



## Tax Newsletter

Timely news and information on national tax issues

# Amendments to the Municipal Code regarding the Filing of Appeals before the Municipal Administration

On 29 May 2019, Legislative Decree N° 344 was passed, which refers to the amendments to articles 30, 31 and 137 of the Municipal Code, and was published in the Official Gazette on 31 May 2019.

These amendments stem from the need to ensure the citizen's right to defense before any administrative ruling issued by the mayor or any municipal official.

Prior to the entering into effect of these amendments, that regulated in the Municipal Code and the jurisprudence of the Administrative Law Court of the Supreme Court of Justice (SCJ), specifically Ruling 91-2008, established in Title X of the Municipal Code entitled: "Regarding the Penalties, Procedures and Appeals" the regulation for the issuance of three types of recourse: review, reversal and appeal; applicable against the rulings and

agreements issued by the Municipality. However, according to the Court's interpretations, these types of recourse applied only to administrative acts resulting from a proceeding of a punitive nature brought against a citizen due to a violation of the cited Code.

This meant that any other ruling of an administrative nature made by the Municipality did not allow for an appeal to challenge the decision,

resulting in the violation of the constitutional rights to defense and appeal deriving from articles 2 section 1, 3 and 11 of the Constitution.

With the amendments to articles 30, 31 and 137 of the Municipal Code (MC), it is expressly established that an appeal can be filed against any administrative ruling, resulting from a punitive or non-punitive proceeding, made by the municipal authorities, their delegates or other jurisdictional entity.

This goes hand in hand with the provisions of the Administrative Procedures Law, which stipulates in article 16 that the rights of those governed by the law include the right: *"To submit complaints, suggestions and claims before the Public Administration. Citizens shall also have the right to file appeals against acts or rulings of the Public Administration, in accordance with the law."*

The specific changes to the articles mentioned above are the following:

- The wording of numeral 15 of article 30 MC, which provides for the powers of the Municipal Council, has been changed and now indicates that the Municipal Council should: *"hear appeals regarding all administrative rulings, be they of a punitive nature or not, made by the mayor or delegated official that causes harm to the party governed by the law."*
- Article 31 MC regarding the obligations of the Municipal Council now incorporates numeral 14, which establishes that the Municipal Council: *"should respond on a timely and reasoned basis, to the appeals brought against all*

*administrative rulings, be they of a punitive nature or not, made by the mayor or delegated official that causes harm to the party governed by the law."*

- The heading of Title X of the MC is amended, from the original: *"Regarding Penalties, Procedures and Appeals,"* to the new heading *"Regarding Procedures and Appeals."*
- The essence of article 137 MC changes by incorporating the fact that all administrative rulings, be they of a punitive nature or not, made by the mayor or delegated official that causes harm to the party governed by the law, may be appealed.
- Article 137 MC is also amended with respect to the term for filing appeals. Such term was initially 3 business days, but that was changed to the term regulated in article 135 of the Administrative Procedures Law, which is 15 business days.

The issuance of the respective amendments had the favorable Opinion N° 32 of the Commission on Municipal Affairs, which concluded that:

*"The articles of the bill have the purpose of allowing for the possibility of the Municipal Council to hear appeals regarding administrative rulings, both punitive ones and those that grant authorizations, issued by the mayor or delegated official."*

*This purpose is feasible since establishing the possibility of making appeals within all*

*administrative procedure is a manifestation of constitutionally established due process and of the right to swift and effective justice...*

*Therefore, amending the Municipal Code with respect to permitting the filing of appeals before the Municipal Council against the rulings made by the mayor or delegated official in administrative procedure, be they punitive or authorizing procedures, is among the legislative powers established in article 131 numeral 5 of the Constitution."*

Due to the above, in regard to the petitions made by the governed parties (taxpayers) before a Municipal Authority, in which a negative decision or ruling is obtained, these parties can now exercise the right to appeal such decision, by following the new provisions of the Municipal Code, together with the others established in the Administrative Procedures Law.



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# Tax Calendar

## August 2019

The updated 2019 tax calendar is now available on the Tax Administration’s website, which includes the public holidays and the 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	31

### August 1- 6

Public holiday due to celebrations of the Feast of San Salvador

### August 20

#### 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, Tax Withheld on Income from 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)

### August 27

#### VAT

Monthly Report on Withholdings, Collections, and Advances on Account of VAT (F-930).

#### Printing presses

Monthly Report on Documents Printed for Taxpayers of the VAT (F-945).

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