

McV ALERT
August 19, 2008

Governor Signs Act Providing That Certain Discharged Employees Could Receive Tax Free Payments

Last Friday, the Governor signed Act No. 278 of August 15, 2008 ("Act 278") which amends the Unjust Dismissal Act, Act No. 80 of May 30, 1976 ("Act 80"). Act 278 provides that any amount received by a discharged employee by reason of the liquidation or closing of a business,¹ will be considered a tax exempt special payment (and, therefore, not subject to income tax withholding), to the extent the discharge is due to: full, temporary or partial closing of operations of the establishment; changes in the design or nature of the product or in the services rendered by the employer; or a reduction of volume of production, sales or profits, as further provided in Act 80. The special payment may be subject to any deductions and/or withholdings agreed upon by the employer and the employee. However, in an apparent contradiction with the provisions of Act 80, which consider the aforementioned circumstances as just cause for a discharge, the amendment states that the special payment would not affect the employee's right to file a claim under Act 80. Act 278 is effective for eligible payments made on or after August 15, 2008.

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If you have any questions or comments, or wish additional information regarding this matter, please contact any of the attorneys listed below, members of our Tax and Labor and Employment Law Practice Groups.

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¹ Act 278 appears to also exclude from taxation amounts received from a profit sharing plan due to the reasons described above.