

### The countdown starts ...! ONLY 120 days to take advantage of the Incentive Plan for the Payment of Property Taxes

**A**ct No. 71 of July 2, 2010 (the "Act") provides the opportunity to pay personal and real property tax debts with a total abatement of interests, surcharges and penalties during a term of 120 days which will start once the Municipal Revenue Collection Center ("CRIM" its Spanish acronym) issues an administrative order implementing the provisions of the Act.

#### Requirements to be eligible for the incentive plan

To take advantage of the incentive plan, the taxpayer must:

- Have paid the real and personal property tax liability corresponding to the fiscal year 2009-2010;
- Promise to pay the real and personal property tax liability for the fiscal year 2010-2011 within the terms established by the Act No. 83 of August 31, 1991, as amended;
- Have paid the special tax on the real property tax imposed by the Section 3701 of the Puerto Rico Internal Revenue Code of 1994, as amended.

#### Who else may benefit from the incentive plan and who may not?

A taxpayer not able to pay the property taxes during the term of the provisions of the Act due to the inability of the CRIM to provide a debt statement will benefit from the incentive plan once the information is provided by the CRIM.

Moreover, those taxpayers that requested an administrative hearing or a judicial review with respect to their property tax liability may benefit from the incentive plan if certain actions are taken.

However, those who were convicted for tax fraud or have an ongoing judicial proceeding for tax related crimes are not eligible for the benefits of the incentive plan.

#### Compulsory registry for unassessed real property and improvements

The Act also provides for the establishment of a compulsory registry of (1) unassessed real property and, (2) unassessed improvements to commercial and industrial real properties. The properties and improvements registered during the compulsory registration period will be partially exonerated from the

retroactive imposition of property tax. In the case of commercial and industrial real properties, the exoneration is limited to the fifth, fourth and third fiscal year preceding the assessment date, so those properties will be taxed for the current fiscal year and the fiscal year immediately preceding. Residential property, in turn, will only be taxed for the current fiscal year.

The compulsory registration period will last 75 days. The start of the compulsory registration period will be informed by way of public notice published on a general circulation newspaper.

The Act provides for penalties for not complying with the compulsory registration within the prescribed period:

- Residential property-10% of the tax liability;
- Commercial and industrial property (including unassessed improvements)-10% of the assessed value.

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In addition to the above mentioned penalties, the Act provides for "non registration fines" of:

- \$1,000 for residential property
- \$5,000 for commercial property (including unassessed improvements)
- \$250,000 for industrial property (including unassessed improvements)

Therefore, it is a good time to clean up all property tax debts. Our professionals are prepared to work with you to take advantage of this incentive plan. Just contact us and reduce your property tax liabilities!!

**Z&A Comments on the Incentive Plan for the Payment of Property Taxes**

The Act still leaves us with many questions which hopefully will be answered when the CRIM issues its administrative order. For example, it is not clear what document will the CRIM require as a promise for the payment of the real and prop-

erty tax liability for the fiscal year 2010-2011 and what are the consequences of not complying with such promises. There is also no guidelines for those cases on administrative hearing or in the judicial review which may not be solved before the end of the 120 day term. Notwithstanding the unanswered questions, we still believe this is an opportunity for taxpayers to analyze their property tax debts, present the required evidence to clear or reduce them and settle the undisputed liabilities.

On the other hand, the compulsory registry of unassessed real property and improvements creates an opportunity to save money on unassessed back taxes as well as a significant noncompliance risk due to the possibility of huge penalties and fines. This risk makes it an imperative for taxpayers to analyze their investments in real property (real estate, improvements and machinery) in order to determine when such investments were made and if an assessment of their value has been made by the CRIM.

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