



AMERICAN BENEFITS
COUNCIL

July 28, 2011

George Bostick
Benefits Tax Counsel
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Puerto Rican Plans, Rev. Rul. 2011-1, Spinoff Relief, and Group Trusts

Dear Mr. Bostick:

The American Benefits Council (Council) would like to commend the Treasury Department (Treasury) and the Internal Revenue Service (Service) for issuing Rev. Rul. 2011-1 which provided certain transitional relief for Puerto Rico plans participating in group trusts and an extension of time to effectuate tax-free spinoffs as permitted under Rev. Rul. 2008-40. The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans. A number of the Council's members are U.S. companies that maintain retirement plans for their Puerto Rican workers.

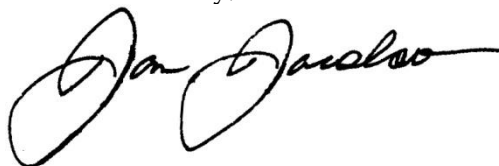
While the Council appreciates the transition relief, the Council strongly recommends that it be made permanent as soon as possible or, at the very least, that the tax-free spinoff period (under Rev. Rul. 2008-40 as extended by Rev. Rul. 2011-1) be extended while Treasury contemplates permanent guidance. As you are probably aware, the tax-free spinoff period expires at the end of 2011 while the transition period allowing Puerto Rico plans to participate in group trust extends until permanent guidance is issued. Most plan sponsors that had not previously spun off their Puerto Rico assets appear to be waiting to see what the group trust status will be before taking such action but are very concerned about the expiration of the spinoff period. For many of these plan sponsors, a spinoff would simultaneously reduce the value of the plan to the participants while increasing the plan sponsor's administrative costs.

The Council encourages Treasury and the Service to make permanent the guidance in Rev. Rul. 2011-1 which permits investment of Puerto Rican plan assets in 81-100 group trusts as more thoroughly discussed in the attached comment letter filed by the Council on April 6, 2011. Many U.S. employers with a presence in Puerto Rico have only a small number of Puerto Rican employees. If these Puerto Rican plan assets are precluded from investing in U.S. group trusts, the investment selections for these employees will be more limited and the costs significantly higher for plan participants due to the small size of the group. The permanent guidance should also make clear that a master trust (where participating plans are of one employer) should be treated as a group trust.

In addition, the transition relief for Puerto Rican plans in group trusts in Rev. Rul. 2011-1 is limited to investments made on or prior to certain dates, which generally does not allow for investment changes. This limitation has been read, for example, to preclude the addition of target date funds for years ending in "5" (2015, 2025, etc.) when decade target date funds 2020, 2030, etc.) are already included in the plan's investment options. The permanent guidance should make clear that this transition relief limitation no longer applies.

As stated in our earlier comment letter, continuation of this pooled investment policy is now more clearly supported than ever with modification of the Puerto Rican Code in 2011, which substantially increased the comparability of the substantive rules governing U.S. and Puerto Rican plans (including requiring requests for determination letters from the Hacienda by the end of the year!). For the many reasons discussed above and in our earlier letter, it is very important for Treasury and the Service to act as soon as possible to allow Puerto Rican plan trusts to invest in group trusts (and master trusts) on a permanent basis. If you have any questions or need further information, please call me at 202-289-6700.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Jacobson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jan Jacobson
Senior Counsel, Retirement Policy
American Benefits Council

cc: Joyce Kahn
Rhonda Migdail