

O'NEILL & BORGES

ATTORNEYS AT LAW

American International Plaza
250 Muñoz Rivera Ave, Suite 800
San Juan, Puerto Rico 00918-1813

Tel (787) 764-8181
Fax (787) 753-8944

CORPORATE-TAX NEWSLETTER

MARCH 2009

FISCAL RECONSTRUCTION PLAN

In response to the fiscal and economic crisis of the Puerto Rico government, the Governor of the Commonwealth of Puerto Rico, Luis Fortuño, unveiled a plan to jumpstart the economy, increase government revenues, and cut government spending. Most of the components of the plan require legislative approval. Legislative leadership has expressed, nonetheless, that legislation will be approved expeditiously. Following are the highlights of the plans:

Plan to ignite the economy:

- An Economic Development Bank program to provide \$180 million to guarantee loans between \$5,000 and \$250,000 to small and midsize businesses that are at risk of reducing employment or closing operations.
- An infrastructure fund of \$100 million for all municipalities to be prorated among them in accordance with their population.
- A \$300 bonus for pensioners and other taxpayers earning less than \$20,000 for the 2008 tax year.
- A program to assist homeowners affected by job loss or income reduction that would restructure mortgage payments through interest rate reductions or loan extensions.
- A fund to promote the development of low income housing.
- A fund to award a \$25,000 credit for the purchase of new homes and a \$10,000 credit for the purchase of an existing home.

Plan to increase government revenues:

The plan to increase government revenues will include temporary and permanent measures.

Temporary measures

- Corporation Alternate Minimum Tax: for tax years 2009 to 2011, any deduction for expenses incurred outside of Puerto Rico is eliminated for purposes of determining the alternate minimum tax of corporations.
- Additional Special Tax on Individuals and Corporations: for calendar years 2009 to 2011, individuals and corporations with an adjusted gross income exceeding \$100,000 (\$150,000 for married individuals filing jointly), will have to pay an additional tax equal to 5% of their tax liability.
- Tax on insurance cooperatives: for years 2009 to 2011, insurance cooperatives with a net income exceeding \$250,000 will be subject to an income tax of 5%.
- Savings and credit cooperatives: for years 2009 to 2011, savings and credit cooperatives with a net income exceeding \$250,000 will be subject to an income tax of 5%.
- Tax on international banking entities: for years 2009 to 2011, international banking entities will be subject to an additional tax of 5% on their net income not subject to regular taxes.
- Special tax on residential real property: for fiscal years 2009-2010 to 2012-2013, the owners of non-exempt real property (generally those exceeding \$210,000) will pay double the amount of the corresponding property taxes.
- Moratorium on tax credits: except for tax credits under the Tourism, Film and Tax Incentives Act, no credits will be granted during years 2009 to 2011.

Permanent measures

- Individual Alternate Minimum Tax: an alternate minimum tax will be imposed on certain exempt income and the deduction for

mortgage interests will be limited to 30% of income for these purposes.

- Credit for purchases of products manufactured in Puerto Rico for exportation: the use of the credit against the sales and use tax will be disallowed.
- Excise tax on cigarettes: increase on the cigarette excise tax of \$1.00 per pack of 20 cigarettes.
- Excise tax on motor vehicles: motorcycles will be subject to the rates applicable to the excise tax on motor vehicles.
- Sales and Use Tax: The reseller exemption will be replaced with a credit for taxes paid; the remittance date will be the 10th day of the following month on which the tax was imposed.
- Excise tax on alcoholic beverages: increase of \$0.35 or \$0.75 per gallon in the excise tax on wine, depending on its classification, and of \$0.46 or \$0.30 per gallon in the excise tax on beer, depending on the volume of the producer.
- Local tariff on marine transports: a charge of \$250 per 20-foot container, or \$10 per ton for other types of loads, will be imposed on marine transports.

Plan to cut government spending:

The objective of the plan is to reduce operational and payroll expenses by \$2 billion annually. The Legislative and Judicial branches, public corporations, the University of Puerto Rico, the Commonwealth Elections Commission, and the Office of Government Ethics will not be subject to the proposed plan. Phase II will be implemented if the Office of Management and Budget certifies that this objective has not been met after Phase I is implemented.

Phase I

- Public employees will be able to elect between a voluntary reduction of their work week schedule or a voluntary incentivized termination.

Phase II

- Termination of employees with transitory or irregular appointments.

- Termination of permanent employees based on seniority.
- Terminations will commence on July 1, 2009, and would continue throughout the fiscal year.

Phase III

- For a 2-year period, the portions of collective bargaining agreements and of certain laws dealing with salary increases, fringe benefits, bonuses, paid educational licenses and vacation and sick time liquidations, will be left without effect.

Other Measures:

- Promotion of public-private alliances.
- Increase in the portion of the Sales and Use Tax assigned to COFINA.
- Liberalization of requirements applicable to the refinancing of public debt.
- Creation of a savings bonds program to fund the termination incentives.



Because of the general nature of this newsletter, nothing herein should be considered as legal advice or a legal opinion. For further information about the contents of this newsletter, or should you need further assistance in connection with these matters, please contact the firm's Corporate – Tax Department.



CORPORATE - TAX DEPARTMENT	
<p>Partners</p> <p>Alfredo Alvarez-Ibañez Juan A. Aquino José R. Cacho Walter F. Chow Ivelisse Collazo Aurelio Emanuelli Rosa M. González-Lugo Amaya Iraolagoitia Rosa M. Lázaro Michelle Marichal Lillian Mateo-Santos Cristina Morazzani-Jové Edgardo Nieves-Quiles Julio Pietrantoni Juan. A. Rivero Víctor R. Rodríguez Pablo Rodríguez-Solá Samuel Rosado-Domenech Jorge San Miguel Ismael Vincenty-Medina</p>	<p>Associates</p> <p>Christian Alcalá-Márquez Melanie Almeida Walter F. Alomar-Jiménez Carlos Bermúdez-Monroig Giselle Flaqué Nydia Galarza-Rosario Marie Guiven López Rafael Hernández-Miranda Ana E. Lago-González Nestor J. Lo Presti Viviana Miranda Ortíz José L. Notario-Toll Isis Pérez-Vélez Patricia Salichs-Rosselló Yasmin Umpierre Travis Wheatly</p>
	<p>Of Counsel</p> <p>Eduardo E. Franklin Irwin H. Flashman</p>