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## TAX ALERT

### ***Amendments to the Puerto Rico Internal Revenue Code of 2011: House Bills 1073, 1172 and 991 signed into Law***

After probably one of the most dynamic debates on a revenue raising measure, on June 30, 2013, the Governor of Puerto Rico signed House Bill 1073 (Act 40-2013) and other Bills, such as HB 1172 (Act 46-2013) and 991 (Act 42-2013) into law. As anticipated, significant changes to the Puerto Rico Internal Revenue Code of 2011, as amended ("2011 Code") have been made.

Below we have classified the relevant amendments to the 2011 Code impacting income taxes (including the expansion of the corporate alternative minimum tax and individual alternative basic tax in lieu of the proposed "National Gross Receipts Tax"), a moratorium on tax credits, modified excise taxes, sales and use taxes, and taxes on insurance premiums. Due to the magnitude of changes from the date the bill was introduced, this Tax Alert supersedes our Tax Alert of May 2, 2013 on the matter.

Careful analysis should be made of the 2011 Code, as amended, particularly by service providers and persons holding grants or concessions of tax exemption or incentives to fully assess the impact of such changes on their Puerto Rico operations.

#### **A. Income Taxes**

##### **1. 2% Tax on Self-Employed Individuals**

The 2011 Code increases the income taxes payable by certain "self-employed individuals," a term not defined in the 2011 Code, by adding Section 1021.05. It imposes a 2% surtax on self-employed individuals whose gross income exceeds \$200,000. This additional tax is imposed on gross income (i.e., net sales minus cost of goods sold) from the rendering of services or from an industry or business of the individual, and is neither deductible as an ordinary or necessary business expense nor subject to payment of the estimated tax.

##### **2. Mortgage Interest Deduction**

Section 1033.15 of the 2011 Code limits the total deduction for mortgage interest on residential property to a maximum of \$35,000.

3. Regular Income Tax and Surtax

The surtax rates applicable to corporations under the Puerto Rico Internal Revenue Code of 1994, as amended, which range from 5% on net income of \$75,000 or less to 19% on net income in excess of \$275,000, were re-instated, increasing the income tax liability of corporations. These rates apply to the net income of each corporation in a controlled group, not to the aggregate income of all the affiliated entities in the group. The deduction to compute the surtax imposed by Section 1022.02 of the 2011 Code is reduced from \$750,000 to \$25,000. Generally, the amount of the deduction must be allocated among the members of a controlled group of corporations.

4. Alternative Minimum Tax

The amount of income subject to the alternative minimum tax ("AMT") has been increased by amending Sections 1022.04(b) and (d) of the 2011 Code. Section 1022.04(b) increased the book income adjustment from 50% to 60%, and Section 1022.04(d) decreased the net operating loss deduction ("NOL") from 90% to 80%.

For taxable years commenced after December 31, 2012, Section 1022.04 of the 2011 Code was amended to eliminate the disallowance of the deduction for payments to nonresident related parties for services rendered outside of Puerto Rico. The effect of this provision is to reduce the amount of income subject to the AMT.

5. Tentative Minimum Tax for AMT Computation

Another change that impacts the AMT computation, relates to the tentative minimum tax ("TMT"). The highest TMT determined under two alternate computations will be compared to the regular tax and the resulting highest amount will become the income tax liability of a corporate taxpayer.

The TMT is now determined as the higher of the following two computations:

- 30% of the AMT income, plus the amount of the additional gross receipts tax, or the distributable share of such gross receipts tax attributable to the underlying taxpayer in the case of a special partnership or an entity subject to taxation as a partnership, as discussed below, or
- 20% of payments to a related party and/or 20% of costs allocated from a "home office" to the Puerto Rico branch, if such amounts are not subject to Puerto Rico income tax, plus 2% (or other applicable rate as indicated below) of the value of personal property purchased from a related party or transferred to a Puerto Rico branch from its "home office," plus the amount of the additional gross receipts tax or distributable share of such tax attributable to the underlying taxpayer in a special partnership or entity subject to taxation as a partnership.

In the above computation, the 2% rate is lowered to .5% in the case of alcoholic beverages, crude oil products and gasoline, and lowered to 1.5% in the case of motor vehicles. The gross receipts threshold for purposes of determining which purchasers are subject to the TMT is reduced from \$50,000,000 to \$10,000,000, and “gross receipts” is defined as the total amount received or accumulated from the sale of property held for sale in the ordinary course of a trade or business and income derived from all other sources.

