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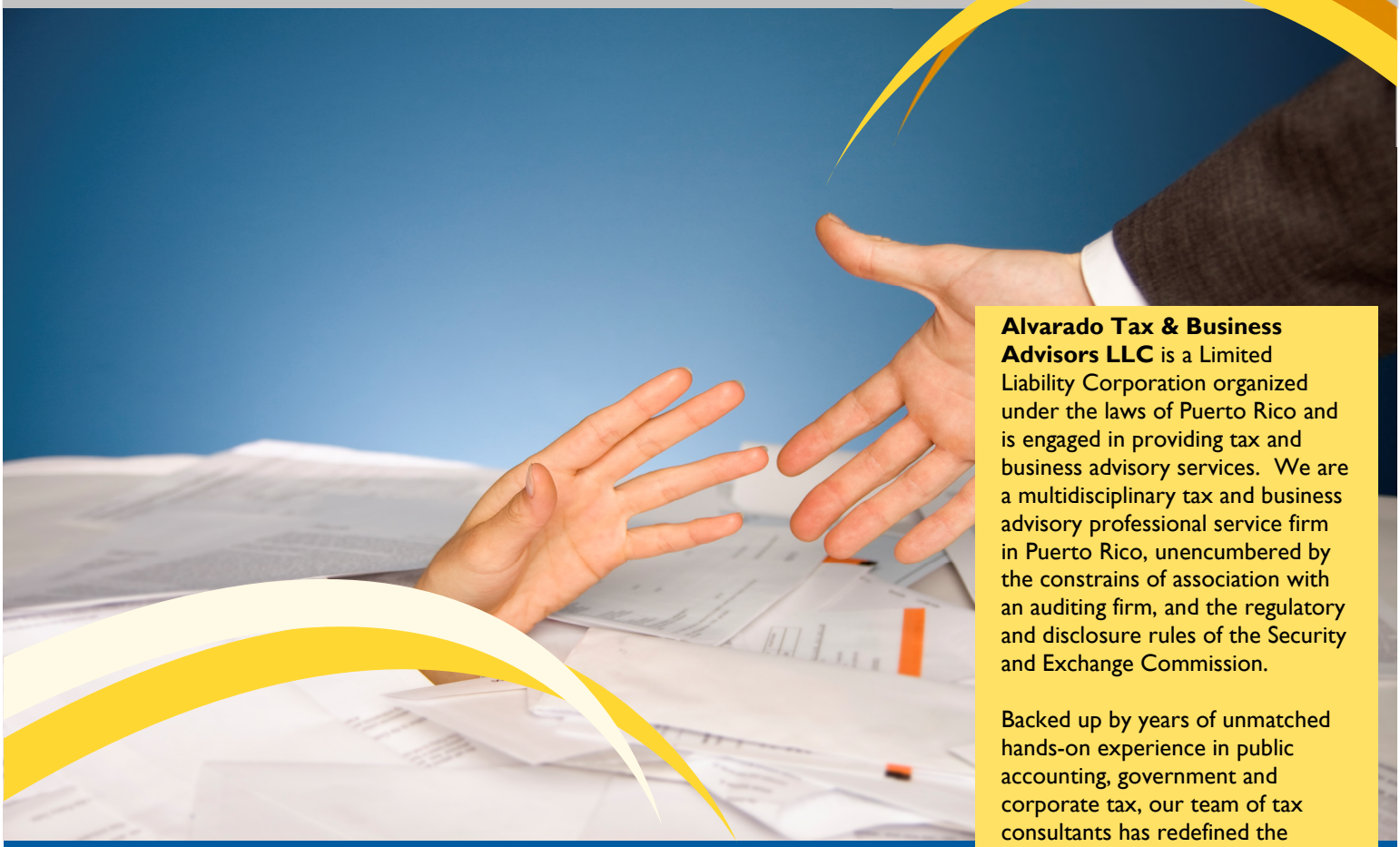

Puerto Rico Treasury Launches "Tax Rehab Program"

By Gilberto L. Ríos-Villalón

Yes, you are reading right, the Puerto Rico Treasury Department (hereinafter "PRTD") has launched a "Tax Rehab Program". As with any rehab program, the purpose is to help or assist persons overcome difficulties. In this case, help taxpayers with the difficulties of paying their tax debts with the PRTD.

