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Tax Alert: Update on US Tax Reform

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Last week, President Trump signed into law the Tax Cuts and Jobs Act. As we have been informing periodically through the legislative process at the US Congress, the upcoming changes are the most significant legislated since the actual US Internal Revenue Code was enacted in 1986. Though laudable in its intent to simplify the U.S. taxing structure and spur economic growth, the legislation as it stands has a series of unintended consequences for Puerto Rico.

Herein, we highlight a number of key elements in related to international taxation, which will effectively affect your fiscal responsibility when doing business in Puerto Rico. We invite you to visit the following link, in which Grant Thornton Washington National Tax Office provides a handy overview of the key provisions of the Tax Reform (the "Overview"), and goes in-depth on the areas we have highlighted for Puerto Rico tax purposes.

Establishment of participation exemption system

The legislation establishes a 100-percent dividend received exemption (DRD) on foreign subsidiaries distributions, when the US corporate shareholder has an ownership of at least 10 percent of total voting power or control of the subsidiary.

One-time tax

The Bill settled on subjecting un-repatriated earnings to a one-time transition tax at the following rates:

- cash and cash equivalents: 15.5%
- all other assets: 8%.

Minimum Tax and Incentives for Intangible Property

Both Houses agreed to the imposition of a minimum tax on certain income from foreign sources that are deemed to be in excess of a routine return. Namely, the U.S. shareholders of a controlled foreign company ("CFC") will be subject to current U.S. tax on what is termed as their "global intangible low-taxed income" (GILTI) – which is the excess of a U.S.

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shareholder's aggregated net "tested income" from a CFC over a routine return on certain qualified tangible assets.

In relation to intangible property, the Bill allows for a deduction equal to 37.5% (21.875% for tax years beginning after 2025) of a domestic corporate taxpayer's foreign-derived intangible income.

Base Erosion Anti-Abuse Tax ("BEAT")

The "Base Erosion Anti-Abuse Tax" (BEAT) provision imposes a minimum tax on certain domestic corporations' "modified taxable income." The tax is phased in at a rate of 5% for tax years beginning in 2018, 10% for tax years beginning from 2018 through 2025, and 12.5% for tax years beginning after Dec. 31, 2025.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.

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