



January 28, 2015 www.mcvpr.com

EMPLOYEE BENEFITS ALERT

Reminder: Sponsors of PR Qualified Retirement Plans May Be Required to File with PR Treasury by April 15, 2015 any Plan Restatements and Certain Specific Amendments to Meet PR Tax Qualification Requirements

As indicated in our [Employee Benefits Alert of April 10, 2013](#), pursuant to Puerto Rico Treasury Department ("PR Treasury") Circular Letter 11-10 of December 16, 2011 ("CL 11-10") any subsequent restatement of a plan qualified with the PR Treasury ("PR Qualified Plan") must be submitted for qualification with the PR Treasury, as well as any amendments made to such plan that are considered "Qualification Amendments". The term "Qualification Amendments" is limited to the following:

1. Amendments to incorporate future changes to the qualification requirements of Section 1081.01(a) of the Puerto Rico Internal Revenue Code of 2011 (the "2011 PR Code");
2. Changes to the eligibility requirements for participation in the plan applicable to Puerto Rico participants;
3. Changes to the formula for calculation of benefits under the plan or the allocation formula of contributions to the plan among the accounts of Puerto Rico participants;
4. Adding or removing participating employers in the plan that employ Puerto Rico participants;
5. Changes to the plan rules related to the application or correction of non-discrimination tests under Sections 1081.01(a)(3), 1081.01(a)(4) or 1081.01(d)(3) of the 2011 PR Code;
6. The grant of service credits to Puerto Rico participants for years of service with another employer for purposes of plan participation, or calculation of benefits or plan contributions;
7. The termination of plan contributions;
8. The merger, freeze or termination of the plan;
9. The substitution of the plan administrator, the trustee of the trust or the paying agent of benefits under the plan to Puerto Rico participants; and
10. The substitution of the sponsor of a prototype or master plan.

Under CL 11-10, any such PR Qualified Plan restatement or Qualification Amendment must be filed with PR Treasury in order to secure the plan's qualified status under the 2011 PR Code on or before the last day provided to file the income tax return of the employer who maintains or participates in the plan (including any extensions granted for filing such return) for the employer's taxable year during which the plan year, in which the restatement or Qualification Amendment became effective, ended. **This means that if you are a calendar year employer that either restated a PR Qualified Plan or adopted a Qualification Amendment effective as of 2014, such restatement or Qualification Amendment must be filed with PR Treasury on or before April 15, 2015 (or the extended due date granted by PR Treasury to file your income tax return for 2014).**

Finally, calendar year employers that during 2014 adopted the amendments required by the US Supreme Court's Windsor decision and the US Internal Revenue Service Notice 2014-19 (see our [December 3, 2014 Alert](#)) (“DOMA Amendments”), are encouraged to file such DOMA Amendments with PR Treasury on or before April 15, 2015 (or the extended due date granted by PR Treasury to file their 2014 income tax returns), since PR Treasury is administratively considering these amendments as “Qualification Amendments” effective as of 2014.

If you have any questions or would like our assistance regarding this matter, you may contact any of the following members of our Employee Benefits Practice Team:

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