

January 4, 2012

IRS Extends and Expands Relief, Seeks Comments on Puerto Rico Plans and Group Trusts

[IRS Notice 2012-6](#), to be published on January 17, 2012, extends and expands the transition relief provided under [Rev. Rul. 2011-1](#) and Rev. Rul. 2008-40 for certain retirement plans that qualify under the Puerto Rico Internal Revenue Code and group trusts holding investments by such Puerto Rico-qualified plans. Specifically, Notice 2012-6:

- Provides that Rev. Rul. 81-100 group trusts (now sometimes referred to as 2011-1 trusts) holding investments by Puerto Rico-only qualified plans will continue to qualify for tax-exempt status under the U.S. Internal Revenue Code (IRC) pending additional guidance from the IRS;
- For qualified plans that participated in a group trust on January 10, 2011, extends the deadline for spinning off Puerto Rican participants to a Puerto Rico-only qualified plan to a date to be announced in future IRS guidance. This additional guidance is also expected to address the permissibility of participation by Puerto Rico-qualified plans in a group trust;
- Extends the deadline for spin-offs to Puerto Rico-only qualified plans by one year – to December 31, 2012 – regardless of whether the transferor plan participates in a group trust. This extension is intended to provide sponsors of qualified plans benefitting Puerto Rico residents additional time to determine whether to spin off the portion of the plan benefitting Puerto Rico residents to a Puerto Rico-only qualified plan given the changes to the Puerto Rico Internal Revenue Code enacted in 2011; and
- Extends the deadline for amending a governmental retiree benefit plan to comply with the applicable requirements of Rev. Rul. 2011-1 to the earlier of January 1, 2015, or the close of the first regular legislative session of the legislative body with plan amendment authority that begins on or after January 1, 2012.

The IRS also requests comments regarding whether eligibility for participation in a group trust should be extended to other employee plans exempt under IRC section 501 or a similar rule. Comments are due by April 16, 2012.



If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

Adam B. Cohen	202.383.0167	adam.cohen@sutherland.com
Jamey A. Medlin	404.853.8198	jamey.medlin@sutherland.com
Alice Murtos	404.853.8410	alice.murtos@sutherland.com
Joanna G. Myers	202.383.0237	joanna.myers@sutherland.com
Robert J. Neis	404.853.8270	robert.neis@sutherland.com
Vanessa A. Scott	202.383.0215	vanessa.scott@sutherland.com
W. Mark Smith	202.383.0221	mark.smith@sutherland.com
William J. Walderman	202.383.0243	william.walderman@sutherland.com
Carol A. Weiser	202.383.0728	carol.weiser@sutherland.com