold from the employee's paycheck (without prior employee instruction or consent) the pre-set percentage of compensation that has been established by the plan. After the automatic withholdings begin, the employee has a window of opportunity to opt-out of participation in the plan. However, many employers are relying on the inertia that has characterized employees, and are confident that a large number of them will not opt-out after beginning to participate in the plan. If they perform as expected, these programs will increase the retirement savings of a large group of individuals who, absent employer action, would not have added these assets to their retirement pot.

While the benefits of automatic enrollment seem evident from the employee's perspective, employers will also benefit since greater participation will likely make it easier for the plan to comply with the discrimination testing that plans are required to undergo on an annual basis. This will save the employer the hassle of making distributions to employees, additional contributions, or taking any of the corrective measures required when plans fail discrimination testing.

Although automatic enrollment provisions have existed for a while, and have gained increased support during recent years, Puerto Rican employers had in the past been apprehensive to adopt them since Puerto Rico law has traditionally limited an employer's ability to make withholdings from employees' paychecks, even more so without specific prior employee authorization. This concern was laid to rest with the enactment of the Pension Protection Act ("PPA") in late 2006, where federal law left no doubt that employers who meet certain notice requirements and comply with the qualified default investment rules can validly include automatic enrollment provisions in their plans. The PPA further provided that **state statutes restricting a plan's ability to allow automatic enrollment would be preempted by federal law.**

Before including automatic enrollment provisions in their savings plans, employers must be aware of the requirements that need be complied with when establishing these programs.

To implement automatic enrollment the employer must first offer a plan that contains a "cash-or-deferred arrangement" or CODA. Cash or deferred arrangements allow employees to make an election authorizing the employer to deposit part of their salary into the plan on a pre-tax basis (e.g. 401k or 1165e plans). Therefore, under a CODA plan employees may elect to "defer" part of their income into the plan (the amount deferred will be deducted from the amount of salaries the employer reports in the W-2), or may elect to receive full salary without taking advantage of the opportunity to defer (i.e. take the "cash").

CODA plans must then be amended to include the automatic enrollment clauses, which are provisions that, as stated above, allow the employer to make, on behalf of the employee, the election to participate in the plan (defer income instead of taking the cash), determine the percentage of compensation to be withheld from the employee's check and deposited into the plan, and determine the default investment vehicle for the assets deferred. Employers can make the election on behalf of the employee when the employee has neither affirmatively chosen to participate in the plan, nor chosen not to participate. Many plans provide that employees who are already participating in the plan or who have made prior elections will not be subject to the automatic enrollment provisions.

It is important to stress that the protection offered by the PPA to automatic enrollment arrangements is available only when the plan, has given certain notices to participants, complies with recently adopted regulations applicable to default investments, and provides employees the opportunity to opt-out of the program. Certain detailed rules apply to each of these requirements. McV

CARLOS SERRANO REJOINS McCONNELL VALDÉS

Former Treasury assistant secretary for internal revenue to focuson red-hot tax issues as chair of law firm's tax practice

by Carlos Márquez

Puerto Rico's top tax collector for the last three years, Carlos E. Serrano, former assistant secretary for Internal Revenue at the Puerto Rico Treasury Department, has rejoined the McConnell Valdés law firm as capital member and chairman of the Tax Practice Group.

Serrano worked at McConnell from 1997 to 2004 before being recruited by incoming Treasury Secretary Juan Carlos Méndez to join his Treasury team.

During his tenure at the Treasury Department, Serrano spearheaded the agency's efforts to implement the proposed 2006 tax reform as well Puerto Rico's brand new sales and use tax, established in 2007.

As assistant secretary Serrano was charged with setting public policy and formulating regulations to support development incentives for the tourism, manufacturing and urban development sectors of the economy he also implemented new regulations in the areas of sales tax, excise tax, alcoholic beverages and Real Estate Investment Trusts (REITs) and represented Puerto Rico in double taxation cases of Section 936 beneficiaries who had reorganized as CFCs, and in the Streamlined Sales Tax Project.