Exempt entities enjoying the benefits of a tax grant under the provisions of Act 73-2008, as amended, or other similar tax incentives legislation are still excluded from this computation of the TMT but only to the extent that the personal property purchased from the related person is used in their exempt operations.

The 2% AMT can be reduced, but not below 0.2% (except in the case of purchases of gasoline or crude oil products which can be reduced to a tax rate below .2%), if the taxpayer can show to the satisfaction of the Secretary of the Treasury (“Secretary”) that the price paid by the taxpayer is equal to or substantially similar to the price at which the related party sells the property to an unrelated party. To support this request, the taxpayer must provide a transfer pricing study.

A new provision is added to exclude from the TMT computation purchases of tangible personal property from an entity subject to Puerto Rico income taxes on such transaction.

6. Gross Receipts Tax for AMT Computation

Entities engaged in trade or business within Puerto Rico, excluding those subject to taxation under the provisions of Act 154-2010, as amended, will be subject to an additional tax on gross receipts. This tax, however, will only apply as part of the computation of the TMT, as discussed above.

The additional gross receipts tax will be determined by businesses other than financial businesses using the following rates:

- .20% if gross receipts are \$1,000,000 but not greater than \$3,000,000
- .50% if gross receipts are \$3,000,000 but not greater than \$300,000,000
- .70% if gross receipts are in excess of \$300,000,000 but not greater than \$600,000,000
- .80% if gross receipts are in excess of \$600,000,000 but not greater than \$1,500,000,000
- .85% if gross receipts are in excess of \$1,500,000,000

The same rates will apply to the gross receipts generated by entities(not holding a tax exemption grant) that are subject to income taxation as partnerships, special partnerships or corporations of individuals, but only as part of the AMT or alternative basic tax computation of its partners, members or shareholders ultimately subject to income taxation.

In the particular case of financial institutions, the applicable gross receipts tax rate will be 1%. Financial institutions engaged in trade or business in Puerto Rico may claim as a credit against their income tax or AMT payable for a taxable year an amount equal to .5% of their gross receipts tax for such taxable year. Any unused credit available not claimed during a taxable year may be used in subsequent taxable years.

In the case of a controlled group of corporations, or a related entities group, the applicable gross receipts tax rate will be determined based on the total amount of gross receipts of all the members of the controlled group or related entities group that are subject to the gross receipts tax.

In general "gross receipts" is, in the case of gains and income derived from the production or sale of property in the ordinary of a business, the total amount generated from the sale of goods or products without deducting the cost of such goods or products sold. Special rules apply in computing the gross receipts subject to the additional tax of certain businesses such as insurance companies, gasoline stations, commissioners, brokers, contractors, auto concessionaires or distributors, among others.

The gross receipts tax does not apply to (i) entities that hold a tax exemption grant or concession, (ii) entities that enjoy tax exemption under the provisions of Section 1101.01 of the 2011 Code, (iii) persons that operate a bona fide agriculture business, and (iv) premiums generated from Medicare Advantage, Medicaid, Mi Salud, Inc. and annuities.

Taxpayers may request that the Secretary lower the applicable tax rate, but not below .2%, if the gross receipts tax will cause undue economic burden when compared to the taxpayer's gross margin. To request a reduction in the applicable gross receipts tax rate the taxpayer must submit an *Agreed Upon Procedures* performed by a Certified Public Accountant licensed in Puerto Rico that also participates in a peer review program.

Estimated payments must be made on the gross receipts tax payable by the taxable entities generating the income, or on the distributable share of the partners, members or shareholders of a partnership, special partnership or corporation of individuals. For the 2013 taxable year, any applicable estimated payments should be made in the remaining installments due after June 30, 2013.

7. Alternate Basic Tax (Individuals)

As in the case of the AMT, the alternate basic tax ("ABT") was modified to accommodate for the increased taxation that may result from an individual's distributable share of the gross receipts tax imposed through holdings in the case of those individual pass-through entities such as corporations of individuals, special partnerships or partnerships.

For taxable years commenced after December 31, 2013 (this date seems to be a typographical error in the law, which has a clear intent on being effective for taxable years commenced after December 31, 2012) the ABT rates will be:

- From \$150,000 to \$250,000: 10%
- Over \$250,000, but less than \$500,000: 15%
- In excess of \$500,000: 24%

PLUS the individual shareholder, partner or member's distributable share of the gross receipts tax.

