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TAX ALERT 2015-06

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A PUBLICATION FROM THE TAX DIVISION

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PR TREASURY ISSUES VARIOUS PUBLICATIONS REGARDING THE INCENTIVES PLAN FOR THE PAYMENT OF TAXES



On March 30, 2015, the Governor of Puerto Rico signed Act 44-2015, the Incentives Plan for the Payment of Taxes in Anticipation of the Tax Reform Act (the "Act"). Recently, the PR Treasury issued various publications establishing procedures and clarifying aspects of the Act.

This **TAX ALERT** provides a summary of the most significant aspects of the following:

- Act 44-2015;
- Circular Letter No. 15-04 - Procedures Regarding the Incentives Plan ("CC 15-04"), issued on March 31, 2015;
- Administrative Determination No. 15-07 - Voluntary Disclosure of Income and Taxes ("AD 15-07"), issued on April 13, 2015; and
- Administrative Determination No. 15-08 - Prepayment of Special Contribution on Deemed Dividends ("AD 15-08"), issued on April 27, 2015.

INCENTIVES PLAN FOR THE PAYMENT OF TAXES

Among its provisions, the Act establishes an incentives plan (the "Plan") for the payment of taxes.

Assessed or Determined Debts on Tax Returns Filed by Taxpayers

The Plan relieves taxpayers of the payment of all interests, surcharges and penalties related to assessed debt balances if the principal is paid **in full** on or before **June 30, 2015**.

Tax debts that qualify for the Plan are related with the following:

- Income taxes prior to tax year 2014;
- Gift and estate taxes;
- Excise taxes;
- Sales and use tax ("IVU") for the taxable periods (including months) ending on or before 6/30/2014;
- Income tax withholdings for the taxable periods (including months) ending on or before 12/31/2014; and
- Tax due under the following:
 - Act 7-2009 Special Tax on Personal Property;
 - Act 73-2008 Economic Incentives for the Development of Puerto Rico
 - Act 74-2010 Tourism Development Act;

Please contact your account service partner should you have any questions or comments or if you need additional information regarding these matters.

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INCENTIVES PLAN (continued)

- Tax due under the following (continued):
 - Act 83-2010 Green Energy Incentives Act;
 - Act 27-2011 Film Industry Incentives Act; and
 - Act 20-2012 Export Services Act.

The relief is also applicable to debts that were not assessed as of December 31, 2014 but that are related to tax returns of the above-mentioned taxes that were filed as of said date.

Debts Consisting Only of Penalties, Interests, and Surcharges

Seventy five percent (75%) reduction.

Voluntary Disclosure of Income

The Plan is also available for taxpayers with unreported income, underreported income, and/or excess deductions related to taxable years ending on or before 12/31/2013. The taxpayer will be subject to a 20% tax rate on such income and/or excess deduction and may be eligible for the relief of all interests, surcharges and penalties.

Taxpayers must complete and file Form SC 3252 and Form SC 3253 on or before **June 30, 2015** to the PR Treasury's Voluntary Disclosure Division. Payments must be made in manager's check or money order on or before said date.

Additional Terms and Conditions

- Taxpayers must be up-to-date with respect to filings and payments of taxable year 2015.
- Taxpayers with ongoing interventions, tax audits, or administrative or judicial tax reviews may elect to take advantage of the Plan and cease all proceedings with respect to debts included in the Plan.
- Taxpayers with current tax payment plans may renegotiate owed balances under the terms and conditions established by the Plan.
- The Plan is **not** available for taxpayers subject to criminal proceedings related with tax crimes, those who have been convicted for tax fraud, or those who have earnings from illegal activities.

Payments

Payments may be processed through various centers, as follows:

Debt	Processing Centers
Total assessed balances (except IVU)	Collection centers (<i>colecturías</i>), district collection offices or amnesty centers
IVU assessed balances	District collection offices or amnesty centers
Some (not all) of assessed balances; Renegotiation of balances under payment plans	District collection offices or amnesty centers
Balances related with ongoing interventions	District collection office assigned to the investigation
Balances related with ongoing administrative or judicial reviews	Adjudicative Procedures Office

INCENTIVES PLAN (continued)

PREPAYMENT PROVISIONS

Please also take note of the following:

- » Collection Centers (*Colecturías*) and Amnesty Centers will accept payments in cash, manager's check, money order, credit or debit card (Master Card or Visa).
- » District collection offices will accept payments made by manager's check or money orders.
- » Payments of IVU balances must be made by manager's check or money order only.

PREPAYMENT PROVISIONS

In addition, the Act provides for the application of special tax rates for the prepayment of the following transactions or balances.

Dividend Distributions and Deemed Distributions

The Act provides for a 5% special tax rate on dividend distributions made by a corporation (except public corporations) from **January 1, 2015** until **April 30, 2015**. The rate will increase to 8% on distributions made during **May 1, 2015** until **June 30, 2015**. This special rate will apply instead of any other tax imposed by the Internal Revenue Code.

A deemed distribution ("DD") is an amount designated by the corporation as a dividend distribution that will **not** be distributed during the year in which the designation was made. A corporation may designate, within the periods mentioned above, all or part of its accrued earnings and profits¹ as a DD subject to the 5% or 8% special rates.

The election and payment of the special tax on dividend distributions must be made by filing Form SC 2753 no later than **April 30, 2015** or **June 30, 2015** (for the 5% or 8% rate to apply, respectively).

Individual Retirement Accounts ("IRAs") and Educational Contribution Accounts ("ECAs")

A special 8% tax rate will apply to total or partial IRAs' and ECAs' accrued and undistributed balances contributed prior to calendar year 2015 if the tax is paid on or before **April 30, 2015**.

¹ Distributions and deemed distributions may be issued or designated, respectively, up to the total of the company's accrued earnings and profits. Generally, the term earnings and profits ("E&P") refers to a company's taxable income subject to certain adjustments. DA 15-08 provides guidelines to calculate a corporation's E&P for a specific tax year.

PREPAYMENT PROVISIONS (continued)

Eligible Variable Annuity Contracts

The Act provides for the application of a 10% reduced tax rate for accrued and undistributed annuities or endowment funds transferred to an Eligible Variable Annuity Contract ("EVAC") on or before April 30, 2015. As established in the Act, an EVAC is any variable annuity contract issued on or before April 30, 2015 by a Puerto Rico insurance company, and whose terms prohibit making additional contributions after April 30, 2015. The payment of the tax must be made on or before April 30, 2015.

Special Tax on Sale or Prepayment of Increased Value of Certain Assets

The Act extends until **April 30, 2015** the period to make an election for the reduced tax rates on the gain from the sale of capital assets and on the increase in value of certain long-term capital assets².

² In general, corporate stocks, interest in domestic or foreign partnerships, real property located in or outside Puerto Rico, intangible property, bonds and certain debt obligations.

Valdés, García, Marín & Martínez, LLP is a Puerto Rico based firm of Certified Public Accountants and Consultants organized as a partnership for the practice of public accounting since 1975. Our 40 years of experience in public accounting support our commitment to excellence and professionalism.

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