



New Tax Regularization Law enters into force

KPMG in Panama

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What are "Extraordinary Payment Arrangements"?

The "Extraordinary Payment Agreement" is the process determined by this Law through which tax obligations may be extinguished by means of an administrative procedure that will conclude with a resolution signed by the General Director of Income called "Transactional Act".

Who can apply?

As a requirement, those taxpayers whose Single Taxpayers Registry (RUC) is in force, who are not under investigation or have not been convicted for tax evasion or tax fraud, may apply to the Extraordinary Payment Agreement process.

Through the mentioned Law, taxpayers who are in reconsideration proceedings before the DGI or on appeal before the Administrative Tax Court (TAT) will have for the first time the opportunity to reach agreements with the entity, which will facilitate compliance with their tax obligations. The object of the agreement will be the tax obligations, which in extraprocedural and/or intraprocedural stage, are liquidated in favor of the National Treasury, including the nominal value, surcharges, interests, and fines.

What are the requirements to initiate the Payment Arrangement Request Process?

The Extraordinary Payment Agreement process may only be initiated at the taxpayer's request, and for tax obligations exceeding **B/. 50,000.00**.

The administrative process of the Extraordinary Payment Agreement is initiated by means of a special request, filed by the taxpayer through a legal representative before the DGI, accompanied by the following requirements:

- 1 Brief describing the type of process, amount, status of the process, resolution number if applicable, control number if applicable, and the designation of professionals who will participate in the process.
- 2 Special power of attorney, or the special power of attorney provided in the proceeding must include the power to settle.
- 3 Other requirements issued by the DGI by means of a duly motivated Resolution.

The DGI will have a term of no more than fifteen working days to issue a duly motivated resolution, in which it will determine if it admits the request presented by the taxpayer. This resolution **cannot be appealed**.

The request formalized by the taxpayer to initiate the administrative process of the Extraordinary Payment Agreement will interrupt the statute of limitations on the Tax Administration's power to collect the tax obligations.

The process to formalize an extraordinary payment agreement may only be requested by taxpayers before **December 31st, 2022**.

What is the Extraordinary Payment Agreement procedure?

Once the request is admitted, the General Director of Revenues will notify the taxpayer to the e-mail address registered in the RUC. The resolution that admits the administrative process of Extraordinary Payment Agreement will **provisionally** suspend the processes related to the tax obligations subject to the tax transaction that are being processed through the governmental channels. By mutual agreement, the date for the final hearing will be defined in which the reading of any report requested by the DGI, the reading of the proposals, and subscription of the minutes with agreement proposals, if possible, which must be scheduled at least 10 business days before the expiration of the preclusion term for the Extraordinary Payment Agreement administrative process. Two hearings may be held, coordinated by the general director or his delegate for such purposes. The first one may be held within the first 15 working days following the date of notification of the resolution admitting the process, of which a record duly countersigned by the participants must be included in the file, and the second one must conclude with the administrative act resolving the extraordinary payment arrangement request.

How does the Extraordinary Payment Agreement procedure end?

The administrative act resolving the request must be issued within a term not to exceed 90 calendar days, counted from the notification of the admission of the request.

If the General Directorate of Revenue does not agree with the taxpayer's claims, the taxpayer may file an appeal before the TAT within 15 working days from the notification (in those files that are in the process of reconsideration appeal). In case the file is already in the appeal process; the taxpayer has two months from the notification to go to the Third Chamber of the Supreme Court of Justice.

What was changed in the Tax Procedure Code and the Tax Code?

- The Tax Procedure Code (CPT) is amended as follows:
 - **Articles 100 and 101 referring to the forms of notification;**
 - **Article 118 regarding the database of experts; and**
 - **Article 392 regarding the effective date of the CPT, which will be postponed to January 1st, 2024. In addition, Articles 117 and 118 regarding expert opinions in tax proceedings will enter into force.**
- Three transitory paragraphs are added to the Tax Code:
 - **Article 318-A of the Tax Code (remission of single rate solutions for dissolution).**
 - **Article 710 of the Tax Code (fine for taxpayers who fail to file tax returns).**

Those taxpayers who are in default and file the Income Tax Return after the legally established date will be subject to one of the following penalties:

1. Natural Person: 0.1% of the declared taxable income from any source, except salary and representation expenses.
2. Legal Entities: 0.3% of the taxable income of the period. These fines will be applied automatically at the time the taxpayer files the Income Tax Return with the DGI.

