

July 15, 2010 [www.mcvpr.com](http://www.mcvpr.com)**TAX ALERT*****AMNESTY ON PERSONAL AND REAL PROPERTY TAX DEBTS ENACTED***

Act No. 71 of July 2, 2010 (Act 71) establishes an amnesty or “incentive plan” consisting of total exemption from the payment of interest, penalties and surcharges on certain unpaid real and personal property taxes.

Eligibility For Amnesty Relief

Both personal property and real property are eligible for amnesty relief subject to the following requirements:

- a. The taxpayer must have paid the real and personal property tax for fiscal year 2009-2010 and must certify to the Municipal Revenues Collection Center (MRCC) that it will pay the tax for real and personal property for fiscal year 2010-2011.
- b. The taxpayer must have paid the Special Property Tax imposed by Section 3701 of Puerto Rico Internal Revenue Code on all of its residential properties and on all non residential real estate, regardless of their qualification, used in any income producing activity or any business in Puerto Rico.

As a word of caution, the above highlighted text and the introduction of a new definition for “commercial and industrial real property” appear to be an attempt to tax certain classes of real estate, in our opinion, not covered by the Special Property Tax. See [The Newly Imposed Special Tax on Real Property used for Residential or Commercial purposes: Do you Really have to Pay It? \*McConnell Valdés Tax Perspectives Newsletter, Spring 2010.\*](#)

Procedure and Duration

Act 71 creates a Committee charged with implementation of the amnesty. The Committee is composed of the Secretary of the Treasury, MRCC Executive Director and the President of the Government Development Bank, who will preside.

The MRCC shall publish an Administrative Order which shall initiate the 120-day amnesty period.

If the taxpayer opts for the benefits of Act 71, any pending administrative or judicial review in connection with a fiscal year within the scope of this amnesty will be deemed adjudicated.

### Mandatory Registry

Act 71 orders the Committee to create a Registry for all real property not yet assessed and all improved “commercial and industrial real property”. The Committee will initiate an educational campaign to provide guidance to the general public about the procedures to register the properties in accordance with the law.

Owners of such properties will have 75 days, or up to 30 additional days if the Committee deems it necessary, from the date of the commencement of the campaign to register such properties. Registration requires the use of a special form to be published by the MRCC.

Benefits of registering the properties:

- a. Real Property (residential) not yet assessed will be exonerated from the property tax for the prior 5 fiscal years counting from the year of the assessment. Therefore, the owner will only have to pay for the current year after the assessment is made.
- b. Improved “commercial and industrial real property” not yet assessed will be exonerated from the property tax for the fifth, fourth and third fiscal year counting from the date of assessment. Therefore, the owner will only pay for the current fiscal year and the prior fiscal year.

Failure to register will carry a penalty equivalent to 10% of the tax for residential properties, or 10% of the assessed value of the property in the case of commercial and industrial properties. In addition, a \$1,000 penalty will be imposed to residential properties not assessed, \$5,000 to commercial properties not assessed and \$250,000 to industrial properties not yet assessed.

Registration provisions could be interpreted to state that properties registered in the mandatory register will also be subject to the Special Real Property Tax. Thus, that owners of properties classified under industrial and other classifications would, upon mandatory registration, waive their rights to challenge the application of the Special Real Property Tax. See words of caution, above.

The assessments made under the provisions of Act 71 can be contested following the procedures set in Article 3.48 of the Municipal Property Tax Act of 1991, as amended.

If you have any questions or comments, or wish additional information regarding these matters, please contact any of the attorneys listed below, all members of our Tax Practice Group:

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