

December 16, 2014

Tax Update

Act 196-2014 amends Act 136-2014 to extend the 2% Special Charge to all Money Transfers and Treasury Issues Related Guidance

Background

On August 8, 2014, Act 136-2014 amended the Act to Regulate the Money Transfer Businesses ("MTB Act") to impose a special charge of 2% ("Special Charge") on money transfers processed or completed by a money transfer business ("MTB") electronically, by check, money order, fax, air transportation or any other means ("Money Transfer"). As amended by Act 136-2014, Money Transfers subject to the Special Charge were those generated by a MTB from Puerto Rico to any person or entity **in a foreign jurisdiction**, including the United States.

On October 16, 2014, the Puerto Rico Treasury Department ("Treasury") issued Administrative Determination No. 14-26 ("AD 14-26") to: (i) postpone the effective date of the Special Charge until December 16, 2014, (ii) clarify the transactions that were subject to the same and (iii) establish a process to deposit the Special Charge.

Our *Legal Update* on AD 14-26 can be accessed [here](#).

Act 196-2014

Effective December 1, 2014, Act 196-2014 further amended Act 136-2014 and the MTB Act to:

1. Apply the Special Charge to all Money Transfers rather than only to the ones intended to foreign jurisdictions;
2. Require MTBs to remit the Special Charge collected to Treasury on or before the 20th day of the month following its collection;
3. Transfer funds that result from the collection of the Special Charge to the Puerto Rico Housing Finance Authority;
4. Impose penalties for the failure to (i) charge or remit the Special Charge to Treasury, (ii) exhibit the Special Charge Model Notice ("Model Notice") or exhibit a false one and (iii) disclose the Special Charge separately in the transaction receipt and
5. Validate Treasury's postponement of the effective date of the Special Charge until December 16, 2014.

AD 14-30

On December 11, 2014, Treasury issued Administrative Determination No. 14-30 ("AD 14-30") to: (i) modify the list of transactions subject to the Special Charge; (ii) establish the process for the deposit of the Special Charge to be collected and (iii) establish the process to obtain the Model Notice.



For more information on the above, please contact any of the following attorneys in the labor and employment practice:

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Entities and Transactions Subject to the Special Charge

Only MTBs or their Authorized Agents will be required to collect the Special Charge. Pursuant to AD 14-30 the following transactions made through a MTB will be subject to the Special Charge:

1. Money Transfers of any nature, including payments to suppliers;
2. The issuance of money orders, traveler's checks and debit cards;
3. The sale of stored-value cards (pre-paid cards) and
4. Any other payment order made by the MTB that qualifies under the definition of Money Transfer.

Every MTB shall collect and remit the Special Charge on any Money Transfer regardless of the payment method used by the transferor of the money.

Special Charge Deposit Process

The Special Charge must be deposited on or before the 20th day of the month following its collection through Treasury's Virtual Collection Office, available at <https://colecturia.hacienda.gobierno.pr/Portal/> or at any of Treasury's Revenue Collection Centers using Form 480.9H, Payment Voucher for the Special Charge Provided by Act 136-2014.

Obtaining the Model Notice

Pursuant to the MTB Act, any establishment (any MTB or its Authorized Agent) required to collect the Special Charge must display in a visible place in the commercial location and any advertising materials a Model Notice explaining the Special Charge. The Model Notice, which will be in form of a sticker, will be issued by Treasury to every MTB and each of its Authorized Agents.

In order to obtain the Model Notice, the MTB must provide the following information for itself and each of its Authorized Agents:

1. Business name;
2. Social security number or employer identification number;
3. Merchant registration number;
4. Physical address;
5. Postal address;
6. E-mail address and
7. Name of officer or representative before Treasury.

The above information must be sent in Excel format to the e-mail address ley136cargoespecial@hacienda.pr.gov no later than **January 31, 2015**.

Since the Special Charge is effective as of December 16, 2014, in order for merchants to comply with displaying the Model Notice, Treasury has sent Provisional Model Notices to each MTB registered in the Office of the Commissioner of Financial Institutions. The Provisional Model Notice shall be displayed in a visible place and substituted by the official Model Notice once the same is received.

You may access Act 196-2014 (in Spanish) [here](#) and AD 14-30 (in Spanish) [here](#).

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