



**REAL PROPERTY OF EXEMPT BUSINESSES LOCATED IN
FOREIGN TRADE ZONES ENJOY 60% PERCENT
EXEMPTION UNDER PROPERTY TAX ACT AND
90% EXEMPTION UNDER TAX INCENTIVES ACT**

In Abbott Health Products PR Ltd. and Abbott Diagnostics Limited v. Center for the Collection of Municipal Tax Revenues, our firm convinced the Court of First Instance, Arecibo Part, that Abbott Health Products PR Ltd. (“AHP”) and Abbott Diagnostics Limited (“ADL”), exempt businesses under the Puerto Rico Tax Incentives Act of 1998, as amended (the “1998 Act”), are entitled to the 60% real property tax exemption granted by article 5.01(cc) of the Municipal Property Tax Act, as amended (the “Property Tax Act”) to real property located in a foreign trade zone under the federal Foreign Trade Zone Act of 1934, as amended (the “60% Exemption”).

The Center for the Collection of Municipal Revenues (the “Center”) denied the 60% Exemption because of AHP’s and ADL’s 90% real property tax exemption under the 1998 Act (the “90% Exemption”). In its view, the 60% Exemption is not available to real property that also enjoys the 90% Exemption.

The Court of First Instance held in favor of AHP and ADL. The court’s judgment stated, in essence, that the 60% Exemption was applicable jointly with the 90% Exemption because (i) article 5.01(cc) of the Property Tax Act does not exclude exempt businesses under the 1998 Act from the 60% Exemption, and (ii) given that the 60% Exemption is applicable to the assessed value of the real property and the 90% Exemption of 1998 Act is applicable to the property tax liability, both exemptions may be applied concurrently.

The Court of First Instance’s judgment was confirmed by the Circuit Court of Appeals and the Center’s Petition for Certiorari was recently denied by the Puerto Rico Supreme Court.

While the judgment of the Circuit Court of Appeals is very persuasive, it is not a precedent that precludes the Center from denying the 60% Exemption to other exempt businesses that own real property located in foreign trade zones. Thus, it is possible that the Center will continue denying the concurrent application of 60% Exemption and the 90% Exemption and that to enjoy both exemptions exempt businesses will be forced to prevail in court.

© Copyright 2009 by
Adsuar Muñiz Goyco Seda & Pérez-Ochoa, P.S.C