



## Tax Newsletter

Timely news and information on national tax issues

### Tax Administration Oversight: Main income tax adjustments

The Salvadoran legislation regulates in article 173 of the Tax Code, the Tax Administration's oversight powers for ensuring compliance with tax obligations, with the Tax Administration being able to exercise such powers even with respect to taxpayers benefitting from tax exemptions or incentives.

Therefore, by generally encompassing tax obligations, the oversight powers allow the Tax Administration to enforce taxpayers' legal compliance with both the payment of the various taxes, and with their formal obligations. Thus, it is necessary to keep proper control over both types of obligations.

In recent years, increased oversight over the income tax has been observed, with one of the main areas of adjustment being the materialization of services and objections to costs and expenses because they are not considered necessary. Due to the above, it is

important to be able to identify when and how taxpayers can deduct from their income, the expenses and costs they incur.

Firstly, it must be clarified that not all costs and expenses will be deductible from the income obtained by taxpayers, since they must comply with certain requirements. To date, these requirements have been repeatedly applied by the Tax Administration and the jurisdictional courts, pursuant to the provisions of Articles 28 and 29 of the Income Tax Law. The requirements are as follows:

- a) It is necessary to demonstrate the existence of the transaction, i.e. prove the actual provision of the services, and as consideration for such services, the payment agreed upon for the value the services.

Since this is the first item verified by the competent authorities, the taxpayer must have suitable and sufficient evidence to demonstrate that the transaction existed, and thus prove the actual provision and receipt of a service, as well as the consideration or payment made as a result of such service.

- b) The purpose of the costs and expenses must be the generation of taxed profits, or the preservation of the source, whether from work, services or production, without having any increase in value.
- c) The costs and expenses must be necessary. In other words, the cost or expense incurred by the taxpayer must be one of the reasons why the taxpayer has received income or preserved its source. Therefore, it is essential that the cause and effect be linked.
- d) The costs and expenses must be duly recorded and documented in the taxpayer's accounting, pursuant to the requirements of Articles 203, 206 and 209 of the Tax Code, as well as any other applicable tax requirements.

If any of the above requirements are not met and cannot be duly verified, the cost or expense may be considered non-deductible.

Therefore, it is recommended that the aspects cited above be properly documented, which implies that the cost or expense is supported with legally appropriate evidentiary documentation. It must be kept in mind that the burden of proof rests with the taxpayer, with the taxpayer being obligated to prove that the deduction was applicable.

We recommend that as commercial transactions are generated, the taxpayer compile a Tax File for each transaction that includes documentation supporting the materialization of the cost or expense, the generation or preservation of income, and the link between the two. Such information may include:

1. Invoices
2. Contracts
3. Reports received as a deliverable for the service
4. Meeting minutes
5. Emails between the supplier and company staff for the coordination of the service
6. Contact information of the company staff who requested or was involved in the service, as well as contact information of the supplier's staff that was in charge of the project
7. Withholding certificates for the withholdings applied
8. Other information relevant to the service received.

In addition, it is necessary to consider that some supporting documents, such as contracts, may need to comply with certain formalities, such as translation or apostilles, if they are documents issued abroad, in order to comply with article 206 of the Tax Code and be presented to the Tax Administration when requested.

Considering all of the above, and as a measure for anticipating the Tax Administration's requests, taxpayers can create internal manuals for generating the Tax File for those transactions that due to their characteristics and/or amount, they wish to ensure their deductibility.



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# Tax Calendar

## October 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	31

Download the  
2020 Obligations Calendar

Download our 2020  
Obligations Calendar



### October 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)
- Report on Authorizations Made to Accounting Systems, Legal Accounting Books, VAT Books or Records, Certifications and Reports issued on Modifications to Legal Books, Subsidiary Books and Special Records (F-463)

### October 21

#### 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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