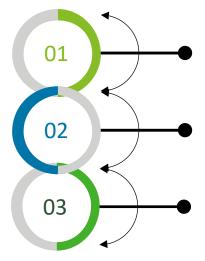
# Deloitte.



Institutional Tax Opinion No. 6-2021 "Application of Article 11 of Decree No. 7-2019, Regularization through payment on behalf of third parties, in the payment of the Income Tax determined"

The Tax Administration was published on its website Institutional Tax Opinion No. 6-2021, which refers to the procedure and considerations that this entity applies in the cases in which taxpayers make use of article 11 of Decree No. 7-2019 "Tax Simplification, Updating and Incorporation Law, **"related to the process of" regularization through payment on behalf of third parties.**"

It states that for the interpretation of the article in question, the following should be considered:



There must be an existing case file resulting from an oversight action, in which inconsistencies have been established regarding the documentation presented that originated the tax fraud claim.

In this legal proceeding, the competent judge may be asked to apply article 11 of Decree No. 7-2019.

Upon receiving authorization from the judge, the Superintendency of Tax Administration may verify and assess the proper application of article 11 of Decree No. 7-2019, and for such purpose shall proceed as follows:

- It will verify in the Unified Tax Registry that the taxpayer appears as an ٠ Issuer of Electronic Invoices.
- Considering that currently the Tax Administration has not activated the • electronic system for the recording of transactions, those that request regularization through payment on behalf of third parties are unable to comply with such requirement.

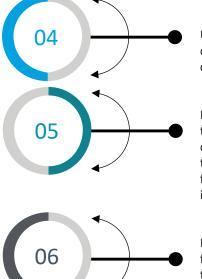
Upon concluding the review, the tax auditor issues a report with the results obtained, and through the Office of Legal Affairs, they are presented to the competent judge.

In the event that the judge orders the payment of the VAT determined by the taxpayer and verified by the SAT, the Collections Office will establish the amount of the fine and compensatory interest as of the date on which the taxpayer makes the payment. The taxpayer at that time may pay the corresponding tax and request from the President of the Republic of Guatemala the exoneration of the fines and interest.



For the case files in which the Tax Administration included in the claim an amount for Income Tax in addition to the Value Added Tax, the Office of Legal Affairs of the Superintendency of Tax Administration will issue a report indicating that since the taxpayer paid the amount of VAT, fines and compensatory interest due and complied with the conditions established in the article in question, the regularized invoices legally support the costs and expenses of the product exported or sold.

Finally, the Institutional Tax Opinion indicates that the regularization contained in article 11 of Decree No. 7-2019 does not release suppliers, sellers, or intermediaries from the criminal responsibility that may be determined in the proceedings.



### Our experts:

Deloitte offers a range of integrated tax and legal services. Our teams combine technical knowledge, experience and innovation, which allow us to help our clients meet their objectives at the local and global levels.



#### Ana Lucía Santacruz

Tax and Global Trade Partner alsantacruz@deloitte.com



#### Daniela Velásquez

Tax Manager <u>dbvelasquez@deloitte.com</u>

## Deloitte.

Deloitte refers to Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, its network of member firms and their related entities, each of which is a legally separate and independent entity. Please see www.deloitte.com to learn more about our global network of member firms.

Deloitte provides audit & assurance, consulting, financial advisory, risk advisory and tax & legal services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 330,000 professionals are committed to making an impact that matters.

As used in this document, Deloitte Guatemala, S.A., which have the exclusive legal right to engage in, and limit its business to, providing auditing, consulting, tax consultancy, legal, risk and financial advisory respectively, and other professional services, under the name "Deloitte".

This presentation contains general information only and Deloitte is not, by means of this document, rendering advice or accounting, commercial, financial, investment, legal, tax or other services.

This presentation is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. No representation, warranty or promise (either explicit or implicit) is provided regarding the accuracy or completeness of the information in this communication and Deloitte will not be responsible for any loss suffered by anyone who relies on this presentation.