



V O U G A
A B O G A D O S

Tax News

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Executive Summary

Standard	Content	Date
General Resolution No. 403	The National Directorate of Tax Revenues ("DNIT") exempts from penalties until December 31, 2023 the lack of confirmation of the voucher registration filing stub, established in General Resolution No. 90/2021.	October 10, 2023
General Resolution N° 488	Due to its update, DNIT suspended the services related to the Marangatú System in October 28 and 29, 2023.	October 25, 2023
Binding Consultation	The former Undersecretariat of State for Taxation ("SET") took a position on the deductibility for Personal Income Tax in the personal services category ("IRP-RSP") of purchases made with credit cards through the Internet.	April 2023
Binding Consultation	The previous SET ruled on the procedure to be followed in the case of destruction of assets and the reversal of Value Added Tax ("VAT").	August 2023
Binding Consultation	The previous SET answered doubts about the possibility of cancelling invoices with the issuance of credit notes.	August 2023
Judgment No. 115/2023	The Criminal Chamber of the Supreme Court of Justice resolved to confirm the administrative resolution of the former SET, which challenged the deductibility of the expense for the allocation of additional benefits to workers on the net income of a company under Law No. 285/1993 because not all workers received this benefit.	March 2023





More information:

General Resolution No. 403/2023 - DNIT exempts from penalties until December 31, 2023, for failure to confirm the voucher registration filing stub, established in General Resolution No. 90/2021.

By means of General Resolution No. 403/2023, the DNIT provided that, until December 31, 2023, the lack of confirmation of the voucher registration voucher corresponding to:

- (a)** The annual registration of vouchers for fiscal year 2022, under code No. 956- REG. ANNUAL REG.
- (b)** The monthly register of vouchers for the fiscal periods from January to October 2023, under code No. 955-REG. MONTHLY VOUCHER.

This means that failure to confirm the late filing of the voucher registration stub within the indicated period does not result in the application of a fine for contravention, nor the other negative consequences of non-compliance, such as: impossibility to generate the tax compliance certificate, increase of the taxpayer's risk index, etc.

This measure complements the provisions of the previous SET in General Resolutions No. 124/2023, 126/2023 and 132/2023, which had established the same measure for this year, but limiting it until October 30, 2023.

During the term of Resolution No. 403/2023, the DNIT will continue to receive the registration of vouchers and the confirmation of the filing slip.

General Resolution No. 488/2023 - DNIT suspends services related to the Marangatú System for October 28 and 29, 2023, for updating.

With the issuance of General Resolution No. 488/2023, the DNIT suspended the following services related to the Marangatú System for Saturday, October 28, and Sunday, October 29, 2023, to update the servers and database:

- (a)** Receipt of receipt of DIR-Initial Documentation Required for requests for refund of tax credits and repetition for undue or excess payment (also suspends the expiration period).
- (b)** Applications for registration, renewal, updating or cancellation of the different registries (Single Taxpayers Registry, exporters, etc.).
- (c)** Affidavits (determinative and informative), communications, requests for prescription or other documents.
- (d)** Requests related to document stamping and administration.



- (e) Proof of not being a taxpayer and not withholding tax, as well as the tax compliance certificate.
- (f) Any other document or procedure that requires the Marangatu System.
- (g) Receipt of virtual receipts.
- (h) Payment of tax obligations.

Accordingly, it was established that if payment facilities were requested between October 26 and 27, 2023, October 27 should be indicated as the maximum date for the initial instalment payment. Likewise, the term for the transmission of withholding certificates issued from October 23 to 28, 2023, was extended until November 4, 2023.

Answer to the Binding Consultation on the deductibility for IRP-RSP of purchases made with credit cards over the Internet.

In a response issued to a binding consultation during April 2023, the former SET set forth its position on the deductibility in the IRP-RSP of purchases of physical goods (clothing) and digital streaming services (Netflix, etc.), which originate abroad, are acquired through the Internet, are remitted to the country and are paid with credit cards issued by banking entities with residence in Paraguay.

In this regard, the Tax Authority concluded (a) that the acquisition of clothing abroad is not deductible, (b) that only health and education expenses incurred abroad are deductible in favor of the taxpayer or his dependents, and (c) that digital streaming services are entertainment expenses and, as such, are deductible in the IRP-RSP as long as they are acquired in the country and are duly documented.

