

Puerto Rico Treasury Department issues Internal Revenue Circular Letter No. 23-01

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An McV Employee Benefits Alert

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On January 13, 2023, the Puerto Rico Treasury Department (“PR Treasury”) issued Internal Revenue Circular Letter No. 23-01 (“CL 23-01”) notifying the retirement plan limits that will apply to retirement plans qualified under Section 1081.01 of the Puerto Rico Internal Revenue Code of 2011, as amended (the “PR Code”), for the year 2023, including the cost-of living adjustments published by the U.S. Internal Revenue Service (“IRS”) in IRS Notice 2022-55, IR-2022-188 of October 21, 2022.

The retirement plan limits applicable for taxable years beginning on or after January 1, 2023, are:

- The limitation on the annual benefit under a defined benefit plan under PR Code Section (a)(11)(A)(i) is raised from \$245,000 to **\$265,000**.
- The limitation on annual additions to a participant’s account under a defined contribution plan under PR Code Section 1081.01(a)(11)(B)(i) is raised from \$61,000 to **\$66,000**.
- The annual compensation limit under PR Section 1081.01(a)(12) is raised from \$305,000 to **\$330,000**.
- The compensation limit for a highly compensated employee under PR Code Section 1081.01(d)(3)(E)(iii) is raised from \$135,000 to **\$150,000**. As interpreted by PR Treasury in Internal Revenue Circular Letter No. 19-17, **\$135,000** is the dollar limitation that must be used when determining whether an employee is highly compensated for the taxable year beginning in 2023 (for 2024, \$150,000 must be used).
- The elective deferral (contribution) limit under PR Code Section 1081.01(d)(7)(A):
 - Remains unchanged at **\$15,000** for a participant in a Puerto Rico-only qualified retirement plan; and
 - Is raised from \$20,500 to **\$22,500** for a participant in a retirement plan sponsored by the U.S. Federal Government and for a participant in a dual-qualified plan (i.e., retirement plan qualified under both PR Code Section 1081.01(d) and Section 401(k) of the U.S. Internal Revenue Code of 1986, as

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amended (the “US Code”). Notwithstanding the foregoing, PR Code Section 1081.01(d)(7)(A)(iii) provides an annual elective deferral cap of **\$20,000** for participants in a dual qualified plan. Any amount contributed over the applicable maximum limit will be deemed taxable.

- The limit on catch-up contributions under PR Code Section 1081.01(d)(7)(C):
 - Remains unchanged at **\$1,500** for an individual aged 50 or over participating in a retirement plan -other than a plan sponsored by the U.S. Federal Government; and
 - Increased from \$6,500 to **\$7,500** for an individual aged 50 or over participating in a retirement plan sponsored by the U.S. Federal Government.
- The limitation on voluntary employee after-tax contributions under PR Code Section 1081.01(a)(15) remains unchanged at **10% of the participant’s aggregate compensation** for all the years of participation in the plan.

You can access CL 23-01 [here](#).

The Puerto Rico legislature is considering amending the PR Code to incorporate for the first time cost of living adjustments to the maximum deductions amounts that can be claimed by individuals in computing their income tax liability including, among others, contributions to individual retirement accounts. In general, the limitations applicable to qualified retirement plans, as stated above, appear to remain subject to the annual revisions published by the U.S. IRS.

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