



Blanca Álvarez Ramírez
Acting Secretary of the Treasury

November 28, 2012

CIRCULAR LETTER NO. 12- 09

ATTENTION: ALL EMPLOYERS, TRUSTEES AND ADMINISTRATORS OF RETIREMENT PLANS QUALIFIED UNDER SECTION 1081.01(a) OF THE PUERTO RICO INTERNAL REVENUE CODE OF 2011.

SUBJECT: EXTENSION OF TIME TO ADOPT AMENDMENTS REQUIRED UNDER INTERNAL REVENUE CIRCULAR LETTER NO. 11-10 OF DECEMBER 16, 2011.

I. Statement of Motives

Internal Revenue Circular Letter No. 11-10 of December 16, 2011 ("Circular Letter") established the rules regarding the effective dates of Retirement Plan qualification letters issued by the Secretary of the Treasury Department ("Department") and the procedure to be followed by employers maintaining Retirement Plans in Puerto Rico and their authorized representatives to request the qualification letter with respect to the adoption of the new requirements under Section 1081.01(a) of the Puerto Rico Internal Revenue Code of 2011, Act No. 1-2011, as amended ("Code"), and the retroactive qualification of Retirement Plans under Section 1165(a) of the Puerto Rico Internal Revenue Code of 1994, Act No. 120-1994, as amended ("1994-Code") (collectively, "Request for Qualification").

The Circular Letter provides that the amendments to a Retirement Plan to adopt the new qualification requirements under the Code must be adopted on or before the last day of the first plan year beginning on or after January 1, 2012. For example, in the case of a Retirement Plan whose accounting year is a calendar year, the deadline to adopt the amendments is December 31, 2012.

The Circular Letter also requires that said plans submit a Request for Qualification, including the new requirements under Code Section 1081.01(a), no later than the due date for filing the income tax return of the employer maintaining, or participating in, the Retirement Plan, including any extension granted by the Department for the

filing of said return, for the first taxable year of the employer beginning on or after January 1, 2012. For example, in the case of a Retirement Plan maintained by an employer whose accounting year is a calendar year, the Request for Qualification must be submitted no later than April 15, 2013, or July 15, 2013 if the employer requests an extension of time to file.

This Department has received multiple requests for extension of time to adopt the amendments required under the Circular Letter and to submit the Requests for Qualification, due to the large number of Retirement Plans that must be amended to comply with the provisions of the Circular Letter.

II. Determination

The Department believes that the public policy of the Government of Puerto Rico is to promote that employers offer qualified Retirement Plans to their employees. The fact that a Retirement Plan must be amended on account of the new provisions established in Code Section 1081.01(a) should not result in the elimination of existing Retirement Plans or discourage the establishment of new plans.

Based on the foregoing, the period established in the Circular Letter to adopt the new qualification requirements of the Code is extended until the later of June 30, 2013 or the last day of the first plan year beginning on or after January 1, 2012. For example, in the case of Retirement Plans operating on a calendar year basis, the amendments must be adopted no later than June 30, 2013. On the other hand, in the case of a Retirement Plan with a plan year ending October 31, the deadline to adopt said amendments will be October 31, 2013.

In addition, the deadline to submit the Request for Qualification under Section 1081.01(a) of the Code is extended to the later of September 30, 2013 or the due date to file the income tax return of the employer (including extensions) for the first taxable year commencing after December 31, 2011 ("taxable year 2012"). For example, in the case of an employer whose taxable year 2012 ends December 31, 2012, the Request for Qualification must be submitted with this Department no later than September 30, 2013. If the employer's taxable year 2012 ends October 31, 2013, the deadline to submit the Request for Qualification will be February 15, 2014, or May 15, 2014, if the employer requests an extension of time to file the return.

Finally, if applicable, the Request for Qualification under Section 1165(a) of 1994-Code must be submitted with the Request for Qualification under Code Section 1081.01(a), as provided in the preceding paragraph, and subject to the Department's filing fees, as provided in Regulation No. 6103 of February 25, 2000, and in the Circular Letter.

III. Effective Date

The provisions of this Circular Letter are effective immediately, and are applicable for the taxable year beginning on or after January 1, 2012.

For additional information regarding the provisions of this Circular Letter, you may contact the General Consulting Section at (787) 722-0218.

Cordially

A handwritten signature in black ink, appearing to read 'BA', with a long, sweeping underline that extends to the right.

Blanca Álvarez Ramírez
Acting Secretary of the Treasury