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TAX ALERT

New Exception to Alternative Minimum Tax on Corporations

Act 189-2012, signed into law on August 18, 2012, amends Puerto Rico Internal Revenue Code ("Code") Section 1022.03 to include an additional exception to the imposition of the alternative minimum tax ("AMT"). The purpose of the amendment is to prevent taxation with respect to transactions in which, from a practical standpoint, a taxpayer purchases personal property from an unrelated third party through a related intermediary.

Section 1022.03 of the Code imposes an alternative minimum tax on corporations which is equal to the excess, if any, of the tentative minimum tax for the taxable year, over the regular tax for said taxable year. In certain cases, the tentative minimum tax will be computed as 1% of the value of the purchases of personal property from a related person. Section 1022.03 includes a series of exceptions applicable with respect to those instances.

Pursuant to Code Section 1022.03, as amended by Act 189-2012, the tentative minimum tax applicable with respect to purchases of personal property from a related person, will not be imposed when the Secretary of the Puerto Rico Department of the Treasury ("Secretary") determines that the value of the personal property purchased by the taxpayer from the related person is equal, or substantially similar, to:

- the value for which the related person sells said property to an unrelated person in Puerto Rico; or
- the value for which the related person purchases said personal property from an unrelated person, including as part of such value up to 5% of the costs incurred by the related person in the original acquisition of the real property, such as, transportation of freight costs, insurance, storage, excise taxes and/or sales and use taxes.

The Secretary will establish through regulation the documentation to be provided and the conditions and requirements to be met by a taxpayer in order to qualify under this new exception.

The amendment to Code Section 1022.03 is retroactive to January 1, 2011.

For further information on this matter, you may contact any of the attorneys listed below, all members of our Tax Practice Group:

Carlos E. Serrano	787.250.5698	ces@mcvpr.com
Roberto L. Cabañas	787.250.5611	rlc@mcvpr.com
Esteban R. Bengoa	787.250.5626	erb@mcvpr.com
Isis Carballo	787.250.5691	ici@mcvpr.com
Liz Annette Pérez	787.250.2615	lap@mcvpr.com
Alba I. Joubert	787.250.5649	aj@mcvpr.com
Edwin O. Figueroa	787.250.5690	eof@mcvpr.com

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