

Reminder to Sponsors of PR Qualified Retirement Plans who adopted Plan Restatements and Qualification Amendments during 2015

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PRACTICE AREAS

- Employee Benefits

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If you already have a retirement plan qualified under the Puerto Rico Internal Revenue Code of 2011 (the "2011 PR Code") ("PR Qualified Plan"), please remember that, pursuant to the Puerto Rico Treasury Department's ("PR Treasury") Circular Letter 11-10 of December 16, 2011 ("CL 11-10"), any subsequent restatement of such PR Qualified Plan, as well as any amendments which became effective in 2015 that are considered "Qualification Amendments" must be submitted for qualification with the PR Treasury before the deadline specified below in order for such plan to maintain its Puerto Rico qualified status.

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 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 a plan that employs 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. 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. Termination of plan contributions;
8. The merger, freeze or termination of the plan;
9. Substitution of the plan administrator, the trustee of the trust, or the paying agent of benefits under the plan to Puerto Rico participants; and

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10. Substitution of the sponsor of a prototype or master plan.

Under CL 11-10, the deadline for filing any such PR Qualified Plan restatement or Qualification Amendment is on or before the last day to file the income tax return of the employer that maintains or participates in the plan (including any extensions granted for filing such return) for the employer's taxable year covering the close of the plan year in which the PR Qualified Plan restatement or Qualification Amendment became effective.

That means that if you are a calendar year employer that either restated a PR Qualified Plan or adopted a Qualification Amendment effective as of 2015, such restatement or Qualification Amendment must be filed with PR Treasury on or before April 15, 2016 (or the extended due date granted by PR Treasury to file your PR income tax return for the taxable year 2015).

For taxpayers that have taxable years that end on a date other than December 31 of each year or fiscal plan years and that are not applying for an extension of time to file their income tax return, the Qualification Amendment needs to be filed with PR Treasury on or before the 15th day of the fourth month following the closing of the taxpayer's taxable year.

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