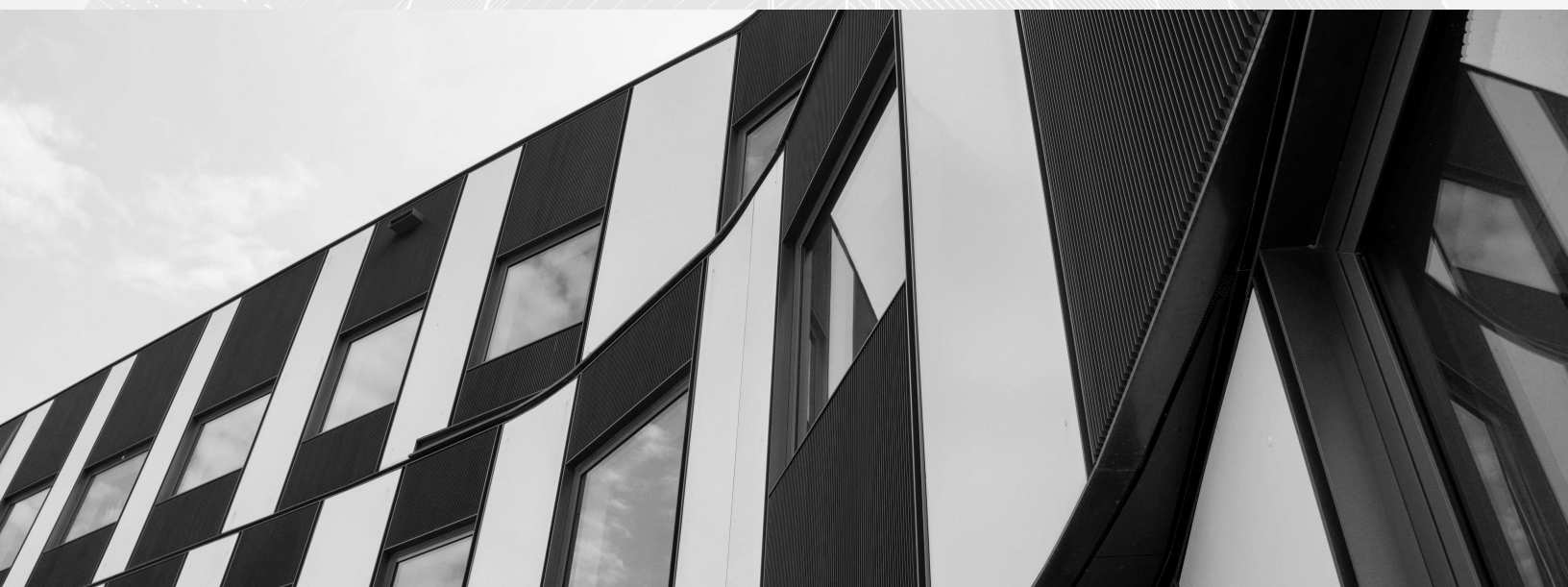


TAX News December 2022

Executive summary

Norm	Content	Date
Decree No. 8634	The exceptional and transitory regime for the regularization of certain tax debts is extended until June 30, 2023.	December 28, 2022
Decree No. 8635	Extension until February 28, 2023, of the reduction of the VAT taxable bases applicable to the importation of goods under the tourism regime.	December 28, 2022
Decree No. 8676	The taxable base of the Selective Consumption Tax (" <u>ISC</u> ") for the import of Gas Oil/Diesel Type III is modified until January 31, 2023.	January 03, 2023
General Resolution No. 123	The Undersecretariat of State for Taxation (" <u>SET</u> ") establishes provisions for calculating advance payments of Corporate Income Tax (" <u>IRE</u> ") under the general and simple regime.	December 9, 2022





More information

Decree No. 8,634/2022 - Exceptional and transitory regime for regularizing certain tax debts is extended

Through Decree No. 8,634/2022, the Presidency of the Republic extended the effectiveness of Decree No. 7,086/2022 (the "Decree") until June 30, 2023. The Decree was issued on May 19, 2022, and established an exceptional and transitory regime for those who regularize their tax debts to have the following benefits:

- a) 0% moratorium interest rate.
- b) Reduction of the fine for tax evasion up to half or up to the legal minimum, whichever is greater.
- c) Payment facilities with a lower initial payment and a greater number of installments.

