



## Tax Newsletter

Timely news and information on national tax issues

### Resolution #120/2018 CVPCPA<sup>1</sup> – Considerations for the Financial Statements and Independent Auditor’s Report as of December 31, 2018

In December 2017, Legislative Decree N° 646 dated March 29, 2017 went into effect, which contains the reforms to the Law Regulating the Exercise of the Public Accounting Profession (LRECP per its Spanish acronym) in El Salvador, which included the following:

- The obligation for public accountants to use as the accounting basis the International Financial Reporting Standards (IFRSs), or, the International Financial Reporting Standards for Small and Medium-sized Entities (IFRSs for SMEs) and Micro-sized Entities, adopted by the CVPCPA.
- Express prohibition for public accountants to sign as the “Accountant” any balance sheets, statements of income, statements of cash flow and statements of changes in equity, without having performed the accounting work in accordance with International Accounting

<sup>1</sup> Oversight Board of the Profession of Public Accounting and Auditing (CVPCPA per its Spanish acronym).

Standards (Art. 22, letter j) LRECP).

- Express prohibition for public accountants to certify as the "Auditor" any balance sheets, statements of income, statements of cash flow and statements of changes in equity, without having first performed the audit in accordance with International Standards on Auditing (Art. 22, letter k) LRECP).

### Reasonable timeframe for compliance with the new provisions of the LRECP

As stated in resolution #9/2018 dated March 14, 2018, the CVPCPA ruled to grant merchants (individuals, companies, small and medium-sized entities) and accountants a reasonable timeframe for assuring compliance with the new provisions of the LRECP, **establishing as the deadline December 31, 2018** (an approximate term of 1 year after the entering into effect of the reforms to the LRCEP).

Likewise, in Roman numeral IV of the cited resolution, the CVPCPA rules that: "(...) *for the case of independent auditors, they must ensure to contract their services for the audit of financial statements, for the year ended December 31, 2018, prepared according to the accounting basis of IFRSs, IFRSs for SMEs, Micro-sized Entities or accounting bases specifically identified in the special laws.*"

### Considerations for the Independent Auditor's Report as of December 31, 2018

Notwithstanding the above, on September 28, 2018, the CVPCPA issued a new resolution #120/2018, which establishes the following:

- Reiterates the ruling of resolution #9/2018 regarding the fact that auditors should ensure to contract their

services for the audit of financial statements, for the year ended December 31, 2018, prepared according to the basis of the accounting standards legally established in the country (IFRSs, IFRSs for SMEs or Micro-sized Entities).

- Provides guidance to the Independent Auditor regarding the preparation of the audit report on the financial statements for entities that:
  - 1. As of December 31, 2018 have complied with the obligation to prepare financial statements in accordance with the accounting basis of the accounting standards legally established in the country**, for which independent Auditors must prepare their audit report according to the structure of ISA 700.
  - 2. As of December 31, 2018 have not complied with the obligation to prepare financial statements in accordance with the basis of the accounting standards legally established in the country**, in which case, such financial statements will be considered as special purpose financial statements, and thus the external auditors must present their report according to the structure of ISA 800 (with updates in effect since December 15, 2016). Such report must include a paragraph on restriction and use, as well as a add an emphasis of matter paragraph indicating that the financial statements have been prepared according to an accounting basis that does not comply with the legal provisions in the preparation and

presentation of the financial statements.

### Considerations for the preparation of financial statements as of December 31, 2018

- Based on the previous paragraphs, it is inferred that although the deadline remains in effect for complying with the obligation to prepare financial statements as of December 31, 2018 according to the accounting basis of IFRSs, IFRSs for SMEs, Micro-SMEs or specific accounting bases identified in special laws (as indicated in resolution #120/2018 of the CVPCPA), those merchants (entities) that as of the closing of the 2018 period have not complied with the adoption of the accounting standards mentioned above, **will have the possibility to prepare financial statements according to a different accounting basis, but such financial statements would be considered as special purpose, and not general purpose, financial statements.**
- Furthermore, Roman numeral VII of resolution #120/2018 of the CVPCPA, indicates that: "*The issuance of financial statements with violations of the applicable legal provisions, for the preparation of financial statements as of December 31, 2018, does not exempt merchants from their obligation to prepare financial statements according to the basis of the legal provisions; consequently, external auditors will consider according to their professional judgment, whether they are standing before the performance of another engagement, and thus must take the necessary technical and legal actions, from the formalization of the*

*engagement, until the issuance of the independent auditor's report". (Emphasis added)*

### Effects and penalties due to non-compliance with Formal Accounting

Following are the penalties and fines that could be applied to merchants (entities) due to non-compliance resulting from not having adopted an accounting basis in accordance with the resolutions issued by the CVPCPA:

#### ▪ Penalty in Tax Matters

Article 242 letter a) of the Tax Code (TC) establishes as a violation the "omission of keeping or improperly keeping the books, records, manual or computerized accounting systems, as well as special records," whose penalty corresponds to a **Fine of 4 monthly minimum wages.**

#### ▪ Penalty in Commercial Matters

In cases of violation of the formal accounting requirements in El Salvador, commercial entities are exposed to the penalties established in articles 10, 11 and 12 of the Law of the Superintendency for Commercial Obligations (SOM per its Spanish acronym), which are classified according to the severity of the violation:

- ✓ **Minor:** written warning, for the first offense.
- ✓ **Serious:** fine of 1 to 15 of the highest urban minimum wages in effect.
- ✓ **Very Serious:** fine of 15 to 50 of the highest urban minimum wages in effect.

