

October 5, 2017

Tax Update

IRS Extends Disaster Absence Period for Purposes of the Bona Fide Residence Physical Presence Test

The United States Internal Revenue Service (“IRS”) has issued Notice 2017-56, providing relief to certain individuals that would otherwise lose their status as “bona fide residents” of Puerto Rico and the United States Virgin Islands. This is particularly important for individuals covered by a grant of tax exemption issued pursuant to Act 22-2012. Attached is copy of Notice 2017-56.

Pursuant to the provisions of Section 937 of the United States Internal Revenue Code of 1986, as amended and Section 1.937-1 of the regulations issued thereunder, in order to be a bona fide resident of a U.S. territory for federal income tax purposes, an individual must satisfy three tests; namely, a presence test, a tax home test and a closer connection test. For purposes of determining compliance with the presence test, an individual is deemed present in the relevant U.S. territory if he or she leaves or is unable to return to the territory during a 14-day period during which a major disaster occurs in such territory.

In light of the impact of Hurricane Irma and Hurricane Maria in Puerto Rico and the United States Virgin Islands, the IRS has extended the aforementioned 14-day period to 117 days, effective beginning September 6, 2017 and ending December 31, 2017. Furthermore, an individual who is outside of Puerto Rico or the United States Virgin Islands on any day during such 117-day period, will be treated as leaving or being unable to return to the relevant U.S. territory as a result of Hurricane Irma and Hurricane Maria on such day.

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