

## MEMORANDUM

December 19, 2011

TO: Interested Clients

FROM: Lou Mazawey  
David Powell

RE: **Further Extension of Puerto Rican Plan Deadline/Group Trust Relief**

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We are pleased to attach just-released IRS Notice 2012-4 (which, we understand, is being renumbered 2012-6), which does the following.

- It confirms that the transition relief for the tax exemption of US group trusts invested in by Puerto Rican ("PR") qualified only plans "continues to apply", at least until further guidance is issued. Apparently, some had suggested that it would end at the same time as the extended spinoff deadline (for US plan to PR-only plan spinoffs under Rev. Ruls. 2008-40 and 2011-1) would end (December 31, 2011, before today's announcement).
- It extends the deadline for spinning a PR-only plan investment in a group trust "until a deadline to be set forth in future published guidance" for those PR-only plans invested in domestic group trusts as of January 10, 2011. The future deadline will be announced once the general issue of whether PR-only plans being invested in domestic group trusts is resolved. This is helpful, although it does take the pressure off the IRS – as well as for plan sponsors for plans with group trust investments in existence on January 10, 2011.
- It extends the separate spinoff deadline for spinning assets out of a US qualified plan trust to a PR-only trust for one year – until December 31, 2012 – for all US-qualified plans benefitting Puerto Rican residents. The reason for this extension – which is independent of the group trust investment issue – is to give plan sponsors time to evaluate the decision whether to spinoff to a PR-only plan in light of the extensive changes to the plan requirements recently made to the PR Code.

The Notice also extends the deadline for governmental retiree benefit plans to be amended to satisfy the "exclusive benefit" and other requirements for group trusts under Rev. Rul. 2011-1 until the earlier of the close of the first regular legislative session of the legislative body with authority to amend the plan that begins on or after January 1, 2012 or January 1, 2015.

Finally, the Notice requests comments (by April 16) on whether eligibility to participate in group trusts should be extended to other employee benefit plans exempt "under Code section 501 or a similar rule." It is not entirely clear what the Service has in mind here.

Please call us if you have questions or comments. We will be following up on the group trust issues and will contact you after the holidays as to participation in such efforts.