



## Puerto Rico Hacienda provides last-minute extension to deadlines

On November 28, 2012, the Puerto Rico Treasury Department (“Hacienda”) published [Circular Letter No. 12-09](#) (CL 12-09), extending the deadlines for adopting retirement plan amendments that reflect the requirements of the 2011 Puerto Rico Internal Revenue Code (2011 PR IRC). This guidance also extends the deadline for submitting applications for Puerto Rico determination letters.

### Extended amendment deadline

CL 12-09 extends the deadline for amending both dual-qualified plans and Puerto Rico-only qualified plans from December 31, 2012 to the later of:

- June 30, 2013; or
- The last day of the first plan year beginning on or after January 1, 2012.

*As a result, a plan with a calendar plan year has an amendment deadline of June 30, 2013. A plan with a plan year beginning on October 1, has a September 30, 2013 amendment deadline.*

### Extended filing deadline

This guidance also extends the deadline for requesting a Puerto Rico determination letter. This extension applies to both dual-qualified plans and Puerto Rico-only qualified plans. It also applies to requests for determinations under just the 2011 PR IRC or under both the 2011 PR IRC and the 1994 PR IRC in situations where a plan covered Puerto Rico employees before January 1, 2011. The extended filing deadline is the later of:

- September 30, 2013; or
- The due date of the employer’s 2012 Puerto Rico income tax return, including extensions.

*For example, if a plan sponsor’s Puerto Rico tax year ends December 31, 2012, the determination letter request must be filed with Hacienda no later than September 30, 2013. However, if the employer’s 2012 tax year begins on October 1, 2012 and ends September 30, 2013, the filing deadline will be January 15, 2014, or April 15, 2014, if the employer requests a tax-filing extension.*

### No IRS extension

One other December 31, 2012 deadline facing plan sponsors with Puerto Rico participants is the deadline [imposed by the IRS](#) for the transfer of assets from a dual-qualified plan to a Puerto Rico-only plan and avoiding adverse U.S. tax consequences. So far, the IRS has **not** extended this deadline. If assets are transferred by December 31, 2012, the Puerto Rico employees will not be subject to U.S. taxation on the transaction and all future distributions from the Puerto Rico-only plan will be treated as Puerto Rico source income. As a result, Puerto Rico residents will not be subject to U.S. taxation or withholding on any portion of those distributions. If the asset transfer occurs on or after January 1, 2013, the IRS will consider the transaction to be an in-service distribution to a nonqualified plan and affected participants will be subject to U.S. taxation on at least a portion of those “distributions.” In some situations, the nature of a plan’s investments may extend this deadline past December 31. Plan sponsors should consult their plan’s legal counsel to determine if the extension applies to their plan.

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Editor: Julie Koos (563) 585-6811

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