

April 5, 2006

INTERNAL REVENUE CIRCULAR LETTER NO. 06-04

SUBJECT: PROCEDURE TO REQUEST ASSISTANCE UNDER THE MUTUAL AGREEMENT PROCEDURE ON POTENTIAL DOUBLE TAXATION ESTABLISHED IN THE TAX COORDINATION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE COMMONWEALTH OF PUERTO RICO

I. Purpose

This Circular Letter sets forth the procedures that the Puerto Rico Treasury Department (the Department) and taxpayers will use to obtain assistance from the Puerto Rico competent authority to resolve issues arising when a taxpayer is or may be subject to inconsistent tax treatment by the Department and the Internal Revenue Service (the IRS).

Rev. Proc. 89-8, 1989-1 C.B. 778, effective January 23, 1989, sets forth the procedures that the IRS and taxpayers will use to resolve issues related to inconsistent tax treatment. No further guidance has been published by either the IRS or the Department in connection with the provisions of the Tax Coordination Agreement between the United States of America (US) and the Commonwealth of Puerto Rico (PR) signed by the Secretary of the Puerto Rico Treasury Department on December 31, 1988 and the Commissioner of Internal Revenue on May 26, 1989 (the Agreement).

Section 908 of the American Jobs Creation Act of 2004 added Section 937 to the US Code. This Section provides for determining:

- (i) whether an individual is a bona fide resident of a US possession;
- (ii) whether income is derived from sources within a US possession; and
- (iii) whether income is effectively connected with the conduct of a trade or business within a US possession.

As a result of the enactment of Section 937 and the issuance of regulations thereunder, the Department considers it is necessary to provide guidance to taxpayers about the remedies available under the Agreement and the procedures that need to be followed in order to request assistance.

II. Background

Article 6 of the Agreement provides for a Mutual Agreement Procedure on potential double taxation. In accordance with the Agreement, the Department and the IRS (the Agencies) are authorized to enter into agreements for the resolution of generic or specific tax problems or disputes related to the application of the tax laws of each jurisdiction.

The Agreement generally provides that, when by reason of inconsistent positions taken by the Agencies, a taxpayer is, or may be, subject to inconsistent tax treatment by the two jurisdictions, the designated tax officials of each Agency shall seek to avoid double taxation. In particular, but not by way of limitation, the Agencies may exchange views to reach agreement on:

- (i) the same allocation of income under Section 482 of the Internal Revenue Code of 1986, as amended (the US Code) or Section 1047 of the Puerto Rico Internal Revenue Code of 1994, as amended (the PR Code);
- (ii) the same determination of residency of a particular taxpayer; and
- (iii) the same determination of the source of particular items of income.

The Agreement provides that the Secretary of the Puerto Rico Treasury Department (the Secretary) or his delegate is the competent authority in charge of exchanging PR tax returns and tax return information with the IRS and developing and coordinating cooperative programs designed to improve the administration and enforcement of the tax laws of PR and the US. The Secretary has designated the Assistant Secretary of Internal Revenue (the Assistant Secretary) as the PR competent authority.

Treasury Order Number 150-39 designates the Commissioner of Internal Revenue (the Commissioner) to act as the competent authority under tax coordination agreements and tax implementation agreements with the possessions of the US, with the responsibility for coordination and liaison of tax administration issues involving the possessions of the US.

III. General Provisions

a. General Process

The PR competent authority assists taxpayers with respect to matters covered in the Mutual Agreement Procedure provisions of the Agreement. If a taxpayer's request for competent authority assistance is accepted, the PR competent authority generally will consult with the appropriate US competent authority and attempt to reach a mutual agreement that is acceptable to all parties. The PR competent authority also may initiate competent authority negotiations in any situation deemed necessary to protect the interests of PR.

b. Failure to Request Assistance

Failure to request competent authority assistance or to take appropriate steps as necessary to maintain availability of the remedy may cause a denial of part or all of any foreign tax credits claimed under Sections 1031 and 1131 of the PR Code.

c. Who can File Requests for Assistance

A taxpayer or a related person that is potentially subject to double taxation because of inconsistent tax treatment by the Department and the IRS may request assistance in accordance with this Circular Letter. As a general rule, the PR competent authority will consider requests for assistance from any person subject to the provisions of any tax administered by PR. The term "person" includes an individual, partnership, corporation, company, trust, estate, association or other legal entity. For purposes of this Circular Letter, a person is referred to as "the taxpayer".

