

Tax News

April 2024

Executive Summary

Norma	Fecha	Contenido
Decree No. 1465/2024	April 03, 2024	A special Value Added Tax ("VAT") liquidation regime is established on different concepts related to loans granted within the framework of the "Che Roga Porã" program.
Resolution No 027-001/2024	April 19, 2024	The Social Security Institute ("IPS") approves the subscription of an interinstitutional cooperation framework agreement with National Directorate of Tax Revenues ("DNIT").
General Resolution No. 08/2024	April 25, 2024	The validity of the annual authorization is extended for all persons related to the customs activity.
Binding Consultation	November 2023	The DNIT ruled on the tax treatment to be given to the remuneration received by the partner of a company, in his capacity as senior personnel and as a provider of other independent personal services.

Decree No. 1465 /2024 - A special VAT regime is established for loans granted under the "Che Roga Porã" project.

By means of Decree No. 1465/2024 ("Decree"), the Executive Power has established that the interest, commissions and surcharges generated by loans granted to those persons who wish to access their first home within the framework of the "Che Roga Porã" program ("Program"), will enjoy a special regime in the liquidation of VAT.

Specifically, the Decree broadens the scope of Decree No. 3476/2020, which established the VAT liquidation rate of 5% for credits destined to access the first home. In this sense, the new decree establishes that the financial institutions that grant the credits destined to the Program, in addition to liquidating the tax under such rate, will be made on a taxable base of 10% on the aforementioned concepts, generated by such loans. This implies that the effective VAT rate will be 0.5%.

It should be noted that this special regime applies only to the Program's housing financing loans; it does not apply to other government programs related to the acquisition of the first home, to which, at most, the reduced VAT rate of Decree No. 3476/2020 could be applied.

The Program was promoted by the Executive Power to guarantee access to housing for the working population, seeking to benefit families with incomes up to 4 minimum wages, having the possibility of financing their homes with terms of up to 30 years. Thus, the measure established by the Decree seeks to establish affordable instalments for families wishing to take advantage of the Program, for whom a maximum interest rate of 6.5% has been set¹.

Resolution No. 027-001/2024 - Approving and authorizing the subscription of the inter-institutional cooperation framework agreement between DNIT and IPS.

By Resolution No. 027-001/2024, the IPS approved and authorized the execution of an institutional cooperation framework agreement ("Agreement") with the DNIT. The purpose of this Agreement is the exchange of information and technological cooperation concerning the control of compliance with the employer's social security obligations.

In this regard, the Agreement focuses on cooperation in the following areas:

- a. Normative.
- b. Technological.
- c. Exchange of information.
- d. Training.
- e. Technical collaboration.

For his part, the national director of tax revenues, Óscar Orué, has pointed out that the Agreement seeks to cross-reference data from employers, focusing on the support of the employer's contribution to which they are obliged, the verification of the number of employees that an employer declares, and the movements related to the tax obligations they have, such as income tax and value-added tax².

General Resolution No. 08/2024 - The validity of the annual authorization for all persons related to the customs activity is extended.

By means of General Resolution No. 08/2024 ("Resolution"), the DNIT extended until February 28, 2025, the validity of the annual authorization of Persons Related to Customs Activities ("PVAA"), which must be updated before April 30 of each year, as established in Article 17 of Decree No. 4672/2005.

¹Ministry of Urbanism, Housing and Habitat. 03 April 2024. <https://www.muvh.gov.py/blog/2024/>

²Orué, Oscar, interview by Universo 970 AM. Interview on agreement between DNIT and IPS (April 2024).

In this regard, the following is a reminder of who, according to the provisions of Law No. 2422/2004, of the Customs Code, are the PVAA affected by this extension:

Persons Related to the Customs Activity
a. Single Person Habitual Importer
b. Habitual Importer with Legal Status
c. Customs Broker
d. Freight Forwarder
e. Freight Forwarder
f. Express Remittance
g. Free Zone User
h. National or Foreign Transportation Company
i. Goods Depository
j. Insurance Company
k. Bank

It is worth mentioning that the PVAA benefited with this extension had to present their corresponding guarantees of the professional gender until May 31 of this year, under penalty of decay of the extension of the validity of their registration, agreed by the Resolution. Said guarantees must cover the term of one year and may consist of³:

- a. Cash deposit.
- b. Bank guarantee.
- c. Insurance policy.
- d. Collateral pledged or mortgaged.
- e. Certificate of Deposit and Warrant.

In the case of surety policies, if they are surety policies, they may only be submitted in digital format and will be automatically constituted.

Finally, it is mentioned that the registration and qualification of the PVAA for the first time must comply with the documentary requirements demanded by the registration department, which are established in Resolution No. 80/2020 of the National Customs Directorate.

³ Customs Code, article 293.

Answer to a binding consultation on the tax treatment of the remuneration received by the partner of a company, in his capacity as senior personnel and as a provider of other independent personal services.