"I'M BACK HOME"

"The decision to return to McConnell was not difficult. I finished the transition at Hacienda yesterday [Friday] and am here today. I feel at home. I know the people and the majority of the clients. At McConnell you have experts in all tax areas," said Serrano.

Serrano will quickly put his considerable Treasury experience to work for his clients in a number of red-hot tax issues. Although briefly, he commented on some of the issues he will he paying close attention to.

Act 212

Serrano feels comfortable about the final resolution of the Act 212 issue, which provides tax credit incentives for development in urban areas. In the near future most of the credits applied for should be approved," he said. A recent court decision required Hacienda to redraft its implementing regulations to adopt a less-restrictive interpretation of the law establishing those tax incentives.

IRS Audits

Serrano explained an area of ongoing concern for many corporate clients pertains to federal, not local, internal revenue issues.

After the phase out of the federal income tax credits provided under Section 936 of the U.S. Internal Revenue Code most businesses with operations in Puerto Rico converted their structures from branches of U.S. corporations to foreign subsidiaries, known as controlled foreign corporations or CFCs. The Internal Revenue Service (IRS) has considered that tax issues associated with the transfer of intangibles outside the U.S. have been a high-risk compliance concern, especially in the high technology and pharmaceutical industries. Having viewed these conversions as offshore profit-shifting schemes to low-tax jurisdictions, the IRS has increased its audit activities of these operations, which generally result in companies having to provide additional compensation to their mainland counterparts for the use of intangibles in Puerto Rico.

"The Commonwealth's general budget this year includes approximately $300 million in income tax withholding on royalty payments by corporations in Puerto Rico for payments to the owners of intellectual property on the U.S. mainland. That assumes payments to the U.S. companies this year in excess of $3 billion with an average withholding in Puerto Rico of 10%, or $300 million," explained Serrano.

"And $3 billion in revenue reported to Puerto Rico tax jurisdiction versus revenue reported to the federal tax jurisdiction is no exaggeration. The IRS audits target billions of dollars in revenue allocated to the Puerto Rico jurisdiction and take them to the federal jurisdiction. This is a Tier-One issue for the IRS, meaning it has teams of lawyers, accountants and economists, among other support specialists, concentrating on this issue," Serrano noted.

ADMINISTRATION AND CORRECT COMPLIANCE ARE KEY ISSUES

All Puerto Rico business owners have had to make administrative adjustments to ensure compliance with the recently enacted sales tax. The principal areas that have required attention by local businesses are registration, filing requirements and the determination of the taxable versus nontaxable nature of various articles.

"The sales and use tax causes a lot of exposure (as in any other jurisdiction with a sales tax) to business, as it puts the collection responsibility on them. Proper administration and compliance are essential and must be addressed. Correct compliance eliminates exposure. This is a situation I plan to work on with many of McConnell's clients," explained Serrano.

2006 TAX REFORM

With respect to the tax reform he said: "What happened was not what should have happened," in reference to the fact that the hoped-for tax cuts that were supposed to be part of the tax reform did not materialize.

"Nevertheless, on the positive side, we were successful in implementing the sales tax system to effectively handle the imposition of not one but two sales taxes (central and municipal), one after the other, in less than a year. That was a shock to the system. The sales tax collection projections were on target and, Treasury is collecting what was projected, he added.

Also on the positive side, more than $350 million in personal income tax benefits for 200S are effective this tax year, and an additional $350 million are legislated for next year.

Serrano is the second former key government official recruited by McConnell in less than a month. Luis Bacó, former chief of staff and legislative director for Resident Commissioner Luis Fortuño, joined McConnell as co-chairman of the government affairs practice area.