The procedures established by this Circular Letter for competent authority assistance do not apply to taxpayers that are operating in PR under Section 936 of the US Code and that have available the correlative adjustment remedies provided by Section 1042 of the PR Code and Regulation Articles 1042-7 and 1047-1(a)(3) issued thereunder.

d. US Initiated Competent Authority Request

When the US competent authority refers a request from a US taxpayer to the PR competent authority for consultation under the Mutual Agreement Procedure, the PR competent authority generally will require the PR related taxpayer (in the case of an allocation of income or deductions between related persons) or may require the US taxpayer (in other cases) to file a request for competent authority assistance under this Circular Letter.

e. Exempt Taxpayers

In the case of taxpayers that operate in PR pursuant to the Puerto Rico Incentives Act of 1998, as amended, the Puerto Rico Tourism Incentives Act of 1993, as amended, or any similar tax incentives legislation (“Exempt Taxpayers”), the Department determinations related to competent authority procedures will recognize and consider the terms and conditions of their grants, concessions or other agreements with the Commonwealth of PR related to Section 936 of the US Code and the correlative adjustment remedies provided by Section 1042 of the PR Code and Regulation Articles 1042-7 and 1047-1(a)(3) issued thereunder.

IV. Procedures for Requesting Competent Authority Assistance

a. Time for Filing

A request for competent authority assistance may be filed at any time after an action results in potential double taxation. In a case involving a PR initiated adjustment of tax or income resulting from a tax examination, a request for competent authority assistance may be submitted as soon as the amount of the proposed adjustment is communicated in writing to the taxpayer. Where a PR initiated adjustment has not yet been communicated in writing (e.g., a notice of proposed adjustment) to the taxpayer, the PR competent authority generally will deny the request as premature.

In the case of a US examination, a request may be submitted as soon as the taxpayer believes such filing is warranted based on the actions of the IRS office proposing the adjustment. In a case involving the re-allocation of income or deductions between related entities, the request should not be filed until such time that the taxpayer can establish that there is the probability of double taxation. In cases not involving an examination, a request can be made when the taxpayer believes that an action or potential action warrants the assistance of the PR competent authority. Examples of such action include a ruling or promulgation by the IRS concerning a taxation matter, or the withholding of tax by a withholding agent. Except where otherwise provided, taxpayers have discretion over the time for filing a request; however, delays in filing may preclude effective relief.

b. Place of Filing

The taxpayer must send all written requests for, or any inquiries regarding, competent authority assistance to the Assistant Secretary of Internal Revenue Area, P.O. Box 9024140 San Juan, P.R. 00902-4140.

c. Additional Filing

In the case of PR initiated adjustments, the taxpayer also must file a copy of the request with the office of the Department where the taxpayer's case is pending. If the request is filed after the matter has been designated for litigation or while a suit contesting the relevant tax liability of the taxpayer is pending in a court (refer to Section V.c.), a copy of the request also must be filed with the Assistant Secretary for Legal Affairs with a separate statement attached identifying the court where the suit is pending and the docket number of the action.

d. Form of Request

A request for competent authority assistance must be in the form of a letter addressed to the Assistant Secretary of the Internal Revenue Area. It must be dated and signed by a person having the authority to sign the taxpayer's PR tax returns. The request must contain a statement that competent authority assistance is being requested under the Mutual Agreement Procedure between the Department and the IRS and must include the information described in Section e. of this Circular Letter.

e. Information Required

The following information shall be included in the request for competent authority assistance:

1. the taxpayer's name, address, and employer identification number or social security number, and (where a related person in the US is involved) the name, address, and employer identification number or social security number of the related person;
2. if applicable, a description of the control and business relationships between the taxpayer and any relevant related person for the years in issue, including any changes in such relationship to the date of filing the request;
3. a brief description of the issues for which competent authority assistance is requested, including a brief description of the relevant transactions, activities or other circumstances involved in the issues raised and the basis for the adjustment, if any;
4. if income tax is involved, the type of income at issue (such as salary, dividends, or interest) and the respective positions taken by the IRS and the taxpayer on the issue raised;

