Zaragoza Alvarado
Taxand

# The Tax Advisor

Special Bulletin on Latest Tax News
October 2013

# Estimated Tax Payments – New Transition and Safe Harbor Rules

**By Felipe Mariani-Franco**

On October 14, 2013, the Governor of Puerto Rico signed Act No. 117-2013 ("Act 117"), which provides for technical amendments to the Puerto Rico Internal Revenue Code of 2011, as amended (the "Code"). In this bulletin, we will discuss the transition rules for estimated tax payments that were included in Act 117, as well as the changes to the safe harbor rules.

## Transition Rules

Act 117 provides transition rules for the payment of estimated taxes for individuals and corporate taxpayers for Calendar Taxable Year 2013. These transition rules require the computation of the estimated tax liability using the new safe harbor rules established by Act 117 and the payment of any amount due in two equal installments.

To determine the estimated tax payments to be made, the taxpayer will compute its estimated tax liability for the year using the new safe harbor rules and subtract from

Continues on Page 2

**Zaragoza & Alvarado LLP**

**Zaragoza & Alvarado LLP** is a Limited Liability Partnership organized under the laws of Puerto Rico and is engaged in providing tax and business advisory services. We are the first truly multidisciplinary tax and business advisory professional service firm in Puerto Rico, unencumbered by the constrains of association with an auditing firm, and the regulatory and disclosure rules of the Security and Exchange Commission.

Backed up by years of unmatched hands-on experience in public accounting, government and corporate tax, our team of tax consultants is redefining the market by providing professional tax and business advisory services through our "top-heavy" structure, designed specifically to provide high level tax consulting to our clients on a more personalized basis.

For information visit us at: **www.zatax.com** or contact one of our Tax Professionals for an appointment:

**Ph. (787) 999-4400**
**E. taxadvisors@zatax.com**

**Zaragoza & Alvarado is part of Taxand**, the World's largest independent tax consulting organization.

Taxand

**Estimated Tax Payments…**
**Continued from Page 1**

it the sum of the estimated tax payments previously made during the year. The resulting amount will be divided in two equal installments payable as follows:

1. ***Individual Taxpayers (applicable to taxpayers with natural and fiscal years):***

   a. $1^{st}$ installment – the $25^{th}$ day of the $10^{th}$ month of the year (October 25, 2013 for calendar year taxpayers);

   b. $2^{nd}$ installment – the $15^{th}$ day of the $1^{st}$ month of the subsequent taxable year (January 15, 2014 for calendar year taxpayers).

2. ***Corporate Taxpayers (only applicable to taxpayers with natural years):***

   a. $1^{st}$ installment – October 25, 2013;

   b. $2^{nd}$ installment – December 15, 2013.

Act 117 does not provide any transition rules for pass-through entities partnerships, special partnerships and corporation of individuals). These entities will still be required to pay the estimated tax payments in the four installments provided in the Code.

In general, the estimated tax payment for pass-through entities is the higher of:

1. 30% of the distributable participation of the shareholders, partners or members of the entity plus the income tax applicable to those income items subject to preferential income tax rates; or

2. The result of computing the additional tax on gross income on the distributable participation in the gross income of the shareholders, partners or members.

In the case of financial institutions taxed as partnerships, the estimated tax payment is determined by the sum of 1 and 2, above.

**New Safe Harbor Rules**

With the changes to the determination of the income tax liability introduced by Act 40-2013, the Government of Puerto Rico decided to change the safe harbor rules used to determine the penalties for underpayment of estimated taxes for individuals and corporate taxpayers.

The changes to these provisions, incorporated by Act 117, may be summarized as: (1) those related to Calendar Taxable Year 2013; and (2) those applicable to short taxable years and to taxpayers showing no income tax liability before credits, withholdings and overpayments on their prior year income tax return.

***Safe Harbor Rules for Calendar Taxable Year 2013***

Act 117 provides that the estimated tax for the Calendar Year 2013 should be the smallest of:

1. 90% of the income tax for the current taxable year; or

2. the highest of:

   a. the total income tax determined in the prior year income tax return; or

   b. an amount equal to the income tax determined with the tax rates and the applicable law for the year but using the information in the prior year income tax return.