"In striving to keep McConnell at the forefront, we are also keeping the firm alive for future generations. As the sixth managing team to lead the firm, we believe it is our responsibility to lay the groundwork for the firm's next 60 years which is one of the reasons we incorporate professionals such as Carlos (Serrano) and Luis (Bacó) into our practice," explained Arturo Garcia Solá, McConnell's managing director.

Garcia Solá said he was "particularly pleased with Carlos' return to the firm. He is a significant addition to our distinguished tax practice. He will add depth and expertise to this group in the areas of international, federal and local tax planning, sales and use tax and taxation-related regulatory and legislative affairs. His vast management experience will be invaluable in supporting our cornmitment to our clients for tax advisory services that add value and further their business objectives," added García Solá. McV

REDUCTION IN CAPITAL GAINS TAX RATE

by Rubén Muñiz

Act 181 of December 10, 2007, clears confusion on applicable rate for transactions made after June 30, 2007; Rate for individuals lowered to 10%, corporations to 15%.

On December 10, 2007, the Governor signed into law House Bill (H.B.) 3750, Act 181, which finally cleared up the confusion over the applicable rate for capital gains transactions for individuals and corporations made after June 30, 2007, and lowered the tax rate to 10% for individuals and 15% for corporations.

Flashback to 2005 . . .

Act 40 of August 1, 2005 amended Sections 1014 and 1121(c) of the Puerto Rico Internal Revenue Code of 1994 (the "Code") to change the tax rate applicable to capital gains. The purpose was to enact uniform tax rates to individuals (12.5%) and corporations (20%).

Prior to Act 40, Section 1121 of the Code imposed special tax rates of 25%, 12.5%, or 7%, depending on the type of property generating the capital gain.

These rates were subsequently reduced 50% across the board for transactions made between July 1, 2004 and June 30, 2005 as a result of Act 226 of August 22, 2004.

According to Article 6 of Act 40, the new uniform tax rates were effective from July 1, 2005 for taxable years commencing after June 30, 2005.

However, this article also stated that the act would be in effect until June 30, 2007, subject to the approval of the joint House Resolution approving the General Fund Budget for 2006 (RCC 445), which was pocket vetoed by the Governor.

The governor's veto created great confusion among investors as to what was the applicable capital gains tax rate after June 30, 2007. In Circular Letter 05-07 of September 23, 2005 (CL 05-07), Treasury expressed that Act 40's uniform tax rates applied to taxpayers with taxable years commencing after June 30, 2005. However, CL 05-07 was silent as to the applicable tax rate after June 30, 2007.

Fast forward to 2007. . .

For almost six months, investors and practitioners struggled with the question of what rate applied to net long-term capital gains after June 30, 2007. Then, **Act 181 amended the Code to establish uniform and reduced tax rate to individuals, estates or trusts (10%) and corporations or partnerships (15%), on the excess of any net long-term capital gains over the short-term net capital loss.**

In the case of sale of stock or real property by non-residents individuals, Act 181 amended Section 1147 of the Code to impose a withholding tax rate of 25% or 10% in the case of nonresident individuals that are citizens of the United States.

Act 181 also contains the rules applicable to the taxation of lump-sum distributions on account of separation from service from qualified retirement plans. McV

