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Puerto Rico Treasury Department Grants Additional Extension to Adopt Amendments and File Plans for Puerto Rico Tax Qualification

As anticipated in our Benefits Brief of June 3, 2013 (available at http://www.groom.com/media/publication/1258_Puerto_Rico_Retirement_Plans_Recent_Developments.pdf), on Friday, the Puerto Rico Treasury Department ("PR Treasury") made public Circular Letter No. 13-02 ("CL 13-02") formally extending the deadlines for: (i) the adoption of amendments to retirement plans in compliance with the provisions of Section 1081.01(a) of the Puerto Rico Internal Revenue Code of 2011, as amended ("2011-PR Code"), and (ii) the filing of retirement plans for both qualification under the 2011-PR Code and retroactive qualification under Section 1165(a) of the Puerto Rico Internal Revenue Code of 1994, as amended ("1994-PR Code", if applicable). A copy of CL 13-02 (in Spanish) is available at: http://hacienda.gobierno.pr/downloads/pdf/cartas/13-02_2013.pdf.

In CL 13-02, the PR Treasury also modifies and clarifies some of the filing requirements and filing fees included in CL 11-10, and establishes rules for late filings. We shall discuss these changes in a subsequent Benefits Brief.

New Deadlines

Regular Extended Deadline

Pursuant to CL 13-02, the regular extended deadline both to amend retirement plans in compliance with the 2011-PR Code Section 1081.01(a) and file the request for Puerto Rico tax qualification is the due date, NOT including any extension, to file the Puerto Rico income tax return of the Puerto Rico employer for the first taxable year commencing on or after January 1, 2013 ("2013 PR Income Tax Return"). Consequently, in the case of a Puerto Rico employer with a calendar taxable year, the regular extended due date would be April 15, 2014, while for a Puerto Rico employer with a taxable year ending on July 31, 2014, regular extended due date would be November 17, 2014.

Extended Deadline with Additional Extension

Notwithstanding the foregoing, under CL 13-02, for a Puerto Rico employer that requests the three-month automatic extension to file its 2013 PR Income Tax Return, the regular extended deadline both to amend retirement plans in compliance with the 2011-PR Code Section 1081.01(a) and file the request for Puerto Rico tax qualification is the due date, including any extension, to file its 2013 PR Income Tax Return. Consequently, in the case of a Puerto Rico employer with a calendar taxable year that files for an extension to file its 2013 PR Income Tax Return, the further extended due date to amend and file the retirement plan would be July 15, 2014, while for a Puerto Rico employer with a taxable year ending on

July 31, 2014, and filing for the extension to file its 2013 PR Income Tax Return, the further extended due date would be February 16, 2015.

In order to benefit from the further extended deadline, the request for qualification must include a \$150 additional filing fee and a copy of the filed PR Treasury Form SC 2644, Request for Extension of Time to File the Income Tax Return (or a duly signed certification attesting the timely filing of Form SC 2644). These are requirements in addition to the other documents, information and filing fees required under CL 13-02 and PR Treasury Circular Letter No. 11-10 ("CL 11-10"). We included a summary of CL 11-10 in our Benefits Brief of February 6, 2012 (available at: http://www.groom.com/media/publication/1112_PR_Treasury_Issues_Guidance_for_Puerto_Rico_Qualification_of_Retirement_Plans.pdf).

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