



THE POWER OF BEING UNDERSTOOD

APPLICABLE RULES TO PENSION PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS ("IRA") DISTRIBUTIONS DUE TO THE IMPACT OF HURRICANE MARIA IN PUERTO RICO

Year 2017 Issue #12

In an effort to provide relief to individual taxpayers and merchants due to the impact of Hurricane Maria, the Puerto Rico Treasury Department ("PRTD") issued on Wednesday, November 15, 2017, Administrative Determination No. 17-29 ("AD No. 17-29"), establishing the applicable rules to qualified retirement plans and individual retirement accounts ("IRA") cash distributions.

Overview

In general, the PRTD will allow "Eligible Distributions" from qualified retirement plans and IRA's to be treated as tax free up to certain amounts and subject to the rules established in AD No. 17-29. Also, there is a reduced tax rate available for a portion of the distribution.

Eligible Distributions

"Eligible Distributions" are cash payments distributions made from qualified retirement plans and IRA's during the period of September 20, 2017 through June 30, 2018, requested by an Eligible Individual to cover Eligible Expenses, as defined by AD No. 17-29.

Eligible expenses are all expenses incurred by an individual to compensate losses and damages suffered as a result of the impact of hurricane Maria in Puerto Rico. These expenses include, but are not limited to:

- Repairs to the residence or motor vehicle
- Medical expenses
- Repairs to real estate
- Purchases of food and gasoline
- Purchases or repairs of power generators
- Lodging and food expenses incurred by total or partial destruction in the principal residence

In the case of retirement plans, Eligible Distributions is defined as total cash distributions and partial cash distributions due to extreme economic hardship. Annuity distributions or periodic payments will not be considered Eligible Distributions.

An Eligible Individual is any person resident of Puerto Rico for the taxable years 2017 and 2018, as established by Section 1010.01(a)(30) of the Code.

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Tax Treatment of Eligible Distributions

Distribution Amount	Tax Withholding
\$0 - \$10,000	Exempt of income taxes
\$10,000 - \$100,000	Subject to a special income tax and withholding rate of 10%
> \$100,000	Not eligible for this Administrative Letter purposes

Eligible Distribution Application Process

To receive an Eligible Distribution, an Eligible Individual will have to provide to the employer who maintains the qualified retirement plan, or, in the case of an IRA, to the financial institution or insurer that maintains the account, an affidavit including the following:

1. Name and mailing address of the eligible individual.
2. Physical address of the primary residence of the eligible individual on the date of application for the eligible distribution.
3. Certification that the individual is a resident of Puerto Rico and will continue to be a resident of Puerto Rico for the years 2017 and 2018.
4. Certification that the amount requested does not exceed the limit established in this AD 17-29.
5. A certification that states that the amount of the distribution requested will be used to cover expenses related to:
 - a. Losses suffered due to the impact of Hurricane Maria;
 - b. Extraordinary expenses incurred to cover basic needs after Hurricane Maria; or
 - c. To compensate for unearned income after the passage of Hurricane Maria.
6. Certification that the individual has not received Eligible Distributions from other retirement plans or IRAs and having received other eligible distributions will include the distribution date and amount received.
7. Certification that you have not received Eligible Distributions exempt from the income tax withholding; or in case a distribution was received, will include the distribution date and amount received.
8. Certification that the individual assumes his responsibility for the payment of the tax on the requested distributions if

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at the end of the year it turns out that he did not comply with the residence requirement established in AD 17-29.

The administrator or trustee will have to verify if the individual is a resident of Puerto Rico or not based on the information provided in this affidavit.

Withholding Agent Responsibilities

The employer, administrator or service provider of the trust or annuity contract that makes the payment of an Eligible Distribution will be responsible to make the withholding and deposit this amount no later than the fifteenth (15) day of the month after the date on which the distribution was made.

It will be a requirement of the person who make the distribution to deduct and withhold the 10% from the amounts that exceeds \$10,000. If the withholding is not made at source, the distribution will not be considered eligible under AD 17-29.

The distributions and withholdings amounts must be reported as follows:

Distribution Type	Tax form to be reported
Retirement Plan	Form 480.7C, Informative Return - Retirement Plans and Annuities
IRA's	Form 480.7, Informative Return - Individual Retirement Account

Retirement Plan Terms

It is important to note that those retirement plans that adopt the provisions of this Administrative Determination must be formally amended for that purpose no later than December 31, 2018. This amendment is not required to be filed with the PRTD.

At RSM Puerto Rico we are ready to help you with these matters. If you have any questions or comments related to the content of this Tax Alert, please feel free to contact your Tax Advisor at RSM Puerto Rico.

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