TAX CALENDAR

PUERTO RICO FILINGS: APRIL – JUNE 2008

by Janelle Reyes

APRIL 2008

15
- Form 1040 — United States Individual Income Tax Return. May request a four-month extension.
- Form 1040 ES — First installment U.S. individual estimated income tax.
- Form 1065 — United States Partnership Return of Income. May request a three-month extension.
- Form 8109 or EFTPS — Deposit the first installment of U.S. corporate estimated income tax.
- Annual Corporation Report (domestic and foreign corporations). May request a 90-day extension.
- Form AS 2640.1 — Last day to make an election by a corporation or partnership to be considered as corporation owned by individuals.
- Form 480.9 — Deposit income tax withheld at source on dividends, distributions, and interest.
- Form 480.9A — Deposit first installment of income tax withheld on estimated net share income and distributable profit.
- Form 480.9A — Extended due date for remittance of distributive share of special partnership's income to its partners.
- Form 480.10-(E); 480.10; 480.20; 480.20(I); 480.30(II); 480.40(D); 480.40(F); 480.70(OE); 480.80; 481 and 482 — Short and Long forms.
- Form AS 2644 — Individuals, Corporations, partnerships, special partnerships and corporation of individuals PR income tax returns. May request a 90-day extension. Individuals may request a 30-day extension.
- Form 480.5 — Summary of informative returns.
- Form 480.30 — Nonresident annual return for income tax withheld at source.
- Form 480.31— Deposit Income Tax withheld from non residents.
- Form 480.6C — Informative return of income subject to withholding—nonresidents.
- Form 480.30-A — Annual return of tollgate tax.
- Form 480-E and 480-E-1 — Declaration and first installment estimated income tax - corporations and individuals.
- Form AS 2650 — Request for extension of time to file the Estimated Tax Declaration.
- Form 480-E-3 and 480-E-3A — Declaration and first installment estimated tollgate tax.
- Form AS 2879 — Branch Profits tax form. Should be included in the Branch's PR Income Tax Return.
- Form TSCH-1 — Quarterly payment Chauffeur's Social Security.
- Annual return on special tax withheld on Capital Investment Fund distributions.
- Deposit special 10 percent tax withheld on Capital Investment Fund distributions.
- Payment of any insufficiency on the prepayment of tollgate tax with the income tax return or with the request for extension.
- Form OCAM PA-O1 — Volume of business declaration. May request a 6-month extension (payment with 5 percent discount).

20
- Filing and payment of PR sales and use tax monthly return.

30
- Concessionaires Quarterly Report for personal property leasing companies (Quarter January-March).
- Form 499-R-1B — Employer's quarterly return of income tax withheld (Quarter January – March).
- Form 941PR — FICA quarterly return and payment (Quarter January – March).
- Form 8109 or EFTPS — Deposit FUTA.
- Form PR-UI-10 and PR-UI-10A — Puerto Rico Unemployment Insurance and Puerto Rico Disability Benefits—(Quarter January – March).

MAY 2008

12
- Form SC 2225 — Bonded importers and manufacturers excise tax monthly return.
- Form 480.9A — Deposit of income tax withheld from services rendered.

15
- Form 480.9 — Deposit income tax withheld at source on dividends, distributions, and interest.
- Form 480.31 — Deposit income tax withheld from nonresidents.
- Form AS 29-1 — Personal Property tax return. Corporations may request a 90-day extension, taxpayers other than Corporations may request a 30-day extension.
- Form 481.0 or 482.0 — P.R. individual income tax return extended due date—30 days. Additional 60-day extension may be requested.
- Form 480.80 — Fiduciary Income Tax Return (Estate or Trust) extended due date - 30 days. Additional 60-day extension may be requested.
- Deposit special 10 percent tax withheld on Capital Investment Fund distributions.
- Exempt Corporations Annual Report. For calendar years corporations—Due date is 30 days after filing the income tax return.

20
- Filing and payment of PR sales and use tax monthly return.

JUNE 2008

10
- Form SC 2225 — Bonded importers and manufacturers excise tax monthly return.
- Form 480.9A—Deposit of income tax withheld from services rendered.

16
- Form AS 29.1 — Personal Property Tax Return extended due date for taxpayers other than Corporations—30 days. Additional 60-day extension may be requested.
- Form 480.9 — Deposit income tax withheld at source on dividends, distributions, and interest.
- Form 480.9A — Deposit second installment of income tax withheld on estimated net income and distributable profit.
- Form 480.31 — Deposit income tax withheld from nonresidents.
- Form 480-E-1 — Second installment estimated income tax.
- Form 480-E-3A—Second installment estimated tollgate tax.
- Form 8109 or EFTPS—Deposit second installment of U.S. corporate estimated income tax.
- Form 1040 ES — Second installment U.S. individual estimated income tax.
- Deposit special 10 percent tax withheld on Capital Investment Fund distributions.

