

FERRAIUOLI LLC

Taxes & Employee Benefits

August 18, 2014

NOTICE TO CLIENTS AND FRIENDS

Puerto Rico Treasury Department issues Administrative Determination 14-16

On August 6, 2014, the Puerto Rico Treasury Department (“PRTD”) issued [Administrative Determination 14-16](#) (“AD 14-16”) regarding qualified and non-qualified plan prepayments under Act 77-2014. AD 14-16 establishes the rules for participants and beneficiaries of qualified and non-qualified plans in Puerto Rico (“Participants”) to prepay income taxes at a reduced tax rate on the value of accumulated benefits in such plans (the “Prepayment”). Please refer to our [Notice to Clients and Friends](#) issued on July 8, 2014 for further details of the provisions of Act 77-2014.

As established by Act 77-2014, the temporary period to make the Prepayment began on July 1, 2014 and ends on October 31, 2014. AD 14-16 confirms that the applicable tax rate for a Prepayment related to qualified plans will be eight percent (8%) and fifteen percent (15%) for non-qualified plans.

In order to make the Prepayment, Participants will have to complete PRTD [Form SC 2911](#) (for qualified plans) or [Form SC 2912](#) (for non-qualified plans), in triplicate, pay directly at any Collections Office of the PRTD, and submit it together with an account statement (or any other document issued by the plan’s recordkeeper that reflects the Participants’ account balance in the plan which is not dated in excess of 30 days prior to making the Prepayment).

Alternatively, and if allowed under the terms of the applicable plans, plan service providers (e.g. the trustee of the trust fund that is part of the plan, the paying agent or, in the case of some non-qualified retirement plans, the employer that maintains the plan) can complete the procedure to make the Prepayment on behalf of the Participants. In this case, the Participants will have until October 31, 2014 to provide the plan service provider with the applicable form. The plan service provider shall deposit the Prepayment with the PRTD on or before the fifteenth (15th) day following the day in which the participant submitted the applicable form to make the Prepayment.

AD 14-16 also clarifies that employers are not required to amend their plans to allow for the direct distribution of prepayment balances from the employer plan. AD 14-16 also confirms that the Prepayment increases the Participants’ tax basis of its account balance and that all income generated by the amounts subject to the Prepayment will be taxed at the current tax rate at the moment of the distribution of such funds from the plan.

Plan sponsors, trustees, custodians, recordkeepers and other service providers for Puerto Rico retirement plans should become acquainted with these recent developments to ensure continued compliance with applicable requirements under Puerto Rico law.

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

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