The tax debts eligible for this regime are those that (i) were generated in fiscal periods or fiscal years closed up to December 31, 2020, and (ii) that are in any of the following situations:

1. Debts consigned in the debt certificates issued by the SET that (i) have the character of firm and enforceable and (ii) are in the process of collection management by the Treasury Attorney's Office ("ABT").
2. Tax adjustments arising from tax assessments and application of penalties derived from audits, administrative summaries, or appeals for reconsideration which:
 - 2.1. are pending before the courts; or
 - 2.2. have the taxpayer's express consent or acquiescence (including those debts in collection proceedings by the SET).

Debts resulting from the filing or rectification of tax returns made by the taxpayer cannot benefit from this regime.



To access the benefit of reducing the fine for fraud, the taxpayer (i) must not have paid the penalty, even partially, and (ii) must submit a request for reliquidation, which the SET will analyze. This benefit also applies to those fines in the administrative or judicial collection.

Taxpayers wishing to avail themselves of the benefits of this regime have time to submit their request to SET or ABT until June 30, 2023, according to the new extended term. In this context, they must pay the total amount of the debt or formalize an installment plan with SET or ABT.

In case of availing of this special regime under the installment payment modality, the taxpayer must make an initial payment of at least 10% of the debt. After that, the remaining amounts of the debt may be paid in up to 36 monthly installments, on which a monthly rate of 0.75% will be applied for the term of the financing.

Exceptionally, and under the condition that the request receives the approval of the Deputy Minister of SET, the taxpayer may achieve an installment payment plan of up to 60 monthly installments if the tax debts, as a whole, exceed the amount of ₡ 1,000,000,000, without considering moratory interests.

Finally, debts originating from payment facilities that have been rendered ineffective or lapsed due to noncompliance by the taxpayer during the effectiveness of the Decree may not be financed again by the regime established therein. In addition, if the taxpayer ceases to comply with the payment facilities plan, the benefits provided in the Decree are null and void.

Decree No. 8,635/2022 - The special regime provided for in Decree No. 8,048/2022, which temporarily modifies the VAT taxable base for importing goods under the tourism regime, is extended until February 28, 2023

To encourage border trade, the Executive Branch issued Decree No. 8,048/2022 (the "Decree"), which temporarily modified the VAT taxable base applicable to goods under the tourism regime, cited in the annex of Decree No. 1,931/2019. Through this new Decree, the validity of the previous Decree is extended until February 28, 2023.

According to the provisions of the Decree, the VAT taxable base remained at 5% for the goods referred to in the annex of Decree No. 1,931/2019. Thus, the effective rate is as follows:

Period	Taxable base	Effective rate VAT 10%	Effective rate VAT 5%
From January 1st to February 28th, 2023	5%	0,5%	0,25%

Subsequently, as of March 1, 2023, the taxable base of 15% will be applied again for importing goods under the Tourism Regime, as ordered by Article 4 of Decree No. 1,931/2019.



Decree No. 8,676/2023 - The ISC taxable base for importing Type III Diesel/Oil Gas is modified until January 31, 2023

Through Decree No. 8,676/2023, the Executive Branch fixed, on a transitory basis, the ISC taxable base for the import of Type III Diesel/Oil Gas/Diesel, setting it at € 3,083.3 per liter until January 31, 2023.

This decree is part of the Government's practice of temporarily fixing presumptive tax bases for Type III Diesel/Oil Gas, Virgin Naphtha, and RON 91 Naphtha, whose last iteration started on February 4, 2022, with Decree No. 6,620/2022, and concluded with December 31, 2022, with Decree No. 8,416/2022.

Thus, as of January 1, 2023, the taxable base of Virgin Naphtha and Naphtha RON 91 is determined as provided for in the ISC regulation annexed to Decree No. 3109/2019, while the taxable base of Gas Oil/Diesel Type III is determined as provided for in Decree No. 8,676/2023, at least until January 31, 2023.

