

March 2, 2018

Tax Update

Second Extension of Disaster Absence Period for Purposes of the Bona Fide Residence Physical Presence Test

On October 4, 2017, the United States Internal Revenue Service (“IRS”) issued Notice 2017-56, providing relief to certain individuals that would otherwise lose their status as “bona fide residents” of Puerto Rico or the United States Virgin Islands as a result of their absence in such territories due to the passing of Hurricane Irma and Hurricane María. On February 28, 2018, the IRS issued Notice 2018-19 providing additional relief until May 31, 2018. This is particularly important for individuals covered by a grant of tax exemption issued pursuant to Act 22-2012.

According to Section 937 of the United States Internal Revenue Code of 1986, as amended, and Section 1.937-1 of the regulations issued thereunder, in order to be a bona fide resident of a U.S. territory for federal income tax purposes, an individual must satisfy three tests; namely, a presence test, a tax home test and a closer connection test. For purposes of determining compliance with the presence test, an individual is deemed present in the relevant U.S. territory if he or she leaves or is unable to return to the territory during a 14-day period during which a major disaster occurs in such territory.

Notice 2017-56, extended the aforementioned 14-day period to 117 days, effective beginning September 6, 2017 and ending December 31, 2017. As a result of the ongoing situation in Puerto Rico and the United States Virgin Islands, the IRS in Notice 2018-19 extends the 117- day period to 286 days, that is, effective beginning September 6, 2017 and ending **May 31, 2018**.

You can find copy of the Notice 2018-19 [here](#).

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Presence of Certain Individuals in the Commonwealth of Puerto Rico or the United States Virgin Islands Under Section 937(a) Following Hurricane Irma or Hurricane Maria

Notice 2018-19

SECTION 1. OVERVIEW

Notice 2017-56, 2017-43 I.R.B. 365, provides relief under section 937(a) of the Internal Revenue Code for individuals who may otherwise lose their status as a “bona fide resident” of the Commonwealth of Puerto Rico or the United States Virgin Islands (collectively, the “impacted U.S. territories”) under section 937(a) as a result of the unexpected and prolonged dislocation caused by Hurricane Irma and Hurricane Maria, absent an extension of the 14-day period contained in §1.937-1(c)(3)(i)(C)(1). With respect to the impacted U.S. territories, Notice 2017-56 extended the 14-day period to 117 days, effective beginning September 6, 2017, and ending December 31, 2017. This Notice provides additional relief to individuals who may otherwise lose their status as a “bona fide resident” of an impacted U.S. territory because of the continued dislocation caused by Hurricane Irma and Hurricane Maria.

SECTION 2. ADDITIONAL RELIEF UNDER THE PRESENCE TEST

With respect to the impacted U.S. territories, the grant of relief in Notice 2017-56 is extended to 268 days, effective beginning September 6, 2017, and ending May 31, 2018.

SECTION 3. EFFECT ON OTHER DOCUMENTS

Notice 2017-56, 2017-43 I.R.B. 365, is modified.

Section 4. DRAFTING INFORMATION

The principal author of this notice is Alan S. Williams of the Office of Associate Chief Counsel (International). For further information regarding this Notice, contact Mr. Williams at (202) 317-6941 (not a toll free call).