

Puerto Rico Tax Amendments Impact Highly Compensated Employees and Contribution Limits

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A new legislative act in Puerto Rico, Act No. 9-2017 (the “**Act**”) amends the Puerto Rico tax code and the Trust Act of 2012, affecting qualified retirement plans and impacting highly compensated employees (“**HCEs**”). Among several changes, the Act fixes a new dollar threshold for HCEs at \$150,000 (previously \$120,000 (which is the same as in the U.S.)). The new HCE dollar threshold is fixed and now classifies corporate officers based on that threshold as well (the Act no longer requires employers to treat corporate officers as HCEs regardless of their pay). The Act also modifies the limits on per-participant contributions to defined contribution plans. The Act will limit contributions to the lesser of 25 percent of “net income” (which is currently undefined) and \$75,000. This change modifies the per-participant contribution limit which is currently the same under both the Puerto Rico and U.S. tax codes (*i.e.*, the lesser of 100 percent of compensation and the applicable annual limit (currently \$54,000)). Overall, the changes in the Act will affect the determination of HCEs under Puerto Rico plans and, due to the inconsistencies created with U.S. tax law, will likely increase the administrative complexity for dual qualified plans.