FLASH NEWS

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Tax amnesty and new tax codes

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On October 22, 2014 the following legislation was published:

1. Law no. 18/14, which enacts the new Labour Income Tax Code ("IRT");
2. Law no. 19/14, which enacts the new Corporate Income Tax Code ("CIT");
3. Law no. 20/14, which enacts a tax amnesty as well as the new Tax Enforcement Code ("TEC");
4. Law no. 21/14, which enacts the new General Tax Code ("GTC").

In addition to the above, Presidential Decree Laws no. 2/14, of October 20, and no. 3/14, of October 21 enact the revision and republication of the Investment Tax Code ("IAC") and Stamp Duty Code ("SD"), respectively.

Tax amnesty

Despite the comprehensive nature of this tax package, we would like to single out the so called "tax amnesty" as the element with greater immediate impact. This regime is enacted by Law no. 20/2014 and is applicable to taxpayers with debts regarding CIT, IRT, SD, IAC and Property Income Tax ("Imposto Predial Urbano"), provided the relevant taxable events have occurred until December 31, 2012. This regime has entered into force on October 23, 2014.

The tax amnesty extends not only to the amount of tax due, but also to corresponding legal accruals, such as interest (for late payment or compensatory), fines and procedure costs. Furthermore, the application of the regime is not dependent on the disclosure to the Tax Administration of information relevant for the monitoring of the taxpayer's tax position.

This regime is also applicable even if on the date of its entry into force the Tax Administration has already initiated a tax procedure against the taxpayer or if the Criminal Police Bodies have already initiated a criminal procedure against the taxpayer.

Nevertheless, please note that, among others, custom debts and social security debts are excluded from the scope of the tax amnesty.

It is also important to highlight that companies with corporate object or business areas which include activities of treatment, storage, export, transport, refining, transformation, distribution or sale of petroleum, fuel, bitumen or any other kind of petroleum derivatives are not eligible for the tax amnesty.

IRT Code

The IRT Code was approved by Law no. 18/14, and shall only enter into force on January 1, 2015.

We highlight the following amendments:

> Broadening of IRT's subjective scope (increase of taxpayers subject to IRT)

> Reduction of IRT's objective scope (decrease of income flows subject to IRT)

> Aggravation of withholding tax rates applicable to Class A taxpayers (employees)

CIT Code

The CIT Code was approved by Law no. 19/14 and shall only enter into force on January 1, 2015.

We highlight the following amendments:

> Broadening of CIT's subjective scope (increase of taxpayers subject to CIT);

> Reduction of tax rate to 30% (formerly, 35%);

> Introduction of autonomous taxations (tax on certain expenses), which shall only enter into force on January 1, 2017;

> Extension of the concept of non-deductible cost;

> Clarification of the payment on account regime;

> Aggravation of withholding tax rate applicable to income deriving from the provision of occasional services to 6.5% (formerly, variable between 3.5% and 5.25%).

Simultaneously, the Law brings forward to the fiscal period of 2014 the reduction of the CIT rate to 30%.

Tax Enforcement Code

The TEC was approved by Law no. 20/14 and shall only enter into force on January 1, 2015.

We highlight the following amendments:

> Development of the seizure regime ("penhora"), which may now for instance be imposed on credits or rents;

> Development of various other aspects of the tax enforcement procedure (namely, legitimacy, procedural acts, judicial costs, initiation of enforcement and summoning);

> Disclosure of tax debtors, i. e. taxpayers that do not have a cleared tax position, provided that the global amount of the tax debts exceeds AKZ 5,000,000.

As a transitional measure, it is provided that the Tax Enforcement Code is also applicable to tax enforcement procedures pending on the date of its entry into force.

General Tax Code

The GTC was approved by Law no. 21/14 and shall only enter into force on January 1, 2015.

In this context, tax benefits existing on the date of entry into force of the GTC are maintained as provided under the relevant legislation that established them.

We highlight the following amendments:

> Development of the tax benefits discipline;

> Reduction of the statute of limitation to 10 years counted from the date of assessment notice (formerly 20 years);

> Codification of the discipline applicable to tax crimes and development of the administrative tax offences regime.

Additionally, Law no. 21/14 foresees that the new statute of limitation for payment (10 years) is applicable to tax due on January 1, 2015, except where taxpayers need a shorter period to complete the former term (20 years).

IAC Code and SD Code

Presidential Decree Law no. 2/14 has introduced small amendments to the IAC Code from which we highlight the following:

> Broadening of IAC's objective scope (increase of income flows subject to IAC);

> Clarification of the withholding tax regime applicable to payments of certain Section B income flows;

> Introduction of greater detail regarding tax reporting obligations.

Please note that the mentioned amendments shall only enter into force on November 19, 2014.

Along the same lines, Presidential Decree Law no. 3/14 introduces minimal amendments to the SD Code, which have entered into force on October 21, 2014.

Considering its practical relevance, we would like to point out that the amount of SD due regarding contracts not specifically addressed in the Table attached to the SD Code has increased to AKZ 1,000 (formerly, AZK 300).

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