

TAX ALERT
July 21, 2008

Certain Discharged Employees Could Receive Tax Free Payments

The Puerto Rico Legislature recently approved Senate Bill 2455 (“S.B. 2455”) which, if signed by the Governor, would amend the Unjust Dismissal Act, Act No. 80 of May 30, 1976, as amended (“Act 80”). If S.B. 2455 is enacted, any amount received by a discharged employee, including amounts received from a profit sharing plan, by reason of the liquidation or closing of a business, will be considered a tax exempt special payment (and, therefore, not subject to income tax withholding), to the extent the discharge is due to: closing of operations of the establishment, changes in the design or nature of the product or in the services rendered, or reductions in employment due to reduction of volume of production, sales or profits, as provided in Act 80. The special payment may be subject to any deductions and/or withholdings agreed upon by the employer and the employee. Further, the special payment would not affect the employee’s right to file a claim under Act 80.

The Governor has until August 15, 2008, to sign S.B. 2455, or it will be considered pocket vetoed. At this time, it is unclear whether the Governor will sign S.B. 2455.

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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, all members of our Tax Practice Group.

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