

Changes to 2018 PR Treasury Tax Reporting may require Employers/Paying Agents to make certain adjustments, in particular with Severance Payments

ATTORNEYS

- Carlos J. Villafañe-Real
- Lillian Toro-Mojica
- Yamary I. González-Berríos
- Leyla González-Ibarría
- Angel S. Ruiz-Rodríguez
- Mayleen Santiago-Garcés

PRACTICE AREAS

- Employee Benefits

An McV Employee Benefits Alert

November 15, 2018

The Puerto Rico Department of Treasury (the “PR Treasury”) recently issued Informative Bulletin No. 18-18 of October 30, 2018, highlighting the most significant changes regarding the 2018 Form 499 R-2/W-2PR, “Withholding Statement” (“Form W-2PR”), and the 2018 Informative Returns that employers or paying agents must file generally by January 31, 2019 (Form W-2PR) or February 28, 2019 (most informative returns), respectively. In addition, the PR Treasury issued Publication No. 18-03 of October 22, 2018 and Publication No. 18-05 of November 5, 2018, providing the 2018 electronic filing instructions and requirements for Form W-2PR and informative returns, respectively.

Among the most significant changes regarding employee benefit matters adopted for 2018 on Form W-2PR and the Informative Returns are:

- Form W-2PR was revised to insert a new box/code to report exempt severance payments made under Act 80 of May 30, 1976, as amended (“Severance Payments”), as exempt salaries. Form 480.6D, “Informative Return- Exempt and Excluded Income and Exempt Income Subject to Alternate Basic Tax” (“Form 480.6D”), can no longer be used to report Severance Payments.
- The new box/code on Form W-2PR simplifies the reporting of Severance Payments made during 2018 taxable year. In previous years, Severance Payments were reported on two separate forms: a) for Puerto Rico income tax purposes, Form 480.6D to report Severance Payments as exempt income not subject to income tax withholding but subject to alternate basic tax; and b) for Social Security and Medicare tax purposes, the applicable boxes of Form W-2PR to report Severance Payment as wages subject to Social Security and Medicare taxes, including related tax withholdings. This dual form of reporting created many issues to the paying agents/employers since both forms had different deadlines and some filing programs were not designed to make dual reporting and manual adjustments were required.

Changes to 2018 PR Treasury Tax Reporting may require Employers/Paying Agents to make certain adjustments, in particular with Severance Payments

- For both Puerto Rico and Social Security and Medicare taxes, Severance Payments must be reported now on a single form, Form W-2PR, simplifying the reporting and avoiding the common mistakes associated with double reporting.
- Although the classification of Severance Payments has been changed as “exempt salaries” for reporting purposes, such payments continue to be excluded from taxable income under Section 1031.01 of the Puerto Rico Internal Revenue Code of 2011, as amended.
- A new Form 480.7C.1, “Annual Reconciliation Statement of Tax Withheld from Retirement Plan and Annuities” (“Form 480.7C.1”) was issued to reconcile annual amounts withheld and reported on Forms 480.7C, “Informative Return- Retirement Plans and Annuities.” Form 480.7C.1 must be filed electronically by each paying agent of plan and annuity distributions. For taxable years before 2018, no reconciliation was required.
- Forms W-2PR and Informative Returns must be filed electronically with the PR Treasury using the Internal Revenue Unified System (known in Spanish by its acronym “SURI”). SURI replaced the PR Treasury’s W-2PR & Informative Returns Program.

Employers and Paying Agents are encouraged to review these PR Treasury publications and take required steps to comply with the new reporting requirements adopted.

The content of this McV Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this McV Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.