
Client Alert



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November 2010

“Special Exemption from Income Tax Withholding on Salaries Paid”

On October 25, 2010, the Governor of the Commonwealth of Puerto Rico, Luis G. Fortuño, presented the first phase of his proposed tax reform which, if approved as is, will provide benefits to individual taxpayers for the calendar year ended December 31, 2010.

Consequently, given the limited time to adjust the income tax withholding tables for salaries paid by employers, the Governor of the Commonwealth of Puerto Rico ordered the Secretary of the Treasury to waive all income tax withholding requirements on wages paid during the month of December of 2010.

As such, the Secretary's Administrative Determination Number 10-09 dated October 28, 2010 (“AD 10-09”) authorizes employers and withholding agents not to withhold the income tax at source with respect to wages paid on daily, weekly, bi-weekly, bi-monthly, and monthly payroll periods corresponding to the month of December 2010 including the payment of the 2010 Christmas bonus.

Although it could be interpreted, when reading the AD 10-09, that the exemption from withholding applies to the payment of wages corresponding to services rendered during the month of December 2010 regardless of when paid, we understand that the AD 10-09's exemption from income tax withholding is limited to payments made during the month of December 2010. The payment of all wages includes the payments of bonuses during the month of December 2010 (in addition to the Christmas bonus required by law) if such are treated as wages for payroll tax purposes.

In summary, all payments for wages made during the month of December 2010 will not be subject to Puerto Rico income tax withholding.

Please note that any income that does not constitute wages shall continue to be subject to the correspondent income tax withholding (i.e., payment for services rendered by an independent contractor, payments to nonresidents of Puerto Rico, etc.) Also, all payments shall continue to be subject to every other employment tax such as, but not limited to, the federal social security tax and Medicare.

The provisions of the AD 10-09 are effective immediately.



We at Goldman remain committed in assisting you and your business to adjust to changes in the law. For further information you may contact Roberto Montalvo at 787.759.4123 (rmontalvo@gaclaw.com); José E. Villamarzo at 787.759.4120 (jvillamarzo@gaclaw.com); or Angel D. Marrero at 787.759.4153 (amarrero@gaclaw.com).

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