#### 8. Net Operating Losses

Section 1033.14 of the 2011 Code was amended to modify the net operating loss ("NOL") carry over and deduction rules in an effort to tax more income currently.

- For taxable years that commenced after December 31, 2004 and before January 1, 2013, the NOL carryover period is extended from 10 to 12 years.
- For taxable years that commence after December 31, 2012, the NOL carry over period will be 10 years, and the NOL deduction for entities taxable as corporations will be limited to 90% of the net income for the year in which the deduction is claimed, regardless of the year when the loss was incurred.

#### 9. Non-Deductible Expenses

Five paragraphs were added to Section 1033.17(a) of the 2011 Code to disallow various deductions.

- Paragraph (14) generally disallows expenses related to the use, maintenance and depreciation of residential property located outside of Puerto Rico.
- Paragraph (15) disallows expenses related to the ownership, use, maintenance and depreciation of automobiles, except as provided in Section 1033.07(a)(3)(A).
- Paragraph (16) disallows expenses incurred or paid to a partner, member or shareholder that holds 50% or more of the interests in a partnership, units of a limited liability company, or stock in a corporation of individuals, if the payments are not subject to income or withholding taxes in Puerto Rico (i.e., payments for services rendered outside of Puerto Rico).
- Paragraph (17) disallows 51% of expenses incurred or paid to related entities outside of Puerto Rico or to a home office located outside of Puerto Rico if the payments are not subject to income or withholding taxes in Puerto Rico.
- Paragraph (18) disallows as a deduction the gross receipts tax applicable as part of the TMT computation, as discussed above.

The disallowances provided in paragraphs (16) and (17) do not apply to entities that operate under any of Puerto Rico's tax incentives acts or other laws that grant income tax exemption with respect to the income generated in the exempt operations. The Secretary, under regulations to be issued, has the discretion, at the taxpayer's request, to determine whether any of these expenses should be allowed as a deduction.

#### 10. Tax Credit Moratorium

The moratorium previously enacted by Act 7-2009, as amended by Act 37-2009, is re-instated with some modifications.

##### a) Limitation on Use of Certain Credits

All credits listed below, granted or acquired before June 30, 2013, may be used during the period of the moratorium (for taxable years commenced after December 31, 2012 and ending before January 1, 2016) up to the limits provided for their issuance, but such credits may not be used by a taxpayer to reduce its tax liability under Subtitle A of the 2011 Code by more than 50%.

- (1) Solid waste credits under the Investment in Facilities for the Reduction, Disposition and/or Treatment of Solid Waste Tax Incentives Act and under the Puerto Rico Solid Waste Authority Act;
- (2) Venture capital credits under the Capital Investment Funds Act of 1999;
- (3) Theater district credits under Special Act for the Creation of the Santurce Theatre District Development;
- (4) Conservation credits under the Puerto Rico Conservation Easement Act;
- (5) Urban centers revitalization credits under the Urban Center Revitalization Act ("Act212");
- (6) Social interest housing credits under the New Construction or Rehabilitation of Social Interest Housing Tax Credits Act (except those granted or pending final approval, with respect to elderly housing projects with a qualification certificate issued and a credit amount reserved);
- (7) Housing infrastructure credits under the Tax Credits for Investment in Housing Infrastructure Act; and
- (8) Credit for purchase of articles manufactured in Puerto Rico under Section 1051.09 of the 2011Code.

##### b) Limitation on Issuance of Additional Credits

No additional tax credits subject to the moratorium may be granted by any agency, public corporation, instrumentality, municipality or dependency of the Commonwealth of Puerto Rico during the three year moratorium period. All such agencies, corporations or instrumentalities are prohibited from evaluating, processing or issuing any tax credit or any transaction that results or may result in the generation of tax credits subject to the moratorium except for Conservation Credits under the Puerto Rico Conservation Easement Act up to \$10,000,000 per year during each of economic years 2013-14, 2014-15 and 2015-16, Tax Credits for Investment in Housing Infrastructure projects started before March 9, 2009 to \$5,000,000 and urban center revitalization credits under the following circumstances:

- (1) Urban center revitalization projects that have presented eligibility certificates before the Puerto Rico Department of the Treasury ("Department") up to June 30, 2013, for which a maximum of \$40 million in credits may be issued annually during the government's fiscal years 2013-2014, 2014-2015 and 2015-2016, with no more than \$15 million to be assigned to a particular project;
- (2) Urban center revitalization projects that are related to a "tourist activity" as such term is defined in the Puerto Rico Tourism Development Act of 1993; and
- (3) Urban center revitalization projects that are related to social interest housing projects, including elderly facilities.
- (4) Urban center revitalization projects that commenced construction by July 1<sup>st</sup>, 2013.

c) Rules Applicable to Act 212 Credits to be Issued During Moratorium

Special annual limitations are established for the use of Act 212 credits subject to the moratorium that may be issued during fiscal years 2013-2014, 2014-2015 and 2015-2016.

