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## Relief for Employment Retention after Hurricane Irma and María

As of June 2018, over \$5 million in cash disbursements have been completed by the PR Treasury to 300 employers in Puerto Rico under the Employee Retention Tax Credit ("ERTC") granted by the "Disaster Tax Relief and Airport and Airway Extension Act of 2017." Circular Letter 18-11, issued by the PR Treasury on June 8, 2018, adopts rules to implement the ERTC Implementation Plan developed between the US Department of Treasury and the PR Treasury.

**What is the Employee Retention Tax Credit?** It is a tax credit, generally available to offset the U.S. federal income tax liability, by eligible employers that were affected by Hurricane Irma and/or Hurricane María. In the case of eligible employers in Puerto Rico, the ERTC is paid in cash to qualified employers who make a timely request of the benefits to the PR Treasury.

In general, employers with Net Income Subject to Normal Tax of \$10,000,001 or more can claim 26% of up to \$6,000 of qualified wages for each eligible employee for the tax year, while Employers with Net Income Subject to Normal Tax of \$10,000,000 or less may claim 32% of such amount.

**Who is an eligible employer?** An eligible employer includes an individual, corporation or pass-through entity which meets the following criteria: (i) was actively engaged in a trade or business in Puerto Rico on the day of the disaster; (ii) the employer's trade or business was rendered inoperable on any day after the disaster and before January 1, 2018; (iii) the employer continued to pay salaries to eligible employees during the non-operational period; and (iv) has complied filing of forms before the PR Treasury such as Withholding Statements, and Employer's Quarterly Return of Income Tax Withheld, among others.

**What is inoperable?** An employer's business will be deemed to have become inoperable if one or more of the following is true as a result of Hurricane Irma and/or Hurricane María: (i) the structure of the business was damaged; (ii) the business was not physically available for employees or clients; (iii) the business was unable to receive raw material or inventory; or (iv) the business did not have electricity, water or communication.



**What wages qualify for the ERTC?** Qualified wages are those paid by an eligible employer to an eligible employee after the hurricane date and before January 1, 2018, in which the business first became inoperable and until it resumed significant operations. Qualified wages include wages paid without regard to whether the employee performed any services, performed services at a different location from his or her principal place of employment, or performed services at the principal place of employment before significant operations had resumed.

**How is the ERTC claimed?** The ERTC can only be claimed electronically until November 30, 2018.

Should your company be interested in claiming the ERTC, or assessing whether it may be eligible, you may contact the attorneys at Vidal, Nieves & Bauzá, LLC.

Vidal, Nieves & Bauzá is a corporate law firm with a special emphasis in energy and environmental matters, corporate, tax, transactional, real estate and insurance practices.

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