



## Tax Newsletter

Timely news and information on national tax issues

### Tax aspects to consider for the December 2020 payroll: recalculation of Income Tax withholdings

#### I. General aspects regarding the recalculation of the employee Income Tax

Per Article 65 of the Income Tax Law, in order to faithfully comply with the application of the withholdings established in the Decree containing the Income Tax withholding tables (Executive Decree N°95 in effect since 1 January 2016), among other aspects, withholding agents must **comply with the obligation to perform a recalculation for determining the withholdings for the months of June and December.**

The purpose of the recalculation is to adjust the monthly withholdings made to each employee, **so that these withholdings are approximate to the annual Income Tax that needs to be settled and paid on the taxed income obtained during the fiscal year.**

Following are some of the general aspects that should be considered in the preparation of the Income Tax recalculation to be made as of December:

- The recalculation of the Income Tax withholdings applies even to those individuals that joined the company during the current fiscal year. Therefore, withholding agents (employers) should verify that they have the Withholding Letters issued by the previous employers of their employees, in the applicable cases.
- All **taxed remunerations** accumulated as of the recalculation date must be taken into account, **regardless of whether or not they were subject to Income Tax withholdings.**

- The remunerations subject to definitive Income Tax withholdings should not be included.
- If upon making the recalculation there is a difference resulting in a positive balance, it shall constitute the amount to be withheld; however, if the difference results in a negative balance, no amount will be withheld.

It is worth mentioning that the employer does not have the obligation to refund any amounts due to the employee as a result of this calculation. In these cases, the mechanism established by the tax legislation is that the employee file their annual Income Tax return in order to request the refund of the balance in their favor, as applicable.

- When there is a change of employer, the current employer is the one responsible for making the recalculation.

## II. Tax treatment for the Christmas bonus and special bonuses paid in December

The month of December is a special period since employees receive income in addition to their usual remuneration, such as extraordinary bonuses and a Christmas bonus, among other benefits.

For purposes of the recalculation of the Income Tax as of December 2020, the following should be considered:

1. All **taxed remunerations** that the employee has obtained during the tax period (January to December) should be added together, and shall serve as the basis for the determination of the Income Tax per the withholding table for the recalculation being made as of December (second recalculation).
2. From the total Income Tax withholdings (table for the second recalculation), the sum of the withholdings made from January to November (or until the last biweekly or weekly payroll of December prior to the recalculation date) should be subtracted, resulting either in the amount of Income Tax withholdings to be applied, or, in no further withholdings, as applicable.

Furthermore, another matter to keep in mind when determining the **taxed remunerations** for the recalculation of the Income Tax as of December is the treatment of the Christmas bonus.

As you may recall, at the end of 2019, the Legislative Assembly passed Legislative Decrees No. 458 and 459, which included amendments to article 4 of the Income Tax Law and article 155 of the Tax Code related to the tax treatment of the Christmas bonus. These amendments established that income received by employees as a Christmas bonus in December of each year **will not be subject to Income Tax withholdings for up to an amount no greater than 2 monthly minimum wages of the commercial and services sector. However, those Christmas bonuses that exceed the amount mentioned above must be subject to Income Tax withholdings when they are paid.**

Therefore, in order to include the amount for the Christmas bonus to be considered in the recalculation of the Income Tax withholding as of December 2020, withholding agents should only take into account the portion corresponding to the amount exceeding the 2 monthly minimum wages of the commercial and services sector, which will be added to the **taxed remunerations of the year** for the second Income Tax recalculation.

In addition, if there is any special payment made as a bonus to the employees during the month of December, such amounts should be added as taxed income in the recalculation of the Income Tax withholding, when applicable.

## III. Tax treatment of the “Wage Subsidy Program”

Per the “Protection of Salvadorian Employment Law” passed on 5 May 2020 as part of the measures promoted by the government for the reactivation of the economy in response to the COVID-19 pandemic, the Wage Subsidy Program for micro, small and medium enterprises was created. As its name indicates, it consists of a “subsidy” granted by the government, equivalent to 50% of the employer’s monthly payroll, for a maximum period of 2 months, which will be paid out through the employers.

With respect to the above, it is important to draw attention to the following:

- The subsidy is paid **entirely to the employees.**

- The maximum amount that each employee will receive as part of the wage subsidy program must not exceed US\$500 per month.
- The amount of the remunerations that the employees receive from the subsidy program will not be subject to any type of tax withholdings or social security deductions.

Therefore, it should be noted that the amount that is granted as a subsidy must be excluded (considered as income not subject to tax) for purposes of the recalculation of the Income Tax withholding as of December 2020.

In light of the items highlighted in this article, we encourage company Human Resources departments to check their internal procedures in advance and make any necessary adjustments to their payroll systems in order to timely comply with the recalculation of the Income Tax withholding to be made in December 2020. Failure to comply with this obligation will result in the taxpayer (employer) being penalized with a fine equivalent to 2 monthly minimum wages, in accordance with the final paragraph of article 65 of the Income Tax Law.



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# Tax Calendar

## November 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					

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2020 Obligations Calendar

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Obligations Calendar



### November 2

Public holiday due to observance of **All Saints Day**.

### November 3 Other Obligations

Form for Report on Representation Letter regarding the Report on Compliance with the Obligations Contained in the International Services Law corresponding to the first half of the year 2019 (F-462) and Appointment of Auditor.

### November 16

#### 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)

### November 23 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)

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