Year credit is granted	Maximum amount per year of credit	Credit may be used in:
Fiscal year 2013-14	50%	Taxable years commencing after December 31, 2013 and before January 1, 2015.
	50%	Taxable years commencing after December 31, 2014 and before January 1, 2016.
	Any excess may be carried over to future taxable years.	
Fiscal year 2014-15	50%	Taxable years commencing after December 31, 2014 and before January 1, 2016.
	50%	Taxable years commencing after December 31, 2015 and before January 1, 2017.
	Any excess may be carried over to future taxable years.	
Fiscal year 2015-16	50%	Taxable years commencing after December 31, 2015 and before January 1, 2017.
	50%	Taxable years commencing after December 31, 2016 and before January 1, 2018.
	Any excess may be carried over to future taxable years.	

d) Informative Return

Taxpayers are required to file an informative return **on or before July 31, 2013** to inform of credits issued by June 30, 2013. Such information includes the credits subject to the moratorium, as well as other tax credits; such as, tourism investment tax credits and certain other credits under various tax incentives laws. The return must be filed under penalties of perjury and must contain such additional information as required by the Secretary. A taxpayer will not be allowed to claim any credits that are not listed in this informative return.

**B. Excise Taxes**

1. Excise Tax Declaration for Use Tax Collection

Act 46-2013, formerly House Bill 1172, amends various 2011 Code provisions to provide for a more effective use tax collection mechanism. Effective June 30, 2013, use tax due on taxable items imported into Puerto Rico will be generally collected upon introduction of such property into Puerto Rico in a process similar to that previously used for the collection of excise taxes. Note that taxable items to be subsequently object of commerce in the ordinary course of business in Puerto Rico are not subject to use tax.

Various excise tax provisions, including the provision requiring the filing of a detailed declaration of taxes imposed on imported taxable items, are amended to include the use tax within their scope.

2. Excise tax on fuel and crude oil

Act 31-2013, formerly House Bill 1277 ("Act 31"), amended the 2011 Code to increase the excise tax levied on crude oil, unfinished oils or end products derived from oil and any other hydrocarbon mixture (excluding natural gas), introduced, used, consumed, sold, acquired or transferred in Puerto Rico, as applicable ("Crude Oil Excise Tax"), from \$3 to \$6 per barrel or fraction thereof, to \$9.25 per barrel or fraction thereof.

The Crude Oil Excise Tax will be adjusted for inflation plus an annual margin of 1.5% ("Adjustment") every four years commencing on July 1, 2017, based on the average annual performance of a price index plus an annual margin of 1.5%. The price index used for the calculation of the Adjustment will be the "United States City Averages for all Urban Consumers, All Items," index, published by the Bureau of Labor Statistics of the U.S. Department of Labor.

Act 31 also amended the 2011 Code to reduce the fuel excise tax ("Fuel Excise Tax") from \$0.08 to \$0.04 on each gallon of "gas oil" and "diesel oil" subject to said tax. As to gasoline, jet fuel and other fuels, the Fuel Excise Tax generally applicable to such products remained unchanged (i.e., gasoline \$0.16; jet fuel \$0.03; and other fuel \$0.08, each per gallon or fraction thereof).

The above amendments to the 2011 Code became effective immediately upon the enactment of Act 31 on June 25, 2013.



3. Excise tax on cigarettes

Act 41-2013, formerly House Bill 896 ("Act 41"), amends Section 3020.05 of the 2011 Code to increase the current excise tax rate on cigarettes. Act 41 increases such rate from the currently applicable \$11.15 to \$16.15, from July 1, 2013 through June 30, 2015, and to \$17.00 effective July 1, 2015.

