



Commonwealth of Puerto Rico
DEPARTMENT OF LABOR AND HUMAN RESOURCES

June 28, 1999

Re: Inquiry No. 14638

This is in reference to your inquiry pertaining to Act No. 74 of June 21, 1956, as amended, known as the Puerto Rico Employment Security Act, and to Act No. 139 of June 30, 1968, as amended, known as the Disability Benefits Act. Specifically, your inquiry is "a request for a ruling in connection with the unemployment and disability insurance wage base limitations covered by a predecessor employer with respect to a successor employer".

You indicate that the predecessor employer, who is a client of your firm, is a manufacturing corporation with an election under Section 936 of the United States Internal Revenue Code that has decided to create a new foreign corporation for the purpose of transferring the predecessor's operations, without interruption, to the successor corporation. The relevant facts are the following:

Predecessor manufacturing activities are expected to cease on May 31, 1999, whereas Successor will uninterruptedly continue with the operations on the day following the cease date.

The operations carried out by the Successor will be identical to the ones previously conducted by the Predecessor. Successor will acquire all the property held by Predecessor and the manufacturing operations will continue to take place in the same facilities Predecessor uses. Furthermore, Successor will continue to employ all of Predecessor's employees.

The unemployment and disability insurance payments made pursuant to the Puerto Rico Employment Security Act of 1956, as amended (hereinafter referred to as the

“PRESA”) and the Disability Benefits Act of 1968, as amended (hereinafter referred to as the “DBA”) by Predecessor already covered the \$7,000 and \$9,000 annual taxable wage base, respectively.

We have given careful consideration to the facts in this case as presented. As you state, rulings issued under Federal law on analogous cases, although not binding, are accorded great weight in interpreting Puerto Rico law. The fact that Puerto Rico is part of the Federal-State Employment Security System, as you note, makes a compelling case for conforming to the Federal counterpart.

Indeed, we believe a contrary approach would be inequitable. Specifically, failure to credit previous payments made by the predecessor employer during the same calendar year would result in collections in excess of the \$7,000 and \$9,000 unemployment and disability insurance wage base limitations, respectively, without providing any additional benefits to the employees, whose benefits are limited by law to those levels.

Based on the above, it is our determination that the payments made by the predecessor employer in this case should be taken into account in computing the \$7,000 and \$9,000 unemployment and disability insurance wage base limitations, respectively, of the successor employer.

We trust the foregoing is responsive to your inquiry.

Cordially,



María C. Marina Durán
Solicitor of Labor