5. the tax year or years in question and a statement indicating whether a PR income tax return was filed or not;
6. the amount of the particular item involved in the issue raised and the amount of tax the IRS assessed or proposed for assessment;
7. when applicable, a statement of the status of the tax liability of the taxpayer and the related person in the US for the year or years in question, as well as a statement whether the taxpayer or related person is entitled to any federal tax incentive or subsidy program benefits for the year or years in question;
8. the Department's office which has made or is proposing to make the adjustment or has examination jurisdiction over the taxpayer;
9. an explanation of the nature of the relief sought or the action requested in the PR or the US with respect to the issues raised;
10. a statement of relevant local and US judicial or administrative proceedings which involve the taxpayer and related persons;
11. a statement whether the request for competent authority assistance involves issues that are currently, or were previously, considered part of an Advance Pricing Agreement ("APA") proceeding or other proceeding relevant to the issue under consideration in PR or the US;
12. a statement whether the statute of limitations for the years for which relief is sought has expired in PR or in the US;
13. a statement whether a foreign tax credit was claimed on the taxpayer's PR tax return for the tax year or years in question and, if a credit was claimed, whether the credit was claimed for all or part of the federal tax paid or accrued with respect to the particular item that is the subject of the request for assistance;
14. if applicable, powers of attorney with respect to the taxpayer;
15. on a separate document, a statement that the taxpayer consents to the disclosure to the US competent authority, of any or all of the items of information set forth or enclosed in the request for PR competent authority assistance. This statement must be dated and signed by a person having authority to sign the taxpayer's PR tax returns.

Except as indicated in this Circular Letter, the information provided and exchanged between the PR and US competent authorities will be kept in a confidential manner as provided by the applicable sections of the PR Code and the US Code and in accordance with the Agreement.

16. a penalties of perjury statement in the following form:

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of the request for competent authority assistance are true, correct and complete.

The declaration must be signed by the person or persons on whose behalf the request is being made and not by the taxpayer's representative. The person signing for a corporate taxpayer must be an authorized officer of the taxpayer who has personal knowledge of the facts. The person signing for a trust, an estate or a partnership must be respectively, a trustee, an executor or a partner who has personal knowledge of the facts; and

17. any other pertinent material the taxpayer may wish to submit.

f. Other Documentation

In addition, the taxpayer shall, on request, submit any other information or documentation deemed necessary by the PR or US competent authority for purposes of reaching an agreement. This includes translations of any documentation required in connection with the competent authority request, including any relevant correspondence received from the Department or the IRS and copies of any briefs, protests, and other relevant material submitted to the Department or the IRS.

g. Updates

The taxpayer must keep the PR competent authority informed of all material changes in the information or documentation previously submitted as part of, or in connection with, the request for competent authority assistance. The taxpayer also must provide any updated information or new documentation that becomes known or is created after the request is filed and which is relevant and/or material to the resolution of the issues under consideration.

In the case of Exempt Taxpayers, this update requirement shall be deemed met if the taxpayer submits, on or before each anniversary of the date in which the request for competent authority assistance was filed, a letter describing the status

of the administrative action (e.g., audit, notice of proposed rulemaking) that gave rise to the request for competent authority assistance, noting any changes from the last update provided to the PR competent authority.

h. Conferences

To the extent possible, the PR competent authority will consult with the taxpayer regarding the status and progress of the mutual agreement proceedings. The taxpayer may request a pre-filing conference with the PR competent authority to discuss the mutual agreement process with respect to matters covered under the Agreement, including discussion of the proper time for filing, the practical aspects of obtaining relief and actions necessary to facilitate the proceedings. Similarly, after a matter is resolved by the competent authorities, a taxpayer may also request a conference with the PR competent authority to discuss the resolution.

A request for conference must be filed in the same place and manner as a request for competent authority assistance.

V. Coordination with Other Administrative or Judicial Proceedings

a. Suspension of Administrative Action with Respect to PR Adjustments

When a request for competent authority assistance is accepted with respect to a PR initiated adjustment, the Department will postpone further administrative action with respect to those issues under competent authority consideration (such as assessment or collection procedures), except:

1. in situations in which the Department may be requested otherwise by the PR competent authority; or
2. in situations involving cases pending in court; and
3. in other instances in which action must be taken to avoid prejudicing the Government's interest.

