

COVID-19 Puerto Rico Tax Exemptions for Employer Payments and Changes to Puerto Rico Qualified Plans

April 9, 2020

The Puerto Rico Treasury Department (*Puerto Rico Treasury*) issued Internal Revenue Circular Letter (*CC RI*) 20-22 to offer tax exemptions for certain employer-provided payments for COVID-19. Specifically:

- CC RI 20-22 extends the provisions of CC RI 20-08, which provides income tax exemptions for *Qualified Payments Made for Disaster Assistance* (*Qualified Payments*) made by employers to employees and independent contractors, to include certain payments made as a result of the COVID-19 emergency.
 - Qualified Payments must: (i) be made during the period from February 1, 2020 to April 30, 2020; (ii) be in addition to the compensation that the employee or contractor ordinarily receives; (iii) not discriminate in favor of highly compensated employees; (iv) not be attributable to or related to the position or salary of the employee or independent contractor; and (v) be limited to maximum payments of \$2,000 per month and \$4,000 in total (including both Qualified Payments made as a result of the January 2020 earthquake in Puerto Rico and the COVID-19 emergency).
 - Qualified Payments now include: (i) payments made to an employee or independent contractor as a consequence of the state of emergency declared in Puerto Rico as a result of the impact of COVID-19; and (ii) payments made by a private sector employer to assist its nonexempt employees, who have not worked during the COVID-19 lockdown period.
- CC RI 20-22 also extends the provisions of CC RI 20-08 to allow employers to offer their employees and independent contractors interest-free loans, that are not considered taxable income, to cover expenses related to the COVID-19 emergency.
 - The loan(s) must: (i) be provided during the period from February 1, 2020 to April 30, 2020; (ii) have a loan repayment term that is no longer than 24 months; and (iii) not exceed \$20,000 (including both interest-free loans made as a result of the January 2020 earthquake in Puerto Rico and the COVID-19 emergency).

The Puerto Rico Treasury issued CC RI 20-23 to offer relief to qualified plans in Puerto Rico that was offered to U.S. plans by the CARES Act. Specifically:

- CC RI 20-23 amends CC RI 20-09, which provides rules applicable to *Special Disaster Distributions* (*Distributions*) from qualified retirement plans and IRAs.
 - The provisions of CC RI 20-09 continue in force, except that eligible expenses now include any expenses incurred to correct losses or damages suffered, and extraordinary and unforeseen expenses to cover basic needs, as a consequence of the emergency declared by COVID-19, including the loss of income due to the curfew declared by the Governor.
 - Distributions must be made between February 20, 2020 and June 30, 2020 to Puerto Rico residents (who are residents throughout 2020), who are participants in the plan.
 - Distributions receive the following tax treatment: (i) the first \$10,000 is excludable from gross income and exempt from tax withholding; (ii) Distributions over \$10,000 and up to \$100,000 are subject to a 10% withholding and income tax rate; and (iii) total

Distributions cannot exceed \$100,000 (including both Distributions made as a result of the January 2020 earthquake in Puerto Rico and the COVID-19 emergency).

CC RI 20-22 can be found [here](#) and CC RI 20-23 can be found [here](#).