

## *Employers' Payroll Declaration of the Puerto Rico State Insurance Fund Corporation—Due Date July 20th, 2011*

As required by law, every employer must provide its workers with compensation insurance issued by the Puerto Rico State Insurance Fund Corporation ("CFSE," for its Spanish acronym). Note that, in general terms, this insurance is required even though such employee is covered by another worker's compensation insurance issued by another jurisdiction. The purpose of this insurance is to guarantee the right that every worker in Puerto Rico receives protection against accident or health risks in the workplace. The insurance premiums vary depending upon the type of business activity and the related risk category (which is determined by the CFSE).

### **EXTENSIONS AVAILABLE MUST BE APPROVED BY THE CFSE**

The employers' payroll declaration must be filed by July 20, 2011. Nevertheless, the employer may file an extension of time to file such declaration. In addition the employer can pay the amount due in two installments (there is also an extension of time available to make these payments).

### **COMMON MISTAKES**

Keeping all of the above in mind, it is also important that you avoid certain common mistakes when filing the employers' payroll declaration, which may provoke that the CFSE classify you as an "uninsured employer." Among these common errors, we will like to highlight the following:

- **Late filing of the payroll declaration.** Keep in mind that this is not a tax return in which the consequences of a late filing are just interest, surcharges, or penalties. Here the consequences could be that your risks will not be covered at all.
- **Error in reporting the correct physical location of the employee.** Be aware that it is not enough to report the employee, its payroll and the corresponding job related risk category. You also have to indicate all your business locations. Otherwise, an employee working in Ponce could not be covered if you just reported your San Juan location.

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- **Failure to pay 100% of the insurance premium due.** Keep in mind that you are not paying a tax but instead buying an insurance premium. Therefore, the failure to pay 100% of it has consequences beyond the payment of interest, surcharges, and penalties. In this case you are either covered or not covered.
- **Failure to include activities for which you are considered a statutory employer for CFSE purposes.** You must be aware that the definition of "employer" for CFSE purposes is broader than the traditional definition of employer. The most common mistake in this

area is the failure to include the risks related to activities carried out in your premises by a subcontractor.

- **Misclassification of employees due to multiple businesses carried out by the employer.** In the case of companies with multiple businesses within the same legal entity (i.e., distribution, manufacturing, retail stores), attention should be paid to the correct classification of employees.

**UNINSURED EMPLOYER**

Note that, some of the consequences of being classified by the CFSE as an "uninsured employer" may be the lack of insurance coverage and the resulting obligation to reimburse to

the CFSE for all the expenses associated with the services provided by it to the injured worker (including any related hospitalization costs), plus any related fines, penalties, etc. (also, any legal consequences which you should verify with your legal counsel). In addition, the CFSE may even close a business when it determines that the employer is not insured.

At Zaragoza & Alvarado LLP, we have specialized professionals to handle most of the employers' concerns when dealing with CFSE matters.

Please contact us to answer any query regarding the filing and payment of the employers' payroll declaration or any other matter in connection with the CFSE.

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