The normal administrative procedures continue to apply, however, to all other issues not under PR competent authority consideration.

b. Coordination with the Office of Administrative Appeals

Taxpayers that disagree with a PR adjustment either may pursue their right of administrative review with the Office of Administrative Appeals (Appeals) before requesting competent authority assistance or may request competent authority assistance immediately. Appeals' consideration, if any, of potential competent

authority matters will be made without regard to other issues or considerations that do not involve potential competent authority matters. Taxpayers who are pursuing their rights with Appeals may contact the competent authority if they believe they have a potential competent authority issue. If a taxpayer makes a competent authority request, the taxpayer is deemed to consent to the PR competent authority contacting Appeals.

c. Coordination with Litigation

The PR competent authority will not, without the consent of the Assistant Secretary for Legal Affairs, accept (or continue to consider) a taxpayer's request for assistance if the request involves a tax statute pending in a PR court or involves a matter pending in a PR court or designated for litigation for any taxable period. If the case is pending in a court, the Assistant Secretary for Legal Affairs will consult with the Department of Justice about appropriate action, and the taxpayer may, in appropriate cases, be asked to join the PR Government in a motion to sever issues or delay trial pending completion of the competent authority proceedings. Final decision on severing issues or delaying trial rests with the court. The filing of a competent authority request does not, however, relieve the taxpayer from taking any action that may be necessary or required with respect to litigation.

d. Effect of Agreements or Judicial Determinations on Competent Authority Proceedings

If a taxpayer either executes a closing agreement with the Department (whether or not contingent upon competent authority relief) with respect to a potential competent authority issue or reaches a settlement on the issue, the PR competent authority will endeavor only to obtain a correlative adjustment from the IRS and will not undertake any actions that would otherwise change such agreements or settlements.

Once a taxpayer's tax liability for the taxable periods in issue has been determined by a PR court (including settlement of the proceedings before or during trial), the PR competent authority similarly will endeavor only to obtain correlative relief from the IRS and will not undertake any action that would otherwise reduce the taxpayer's PR tax liability for the taxable periods in issue as determined by the PR court. Taxpayers therefore should be aware that in these situations, as well as in situations where the IRS takes a similar position with respect to issues resolved under its domestic laws, relief from double taxation may be jeopardized.

VI. Protective Measures

a. General Provisions

Article 2 of the Agreement provides that it does not apply to the extent that an action or proceeding concerning taxes under the same is barred by the applicant Government's statute of limitations. In the event that a request for competent authority assistance is declined or the competent authorities are unable to reach an agreement, the statutes of limitation continue to apply. Therefore, the taxpayer or a related person must take protective measures with the PR and US tax authorities so that alternative remedies outside of the competent authority process or the implementation of any agreement reached by the competent authorities are not barred by administrative, legal or procedural barriers. Such barriers may arise either before or after a competent authority request is filed.

Protective measures include, but are not limited to:

1. filing protective claims for refund or credit;
2. staying the expiration of any statute of limitations on the making of a refund or other tax adjustment;
3. avoiding the lapse or termination of the taxpayer's right to appeal any tax determination;
4. complying with all applicable procedures for invoking competent authority consideration; and
5. contesting an adjustment or seeking an appropriate correlative adjustment with respect to the PR or US tax.

A taxpayer should take protective measures in a timely manner, that is, in a manner that allows sufficient time for appropriate procedures to be completed and effective before barriers arise. Generally, a taxpayer should consider, at the time an adjustment is first proposed, which protective measures may be necessary and when such measures should be taken. However, earlier consideration of appropriate actions may be desirable, for example, in the case of a recurring adjustment or where the taxpayer otherwise is on notice that an adjustment is likely to be proposed. Taxpayers may consult with the PR competent authority to determine the need for and timing of protective measures in their particular case.

b. Filing Protective Claim for Credit or Refund with a Competent Authority Request

In addition to the tax assistance request, the taxpayer should file a claim for credit or refund of any overpayment of PR tax that was paid on the income in question, provided the statute of limitations prescribed under Section 6011(b)(1) of the PR Code, with respect to the claim for credit or refund, has not expired. The taxpayer, or a related person, should also take whatever steps are required under the US Code to prevent the expiration of the statute of limitations with respect to a claim for credit or refund of a US tax.

When, in conjunction with a request for assistance under this Circular Letter, a taxpayer seeks relief in the form of a credit or refund of tax due to either PR or the US, the allowance of such relief is subject to the applicable tax and procedural rules of PR and the US.

A PR income tax claim is to be made on the applicable form, such as Form 481 or Form 482, PR Individual Income Tax Return or Form 480.1; Form 480.2, Income Tax Return of Taxable Corporations or Partnerships; Form 480.30(II), Income Tax Return for Exempt Businesses Under the Puerto Rico Incentives Programs; Form 480.80, Fiduciary Income Tax Return (Estate or Trust); or Form SC 2698, Claim for Refund of Income Tax Erroneously or Illegally Collected. The taxpayer should indicate on the appropriate form that a request for assistance under the Mutual Agreement Procedure with the Department has been filed pursuant to this Circular Letter and should attach a copy of the request to that form.