For this matter, on March 17, 2017, the PRTD issued Circular Letter of Internal Revenue No.17-05 (hereinafter "CLIR 17-05") which establishes the procedures to evaluate payment plans for outstanding tax debts. This circular letter purposes are: (1) establishing the procedures for the application and approval of payment plans under the taxpayer rehabilitation program, (2) specifying the terms and conditions governing payment plans, and (3) repeal Circular Letter of Internal Revenue No. 16-10 (hereinafter "CLIR 16-10") and Informative Bulletin of Internal Revenue No. 09-14 (hereinafter "IBIR 09-14") which provided the procedures to evaluate payment plans and their terms.

Before CLIR 17-05, the PRTD had informed the public, on IBIR 09-14, of their policy of not granting payment plans to taxpayers with tax debts related to taxes collected by them on

Continues on Page 2

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Puerto Rico Treasury Launches… Continued from Page 1

behalf of the PRTD. The tax debts limited by that policy were the ones arising from:

- Sales and Use Taxes (hereinafter "SUT")
- Tax withholding on payments of Salaries, Services Rendered, Royalties and to Non-Residents Debts, among others
- Adult Entertainment Machines
- Gambling Machines

CLIR 17-05 changes the policy of the PRTD regarding the limitations to the payment plans and establishes the taxpayers' rehabilitation program to enable them to comply with their tax debts through payment plans. The Secretary of Treasury (hereinafter "Secretary") may grant payment plans to the following five categories of tax debts:

- Category I: Income Tax
- Category II: Temporary Special State Real Property Tax
- Category III: SUT
- Category IV: Tax withheld at source by employers and withholding agents
- Category V: Excise Taxes

The type of payment plan to be granted will depend on the category of the tax debts held by the taxpayer and the total principal amount of said debt. Payment plans and requirements are as follows:

1. Automatic Payment Plan

A payment plan will be considered an Automatic Payment Plan when no assessment of the taxpayer's economic capacity is needed to approve such payment plan. To request an Automatic Payment Plan, the taxpayer must meet the following conditions:

- File an application as required in Part II C-1 of the CLIR 17-05 (which is discussed herein on the "Payment Plan Application Process" section).
- Submit all the required documentation.
- Comply with the requirements as established in the category for which the application is being submitted for.

In such cases, the Collection District will present the agreement for taxpayer's signature, without evaluation of his economic capacity to pay the tax.

Automatic Payment Plan: Summary of Terms and Conditions

Debt Category	Frequency of Payments	Maximum of Monthly Installments	Payment Method	Upfront Payment	Payment Guarantee
Category I:					
Principal Balance less than $10,000	Monthly	24	Direct Debit	None	None
Principal Balance greater than $10,000 and less than $25,000	Monthly	36	Direct Debit	10% of Principal Balance	None
Principal Balance greater than $25,000 and less than $50,000	Monthly	36	Direct Debit	20% of Principal Balance	None
Category II:					
Total Amount	Monthly	24	Direct Debit	None	None
Category III and IV:					
Principal Balance less than $10,000	Monthly	12	Direct Debit	10% of Principal Balance	None
Principal Balance greater than $10,000 and less than $25,000	Monthly	24	Direct Debit	20% of Principal Balance	None
Principal Balance greater than $25,000 and less than $50,000	Monthly	36	Direct Debit	20% of Principal Balance	None

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Gilberto is a Tax Associate at Alvarado Tax & Business Advisors. Gilberto provides tax compliance and consulting services to \several multinational clients. Also, he has participated in the development of Closing Agreements with different governmental agencies. His Curriculum vitae includes experience in the corporate area, mainly in the marine transportation industry where he worked as Assistant to the Manager of Operations of a local operating business. Regarding specific areas of technical expertise, Gilberto provides corporate and individual tax services in the retail, manufacturing, and service industry among others.

Gilberto is a member of the Puerto Rico Certified Public Accountants and the American Institute of Certified Public Accountants. He has a Bachelor degree in Accounting from the University of Puerto Rico and a Master in Science of Taxation from the University of the Sacred Heart.

Continues on Page 3

Puerto Rico Treasury Launches… Continued from Page 2

Also, for Category III and IV tax debts taxpayers will be required to comply with the following:

- Deposit SUT on a weekly manner through the Internal Revenue Unified System ("SURI" for its Spanish acronym). The PRTD will determine that the taxpayer meets this requirement if the sum of the total weekly installments deposited during the month, represents at least 90% of the total SUT determined by the monthly SUT return for that month. This requirement will be applicable to all taxpayers whose monthly SUT payment exceeds $2,000.
- In the case that the annual volume of business exceeds $125,000, taxpayers must maintain a fiscal terminal at their corresponding localities.

