

McV Labor & Employment Law Tidbit Series: Equal Pay Act

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The second installment of our Tidbit Series is dedicated to Puerto Rico's Equal Pay Act, Act 16-2017, which was signed into law one year ago this month. After publishing our McV Labor & Employment Law Alert issued on March 2017, some of the most frequently asked questions we received regarding Act 16 are:

- What are the main provisions of the Puerto Rico Equal Pay Act?
 - It prohibits employers from engaging in sex-based salary discrimination
 - It prohibits employers from inquiring into an applicant's salary history
 - It prohibits employers from taking adverse action against employees that discuss salaries, be it their own or that of other employees, or that denounce violations under this statute
 - It provides a reduction of the applicable penalties if employers have conducted internal wage gap self-audits to correct salary differences
- What remedies does the Act provide to employees?
 - Affected employees may recover any salary differences ("pay gaps") that they would have been entitled to receive in the absence of discrimination, as well as an **additional penalty** of the same amount, plus costs and attorney's fees. In the case of retaliation, the employee is entitled to double damages
- How can employers limit their liability for civil actions based on gender pay gaps?
 - Employers will not be liable for the additional penalty if they prove that they initiated or completed an auto-evaluation process of their compensation practices within one (1) year prior to the filing of a claim under the Act. Furthermore, employers must show that they have eliminated or made progress in eliminating any sex-based wage gaps.

In order to reduce or eliminate any liability under this new law, it is crucial that you conduct an audit to make sure that you have instituted all necessary and mandatory provisions. We can assist you with the audit, as well as provide guidance with particular aspects of Puerto Rico's Equal Pay Act that may

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directly affect the way you conduct business.

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