

Tax Relief for Hurricane Fiona Victims in Puerto Rico

October 11, 2022

The IRS released Announcement 2022-161 on September 20, 2022 (available [here](#)), providing relief to victims of Hurricane Fiona in any area designated by FEMA. Those individuals and businesses that reside in the Commonwealth of Puerto Rico qualify for tax relief, postponing various tax filing and payment deadlines that occurred starting on September 17, 2022. Those individuals and businesses will now have until February 15, 2023 to file various federal individual and business tax returns and make tax payments that were originally due during that period. The February 15, 2023 extended deadline also applies to quarterly estimated income tax payments otherwise due on January 17, 2023 and the quarterly payroll and excise tax returns normally due on October 31, 2022 and January 31, 2023.

Additionally, the Puerto Rico Treasury Department issued Internal Revenue Circular No. 22-13 (available [here](#)) allowing for special disaster distributions from Puerto Rico qualified plans and Puerto Rico individual retirement accounts and annuities (collectively, "**Puerto Rico Retirement Plans**") as a result of Hurricane Fiona. Participants of Puerto Rico Retirement Plans will qualify for special tax treatment for distributions to cover damages or losses suffered, and extraordinary expenses incurred, resulting from Hurricane Fiona ("**Eligible Distributions**"). Further, Puerto Rico Retirement Plans will have until December 31, 2022 to incorporate the provisions under PR Code Section 1081.01(b)(1)(D) to permit such Eligible Distributions. Eligible Distributions from Puerto Rico Retirement Plans will be subject to the following special tax treatment: (i) distributions of up to \$10,000 will be exempt from withholding and income tax, (ii) distributions in excess of \$10,000 and up to \$100,000 will be subject to withholding and an income tax rate of 10%, and (iii) any distributions in excess of \$100,000 will be taxed as a regular distribution from Puerto Rico Retirement Plans.

It is important for plan sponsors with plans that cover employees in Puerto Rico to remember that retirement plans in Puerto Rico that are not dual-qualified are subject to requirements of the Puerto Rico Code, not the U.S. Internal Revenue Code; dual-qualified plans are subject to both. The Internal Revenue Code and Puerto Rico Code have different requirements for cash or deferred arrangement plans. Plan sponsors should work with their benefits counsel to ensure that any distributions made from plans covering Puerto Rico employees comply with the specific laws of the Puerto Rico Code.