20
- Filing and payment of PR sales and use tax monthly return.

TAX ALERT: NEW LEGISLATION

by Liz A. Pérez

The most recent legislation to amend the Puerto Rico Internal Revenue Code of 1994, as amended ("Code"), is as follows:

(a) Act Number 172 of December 3, 2007, effective for taxable years beginning after December 31, 2006:

Increases the limit of the deduction allowed in connection with the purchase, construction and installation of solar equipment to be used in the principal residence of an individual in any given year. The limit increases from $500 to $1,500 and from $250 to $750 in the case of a married individual living with his/her spouse but filing separate returns.

(b) Act Number 177 of December 4, 2007 ("Act 177"):

Reestablishes the excise tax exemption to disabled veterans, blind and disabled persons in the acquisition of vehicles. In addition, Act 177 corrects various technical errors.

(c) Act Number 178 of December 4, 2007:

Effective for taxable years 2008 and 2009. Establishes a special 100% deduction on contributions made for the expansion and restoration of the Ponce Art Museum.

(d) Act Number 181 of December 10, 2007:

Effective for transactions made on or after July 1, 2007. Reduces the special tax rate for long term capital gains of any individuals, trusts or estates to 10% and to 15% for corporations and partnerships. A 25% withholding tax will apply in the case of sale of real property or stock by an alien who is a non-resident of Puerto Rico, whereas if the seller is a US citizen non-resident of Puerto Rico the withholding tax is 10%.

In the case of lump-sum distributions on account of separation from service made after January 30, 2006, from a Puerto Rico qualified retirement plan, a special 10% tax withholding rate will apply if the plan is funded through a trust with situs in Puerto Rico (or through a trust with situs in the U.S. that has a Puerto Rico resident as trustee/paying agent), Effective January 1, 2008, in order for the 10% tax rate to apply at least 10% of all trust assets attributable to Puerto Rico resident participants must have been invested in "property located in Puerto Rico," as such term is defined in either the Code or in a formal pronouncement of the Secretary of the Treasury, during the year of distribution and the two prior years (the "Investment Requirement"). The Investment Requirement may also be complied with at the individual level. In the case of a plan with individual accounts, if the plan (or participant) does not comply with the Investment Requirement, a 20% withholding tax will apply.

(e) Act Number 194 of December 13, 2007:

Sets the excise tax rate applicable to tractors, buses and trucks which was inadvertently left out of the Code when amended by Act Number 19 of March 6, 2007, to reduce the excise tax rate on motor vehicles.

(f) Act Number 197 of December 14, 2007:

Establishes a Tax Credit Program for the Acquisition of New Construction and Existent Houses.

On December 14, 2007, the Puerto Rico Treasury Department issued Regulation 7437 to implement the provisions in Subtitle B of the Code related to Excise Taxes and to repeal Regulation 7215 of September 1, 2006.

On December 19, 2007, the Puerto Rico Treasury Department issued Regulation 7442 to implement the provisions of Act Number 197 of December 14, 2007.

On February 22, 2008, the Puerto Rico Treasury Department issued Regulation 7468 to amend Sales and Use Tax Regulation 7249.

The most recent legislation to amend the Municipal License Tax Act of 1974, as amended is as follows:

(a) Act Number 10, of February 15, 2008:

To require taxpayers engaged in the business of solid waste collection to allocate their volume of business based on the number of clients located in each of the municipalities where services are rendered. Previously, such taxpayers were subject to the allocation formulas provided in Section 2 of the Act. The Act does not clarify whether its provisions are intended to require taxpayers to notify their "commencement of operations" in each municipality in which they have clients nor does it clarify other technical issues. The Act is effective on July 1, 2008. McV

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