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Recent Tax Development

On Page 8 of our most recent Newsletter (Business Law Developments–Number 75/August 2009), Ms. Yamié Rullán, one of our summer law clerks, wrote an article about the new alternative minimum tax computations (“AMT”) introduced by Act No. 7 of March 9, 2009 (“Act No. 7”). In said article, Ms. Rullán states that one of the types of income that is subject to preferential tax rates, and thereby included in the new AMT computation, includes:

“Dividends distributed by companies covered under the Economic Incentives Act, the 1998 Tax Incentives Act, and the Tourism Incentives Act;”

Unfortunately, after the article was completed and sent to the presses, the Puerto Rico Treasury Department issued Circular Letter 09-06, in which it states that individuals or shareholders of exempt businesses under the Economic Incentives Act or the 1998 Tax Incentives Act will **not** be subject to the new AMT computations introduced by Act No. 7. As such, the article should read as follows:

“One of the major changes introduced by Act No. 7, as amended, is a permanent change in the method of computing an individual’s net taxable income for purposes of the alternative minimum tax. The new calculation will now include various types of income that are classified as exempt income or income that is subject to preferential tax rates under the Puerto Rico Tax Code, for instance:

- ▶ Certain long-term capital gains;
- ▶ Certain eligible dividend distributions;
- ▶ Certain interest on bank deposits and individual retirement accounts;
- ▶ Certain interest from notes or bonds; and
- ▶ Certain exempted interest from Government National Mortgage Association bonds (Ginnie Mae bonds).”

Accordingly, the new AMT imposed by Act No. 7 is not applicable to dividends distributed by companies covered under the Economic Incentives Act, the 1998 Tax Incentives Act. However, the question still remains on whether the new AMT will be ultimately applicable to dividends distributed by companies covered under the Tourism Incentives Act given that they are not expressly excluded by Circular Letter 09-06.

We apologize for any inconvenience this change may have caused to our readers.