

## Deloitte Tax LLP Puerto Rico Tax Alert – June 2018 – Number 4

### EMPLOYEE RETENTION TAX CREDIT

On September 29, 2017, the Disaster Tax Relief and Airport and Airway Extension Act was enacted into law to establish an Employee Retention Tax Credit (ERTC) to Eligible Employers affected by Hurricane Irma and/or Hurricane María.

An Eligible Employer is one that carried an active trade or business on September 4, 2017 (Hurricane Irma) and/or September 16, 2017 (Hurricane María), that became inoperable before January 1, 2018 due to the damages sustained by the hurricane, and continued paying Qualified Wages to Eligible Employees during the period it was not in operations.

An Eligible Employee is one whose principal place of employment with the Eligible Employer was within a designated Disaster Zone. Employees hired after the hurricane dates are not Eligible Employees.

Qualified Wages are those paid or incurred by an Eligible Employer to an Eligible Employee during the period the trade or business was not in operations.

A business is considered inoperable if:

- The structure was damaged;
- The business physically inaccessible to employees or clients;
- The business was unable to receive raw material or inventory; or
- The business had no utilities or communication services.

The ERTC will be a twenty-six (26%) percent or thirty-two (32%) percent of up to \$6,000 of Qualified Wages for each Eligible Employee for the tax year, as follows:

Eligible Employers with Net Income Subject to Normal Tax of	ERTC %	Maximum ERTC per Eligible Employee
\$10,000,001 or more	26%	\$1,560
\$10,000,000 or less	32%	\$1,920

Eligible Employers must have filed all required payroll tax forms for taxable year 2017 and be a Registered Merchant with Puerto Rico Treasury Department (PRTD) to be eligible for the ERTC.

The ERTC must be claimed electronically, beginning on June 1, 2018 until December 31, 2018, through the employer's platform for filing the Employer's Quarterly Return of Income Tax Withheld (Form 499R-1B) and will be paid electronically by direct deposit to the Eligible Employer, nevertheless as of today, the PRTD has not issued the formal Administrative Determination implementing the ERTC, hence the employer's electronic platform has not been released. We expect the PRTD to issue the formal guidance over the course of the next couple of weeks.

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