

TAX BREAKS FOR DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS AND IRA ACCOUNTS FOR COVID-19 EMERGENCY RELATED PURPOSES

The Puerto Rico Treasury has issued several administrative pronouncements containing guidelines for the temporary tax breaks applicable to distributions from qualified retirement plans and IRA's for COVID-19 related expenses. The tax breaks apply to distributions of up to \$100,000 from February 20 to June 30, 2020, which are used for COVID-19 emergency-related expenses or Special Disaster Distributions. The Special Disaster Distributions are subject to the following special tax treatment:

- A 0% income tax rate on the first \$10,000.
- A 10% withholding income tax rate on distributions in excess of \$10,000 and up to \$100,000 (Distributions over \$100,000 are subject to the regular tax treatment provided by the Puerto Rico Internal Revenue Code).
- A waiver of the 10% early withdrawal penalty, applicable to IRA accounts.

To benefit from this special tax treatment the distributions must be used to cover losses or damages suffered as a result of the emergency declared with respect to the COVID-19 pandemic. In addition, the special tax treatment will cover extraordinary, unforeseen expenses needed to cover the basic needs of the individual and his/her family including the loss of income due to the lockdown order in place during the COVID-19 emergency (or COVID-19 related expenses).

To receive a Special Disaster Distribution, as part of the application process, the individual must submit-- by either personal delivery, mail or electronically--, to the employer that maintains the retirement plan or the entity administering the plan, its administrator, or, in the case of an IRA account, to the financial institution or insurance company that maintains the account, a written statement that includes the following information and certifications by the individual:

- Name and mailing address of the individual.
- The physical address of the individual's primary residence as of the date of the request for the Special Disaster Distribution.

- A certification that the individual is a resident of Puerto Rico at the time of distribution, and will continue to be a resident of Puerto Rico throughout the calendar year 2020.
- A certification that the requested amount does not exceed the \$100,000 limit.
- That the amount of the requested distribution will be used to cover COVID-19 related expenses.
- A certification that the individual has not received Special Disaster Distributions from other retirement plans or IRA accounts. In case an individual has received other Special Disaster Distributions he or she must include the date of distribution, the amount received, and the amount withheld, if any.
- A certification that the individual assumes his or her responsibility for the payment of the tax on the requested distributions if at the end of the year it turns out that he or she did not comply with the residency requirement established in the Circular Letter; the amount received was not used for COVID-19 Related Expenses; or received distributions from Retirement Plans or IRA Accounts above \$100,000.

Because of the physical distancing restrictions issued by the Puerto Rico Government, the required statement does need to be sworn before a notary public.

Should you have any questions or interest with respect to these tax breaks for distributions from qualified retirement and IRA accounts for COVID-19 emergency related purposes, you may contact the attorneys at Vidal, Nieves & Bauzá, LLC, a corporate law firm with special emphasis in energy and environmental matters, corporate, tax, transactional, real estate and insurance practices.

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