



Tax Newsletter

Timely news and information on national tax issues

Classification of Amended Tax Returns for Internal Taxes as Definitive Returns

Title III, Chapter I, Section Four of the Tax Code (hereinafter TC) establishes all the regulatory provisions relating to the filing of tax returns. One of the most relevant provisions is the one that allows for corrections to aspects of form or to the amounts of taxes that have already been paid and settled before the Tax Authority, known as "*Amended Returns.*"

In this respect, it is important to note that when making modifications and/or corrections to tax returns, the specific rules found in this section of the TC must be followed so that such Amended Returns can be considered as definitive. Observance of these rules is essential because the filing of an Amended Return does not mean it is automatically accepted by the Tax Administration and classified as a definitive return.

To better understand the nature of tax returns, we will list the general rules for their filing, which are found in Articles 91 to 98 of Section Four of the TC:

- a) There is a legal obligation to file, either as the taxpayer or party responsible for the payment of the tax.
- b) The obligation to file tax returns remains applicable even when no tax payment is required.
- c) Tax returns must be filed using the forms provided by the Tax Administration. The current way of filing, of general and mandatory use, is electronic filing through the online services found on the webpage of the Treasury Office of El Salvador.
- d) **The information contained in tax returns shall have all the intents and purposes of a sworn statement.**

- e) Tax returns must be filed at the locations and within the terms established in the specific tax laws for each tax, while taking into account whether these returns should be filed per monthly period or per tax year (January 1 to December 31).
 - f) Care must be taken to ensure that the tax return filed contains all the personal information of the taxpayer.
 - g) As regards the filing within the legal term, the tax return shall be deemed to be definitive in nature.**
 - h) Original and amended tax returns sent after the notification of a Tax Audit shall be considered as not having been filed, except when they are filed for the purpose of making voluntary payments of taxes, withholdings and/or collections, as well as for decreasing balances in the taxpayer's favor, in order to remedy any non-compliance.
- c) **Changes that increase the amount payable or decrease balances in favor of the taxpayer:** Tax returns may be modified at any time and under any circumstance in order to increase the tax payable or decrease the excess or remaining tax in favor of the taxpayer.
 - d) **Corrections that decrease the amount payable or increase balances in favor of the taxpayer:** An amended tax return decreasing the amount of the tax payable or increasing the balance in favor of the taxpayer may be filed with the Tax Administration. Such a correction must be made within the two years following the filing deadline of the original tax return, provided that no notification of an audit has been received.
 - e) **Ex Officio Rectifications:** The Tax Administration may rectify ex officio within the statutory term, errors in numerical calculations and other conspicuous errors that are evident based on simple observation of the tax returns, and require the settlement of the tax and make the corresponding coercive collection.

However, the law does consider that there may be circumstances related to aspects of time and form, which require modifying the information contained in the original tax returns. Therefore, the law allows taxpayers to make corrections to the returns, provided that the definitive nature of the information declared in the returns is protected. Based on the above, in order for such corrections to be accepted, taxpayers must observe the specific rules described in Articles 101 to 106 of the TC, which state the following:

- a) **Incorrect Tax Returns:** When after the filing of a tax return, the taxpayer changes the amounts declared in the return, and this results in an original or supplementary payment of the tax, the original return shall be deemed to have been incorrectly filed.
- b) **Correction of formal errors:** Errors relating to the formal requirements cited in Article 95 of the TC, as well as errors that do not involve changes to the amount payable or balances in favor of the taxpayer may be corrected within the two years following the deadline for filing the original tax return, provided that no notification of an audit or corresponding punitive proceeding has been received.

It is important to note that if tax returns are amended under the circumstances indicated in letters (a), (b), (c) and (e), such returns shall be deemed to be definitive and will replace the original return filed by the taxpayer.

In the case of letter (d) relating to corrections that decrease the amounts payable or increase the balances in favor of the taxpayer, in order for such amended returns to be classified as "*filed*" and for the information declared in them to be deemed as definitive, taxpayers must have verification from the Tax Administration's auditors, in order to establish whether or not such amended returns are applicable.

So long as there is no favorable pronouncement from the Tax Administration regarding the applicability of the amended returns, such returns shall have no legal effects and will not substitute the (original) returns being amended.

This situation takes on greater relevance when taxpayers need to file refund requests for balances in their favor, because the third paragraph of article 104 of the TC indicates that: "*When amended tax returns present balances in favor, the calculation of the statutory term for*

requesting the refund referred to in Articles 212 and 213 of this code shall be suspended during the period in which the tax administration makes the corresponding verifications, until it rules on the applicability or non-applicability of the amended returns. *If the result of the verification is favorable to the taxpayer's interests and the taxpayer makes a written request to the tax administration for the balance in favor and that balance is of the type whose refund is permitted by the tax law, the tax administration must adopt the result of such verification and issue the corresponding ruling without requiring new verification...*" (Emphasis added).

Therefore, it is important that taxpayers have adequate internal control over their taxes that allows for the correct filing of their tax returns, in both timeliness and form, and with respect to taxes or balances in favor pending settlement. Furthermore, if taxpayers need to file amended tax returns, such internal control should allow you to comply with the rules mentioned above so that your information is valid in terms of the requirements of government, financial or third party institutions. If the rules are not taken into account, the amended tax returns will not be valid, and taxpayers run the risk that the returns will be revoked and that they will not be able to take advantage of the balances in their favor declared in such returns.

In the event that the Amended Tax Returns fall under the circumstances of letter (d), in order for the information declared in them to be considered as accepted, the taxpayer must make a written request that complies with the provisions of Article 34 of the TC, asking for the verification of the information included in the Amended Tax Return, and obtain a favorable ruling stating that the Amended Return has been classified as "filed" in the records and files of the Tax Administration.

This ruling may be required for different tax formalities, including: use and refund of Income Tax balances in favor

of the taxpayer, request for refund of VAT to exporters, and as evidence in audit and control processes carried out by the Tax Administration.



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Tax Calendar

September 2020

The updated 2020 tax calendar is now available on the Tax Administration's website, which includes public holidays and deadlines for all tax obligations.

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Download the
2020 Obligations Calendar

Download our 2020
Obligations Calendar



September 14

VAT

Declaration and payment of the Tax on the Transfer of Movable Goods and the Rendering of Services (F-07).

Financial Income and Transactions

Monthly declaration of Payment on Account, and Tax Withheld on Income, Financial Transactions, and the Special Contribution for Citizen Security and Coexistence (F-14)

Specific and Ad Valorem Taxes

Declaration and payment of Specific Taxes, Ad Valorem Taxes and Special Contribution (F-06).

Other obligations

- Report on Donations (F-960)
- Report on Specific and Ad Valorem Taxes on Producers and Importers of Alcoholic Beverages, Potable Ethyl Alcohol and Beer, Carbonated Beverages, Isotonic Beverages, Fortified Beverages or Energy Drinks, Juices, Nectars, Soft Drinks and Concentrated or Powder Mixtures for the Preparation of Drinks (F-955).
- Report on Specific and Ad Valorem Taxes on Producers and Importers of Firearms, Ammunitions, Explosives and Similar Items, Producers of Tobacco and Producers, Importers and those that clear fuels through customs (F-988)

- Monthly Report of Sales to Producers, Distributors or Retailers of Tobacco and Tobacco Products (F-956)
- Statement of Origin and Application of Funds (F-950)

September 22

VAT

Monthly Report on Withholdings, Collections, or Payments on Account of VAT (F-930).

Printing Presses

Monthly Report on Documents Printed for Taxpayers Registered under the VAT (F-945)

September 15

Public holiday celebrating Independence Day

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