Act 117 also provides that no estimated tax penalty will be applicable for the Calendar Taxable Year 2013 if the taxpayer makes its payments following the transition rules explained above. In the case of fiscal year corporate taxpayers (for which the transition rules do not apply), no estimated tax penalty will be applicable for the taxable year begun after December 31, 2012 if the estimated tax, determined under the rules above, is paid in equal amounts on or before the due dates of the installments due after September 15, 2013.

***Safe Harbor Rules for Short Taxable Years and for Taxpayers Showing no Income Tax Liability Before Credits, Withholdings and Overpayments on its Prior Year Income Tax Return***

The estimated tax of any individual or corporate taxpayer with a short taxable year or with a prior year income tax

**Continues on Page 3**

## ABOUT THE AUTHOR

Felipe Mariani-Franco

Tax Is Our Business®

**Felipe** is a Partner at Zaragoza & Alvarado LLP. Before joining the Firm, he worked in several tax and audit positions for local and multinational accounting firms.

Felipe has extensive experience in corporate tax advisory for the oil, manufacturing, distribution and retail industries. Among his areas of expertise, Felipe works with corporate tax incentives, corporate reorganizations, closing agreements with governmental entities and tax accounting work. During 2008, Felipe was a member of the Puerto Rico Treasury Department Team in charge of the drafting of the regulations of the 2008 Act. In 2007, he participated in the preparation of the Sales and Use Tax (SUT) legislation for the Municipality of Dorado. During 2006 he was a member of the team that worked in the preparation of the first Sales Tax Legislation in Puerto Rico, either at the State or Municipal level, for the Autonomous Municipality of Caguas. The engagement included the preparation of the related regulations.

Felipe is member of the Puerto Rico Certified Public Accountants Society and the American Institute of Certified Public Accountants. He has a Master in Professional Accounting degree, major in Taxes, from the University of Texas at Austin and a Bachelor in Business Administration degree, major in Accounting, from the University of Puerto Rico.


**Estimated Tax Payments…**
**Continued from Page 2**

return showing no income tax liability, before taking into consideration credits, withholding and overpayments, shall be 90% of the income tax for the current taxable year. Therefore, the safe harbor rule computation based on the prior year income tax return is not allowed in these cases.

**Z&A Comments**

Act No. 40-2013 brought increases in income tax rates and changes in the alternative minimum tax and alternate basic tax computations that should impact most, if not all, individual and corporate taxpayers. In light of the changes to the safe harbor rules and the new transition rules applicable to estimated taxes of Act 117, taxpayers should determine their estimated tax responsibility to comply with the new requirements and avoid estimated tax penalties. The fact that the income tax liability of certain taxpayers may be reduced by the full or partial waivers provided in the Code, will make the determination of an estimated tax liability a challenge and, in some cases, will require business decisions as to the extent of the potential benefit, if any, from those taxpayers requesting those full or partial waivers. Please note that Act 117 modified some of these full or partial waivers.

We may assist you in the determination of the estimated tax liability for the year and explain the issues that you should consider if you have requested or plan to request one of the full or partial waivers provided in the Code.

**Zaragoza & Alvarado LLP**
**Tax and Business Advisory Services**

104 Acuarela Marginal Street
Martinez Nadal Expressway
Guaynabo PR 00969

PO Box 195598
San Juan PR 00919-5598

T. 787.999.4400
F. 787.999.4646
E. taxadvisors@zatax.com
www.zatax.com www.taxand.com

***We are Green. Are You?***

Please consider the environment before printing this publication.

## Key Contacts at Zaragoza & Alvarado

**Juan Zaragoza-Gómez, CPA**
Managing Partner
787-620-7740
jzaragoza@zatax.com

**Juan Alvarado-Zayas, Esq., CPA**
Partner
787-620-7730
jalvarado@zatax.com

**Felipe Mariani-Franco, CPA**
Partner
787-620-7736
fmariani@zatax.com

**Sandra Marie Torres-Martínez, CPA**
Partner
787-620-7728
storres@zatax.com

**Edgardo Sanabria-Valentín, CPA**
Partner
787-999-3015
esanabria@zatax.com

**Carlos R. González-Martínez, CPA**
Partner
787-620-7739
cgonzalez@zatax.com

**César De Jesús-Umpierre, CPA**
Partner
787-620-7734
cdejesus@zatax.com