

## PR Employers May be Eligible to Request Exemption from Payment of Christmas Bonus

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### An McV Labor & Employment Law Alert

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Puerto Rico employers are required by PR Act No. 148 of 1969 ("the Act") to pay eligible employees an annual bonus, known as "Christmas Bonus", consisting of a capped percentage of their salaries for hours worked between October 1<sup>st</sup>, 2019 and September 30<sup>th</sup>, 2020. The payment must be made between November 15<sup>th</sup> and December 15<sup>th</sup>, and late payment entails penalties.

The Act allows for employers who meet specific criteria to request an exemption from paying the Christmas Bonus. This year, with so many businesses severely impacted by the COVID-19 pandemic, it is important for employers to be aware they may be able to obtain an exemption from this legal obligation if they meet these requirements.

To be eligible for the exemption, an employer has to make a special request to the PR Department of Labor ("PRDOL") substantiating two main points:

- that they suffered financial losses or did not generate sufficient profits during the pertinent period; and
- that the total gross amount that would be payable to employees on account of the Christmas Bonus exceeds 15% of the employer's total net income, as defined by the Act, also within the pertinent period.

Employers have until **November 30, 2020** to notify the PRDOL if they will not be able to pay the Christmas Bonus, in full or in part, and submit their request for an exemption along with the required information and documents. Notably, an employer requesting the exemption must enclose original and audited financial statements.

The deadline to request an exemption is of strict compliance. Be advised that the application alone does not exempt employers from paying the Christmas Bonus; the PRDOL must authorize the exemption based on the required documents.

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If you need assistance with requesting an exemption, or you need any additional information regarding the payment of the Christmas Bonus, please feel free to contact any of the attorneys listed below.

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