Especially concerning to streaming services, the transcription of Article 83 of Law No. 6380/2019 seems to indicate that these, as digital services, are considered rendered in the national territory for IRP-RSP when the financial entity, the issuer of the credit card with which the payment is made, is located in Paraguay. However, the doubt about their deductibility persists due to the difficulty to comply with the documentation standards required for deductibility.

Answer to the Binding Consultation on the procedure to be followed in the case of destruction of assets and reversal of VAT.

In a response issued to a binding consultation during August 2023, the former SET indicated that, in the case of proceeding with the destruction of expired, obsolete or damaged goods, the following procedure must be followed:

- (a) If an external auditor's report is required, the external auditor will be responsible for verifying the details of the affected assets to be written off in the inventory and is obliged to report this in the annual report.



(b) If the above is not applicable, the act will be certified through the intervention of the taxpayer's accountant, and the pertinent record will be signed, indicating in detail the assets disposed of with their values. This record shall form part of the taxpayer's tax file.

In addition to the above, in order to reverse the VAT credit of the de-appropriated goods, the taxpayer must issue an invoice detailing the goods at cost price with the corresponding VAT that had been used as a credit at the time of purchase.

Answer to the Binding Consultation on the possibility of using credit notes to cancel invoices.

The taxpayer informs the Tax Authority that some customers establish a deadline for receiving invoices, so they receive invoices from their suppliers up to the 23rd of each month. In cases where it is not possible to issue an invoice before that date, the taxpayer issues the invoice for that month for the sole purpose of entering the VAT for that period, so it does not deliver that invoice to the customer and, at the beginning of the following month, it reverses its VAT Debit with the issuance of credit notes, and then issues a new invoice.

In this regard, the taxpayer asked the former SET whether the described procedure is within the tax regulations, to which the Tax Authority pointed out (a) that invoices can only be cancelled in cases of faults or errors produced at the time of their issuance, not after such time or when the invoices were delivered to the purchaser of the service; and (b) that credit notes can only be used to document the return of goods, price discount or bonus, or uncollectible credits, but not to cancel or annul invoices previously issued.

Judgment No. 115/2023, by which the Criminal Chamber of the Supreme Court of Justice resolved to confirm the administrative resolution of the former SET, which challenged the deductibility of the expense for the allocation of fringe benefits to workers on the net income of a company under Law No. 285/1993 because not all workers received this benefit.

The Criminal Chamber of the Supreme Court of Justice confirmed Agreement and Ruling No. 120/2022 of the First Chamber of the Court of Accounts, by which the administrative contentious action initiated by a taxpayer against the resolution of the former SET was rejected. In other words, both judicial pronouncements confirmed the resolution of the Tax Authority that challenged, for the fiscal year 2015, the deductibility of the expense for the allocation of additional benefits ("Beneficios Adicionales") to workers on the net income of a taxpayer company, under Law No. 285/1993.

The challenge to the expense was due to the fact that not all the workers received the Fringe Benefits, as only 31 of the 68 employees of the company received them. This situation revealed the disparity of criteria between the taxpayer and the Tax Authority regarding the conditions for the deductibility of the expense, as each had a different position on what entails the "equitable distribution" of the Fringe Benefits provided for in Article 4 of Law No. 285/1993:



- (a)** The Tax Authority position was that it is a requirement for deductibility that ALL workers RECEIVE the fringe benefits, even if it is for a basic amount; however, the particular amount corresponding to each one may vary more or less, depending on their productivity.
- (b)** The taxpayer, on the contrary, argued that the law only requires that ALL workers MAY RECEIVE Fringe Benefits, provided that they meet the productivity indicators for this, which will also determine their amount.

The taxpayer's position differs from the Tax Authority since, according to the former, not all workers will necessarily receive fringe benefits. They only have the expectation or potential to obtain it, concretizing their attribution (and the determination of their amount) is determined according to whether each worker meets the requirements objectively established by the company to receive the fringe benefits.

The highest judicial instance adopted the criterion of the Tax Authority, which was also consistently maintained by the former SET when answering a non-binding consultation in the first half of 2019 . Thus, it ended up implementing the double attribution model of the Additional Benefits, which consists of the following:

- (i)** A portion at the collective level for the fulfilling of company objectives, which should result in a basic amount standard for all employees.
- (ii)** An individual-level portion, based on each employee's contributions to the company, which could even be more substantial than the basic portion.

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