

April 1, 2015

## Tax Update

### *Extension of Tax Prepayments and Establishment of Tax Amnesty Program*

Act 44-2015, signed into law, March 30, 2015, amends the Puerto Rico Internal Revenue Code of 2011 (the "Code"), to extend previously enacted tax prepayment provisions and to establish a tax amnesty program. During the amnesty, taxpayers will be exonerated from the payment of interest, surcharges and penalties arising from debts related to income taxes, estate and gift taxes, sales and use taxes, withholding income taxes and excise taxes.

### Extension of Tax Prepayments

Both Act No. 77-2014 and Act 238-2014 amended the Code introducing the opportunity to pay or pre-pay Puerto Rico income taxes on certain transactions. See our [Legal Update of December 29, 2014](#) on the subject. Opportunities for prepayments under such program generally ended on January 31, 2015.

Act 44-2014 brings the following changes:

#### *Variable Annuity Contracts*

Any individual owner or beneficiary of a life insurance, endowment or annuity contract that, on or before April 30, 2015, exchanges it or makes an indirect transfer in exchange for an Eligible Variable Annuity Contract, may elect to pay or prepay, instead of any other tax, a 10% percent tax on the total accumulated and undistributed amount subject to income tax.

#### *Extension of Deadlines for Tax Prepayments*

Individuals, estates and trusts may elect to pay or prepay, on or before April 30, 2015, a special tax of 8% on (i) the sale of long term capital assets ("LTCA") and (ii) any amount accumulated and undistributed or paid to a beneficiary by a qualified retirement plan; and a special tax of 15% on (i) the sale or increase in value of certain "included assets" otherwise taxed at regular rates and (ii) amounts distributed from non-qualified plans.

Corporations may also elect to pay or prepay, on or before April 30, 2015, a special tax of 12% on the sale of LTCAs or on the increase in value of such LTCAs.

Individuals may elect to prepay, on or before April 30, 2015, a special tax of 8% on all or part of any accumulated and undistributed balance of an individual retirement account.

#### *Educational Contribution Accounts*



For more information on the above, please contact any of the following attorneys in the tax practice:

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Any individual owner or beneficiary of an Educational Contribution Account (“ECA”) may elect to prepay income taxes on all or part of any accumulated and undistributed balance of the ECA at a special rate of 8% on or before April 30, 2015. The special tax rate of 8% will not apply to distributions of funds deposited in an ECA corresponding to 2015 and subsequent taxable years.

#### *Special Tax on Dividend Distributions and Deemed Dividends*

Any dividend distribution made during the period of January 1 and April 30, 2015 will be subject to a special tax of 5% on the total amount received by the shareholder. Any dividend distribution made after such period but before June 30, 2015 will be subject to a special tax of 8%.

Any corporation may designate as a deemed dividend any amount up to its total accumulated earnings and profits and prepay the special tax during the same period and subject to the same reduced tax rates as the dividend distributions above.

#### Tax Amnesty Program

##### *Payment of Assessed or Determined Taxes*

Any taxpayer with an assessed debt, or in cases in which a declaration or return has been filed and the debt is still pending assessment by December 31, 2014, will be exonerated from the payment of interest, surcharges and penalties if the principal of such debts is paid in full on or before June 30, 2015. Debts related to the following taxes are eligible:

- Income tax (excluding taxable years commenced after December 31, 2013)
- Estate and gift taxes
- Excise taxes
- Sales and use taxes (for tax periods, including months, ended before July 1, 2014)
- Income tax withholding (for tax periods, including months, ended before January 1, 2015)
- Any tax imposed under Act 7-2009
- Any tax imposed under Act 73-2008, Act 74-2010, Act 83-2010, Act 27-2011, Act 20-2011 or any analogous act that provides a special tax rate on income taxes.

##### *Voluntary Disclosure Program*

Any person that, on or before December 31, 2013, received or accumulated gross income subject to tax under the Code, and has not filed the returns or paid the corresponding amount for taxable years commenced and ended on or before December 31, 2013 or, having filed such returns, has not declared the correct amounts of income or deducted excess amounts, may file a special declaration reflecting the correct amount of income and/or deduction for such taxable period. In such cases, the taxpayer shall be subject to a tax of 20% and will be exonerated from interest, surcharges and penalties if the total debt is paid on or before June 30, 2015.

##### *Payment of Fines, Surcharges, Interest and Penalties*

Any taxpayer that has an assessed debt which consists only of fines, surcharges, interest or penalties may pay only 25% of the total amount owed if paid in full on or before June 30, 2015.

Certain terms and conditions apply to taxpayers that will benefit from the tax amnesty program.

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