



## Tax Newsletter

Timely news and information on national tax issues

### Importance of timely and proper compliance with formal tax obligations

Article 85 of the Tax Code establishes that formal obligated parties are those taxpayers, responsible parties or others, **who according to the law must give, do or not do something aimed to ensure compliance with the substantive tax obligation, that is, the tax payment.**

Due to the above, it is not surprising that the different Salvadorian tax laws contain a great number of formal tax

obligations that taxpayers must comply with every tax period: monthly, quarterly, bi-annually or annually.

In addition, it is worth mentioning that also the Tax Code establishes onerous and specific penalties for each of the formal tax obligations, in the event that taxpayers do not comply within the stipulated legal terms, or, if they do not properly comply with the specifications of the tax laws or

the instructions of the Tax Administration (*Ministerio de Hacienda*), especially regarding the completeness of the information required in each of the forms, also known as information statements.

#### **Penalties for non-compliance with formal tax obligations**

The penalties that are currently established in the tax laws, with respect to non-compliance with formal tax obligations, **are of**

**an economic nature (fines) and are determined based on the Shareholders' Equity stated in the taxpayer's balance sheet;** and in other cases, such penalties are determined based on monthly minimum wages of the commercial and services sector.

An example would be the following: if a company files a late "Report on Realizable Assets (F-983)," which is due in the first 2 months of the year following the one being reported (Art. 142 of the Tax Code), and the company has a net equity of US\$13,500,000, the penalty for this violation would be a fine of 0.5% of the equity and no less than 9 monthly minimum wages. Thus, the applicable fine would amount to US\$67,500 – 0.5% of the equity– Art. 243 letter e) of the Tax Code. If the taxpayer voluntarily pays the fine, the reductions indicated in Art. 261 and Art. 262-A of the Tax Code shall be applied.

According to the example in the previous paragraph, it can be observed that non-compliance of a formal nature, such as the late filing of an informational statement, entails a very onerous and disproportionate consequence with respect to the violation itself, for which opportunities for the defense of taxpayers would be quite difficult, since generally there are no factual or legal arguments that justify the late filing or incomplete filing of formal obligations.

Consequently, in recent years a greater number of review,

control and oversight processes by the Tax Administration have been observed, with emphasis on verification of compliance with formal tax obligations applicable to taxpayers. This situation has resulted in the payment of very onerous penalties by various taxpayers.

#### **Issuance of tax clearance documents**

It is also important that taxpayers know that non-compliance with formal tax obligations could affect the issuance of "**solvencias tributarias,**" or tax clearance documents, that are requested from the Tax Administration.

According to that established in the second paragraph of Art. 219 of the Tax Code, related to the issuance of Tax Clearance or Authorization Documents, the Tax Administration cannot issue them when it is verified that the requesting taxpayer is in any of the following situations:

- a) Tax returns or withholdings reports pending filing.
- b) There are differences between the withholdings reported in the withholdings report and the withholdings entered in the monthly tax returns filed by the withholdings agents or with the tax returns of the tax year or period of the Income Tax filed by the party subject to withholdings.

Given the importance of proper compliance with formal tax obligations, it is necessary that

taxpayers develop specific tax programs within their organizations, which allow them to be proactive in the monitoring of each of the tax obligations applicable to them, based on their industry and line of business, in order to decrease the risks or exposure to penalties in the event of a review by the tax authorities.

Finally, it is also essential that taxpayers have the advisement of independent consultants, specialized in tax matters, with the purpose of strengthening the proactive and preventive culture regarding the proper treatment of the different tax issues that arise every day in the operations and strategies implemented in the business. This is in order to always be well prepared in the event of a review or audit by the Tax Administration.



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## Tax Calendar December 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				

### December 13

#### 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

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)

### December 20

#### 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).

### December 24-31

#### Christmas and New Year's holidays

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