Similarly, if any tax issues subject to consideration under a Mutual Agreement Procedure are expected to recur, the taxpayer should, before the statute of limitations expires, file a protective claim for credit or refund of any PR tax that was paid with respect to the issue. The claim should describe the action or expected action of the Department and state that the taxpayer has filed or plans to file a request for assistance under the Mutual Agreement Procedure. The taxpayer should send a copy to the Assistant Secretary. If the taxpayer later decides not to file the request for assistance, the Assistant Secretary should be promptly notified by the taxpayer. The taxpayer, or a related person, should also take whatever steps are required under the US Code to prevent the expiration of the statute of limitations with respect to a claim for credit or refund of a US tax.

With respect to the computation of the foreign tax credit, Schedule C (Individual or Corporation and Partnership), Credit for Taxes Paid to the United States, its Possessions and Foreign Countries must be attached to Form 481, Form 482, Form 480.1, Form 480.2 or other applicable form.

c. Protective Filing before Competent Authority Request

There may be situations in which a taxpayer would be unable to file a formal competent authority assistance request before the statute of limitations would expire with respect to the affected PR return. In these situations, before the statute of limitations expires, the taxpayer should file a protective claim for credit or refund of the taxes attributable to the potential competent authority issue to ensure that alternative remedies outside of the competent authority process will not be barred. Situations for which a protective filing may be appropriate include:

1. the IRS is considering but has not yet proposed an adjustment; or
2. the IRS has proposed an adjustment but the related taxpayer in the US decides to pursue administrative or judicial remedies in the US.

In situations in which a protective claim is filed prior to submitting a request for competent authority assistance, the taxpayer may make a protective claim in the form of a letter to the competent authority. The letter must indicate that the taxpayer is filing a protective claim and set forth, to the extent available, the information required under Section IV.e. of this Circular Letter, as applicable. The letter must include a penalties of perjury statement as described in Section IV.e.16. The letter must be filed in the same place and manner as a request for competent authority assistance. The Department will treat the letter as a protective claim(s) with respect to issues raised in the letter to and within the jurisdiction of the competent authority.

After filing a protective claim, the taxpayer periodically must notify the PR competent authority whether the taxpayer is still considering filing for competent authority assistance. The notification must be filed every six months until the formal request for competent authority assistance is filed. The PR competent authority may deny competent authority assistance if the taxpayer fails to file this semi-annual notification.

The PR competent authority generally will not undertake any consultation with the US competent authority with respect to a protective claim filed under Section VI.c. of this Circular Letter. The PR competent authority will place the protective claim in suspense until either a formal request for competent authority assistance is filed or the taxpayer notifies the PR competent authority that competent authority consideration is no longer needed. In appropriate cases, the PR competent authority will send the taxpayer a formal notice of claim disallowance.

d. Effect of a Protective Claim

Protective claims filed under either Section VI.b. or VI.c. of this Circular Letter will only allow a credit or a refund to the extent of the grounds set forth in the protective claim and only to the extent agreed to by the PR and US competent authorities or to the extent allowed by the PR competent authority. This Circular Letter does not grant a taxpayer any additional right to invoke Section 1047 of the PR Code in its favor or compel the Department to allocate income or deductions or grant a tax credit or refund.

e. Agreement Provisions not Waiving Procedural Barriers

Since the Agreement does not authorize a competent authority to waive or remove procedural barriers to the credit or refund of tax, taxpayers must take protective measures to ensure that appropriate relief is available to them in all circumstances.

VII. Action by PR Competent Authority

a. Notification

Upon receiving a request for assistance pursuant to this Circular Letter, the PR competent authority will notify the taxpayer whether the facts provide a basis for assistance under the Mutual Agreement Procedure.