General Resolution No. 123/2022 - The SET establishes provisions for calculating the IRE advance payment under the general and simple regime

In the last amendment to Decree No. 3,182/2019, made by Decree No. 7,402/2022, a new method for calculating IRE advances was established. Through General Resolution No. 123/2022 (the "RG"), the SET further regulated this issue.

The RG affects both IRE taxpayers under the General Regime and those under the Simple Regime, for whom the calculation of IRE advances is based on a reference amount that we will call the IRE base.

They are not obliged to pay IRE advances (i) those who have not yet closed their first fiscal year as taxpayers of this tax, nor (ii) those whose IRE base is equal to or less than € 10,000,000.

During the taxpayer's second and third IRE taxable years, the IRE basis for the advance to be paid in the current year shall be the IRE settled in the previous taxable year before the imputation of payments on account. From the fourth fiscal year onwards, the IRE basis will be the average tax determined in the last three fiscal years before the imputation of payments on account, including the fiscal year being declared. Thus, in the declaration of xx2, the average of xx0, xx1, and xx2 must be taken for the advance payments to be paid in xx3.

The basis for calculating the advance payments will be determined by subtracting from the IRE-base the following items, in order: (i) the withholdings and deductions that were made to the taxpayer in the year declared (xx2), according to its tax return; and (ii) the balance in favor of the taxpayer in the liquidation of the IRE corresponding to the year declared (xx2), which, on certain occasions, could benefit the taxpayer with the duplication of the deduction of withholdings and deductions.

The RG foresees that when the taxpayer's credit balance for the year declared is deducted from the amount of the advances to be paid for the following tax year, this balance is reduced by the amount used against the advances, which, if so, could imply a misappropriation of the taxpayer's credit, since a credit would be offset against another credit (advance payment), instead of against a debit (tax).



If a taxpayer did not file its liquidation in any of the three years to be used for the IRE-base or if its liquidation did not show any tax payable, then the number "0" will be used for those years to perform the relevant calculations. This can be seen in the numerical example of the RG transcribed below:

Concept	Amount
Tax assessed for fiscal year xx2	180.000.000
Tax assessed for fiscal year xx1	120.000.000
Tax assessed for fiscal year xx0	0
Average income tax paid in the last 3 fiscal years (xx2 + xx1 + xx0) / 3 (180,000,000 + 120,000,000 + 0) / 3	100.000.000
<u>Minus:</u> withholdings and perceptions for the year xx2	20.000.000
A) Advance to be paid for the following fiscal year (xx3)	80.000.000
B) <u>Minus:</u> balance in favor of the taxpayer for fiscal year xx2	2.000.000
C) Basis for calculating advance installments	78.000.000

The installment of each advance payment is determined by multiplying the calculation basis for the advance payment installments ("C" in the table above) by 25% or, in other words, by dividing it by 4:

$$78,000,000 / 4 = 19,500,000$$

Each installment must be paid by taxpayers in the first, third, fifth, and seventh month after the due date for filing the tax return, according to the perpetual calendar of General Resolution No. 38/2020, which is for those taxpayers with closing on December 31 and due date of the IRE in April means in May, July, September, and November.

If from the income tax liquidation corresponding to the last fiscal year, it appears that the taxpayer has a balance in its favor ("B" in the table above) that is equal or higher than the amount of the advances to be paid ("A" in the table above), the installment of the advance payment will be equal to "0".

If the taxpayer rectifies the IRE affidavits affecting any of the elements for the determination of the advance payments or files affidavits for previous tax years that were pending, the determination of the advance payments will be recalculated, and the values will be updated in the standardized affidavit and, consequently, in the taxpayer's current tax account.

Finally, the RG approved the use of new versions of forms 500 (v3) and 501 (v2) of the IRE General and Simple Regime, respectively.

These forms will be available from January 1, 2023. They will be used for liquidating the tax corresponding to the fiscal year 2022 and for determining the advance payments for the fiscal year 2023 for those taxpayers with closing on December 31. For taxpayers that close their fiscal year in April or June, the new versions of the forms will be used for the respective 2023 closings and to determine the advance payment of their fiscal year closing in 2024.

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