



## TAX SAVINGS OPPORTUNITIES UNDER NEW REAL AND PERSONAL PROPERTY TAX AMNESTY

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**A**ct Number 71 of July 2, 2010 (the “Act”) provides that all taxpayers that meet certain conditions shall receive a waiver of all interest, charges and penalties owed to the Center for Collection of Municipal Income (“CRIM” for its initials in Spanish) with respect to real and personal property taxes for all years prior to taxable year 2009-2010 (the “Amnesty”).

In order to take advantage of the Amnesty, the taxpayer must pay, between August 16, 2010 and December 13, 2010 (the “Amnesty Period”), (i) all real and personal property taxes assessed for taxable year 2009-2010 and certify its commitment to timely pay all real and personal property taxes for such real and personal property assessed for taxable year 2010-2011 and (ii) all Special Taxes over real property imposed by new section 3701 of the Puerto Rico Internal Revenue Code (the “Special Tax”) for all of such taxpayer’s real property.

In addition, pursuant to Administrative Order 2010-05 issued by the CRIM on July 30, 2010 (the “Administrative Order”), taxpayers must also (i) provide a No-Debt Certificate issued by the Puerto Rico Treasury Department with respect to the Special Tax for fiscal year 2009-2010; (ii) pay the real property tax for the first semester of taxable year 2010-2011; (iii) submit electricity and water bills (one original and one copy), no more than two months old, which include the postal address of the property for which the Amnesty is sought; (iv) file any personal property tax returns not previously filed (which may not be amended), and pay the principal amount of the outstanding tax; and (v) complete and file CRIM’s Form BC-70, sworn in the presence of a CRIM representative.

If the real property tax debt has been sold by the CRIM, the Amnesty only applies to interest incurred after such sale. Partial payments and payment plans are not available in connection with the Amnesty. However, taxpayers currently subject to a payment plan may take advantage of the Amnesty by paying the principal amount of tax owed. Taxpayers may not object old debts, except for unapplied payments.

Any taxpayer that attempts to avail itself of the Amnesty during the Amnesty Period, and is unable to comply with these conditions because the CRIM is unable to supply the taxpayer with a statement of accounts, will be eligible for the Amnesty once the statement of accounts is supplied by the CRIM.

Administrative or judicial review of the relevant real or personal property tax will not preclude the taxpayer from benefiting from the Amnesty. Taxpayers who are currently contesting debts may take advantage of the Amnesty, so long as they provide a copy of their service form, file the sworn application, and pay the principal amount of tax within 30 days after the case is resolved. Any taxable year under administrative or judicial review which is paid under the Amnesty will be considered adjudicated and closed.

Taxpayers against whom criminal proceedings relating to any tax matter have been initiated or are pending, and those whose non-compliance results from an intent to defraud or who have been convicted of tax fraud, are not eligible for the Amnesty.

The Act also contemplates the implementation of a procedure for the appraisal of unappraised properties. It requires all persons who own unappraised real property or commercial and industrial property with unappraised improvements to register such properties, within 75 days (which may be extended by the CRIM by 30 additional days) of the launch of a general orientation campaign and public notice thereof by a newly created Inter-Agency Committee.

Any person who so registers is exempt from the retroactive imposition of real property taxes for the 5 years prior to the appraisal currently provided by law. On the other hand, the Act imposes a penalty if the CRIM identifies unappraised properties which have not been registered. The penalty amounts to 10% of the real property tax, plus a fine of \$1,000 for residential properties, \$5,000 for commercial properties and \$250,000 for industrial properties.

Residential properties will only be subject to taxes for the fiscal year when the appraisal is made, and industrial properties for such year and the prior year. The Inter-Agency Committee is also tasked with executing a Plan of Action to appraise such properties, and other unappraised properties.

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The above summary is intended for information purposes only. It cannot be considered a legal opinion, and it does not intend to consider all the tax and legal considerations that could be relevant to any particular person or entity. It should also be noted that the changes discussed herein were recently enacted, and that the PR Treasury has not yet issued regulations, tax forms or interpretative announcements on such changes.

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