If the PR competent authority accepts a request for assistance, the continuing cooperation of the taxpayer is essential. The taxpayer must submit any additional information needed to resolve the case and keep the PR competent authority informed of proceedings in the Department or the IRS and any other pertinent developments.

b. Denial of Assistance

The PR competent authority generally will not accept a request for competent authority assistance or will cease providing assistance to the taxpayer if:

1. under the facts and circumstances the taxpayer is not entitled to the assistance requested, (for example, the facts do not indicate that inconsistent positions have been taken by the Department and the IRS);
2. the taxpayer is willing only to accept a competent authority agreement under conditions that are unreasonable or prejudicial to the interests of the PR Government;

3. the taxpayer rejected the competent authority resolution of the same or similar issue in a prior case;
4. the taxpayer does not agree that competent authority negotiations are a government-to-government activity that does not include the taxpayer's participation in the negotiation proceedings;
5. the taxpayer does not furnish upon request sufficient information to determine whether the Mutual Agreement Procedure applies to the taxpayer's facts and circumstances;
6. the taxpayer was found to have acquiesced in a US initiated adjustment that involved significant legal or factual issues that otherwise would be properly handled through the competent authority process and then unilaterally made a corresponding correlative adjustment or claimed an increased foreign tax credit, without initially seeking PR competent authority assistance;
7. the taxpayer:
 - i. fails to comply with this Circular Letter;
 - ii. fails to cooperate with the PR competent authority (including failing to provide sufficient facts and documentation to support its claim of double taxation); or
 - iii. failed to cooperate with the Department during the examination of the periods in issue and such failure significantly impedes the ability of the PR competent authority to negotiate and conclude an agreement (e.g., significant factual development is required that cannot effectively be completed outside the examination process); or
8. the transaction giving rise to the request for competent authority assistance:
 - i. includes an issue pending in a PR court, or designated for litigation, unless competent authority consideration is concurred in by the PR competent authority and the Assistant Secretary for Legal Affairs; or
 - ii. involves fraudulent activity by the taxpayer.

c. Extending Statute of Limitations for Assessment

If the PR competent authority accepts a request for assistance, the taxpayer may be requested to execute a consent extending the statute of limitations for assessment of tax for the taxable periods in issue. Failure to comply with the

provisions of this subsection can result in denial of assistance by the PR competent authority with respect to the request.

d. No Review of Denial of Request for Assistance

The PR competent authority's denial of a taxpayer's request for assistance or dismissal of a matter previously accepted for consideration pursuant to this Circular Letter is final and not subject to administrative review.

e. Notification

The PR competent authority will notify a taxpayer to which assistance was granted under this Circular Letter of any agreement that the PR and the US competent authorities reach with respect to the request. If the taxpayer accepts the resolution reached by the competent authorities, the agreement shall provide that it is final and is not subject to further administrative or judicial review.

If the competent authorities fail to agree, or if the agreement reached is not acceptable to the taxpayer, the taxpayer may withdraw the request for competent authority assistance and may then pursue or continue all rights to review otherwise available under the laws of PR or the US. Where the competent authorities fail to agree, no further competent authority remedies are available.

f. Closing Agreement

When appropriate, the taxpayer will be requested to reflect the terms of the mutual agreement and of the competent authority assistance provided in a Closing Agreement, in accordance with Section 6126 of the PR Code.

g. Unilateral Withdrawal or Reduction of PR Initiated Adjustments

With respect to PR initiated adjustments under Section 1047 of the PR Code, the primary goal of the mutual agreement procedure is to obtain a correlative adjustment from the US. For other types of PR initiated adjustments, the primary goal of the PR competent authority is the avoidance of double taxation in contravention of the Agreement. Unilateral withdrawal or reduction of PR initiated adjustments, therefore, generally will not be considered. For example, the PR competent authority will not withdraw or reduce an adjustment to income, deductions, credits or other items solely because the statute of limitations has expired in the US and the US competent authority has declined to grant any relief. If the statute provided by the US statute of limitations has expired, the PR competent authority may take into account other relevant facts to determine whether such withdrawal or reduction is appropriate and may, in extraordinary

circumstances and as a matter of discretion, provide such relief with respect to the adjustment to avoid actual or economic double taxation.

In no event, however, will relief be granted where there is fraud or negligence with respect to the relevant transactions.

VIII. Fees

No user fees are required for requests for competent authority assistance pursuant to this Circular Letter.

IX. Effective Date

The provisions of this Internal Revenue Circular Letter will be effective for competent authority assistance requests filed on or after April 5, 2006.

For additional information or clarification of doubts related with the provisions of this Circular Letter, please contact the General Consulting Section at (787) 723-7085, (787) 723-7086, (787) 721-2020 extension 3611 or toll free at (1) (800) 981-9236.

Cordially,

Juan C. Méndez Torres