In addition, Act 41, through provisions similar to those included as part of Senate Bill 485, adds Section 3020.13 to the 2011 Code to impose an excise tax on smokeless tobacco manufactured in or imported to Puerto Rico, in the amount of \$1.00 per pound or fraction thereof in the case of chewable tobacco, and of \$3.02 per pound or fraction thereof in the case of pulverized tobacco leaves ("snuff").

Transitional provisions included in House Bill 896 and Senate Bill 485, which would have required payment of the incremental or new excise tax on cigarettes or smokeless tobacco products in inventory as of the effective date of the proposed legislation, were not incorporated into Act 41.

### C. Sales and Use Taxes

1. Rate and Municipal Interplay

Currently, the SUT is imposed at a combined 7% rate (5.5% state level plus 1.5% municipal level) of which the Department manages 6% and municipalities (other than Participating Municipalities) collect the remaining 1%. Effective December 1, 2013 (unless so extended by the Puerto Rico Legislature by joint resolution, but never later than February 1, 2014), the 2011 Code reduces the municipal portion of the tax to 1%, for a combined rate of 6.5% (5.5% state level plus 1% municipal level).

Municipalities would continue to have the option to individually collect the SUT or become Participating Municipalities. Also, municipalities would continue to have the option to tax food and food ingredients.

2. Eliminating the Reseller's Exemption Certificate

A reseller's use of a certificate for exempt purchases (currently Form SC 2916) would be **eliminated effective July 31, 2013**. Nonetheless, such resellers could obtain a newly created Reseller Certificate instead of the Certificate of Exemption (currently Form SC 2919). In lieu of SUT exemption on purchases, resellers holding a Reseller Certificate would be entitled to claim a credit for the SUT paid on purchases of taxable items acquired for resale. Although resembling a VAT system, the credit would be generally limited to 70% of the taxes paid by the reseller. The Secretary could, via regulation or other pronouncements of general applicability, allow crediting of a higher percentage of the SUT paid. Crediting of 100% will be available if the person complies with the requirement of opening a separate local demand deposit account to handle SUT collections. Excess credits could be carried forward until exhausted or may be refunded under certain circumstances.

Reseller inventories not previously subject to the SUT could continue to be exempt from the SUT while being stored for subsequent sale in the ordinary course of business. Manufacturing plants or other persons so authorized by the 2011 Code to receive a Certificate of Exemption may continue to use such certificate and issue a certificate for exempt purchases.

### 3. SUT on Services

One of the most objected provisions in the original version of House Bill 1073 was the elimination of the exemption on business to business services. This is a general exemption from taxation on the rendering of services in transactions that do not constitute the ultimate consumption of such services intended to avoid pyramiding of the tax.

As Act 40-2013 was approved, the following services previously exempted when rendered to a registered business, will be subject to SUT:

- Bank service charges;
- Debt collection services;
- Security services, including armored services;
- Cleaning and janitorial services;
- Laundry services;
- Repair and maintenance services on real property and on tangible personal property (see Section C.4., below);
- Telecommunication services; and
- Waste management services.

Services subject to the SUT now specifically include the leasing of motor vehicles (which, is essentially defined as daily rentals of motor vehicles) and services rendered by tax return preparers outside of the scope of PR or US tax returns.

Unlike the changes in connection with the reseller exemption, the provisions of the 2011 Code do not provide a VAT- like credit to businesses subject to SUT on their expenditures related to services. This effectively taxes “business consumption” of such services.

### 4. Special Rule on Payment of SUT on Repair Services

Under the new provisions, SUT on repair services, including warranty repairs, although taxable, will not be collected by the seller/service provider. Instead, SUT on such services will be reported by the purchaser and paid as use tax.

### 5. Elimination or Modification of Other SUT Exemptions

Various other SUT exemptions are eliminated or modified as follows:

- a) Exemption to day-care centers is limited to the basic tuition and monthly charges, not educational or recreational services.
- b) Higher education institutions and universities operating in Puerto Rico are now subject to SUT on purchases of taxable items.

