

BENEFITS PASSPORT



*Updates and Information
on International Benefits*

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*Prepared by Lynn Dudley,
Senior Vice President, Policy*



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The American Benefits Institute is the education and research affiliate of the American Benefits Council. The Institute conducts research on both domestic and international employee benefits policy matters to enable public policy officials and other stakeholders make informed decisions. The Institute also serves as a conduit for global companies to share information about retirement, health and compensation plan issues.

EXTENSION TO FILE AMENDMENTS TO PUERTO RICO PLANS, RECENT FATCA DEVELOPMENTS

PUERTO RICO ISSUES EXTENSION FOR ADOPTION OF RETIREMENT PLAN AMENDMENTS AND FILE REQUESTS FOR QUALIFICATION UNDER TAX CODE

The Puerto Rico Treasury Department (PR Treasury) issued Circular Letter No. 12-09 (CC 12-09) on November 28, 2012, formally extending the date by which Puerto Rico-based retirement plan sponsors must adopt certain required qualification amendments under the Puerto Rico Internal Revenue Code of 2011 (PR Code), as amended. Such plan sponsors now have until the *later* of June 30, 2013, *or* the last day of the first plan year commenced on or after January 1, 2012. Without the extension, such amendments were required to be adopted on or before the last day of the first plan year commenced on or after January 1, 2012. (Therefore, for calendar year plans, the amendments needed to be adopted on or before December 31, 2012.)

The deadline for requesting qualification with the PR Treasury has also been extended until the *later* of September 30, 2013, *or* the due date for filing the employer's income tax return, including any extension, for the first taxable year commencing after December 31, 2011.

The provisions of CC 12-09 are effective immediately and apply to taxable years commenced on or after January 1, 2012. For additional information, Groom Law Group has prepared [a memo providing details](#) regarding the extension.

RECENT FATCA DEVELOPMENTS

PREPARED BY DAVID POWELL, GROOM LAW GROUP

IRS Issues New 'Model 2' FATCA Intergovernmental Agreement

After previously issuing two model Foreign Account Tax Compliance Act (FATCA) Intergovernmental Agreements (IGAs), on November 14 Treasury issued another version it refers to as its "[Model 2" template](#). This new model IGA involves direct reporting by Foreign Financial Institutions to the US Treasury rather than reporting to the local jurisdiction tax authority as under the first models.

The Model 2 agreement is designed to address particular concerns with domestic legal impediments that would interfere with FATCA reporting, and is the model that is currently being negotiated with Japan and Switzerland. As with the first model agreement, an Annex II to the agreement permits the listing of specific exempt retirement funds and accounts.

U.S.-Denmark IGA Exempts Specified Danish Retirement Funds and Accounts

The newest FATCA IGA is with the Kingdom of Denmark. As with the model and UK agreements, there is an Annex II listing specific exempt Danish retirement funds and accounts. These include:

- Any pension fund established in Denmark and described in Article 22, subparagraph 2 (e) (Limitation of Benefits) of the 2006 Protocol to the U.S.-Denmark Tax Treaty. That provision covers a legal person, whether tax-exempt or not, that is organized under the laws of Denmark to provide pension or similar benefits to employees (including self-employed individuals) pursuant to a plan will qualify for benefits if, as of the close of the end of the prior taxable year, more than 50 percent of the pension's beneficiaries, members or participants are individuals resident in either the U.S. or Denmark.
- Pension plans covered by Chapter 1 of the Danish Pension Tax Act (Pensionsbeskatningsloven).

- Self Pension Savings Accounts (selvpensioneringskonti) as defined in Section 51 of the Danish Pension Tax Act.

A copy of the U.S.-Denmark IGA can be found [here](#).