

August 3, 2018  
Notice to Clients and Friends

**PR TREASURY EXTENDS ELIGIBILITY PERIOD FOR HURRICANE MARIA RELIEF DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS AND IRA UNTIL NOVEMBER 30, 2018**

In consideration of the economic impact resulting from the passage of Hurricane María and its ongoing effects on Puerto Rico residents, on July 31, 2018, the Secretary of the Puerto Rico Department of the Treasury (“PR Treasury”) issued Administrative Determination 18-13 (“AD 18-13”), which extends from June 30, 2018, until **November 30, 2018**, the eligible term for distributions from qualified retirement plans (“Plans”) and individual retirement accounts (“IRA”) originally provided under PR Treasury’s Administrative Determinations 17-29 and 18-02 (“Tax Relief”).

**Requirements for Tax Relief Eligibility**

- i. Individuals requesting distributions must be considered bona fide residents of Puerto Rico for years 2017 and 2018 under the Puerto Rico Internal Revenue Code of 2011, as amended (“PR Code”) (i.e. must comply with physical presence as stated in the PR Code for at least 183 days during a calendar year) (the “Eligible Individual”).
- ii. Distributions must be made in the period from **September 20, 2017 through November 30, 2018** (the “Eligible Period”).
- iii. Distributions must be used to cover Eligible Expenses incurred by such Eligible Individual (as well as by his/her spouse, ascendants or descendants) as a result of the passage of Hurricane María (the “Eligible Distributions”). Eligible Expenses include all expenditures incurred or to be incurred by an Eligible Individual to compensate for losses or damages suffered as a result of Hurricane María. (For further reference, see Notice to Clients and Friends, published on November 20, 2017).
- iv. Eligible Individuals must submit to their employer, plan administrator or the financial or insurance institution holding the IRA, as applicable, by means of personal delivery, mail or electronically, a sworn statement (“Sworn Statement”) certifying, among others, that: (i) the Eligible Individual is a bona fide resident of Puerto Rico during years 2017 and 2018, (ii) the Eligible Distribution does not exceed the \$100,000 limit established in Administrative Determinations 17-29 and 18-02, (iii) the Eligible Distributions will be used to cover Eligible Expenses; (iv) the Eligible Individual has not received previous Eligible Distributions exempt from the 10% Withholding (as defined below), and (v) the Eligible Individual will be responsible for payment of applicable tax in the event the individual is not deemed an Eligible Individual, the distributions were used to cover for Eligible Expenses, or distributions were in excess of \$100,000.
- v. Distributions made from July 1, 2018 through the date of issuance of AD 18-13, will be considered Eligible Distributions to the extent: (i) Eligible Individuals submit the Sworn Statement by September 28, 2018 or a later date indicated by the Plan administrator or the employer, and (ii) the 10% Withholding (as defined below) must have been effectuated and deposited with the PR Treasury.

**Tax Relief Rules**

Tax Relief measures include the following: (i) The first \$10,000 of the Eligible Distributions are exempt from income taxes, income taxes withholding at source and the alternative basic tax (“ABT”) under the PR Code; (ii) Eligible Distributions in excess of \$10,000 up to a maximum of \$100,000 are subject to a fixed preferential tax rate of 10% instead of any other tax imposed under the PR Code, including the ABT (“10% Withholding”). Such 10% Withholding shall be withheld at source upon distribution. In the event the 10% Withholding is not made, the Eligible Individual should be subject to regular income tax rates and applicable early withdrawal penalties under the PR Code with respect to distributions exceeding \$10,000; and (iii) The Eligible Individual can request various Eligible Distributions from one or more Plans or IRAs during the Eligible Period, but up to a combined maximum of \$100,000.

**Implications to Qualified Retirement Plans**

Plans may opt, but are not required, to adopt the Tax Relief measures in whole or in part. Moreover, dual qualified plans may implement the distribution rules under the United States Internal Revenue Code of 1986, as amended, or under the reliefs provided by the Internal Revenue Service, applicable to retirement plan provisions to those impacted by Hurricane María. In any case, Plans or employers must seek affirmative action on Plan sponsor’s part to adopt the corresponding amendments to implement the Tax Relief measures on or before December 31, 2018.

AD 18-13 has only extended the Eligible Period. However, the limits and eligibility rules on Tax Relief distributions applicable to Eligible Individuals remains unchanged. **In other words, AD 18-13 is issued only to allow Eligible Individual to request Eligible Distributions until November 30, 2018 if Plan and/or IRA administrators opt to adopt the Tax Relief.** Finally, amendments to adopt Tax Relief provisions will not be considered as qualification amendments under Circular Letter of Tax Policy No. 16-08 and therefore, are not required to be submitted for a favorable determination from PR Treasury.

*This document has been prepared for information purposes only and is not intended, and should not be relied upon, as legal advice. If you have any questions or wish to obtain more information related thereto, or about its possible effect(s) on policy or operational matters, please contact us at your convenience.*

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