

Tax Alert

Tax information



SAT Institutional Tax Criteria 01-2021 and 02-2021

At the end of January 2021, the Tax Administration has published two important tax criteria that we consider, come to confirm positions and resolve many conflicts that taxpayers have had during the last 4 years; which we believe will be of great use to taxpayers and summarized below:

Tax Criterion 01-2021: Tax treatment with respect to legal validity and invoice effects containing formal errors or that were issued on a date when your authorization was expired



In this Tax Criterion, the Tax Administration addresses situations that have now been very common and have generated a lot of expectation since, so far, it was considered as a tax-type contingency both in the origin of the VAT tax credit and in the deduction of expenditure for the determination of income tax when purchasing goods or services and receiving from its supplier, invoices containing formal errors.

In accordance with this criterion, the following shall be considered within the formal errors:

1. Misspelling of data such as spelling errors in its name, incomplete name;
2. Those related to document authorization, No. Invoice and date of issue.
3. Overdue invoices, i.e. the deadline for your authorization is earlier than the date it was issued.

The criterion indicates that all of these will be considered formal errors as long as they do not alter the veracity and legality of the expense incurred, nor substantially or disproportionately alter the information that must be contained in the invoice. In addition to the fact that, in the face of an audit by the tax office, they must confirm that they are indeed errors in determining that the invoices were actually paid, that the taxpayer complied with his substantive tax obligations, that he recorded the expense in his accounting and that what was acquired was used in his economic activity.

Exhausted the above and confirmed that this is a formal error the tax authorities will not be able to make any adjustment to the VAT tax credit and the deductibility of expenses for income tax purposes.

For the case of the Invoice Issuer (supplier) penalties for formal violations set out in Article 94 of the Tax Code shall apply.

Tax Criterion 02-2021: Accreditation of the Solidarity Tax paid to the Tax Administration extemporaneously.



The second tax criterion of the Tax Administration, confirms, that payments made extemporaneously corresponding to the Solidarity Tax, are creditable to income tax until their exhaustion during the following immediate calendar three years, as established by the Law, from the date on which the payment was made, that is to say that tax credit will be produced for that tax in accordance with Article 11 of Decree 73-2008 of the Law on Solidarity Tax. It also indicates that, as described above, it does not exempt the taxpayer from paying the fines, arrears and interest corresponding to the out-of-time payment.



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