- c) Health service facilities enjoying exemption under either Act 168-1968, as amended (the Hospital Facilities Tax Exemption Act) are now subject to SUT on their purchases of items other than equipment and supplies used exclusively in the rendering of health services or in the rendering of diagnosis and treatment services.
  - d) Back-to-School SUT exemption will be in two periods, July 12-13 and January 10-11. Exemption during these periods is limited to uniforms and certain school supplies. Text books will be exempt year-round.
  - e) Cooperatives and credit unions authorized under Act 255-2002, as amended (Cooperative Savings and Credit Associations Act of 2002), and Act 239-2004, as amended (Puerto Rico General Cooperative Associations Act of 2004), will no longer enjoy exemption from the tax.
6. Expansion of SUT nexus scope: "Click-through nexus" approach, collaboration with Puerto Rico affiliate and other Puerto Rico connections  
Act 42-2013, formerly House Bill 991 ("Act 42"), amends various SUT provisions of the 2011 Code. The amendments made by Act 42 become effective 90 days after its enactment on June 30, 2013. The definition of "merchant or retailer" for SUT purposes, as amended by Act 42, expands the realm of situations in which a person is deemed engaged in the sale of taxable items in Puerto Rico for purposes of determining whether such person is required to comply with the collection, reporting and remittance responsibilities related to the SUT.

In particular, the 2011 Code now provides a rebuttable presumption that that a remote seller entering into an agreement pursuant to which a third party, for a commission or other consideration, directly or indirectly, refers potential customers, by a link on an internet website or otherwise, to the seller, will be deemed to have independent contractors, representatives or agents soliciting business on its behalf in Puerto Rico. In addition, a remote seller entering into an agreement with one or more Puerto Rico residents pursuant to which the resident, for a commission or other consideration, directly or indirectly refers potential customers, by a link on an internet website or otherwise, to the seller, will be deemed to have nexus with Puerto Rico for SUT purposes. The 2011 Code's "click-through nexus" provisions, both the rebuttable presumption and the direct nexus attribution, are applicable only if the total gross receipts from sales to customers in Puerto Rico who were referred to the remote seller are at least \$10,000 in the preceding 12-month period.

The 2011 Code also includes provisions pursuant to which a remote seller with a Puerto Rico affiliate which sells similar products under the same or similar trade name as such seller, and which benefits from such affiliate's local employees, services, facilities, etc. in establishing a market for its products in Puerto Rico, has nexus with Puerto Rico for SUT purposes.

Now, a person other than a transportation company or a third-party intermediary acting in such capacity, that imports or causes to be imported into Puerto Rico, tangible personal property for sale in Puerto Rico through a link on an internet website for use, consumption or distribution in Puerto Rico or for the storage of such property for subsequent use or consumption in Puerto Rico, will have nexus with Puerto Rico for SUT purposes.

When used in the definition of "merchant or retailer", the term "affiliate" means, in addition to members of the same controlled group of corporations as defined in Section 1010.04 of the

2011 Code, and related persons under Section 1010.05 of the 2011 Code, parties forming part of an “affiliate program” pursuant to which a third party in Puerto Rico includes a link on such party’s internet website which directs the user to the website of the other party who will pay a commission to the Puerto Rico party if the user completes the purchase. Starting on July 1, 2013, every Puerto Rico resident who, on such date or at a subsequent time, is or becomes a party to an affiliate program with a person that prior to entering into such agreement was not subject to the SUT provisions of the 2011 Code, shall notify the Department of such agreement in the manner established by the Secretary via regulations or other pronouncements of general applicability. A penalty of up to \$20,000 may be imposed for failure to make such notification.

Regarding the municipal portion of the SUT attributable to sales made by merchants subject to the new or expanded SUT nexus provisions, the Department will distribute the same among the municipalities based on a reasonable formula which may be established by regulations issued by the Secretary or through an agreement between the Secretary and the municipalities.

Mail order sales provisions of the 2011 Code are also amended to specifically include internet sales within the scope of the same and state that a person engaged in the business of such sales and deemed to have nexus with Puerto Rico for SUT purposes will be considered a merchant subject to the SUT provisions of the 2011 Code. The rules pursuant to which such merchants will report and remit the applicable SUT will be established by the Secretary via regulations or other pronouncements of general applicability.

#### **D. Special Insurance Premium Tax**

Act 40-2013 amends the Puerto Rico Insurance Code (“Insurance Code”) to impose a special tax of 1% on insurance premiums, in addition to the insurance premium tax currently imposed by the Insurance Code and any taxes imposed by the 2011 Code. Such tax is applicable for taxable years beginning after December 31, 2012 and with respect to premiums subscribed after June 30, 2013. Premiums derived from Medicare Advantage, Medicare, “Mi Salud,” and annuities will not be subject to the special insurance premium tax.

The special tax must be paid to the Secretary through the Office of the Commissioner of Insurance on or before March 31st.

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

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