- In cases where the taxpayer is a legal entity, the officers or persons responsible for the collection and deposit of the SUT (or other tax withheld at source) to the PRTD , must accept as part of signing the agreement the imposition of a penalty if the taxpayer fails to comply with the plan as provided on section 6080.02 of the Puerto Rico Internal Revenue Code of 2011, as amended (the "2011 Code"). This Section establishes that those persons are personally liable to the PRTD for the total amount evaded, not collected, withheld or deposited.

2. Regular Payment Plan

The Secretary grants the option of requesting a Regular Payment Plan to any taxpayer who holds a tax liability for any of the categories listed in this section. Each application for Regular Payment Plan must be filed at the corresponding Collection District and taxpayers must demonstrate, to the satisfaction of the Secretary, that they do not have the economic capacity to pay the entire amount owed.

To demonstrate the lack of "economic capacity" to pay the entire tax debt, including interest and surcharges, the taxpayer must complete and submit the following form, as applicable:

- Model SC 3325 Statement of Financial Situation of Individual
- Model SC 3326 Statement of Financial Situation of the Business or Corporation

Note that the Secretary may cancel, totally or partially, any penalty or fine applicable to the tax debts included in the payment plans. In the case of non-compliance with the approved payment plan or any tax liability arising later, the PRTD may proceed to impose fees and penalties as established by the 2011 Code. The PRTD will terminate such payment plan and proceed with the collection of the pending balance, and initiate the assessment and collection of the penalties established by section 6080.02 of the 2011 Code, without the requirement of notifying the taxpayer. Also, the PRTD may report the tax debts to different credit agencies and the U.S. Treasury Offset Program.

Payment Plan Application Process

Taxpayer must submit the application, by electronic means, using the Form Model SC 3509 or Form Model SC 3510, as applicable. Such application must state the taxpayer's interest in obtaining an Automatic Payment Plan and include several personal and financial information.

Other Considerations

- Taxpayers may not select specific debts to be included in the payment plan that is requesting, as it must include all debts assessed and pending payment to the PRTD.

Regular Payment Plan: Summary of Terms and Conditions

Debt Category	Frequency of Payments	Maximum of Monthly Installments	Payment Method	Upfront Payment	Payment Guarantee
Category I:					
Principal Balance greater than $50,000	Monthly	Determined by the Secretary by Taxpayers' payment capacity	Direct Debit	Not less than 10% of Principal Balance	May be Required
Category III and IV:					
Principal Balance greater than $50,000	Monthly	Determined by the Secretary by Taxpayers' payment capacity	Direct Debit	Not less than 10% of Principal Balance	May be Required
Category V:					
Total Amount Owed	Monthly	Determined by the Secretary by Taxpayers payment capacity	Direct Debit	Determined by the Secretary by Taxpayers payment capacity	May be Required

Continues on Page 4

Puerto Rico Treasury Launches… Continued from Page 3

- If in aggregate the taxpayer owes more than $50,000, the taxpayer may only apply for Regular Payment Plan.
- In the case of suppliers of goods or services to the government that at the time of requesting the payment plan can demonstrate to the Secretary that they have pending approved invoices with the PRTD, they may request that such invoices be applied against the debt balance.

ATBA Comments

CLIR 17-05 presents an opportunity for taxpayers to meet their tax responsibility which, in some cases, was not available in the past. It, however, also imposes burdens that need to be evaluated carefully, requiring the taxpayers to assess the probability of complying with them and the determination of such compliance costs.

Before entering any payment plan, the taxpayer should determine that the tax debt is correct and that the statute of limitations to assess the debt has not expired. They also should consider other financing alternatives which may not only provide lower interest rates but also the avoidance of the additional requirements imposed by CLIR 17-05.

Should you believe that a payment plan is an option for you, or if you have any questions, contact one of our tax professionals. They will properly analyze your specific situation to assist in the determination of whether a payment plan is a viable option.

In Other News – "Not so paperless"

On March 24, 2017, the PRTD issued Circular Letter of Internal Revenue No. 17-06 (hereinafter "CLIR 17-06") which indicates that due to failures in the PRTD computer systems, the programming for the application to file the Request for Extension of Time to File the Income Tax Return (hereinafter "Extension") for taxable year 2016 by electronic means had to be postponed. Therefore, Form SC

2644 may now be filed by paper either by mail or hand-delivered at the PRTD.
In addition, the CLIR 17-06 provides that for individuals who requested the Extension because they were outside of Puerto Rico, may request an additional time to file the income tax return (three months) by filing Form SC 2644 by the extended due date. Such additional Form 2644 must be filed together with certain evidence that proves that the taxpayer was outside of Puerto Rico.

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