- **Article 786 of the Tax Code, extending the 15% real estate tax discount when the tax is paid in full by 4/30 2023 and 2024 respectively.**

- **Paragraph 4 of Article 710 of the Tax Code is amended to establish *penalties for failure to file a corrective income tax return.***

Legal entities that wish to rectify or extend their Income Tax Return previously submitted to the DGI, and that with the rectifying Income Tax Return reduce their taxable income, a fine equivalent to 0.5% will be generated on the difference in costs and expenses reported between the original and the rectifying Income Tax Return.

It is important to mention that the Affidavit of Income can only be rectified for one fiscal period within a period of 36 months. Legal entities that file a rectifying income tax return that increases their taxable income would not be subject to this fine.

For individuals, we understand that there will no longer be fines for rectifying the Income Tax Returns, in any case. It is worth mentioning that before this modification, the fines for rectification generated a cost of B/.100 for individuals and B/.500 for legal entities.

Other amendments and important aspects of this Law

- **Article 14 of Law 208 of 2021 is amended, authorizing the DGI to exonerate fines.**

The DGI may exonerate all fines up to 60% of their nominal value, provided that the following conditions are met:

1. Obligations in arrears that are not subject to a payment agreement formalized before the DGI as a result of any of the amnesty processes between 2019 and 2021.
2. That the taxpayer is not under investigation for the alleged commission of tax evasion or tax fraud.
3. That the debts owed be cancelled before December 31st, 2022.

- **Article 33 of Law 76 of 2009 is amended to extend the validity of the Industrial Development Certificate (IFC).**

The validity period is extended so that companies may use it for 10 years from its issuance. Due to the COVID-19 pandemic, previously issued IFCs, which have not

expired to date, are extended to complete a new validity period of 12 years (previously 8 years), counted from their issuance.

- **Article 5 of Law 99 of 2019 is amended to extend the Tax Amnesty period.**

The tax amnesty period is extended, whereby up to 100% of the total interest and surcharges will be remitted, provided that the nominal tax payment is made by December 31st, 2022. The tax amnesty applies to taxes that are in arrears, with their respective surcharges and interest, as of January 31st, 2021.

The purpose of these tax regularization mechanisms is to provide a boost to the main economic activities affected during the pandemic period that are in a recovery process. With the tax payment agreements, the DGI seeks to improve tax collection, and create a fiscal support for the benefit of the taxpayer and the collection, forgiving a percentage of those obligations in arrears with the tax authorities.

If you have any questions on this and related topics, please do not hesitate to contact our specialists.

Contact us

Tax Services

Jair Montufar

Lead Partner
E: jmontufar@kpmg.com

Jony Afú

Partner
E: jafu@kpmg.com

Eduardo Choy

Partner
E: eduardochoy@kpmg.com

Jose Andres Romero

Partner
E: jromero4@kpmg.com

Gloriberth Buschbeck

Director, Transfer Pricing
E: gloriberthbuschbeck@kpmg.com

Jaime Carrizo

Director
E: jcarrizo@kpmg.com

Andres Kosmas

Director
E: akosmas@kpmg.com

Zita Segismund

Director
E: zsegismund@kpmg.com

Angellinne Colona

Assistant, Author of this edition
E: acolona@kpmg.com

KPMG Panama

56 E. Street and Samuel Lewis Ave.
Obarrio, Panama City

T: (+507) 208-0700

E: pa-fminformation@kpmg.com

kpmg.com.pa

KPMG Panama, Obarrio, 56th E. Street and Samuel Lewis Ave, Panama, 0816-01089

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