It is important to mention that according to Article 209 of the Fourth Section of Chapter IV "Rules of Evidence" of the TC, the taxpayer's accounting books constitute evidence for establishing the taxpayer's tax situation, provided that the records are

supported with the accounting entries that contain the supporting documentation that permits establishing the origin of the recorded operations, **and they comply with the TC, the CC and the respective special laws (according to the nature of the company).**

### Conclusions and recommendations

After having reviewed the background described in the preceding paragraphs, it is important to take into account the following:

1. Notwithstanding the fact that as indicated in resolution #120/2018 issued by the CVPCPA, merchants will have the possibility to prepare financial statements as of December 31, 2018 according to an accounting basis that differs from the one legally established in the country, **this situation constitutes a violation**, as indicated in Roman numeral VII of the cited resolution; **therefore, merchants will run the risk of the penalties and fines, both in tax and commercial matters**, indicated in this document. Likewise, merchants run the risk of possible objections that the Commercial Registry may make upon depositing the financial statements of the 2018 period, which could affect the renewal of the commercial license or other acts that require a commercial registration.
2. Although the independent auditor can issue an audit report on financial statements prepared according to an accounting basis that differs from the one legally established in the country, the auditor must ensure that they prepare their report in accordance with the structure of ISA 800 and **include the indication that**

**the financial statements have been prepared according to a basis that does not comply with the legal provisions in effect.**

Accordingly, it is recommended to all merchants (entities) that as of this date have not begun the process of adoption of IFRS, IFRS for SMEs and Micro-SMEs (as applicable), to establish an action plan for carrying out this process of adoption of accounting standards, either internally or with the support of an external specialized consultant, and thus mitigate the risk of delay in the issuance of annual financial statements, and above all, the risk of fines and penalties that could be applicable with respect to the formal accounting.



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## Regulatory Summary

### Reminder to Register with the Registry of Accountants kept by the Tax Administration

On October 29, 2018, the General Office of Internal Revenue (DGII per its Spanish acronym) once again issued an announcement for Accountants and Legal Representatives of companies authorized to exercise the Public Accounting profession, and who are responsible for signing the Financial Statements of those taxpayers that are obligated to present a tax opinion in conformity with Article 131 of the Tax Code and Article 47 Letter f) of the International Services Law, in which it **REITERATES** the following:

**a) They must obtain authorization from the Oversight Board of the Profession of Public Accounting and Auditing (CVPCPA).**

According to articles 2, 5 sub-section one, and 6 sub-section 1, of the Law Regulating the Exercise of the Accounting Profession, reformed through Legislative Decree No. 646, published in the Official Gazette No. 218, Volume 417 dated November 22, 2017, it is required to be authorized by the CVPCPA, **and such formality must be concluded no later than December 31, 2018.**

**b) The Authorization Number assigned by the CVPCPA will be the same for tax purposes.**

For tax purposes, the "Accountant" authorization number indicated in the registry of the DGII will be the same number assigned by the Oversight Board to individuals and accounting companies, in accordance with Article 149-B final sub-section of the Tax Code.

However, **in the case of accountants that registered themselves in the Registry of Accountants of the Tax Administration with an Accountant Accreditation Number from the Ministry of Education (MINED) or through an Affidavit**, they must also obtain the authorization for exercising the accounting profession and register themselves before the CVPCPA. Once the authorization and registration is obtained, they must present to the DGII, in writing, the original and a photocopy of the Accountant Identification Credential, which will allow them to update their Accountant Registration Number in the corresponding Registry kept by the DGII.

In the case of Auditors that are registered in the Registry kept by the Tax Administration and also plan to exercise their profession as Accountants, they must have the Authorization Number issued by the Oversight Board. Once this Authorization Number is obtained, they should proceed to update the information in the Registry mentioned above, as indicated in the preceding point.

**c) The Financial Statements that are attached to the Tax Opinion and Report for the 2018 period shall be signed electronically, entering the Authorization Number issued by the CVPCPA.**

Due to the above, based on that set forth in Article 3 of the Organic Law of the General Office of Internal Revenue and Article 120 of the Tax Code, it is established that **by April 30, 2019**, the Accountants that will sign these Financial Statements must be registered in the Registry of Accountants kept by the Tax Administration, based on the Authorization Number mentioned above.

If the registered Accountants and Auditors referred to in letter b) above do **not present the cited Authorization or the Accountant Credential issued by the Oversight Board by April 30, 2019, they will be deactivated in the Registry of Accountants mentioned above**, unless it is proven that the lack of its submission is due to the fact that its authorization by the Oversight Board is pending.

**d) If the Request for Authorization and Registration as an Accountant is in progress in the Oversight Board, the Accountant may register in the Registry of the General Office of Internal Revenue.**

In this case, it is necessary to attach to the form for Acceptance of Registration Terms for Internet Services the original and a photocopy of an affidavit, for purposes of comparison with the cited request. Once the Authorization or Accountant Registration Number and the Credential issued by the Oversight Board are obtained, the Accountant must present to the General Office of Internal Revenue, through a written document, the originals and photocopies of the respective documents for purposes of comparison.

Finally, the DGII reiterates that consultations regarding the registration process for Accountants, and the updating of the number issued by the Oversight Board in the Registry of the DGII, may be made through its website by clicking on the following link: [Registration in the Registry of Accountants kept by the Tax Administration](#). Similarly, the forms mentioned above, as well as the model of the document cited above can be consulted and downloaded through the website, using the same link above.

The announcement referred to in this document can be consulted at the following link: <http://www7.mh.gob.sv/pmh/es/Novedades/10050-Recordatorio-sobre-Inscripcion-Registro-Contadores-lleva-Administracion-Tributaria.html>

# Tax Calendar

## November 2018

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	

### November 15

#### 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).

### November 22

#### 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).

### November 1, 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 2018 (F-462) and Appointment of Auditor.

#### NOTE

- November 2, Public holiday, All Soul's Day.



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