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# Requirement for the payment of Christmas Bonus

October 17, 2018

On September 18, 2017, the Puerto Rico Department of Labor and Human Resources (the “PR DOL”) enacted a Regulation regarding the Puerto Rico’s Christmas Bonus Act, Act No. 148 of 1969. Such Regulation supersedes all prior regulations on the subject and establishes guidelines on implementation of the Christmas Bonus Law as amended by the Labor Transformation and Flexibility Act, Act No. 4 of 2017 (the “LTFA”).



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This regulation is applicable to all employers in the private sector that employ one or more employees between October 1 and September 30 of the subsequent calendar year (the “coverage period”).

## **Employees hired before January 26, 2017**

Every employee having worked at least 700 hours in the twelve-month period commencing October 1 and ending September 30 is entitled to receive a mandatory Christmas Bonus. The bonus is 6% of the employee’s wages up to a maximum employee individual wage of \$10,000. Accordingly, the maximum bonus payable will be \$600. In the case of those employers with 15 or less employees, the applicable rate is 3% of the employee wages up to a maximum of \$10,000. Accordingly, the maximum bonus payable will be \$300.00

## **Employees hired on or after January 26, 2017**

Every employee having worked at least 1,350 hours in the twelve-month period commencing October 1 and ending September 30 is entitled to receive a mandatory Christmas Bonus. In case, that the employer employs 21 or more employees for 26 weeks within the coverage period, will be required to pay to each employee a bonus equal to 2% of the total salary earned up to a maximum bonus of \$600.

In case of those employers with 20 or less employees, the applicable rate is 2% up to a maximum bonus of \$300.

During the first year of employment, the applicable bonus for any employee will be the 50% of the above provisions.

**In 2018, the bonus must be paid no later than December 15.**

If the Christmas bonus does not exceed \$600, the employer will not withhold taxes from bonus paid. When the Christmas bonus exceeds \$600 but does not exceed \$1,500, the employer must withhold a 7% tax from the total bonus. If the bonus exceeds \$1,500, the employer may use the applicable withholding rules established on “Employer’s Guide”.

**Bonus Exemption Request**

Employer may request an exemption from payment of the Christmas Bonus if the total gross amount that would be payable to its employees exceeds 15% of its total net income during the same twelve-month period used to determine the eligible employees.

To request the exemption, an employer must send a written notification to the Secretary of Labor and Human Resources specifying the reason for the exemption not later than November 30, 2018. The employer must include original compiled, revised or audited financial statements and their notes for the period from October 1, 2017 through September 30, 2018. If the employer’s fiscal year does not end on September 30, the employer may submit, in the alternative, financial statements corresponding to its fiscal year, and interim financial statements for the remaining period between the end of its fiscal year statements and September 30, 2018.

If the employer fails to submit the data to support non-payment of the bonus, he becomes liable for the payment of the full bonus.

If the employer does not pay the bonus when due, the employee will be entitled to receive and additional bonus. It can be 50% or 100% of the amount of the bonus, depending on the date paid.

Employers are required to advise terminated employees who are entitled to the bonus before payment due date and may request his/her mailing address to mail the bonus.

Links: [Aviso Público: Bono de Navidad 2018, Empresa Privada](#)

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