



The PRTD issues various publications to alleviate the economic challenges

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Since January 2020, Puerto Rico has gone through various emergencies that have prompted the Puerto Rico Department of the Treasury (“Treasury”) to issue certain publications with procedures to help taxpayers face the economic challenges of these events.

Beginning with the earthquakes in January, the Department of the Treasury issued Circular Letters 20-08 and 20-09 (“CL 20-08” and “CL 20-09”) in which they define various terms that are applicable in the recently issued Circular Letters 20-22 and 20-23 (“CL 20-22” and “CL 20-23”). Among these terms are the following:

1. Qualified payment – Payment made by a person, whether resident or nonresident of Puerto Rico, to an individual, with whom an employer-employee relationship exists or who has rendered services as an independent contractor, to assist and support in the process of repairing, mitigating or reimbursing any damage or loss suffered by such individual as a consequence of a disaster declared by the Governor of Puerto Rico.
2. Interest-free loan - loan to an employee or independent contractor that rendered services during the disaster declared by The Governor of Puerto Rico, to assist the employee or independent contractor to cover the eligible expenses. The following terms apply to the interest-free loans:
 - no recognition of income by the lender if the loan does not exceed \$20,000.
 - more than one loan can be granted to an employee, but the total amount of the loans should not exceed \$20,000.
 - repayment period should not exceed twenty-four (24) months.

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3. Eligible expenses:

- necessary and reasonable expenses for the individual or his family, such as food, medicines, gasoline, lodging, medical expenses, childcare expenses, dependent's care expenses, expenses for the generation of electric power, expenses to supply potable water to the home and funeral expenses, incurred as a result of the disaster declared by the Governor of Puerto Rico;
- to reimburse or pay necessary and reasonable expenses incurred to repair or rehabilitate the principal residence or repair or replace tangible personal property therein contained to the degree such repair or rehabilitation or replacement are attributable to a disaster declared by the Governor of Puerto Rico if such payment was made directly to the supplier of the goods or services to the individual;

4. Eligible period - Initially established by CL 20-08 from February 1, 2020 to *April 30, 2020.

*Update: On May 3, 2020 the Puerto Rico Treasury Department issued Circular Letter No. 20-24, to extend the eligible period from April 30, 2020 to June 30, 2020.

Provisions to cope with COVID-19

Recently, Treasury issued CL 20-22 to expand the provisions established in CL 20-08 by adding the following payments to the list of qualified payments according to CL 20-08:

- payments made to an employee or independent contractor as a result of the state of emergency declared by the Governor due to the COVID-19
- payments made by an employer in the private sector to its non-exempt employees who have not worked during the Total Closing period and that although the employee has not been able to work, the employer offers a payment or remuneration, to help them during the emergency period.

A qualified payment must meet all the requirements established in CC RI 20-08, including, but not limited to the following:

- the payment must be made during the Eligible Period
- the total of all payments made during such period, should not exceed the limits of \$ 2,000 per month and \$4,000 during the Eligible Period.

Also, the following will be considered for purposes of CL 20-08 and CL 20-22:

- interest-free loans that an employer offers to its employees or independent contractors to aid cover the eligible expenses during the eligible period, because of the state of emergency due to COVID-19

Special Disaster Distributions:

Special Disaster Distributions ("SDDs") are those payments or distributions made in cash from a retirement plan or an IRA account to an eligible individual during the period between February 20, 2020 and June 30, 2020. It is important to mention that the terms "eligible period" for purposes of the SDDs are different from the terms defined for qualified payments.

- eligible period – the period between February 20, 2020 and June 30, 2020.

An eligible individual for purposes of the SDDs is an individual that during all the calendar year 2020 is considered a bona fide resident of Puerto Rico.

Pursuant to CL 20-23, a distribution that complies with the requirements of CL 20-09 and that is used to defray the eligible expenses will be considered a Special Distribution. For purposes of the above, any expense incurred to compensate for losses or damages suffered, and extraordinary and unforeseen expenses to cover basic needs as a consequence of the emergency declared by the COVID-19 will be considered eligible expenses, including the loss of income due to the curfew declared by the Governor. This determination applies to residents of the 78 municipalities of Puerto Rico.

Taxability rules of the SDDs:

- The first \$10,000 that are distributed within the term established by the Secretary, and after a Disaster Declaration by the Governor of Puerto Rico, will be excluded from the definition of gross income and will not be subject to any type of withholding at source;
- Any distribution in excess of the first \$10,000 will be subject to a special 10% tax, as long as the total distributions made during the term established by the Secretary do not exceed \$100,000;
- In the aggregate, the total distributions from a Retirement Plan or IRA Account do not exceed the \$100,000 limit during the period established by the Secretary.
- If the required withholding at source is not made when the payment is made, the distributed amount will not be eligible for the tax treatment discussed above. Consequently, such distribution will be considered as taxable income to the eligible individual and will be subject to the regular income tax rates established by the Code.

Process to request the SDDs:

The eligible individual must submit, in person, by mail, or electronically, to the employer that maintains a Retirement Plan or to the administration service provider of the plan, or in the case of an IRA Account, the financial institution or insurer that maintains the account, a sworn statement that includes the following:

1. Name and address of the eligible individual.
2. The physical address of the principal residence of the eligible individual on the date of the request for the SDD.
3. Certification that the individual is a resident of Puerto Rico at the time of making the distribution and that will continue being a resident of Puerto Rico during the entire calendar year of 2020.
4. Certification that the requested amount does not exceed the limit provided in this Circular Letter.
5. The amount of the requested distribution will be used to cover expenses related to:
 - Losses incurred from the Earthquake impact or the emergency declared because of the COVID-19;
 - Extraordinary expenses incurred to cover basic needs after the Earthquake, or the emergency declared because of the COVID-19;
 - Expenses to verify that the principal residence is constructed according to the current construction codes and necessary expenses to repair or construct the principal residence so that it complies with current construction codes; or
 - to compensate for the loss of income after the Earthquake or the emergency declared because of the COVID-19;
6. Certification that the individual has not received SDD from Retirement Plans or IRA Accounts and if they have requested or received SDDs, include the date of the distribution, the amount received and the amount withheld, if any.
7. Certify that the individual has not received SDDs exempted from income tax withholding at source and, if such distributions have been received or requested, include the date of the distribution or request and the amount of such distribution requested or received.

8. Certification that the individual assumes his responsibility for the payment of the tax on distributions requested at the end of the year if he has not complied with the residency requirement established in this Circular Letter; the amount received was not used to satisfy Eligible Expenses; or received distributions from Retirement Plans or IRA Accounts in excess of the limit established in this Circular Letter.

We are committed to keep you up to date with these tax-related developments. 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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