

March – April 2008

Tax Newsletter

We want to be part of your success



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Please take note of our new fax
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As we enter the year 2008 Tax Season, we should keep focused on the principal issues affecting Puerto Rico as well as proposals that may affect us in the future. Among those under consideration are: the proposal to partially eliminate the sales and use tax, the November general elections, the economic and educational crisis and the new industrial incentives act being drafted.

In addition, the Legislature is considering a new "payment incentives plan" (or should we say amnesty?) to motivate the payment of the real and personal property tax debts to the CRIM. This plan is very similar to one put into effect four years ago.

In this issue, we provide a summary of the main provisions of this new plan as stated in P de la C 4226.

We also include a summary of the most frequently asked questions in relation to the Individual Retirement Accounts and the rules to determine when an individual is subject to the payment of estimated taxes.

With this edition of our Tax Newsletter we celebrate eleven consecutive years of publication, of informing and commenting on current developments. We hope we may continue providing you with this valuable tool for many more years to come.

María de los A. Rivera
Tax Partner

Proposed CRIM payment incentives plan

P de la C 4226 proposes a reduction on the property taxes debts

If approved, the bill grants a discount on the payment of real and personal property taxes to those qualifying taxpayers that make the payment during the effectiveness period of the program: May 1 through June 30, 2008.

Nevertheless, those taxpayers that are not able to make the payment by such date because CRIM is not able to provide a correct statement of account will be able to take advantage of the program once CRIM provides the necessary information.

This program is very similar to the one that was in effect during the period of March – April 2004.

For debts of personal property taxes, the discount will be 30% of the interest, surcharges and penalties accrued as of April 30, 2008 (without considering the current year's tax).

In the cases where the principal of the debt is \$10,000 or less, the discount will be the total amount of the interest, surcharges and penalties accrued. In those cases where the principal amount exceeds \$10,000, the total discount will not exceed \$10,000. In all cases, the minimum amount to be paid will not be less than the principal amount of the debt owed.

For real property taxes debts, the bill proposes the elimination of all the interest and surcharges accrued on all debts except for those pertaining to 2007-08.

Those taxpayers who have been convicted of a tax fraud or those against which legal proceedings for tax related crimes have been started are not eligible for these incentives.

The purpose of the plan is not to benefit those taxpayers that have not complied with their filing responsibilities. It is intended to help those taxpayers that have filed their personal property tax returns but that for

economic reasons have not being able to satisfy their debts.

The bill also proposes the elimination of the CRIM's records of the following debts if there has not been a collection effort:

1. Personal property taxes when more than 10 years have passed since the filing of the corresponding return.
2. Real property taxes when more than 15 years have passed since the notification of the tax.

Debts certifications issued by the CRIM after June 30, 2008 cannot include the debts described above.

IRA's: deductible or non deductible?

This is the time of the year when questions regarding contributions to Individual Retirement Accounts (IRA's) start to bug our minds: should I contribute to an IRA? How much may I contribute? May I contribute to my spouse's IRA even though he/she did not have earned income for 2007?

In addition, we have a different "ingredient" to add: the non-deductible IRA's. Contrary to regular IRA's, the non-deductible IRA or Roth IRA as it is commonly known, cannot be deducted from income when filing the income tax return for a particular taxable year. However, at the moment of receiving the distributions, once the individual has reached the age of sixty, the contributions as well as the increase on the amounts contributed, will be exempt from the payment of income tax.

The maximum deduction for contributions to deductible IRA's is \$5,000 (\$10,000 in the case of a joint return). Remember that the deduction is limited to the smaller of the adjusted gross income from salaries or earnings from professions and the above threshold.

You may continue to contribute to IRA's for all years until you reach 75 years old. You cannot make a contribution for the year in which you attain that age. Keep also in mind that if you are participating in an 1165(e) plan, commonly referred to as 401K plans; your combined contribution to the plan and IRA's is limited to \$8,000. That is, if you contribute \$5,000 to your IRA, you are limited to contribute no more than \$3,000 to your pension plan. Contributions to IRA's must be made by the due date (including extensions) for

filing the income tax return for the year for which the contribution is made.

If you decide to contribute to a non-deductible IRA, please be aware that the \$5,000 limitation is a combined limit. That is, if you contributed the \$5,000 to a regular IRA, you cannot contribute to the non-deductible IRA. Contrary to regular IRA's, the mandatory distributions rule does not apply to Roth IRA's.



Are you subject to the payment of estimated taxes

Every person that meets one of the following descriptions must file an estimated tax declaration:

- 1. Single or married not living with spouse, whose gross income from sources that are not salaries subject to withholding at source exceeds 50% of his/her total estimated gross income or \$5,000;
- 2. Married living with spouse whose combined gross income from sources that are not salaries subject to withholding at source exceeds 50% of his/her estimated gross income or \$10,000.

If the total amount of the tax is \$200 or less, you are not required to file an

estimated tax declaration. In general, the declaration of estimated tax must be filed by the 15th day of the fourth month of the taxable year. Payment of the tax will usually be made in four installments on the 15th day of the fourth, sixth, ninth month of the taxable year and of the first month of the following taxable year in the case of individuals.

For these purposes, the term not subject to withholding includes payments for services rendered that were subject to the 7% withholding at source, special partnerships and corporation of individuals' distributive share in

income among others. It does not include interest income subject to the 17% withholding, dividends subject to 10 % withholding, lump sum distributions from pension plans subject to 20% withholding at source or payment received for services rendered to the US Government subject to withholding at source at the federal level or agricultural services.

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