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FINANCIAL INSTITUTIONS ALERT

Puerto Rico 2010 Tax Reform - New Banking Reporting Requirements - Informative Return on Certain Financial Credit Transactions

Summary – Act 171 of November 15, 2010 ("Act 171") contains certain measures intended to reduce tax evasion, including the requirement that every financial business that approves an extension of credit of $250,000 or more ($500,000 or more in the case of real estate mortgages) must file an informative return with the Puerto Rico Secretary of Treasury (the "Secretary") on or before the last day of the calendar month following the month in which the extension of credit was approved. This requirement applies to credit applications approved after November 30, 2010.

New Informative Return Required (Credit Transactions)

Act 171 amended the Puerto Rico Internal Revenue Code of 1994 (the "Code") to require every financial business (as defined in the Code) to file an informative return (the "Informative Return") with the Puerto Rico Treasury Department ("Treasury") for each extension of credit approved for an amount of $250,000 or more ($500,000 in the case of real estate mortgages). The Informative Return must include the names of the applicants, their physical and mailing addresses, their social security or employer identification numbers (as applicable), their account numbers, and the amount of the transaction (or the total amount of all the transactions in the case of more than one transaction taking place in a 30-day period), and the details of the financial information provided by the applicants to the financial institution as proof of the source of repayment for the loan. This measure is intended to allow Treasury to reconcile the taxpayer's financial information, as reported in its income tax return, with the information provided to the financial institution, and determine if there are any differences leading to unreported taxable income. The Informative Return must be filed by the financial institution on or before the last day of the calendar month following the month in which the extension of credit was approved. This requirement applies to credit applications approved after November 30, 2010. Fines may be imposed for each Informative Return that is not filed by the financial institution. The Secretary is expected to issue regulations under Act 171.

In addition, Act 171 amended the Puerto Rico Mortgage and Registry of Property Act to require financial institutions to include a certification of the Informative Return's filing with Treasury as a

complementary document for recording mortgages in the amount of $500,000 or more. Similarly, it amended the Commercial Transactions Act to require that any financing statement in connection with an extension of credit of $250,000 or more must include a certification of the Informative Return's filing with Treasury. Both of these provisions will be effective on May 1, 2011. Act 171 authorizes the Secretary to postpone by regulation the due date for filing the Informative Return for a period not to exceed 180 days after the approval of the law.

For more information on this matter, you may contact any of the attorneys listed below, all members of our Financial Institution Practice Team:

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