

Tax Alert: Prepayment windows extension and amnesty period opportunity in Puerto Rico

As a preamble to the Tax System Transformation Bill, which is currently under consideration of the Puerto Rico Legislature, Act 44 was approved on March 30, 2015 (“Act 44-2015”) to provide an extension to the prepayment windows for certain taxable items and to establish a tax amnesty period.

Prepayment Windows Extensions

Act 44 extends the various prepayment windows for certain transactions **until April 30, 2015** as follows:

- undistributed accumulated amounts in a variable annuity contract.
- accrued gain on qualified assets for individuals and corporations; and
- individual retirement accounts (“IRA’s”)

In addition, Act 44-2015 incorporates new Sections 1023.24 and 1023.25 to the Puerto Rico Internal Revenue Code to provide for:

- a prepayment window from March 1 until April 30, 2015, at a special tax rate of eight (8) percent, for educational savings accounts in which the taxpayer is the owner or beneficiary.
- a five (5) percent special tax rate window on dividend distributions and deemed dividend distributions made between January 1, 2015 and April 30, 2015. This prepayment will cover all income taxes, including alternative minimum tax or alternate basic tax.

- an eight (8) percent special tax rate on any dividend distributions and deemed dividend distributions if made between May 1, 2015 and June 30, 2015.

Important: In relation with the deemed and actual dividend distributions, an election indicating the amount deemed distributed and payment must be made no later than the prepayment date indicated above. Amounts deemed distributed cannot exceed the actual earnings and profits accumulated as of the moment when making the prepayment. In the case of deemed distributions, actual distribution during the prepayment period is not required.

Incentive Plan for the Payment of Tax Debts (Amnesty)

Act 44-2015 establishes an incentive plan for the payment of tax debts which includes:

- i. an amnesty period until June 30, 2015, and
- ii. a voluntary disclosure program.

Amnesty period

During the amnesty period, no interest, penalties and surcharges accumulated as of December 31, 2014 will be payable, in regards to the following tax debts:

- income tax (excludes taxable years commencing after December 31, 2013);
- estate and gift tax;
- excise tax;



Contact us

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April 1, 2015

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- sales and use tax (includes periods ended on or before July 1, 2014);
- income tax withholdings at source (includes periods ended on or before January 1, 2015); and
- any tax on operations covered by Act 7-2009, Act 73-2008, Act 74-2010, Act 83-2010 and Act 20-2012.

In order to qualify under the amnesty, the taxpayer must complete the form to be issued by the Secretary along with the payment of the outstanding tax on or before June 30, 2015.

Every taxpayer:

- i. must be in good standing in regards to tax payments and any filing requirements for taxable periods commencing after December 31, 2014; and
- ii. must submit an account statement reflecting the outstanding debts to be covered by the incentive plan;

Furthermore, taxpayers who in good faith, have applied for or have pending an administrative hearing process or judicial review, or are under an installment payment agreement with respect to the above mentioned tax debts, may also benefit from this tax amnesty.

Note: In the cases in which the only tax debts are fines, surcharges, interest or penalties, without there being a principal owed, the taxpayer may settle the debt by paying twenty five (25) percent of the total outstanding on or before June 30, 2015.

Voluntary Disclosure Program

Act 44-2015 provides a voluntary disclosure program to any person who:

- has received or accrued gross income and failed to file the applicable returns or pay the tax for taxable years commenced and ended on or before December 31, 2013, and
- did not state the correct amount of income and/or deductions in the filed return.

Under the voluntary disclosure program the taxpayer will be imposed a twenty (20) percent tax rate on any income and/or deductions not reported or incorrectly reported, and will be eligible for the relief of interest, penalties and surcharges on said outstanding tax. In order to qualify, the payment of the amounts owed must be made on or before June 30, 2015.



Please contact our Tax Department should you require additional information regarding this or any other tax issue; we will be glad to assist you.