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## Due Date to File Annual Returns and Fee Disclosures For Puerto Rico Plans

### Reminders Affecting Puerto Rico Plans:

- **Due Date to Comply with PR Treasury Annual Filing Requirement for Trusts Funding Calendar Year Puerto Rico Tax Qualified Plans is July 31<sup>st</sup> – Automatic Extension is Available**
- **Puerto Rico Plans Must Also File IRS Forms 5500 and 8955-SSA**
- **Puerto Rico Plans are Subject to ERISA's Fee Disclosure Notice Requirements**

### PR Treasury Form 480.70(OE)

The Puerto Rico Internal Revenue Code of 2011, as amended ("2011 PR Code"), requires trusts funding retirement plans qualified under Section 1081.01(a) of the 2011 PR Code file on or before the last day of the 7<sup>th</sup> calendar month following the close of the plan year (**i.e., July 31 for a calendar year plan**) an annual informative return (PR Treasury Form 480.70(OE), *Informative Return for Income Tax Exempt Organizations*) with the Puerto Rico Treasury Department ("PR Treasury").<sup>1</sup> Such trusts may obtain a one-time automatic extension to file Form 480.70(OE) until the 15<sup>th</sup> day of the 10<sup>th</sup> calendar month following the close of the plan year (**i.e., October 15 for a calendar year plan**) by filing PR Treasury Form SC 2644, *Request for Extension of Time to File the Income Tax Return*, on or before the regular due date to file Form 480.70(OE).<sup>2</sup> It is strongly suggested personally filing Form SC 2644 in order to obtain a stamped-receipt copy of the same evidencing the timely filing of the request.

Note that this filing requirement applies to trusts funding both plans that are only qualified in Puerto Rico ("PR-only qualified plans") and plans that are qualified in the U.S. and Puerto Rico ("dual-qualified plans").

Form 480.70(OE) is available at:

[http://www.hacienda.gobierno.pr/downloads/pdf/planillas/480.70\(OE\).pdf](http://www.hacienda.gobierno.pr/downloads/pdf/planillas/480.70(OE).pdf).

Form SC 2644 is available at:

<http://www.hacienda.gobierno.pr/downloads/pdf/formularios/SC%202644.pdf>.

<sup>1</sup> The annual filing requirement was also applicable for plan years beginning before January 1, 2011, under the former Puerto Rico Internal Revenue Code of 1994, as amended. For plan years beginning before January 1, 2007, the due date to file Form 480.70(OE) was on or before the 15<sup>th</sup> day of the 4<sup>th</sup> calendar month following the close of the plan year (**i.e., April 15<sup>th</sup> for a calendar year plan**).

<sup>2</sup> For plan years beginning before January 1, 2007, the automatic extension was for 90 days. A discretionary additional extension was also available if timely requested and approved by the PR Treasury.

Effective for plan years beginning on or after January 1, 2011, a trust funding a Puerto Rico tax qualified retirement plan that is subject to Title I of the Employee Retirement Security Act of 1974, as amended ("ERISA"), may comply with the annual filing requirement by filing a copy of the plan's Form 5500, *Annual Return/Report of Employee Benefit Plan*, filed with the U.S. Department of Labor ("DOL"). See our Alert of February 21, 2012 regarding this relief at <http://www.groom.com/resources-655.html>.<sup>3</sup>

### IRS Forms 5500 and 8955-SSA

It is important to remember that on or before the last day of the 7<sup>th</sup> calendar month following the close of the plan year (**i.e., July 31 for a calendar year plan**), a PR-only qualified plan is also required to file with the DOL Form 5500, *Annual Return/Report of Employee Benefit Plan*, and Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*. A one-time automatic extension to file Forms 5500 and 8955-SSA until the 15<sup>th</sup> day of the 10<sup>th</sup> calendar month following the close of the plan year (**i.e., October 15 for a calendar year plan**) is available by filing Form 5558, *Application for Extension of Time To File Certain Employee Plan Returns*, on or before the regular due date to file Forms 5500 and 8955-SSA. See our Alert of January 11, 2012, regarding Form 8955-SSA at <http://www.groom.com/resources-648.html>, and recent IRS proposed regulations 77 Fed. Reg. 37352 (June 21, 2012).

### Fee Disclosure Notice Requirements

Puerto Rico tax qualified retirement plans are subject to Title I of ERISA. Consequently, the ERISA Section 408(b)(2) rules requiring "Covered Service Providers" to provide information about their compensation to ERISA-covered retirement plans and the participant-level disclosure regulations under 29 C.F.R. § 2550.404a-5 are also fully applicable with respect to PR-only qualified retirements plans. See our Alert of February 2, 2012, regarding the fee disclosure requirements at <http://www.groom.com/resources-660.html>.

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<sup>3</sup> Although Form SC 2644 is not required to be filed if the trust funding a Puerto Rico qualified plan will be filing a copy of Form 5500 pursuant to the relief provided under PR Treasury Circular Letter 12-02, it is strongly recommended that Form SC 2644 also be timely filed. This is the first year this relief is available and it is currently unknown whether the PR Treasury systems have been updated not to automatically issue a late filing penalty if a timely filed extension request is not on file. Further, timely filing a Form SC 2644 does provide a trust the alternative to file a completed Form 480.70(OE) instead of the copy of the Form 5500 before the end of the extended period.