In a response issued to a binding consultation during November 2023, the DNIT set forth its position on the tax treatment to be given to remuneration received by the partner of a company, both for services rendered in a senior capacity and for independent personal services rendered in other capacities.

In the consultation filed by the taxpayer, a corporation mentioned that its managing partner is a VAT and Personal Income Tax ("IRP") taxpayer; and, as a lawyer, he performs collection and loan tasks, as well as credit analysis, for which he receives professional fees. The consultant requested the confirmation of the criterion that the remunerations paid to the partner must be considered as a deductible expense based on the provisions of numeral 7 of Article 15 of Law No. 6380/2019 ("Tax Law"), without any limitation.

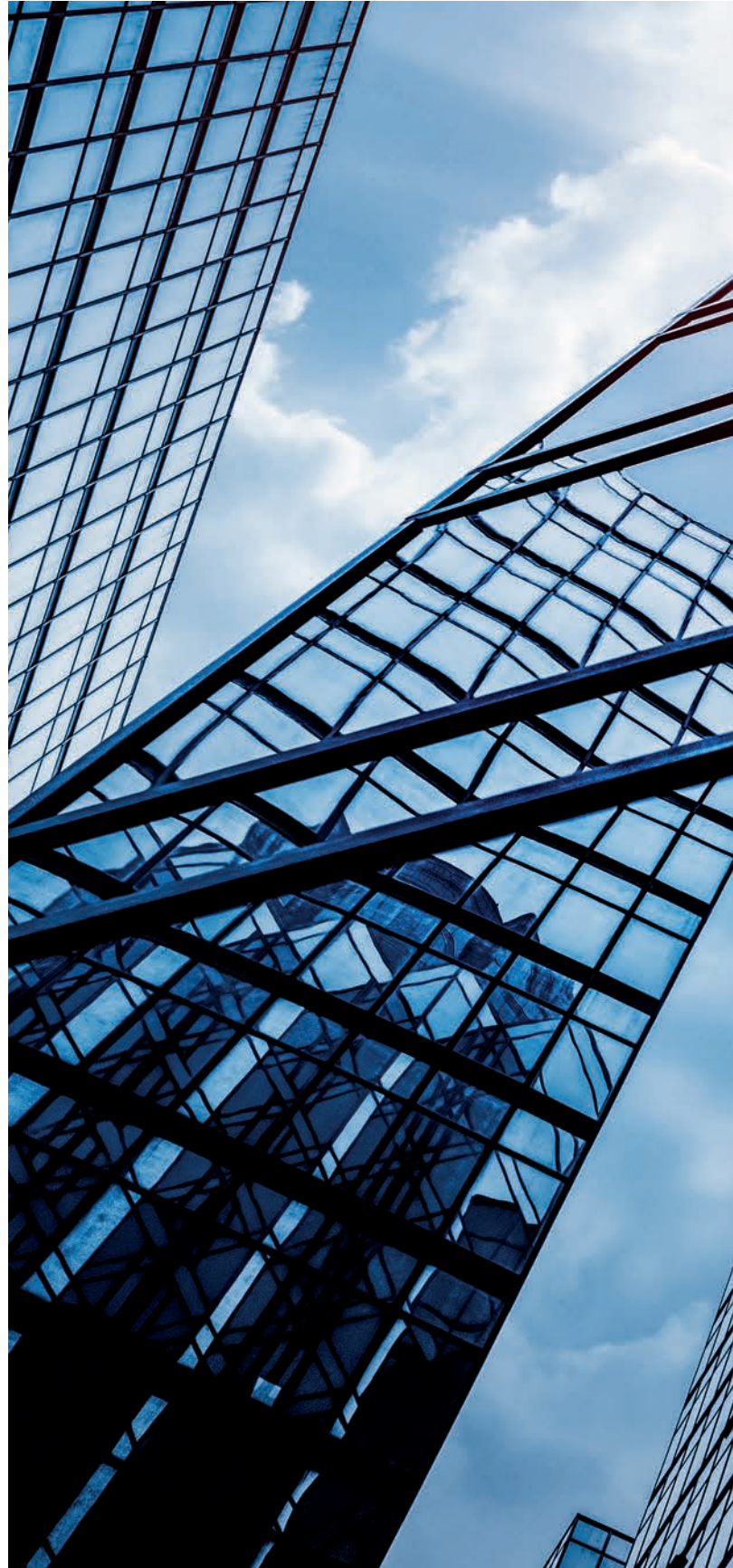
In this regard, the DNIT concluded that the remuneration as senior personnel, which in this case was that of a director of a corporation, may be deductible as a corporate income tax expense, but limited to 1% of the taxpayer's annual gross income, according to the penultimate paragraph of article 15 of the Tax Law. The DNIT also added that, regardless of whether the partner is an IRP taxpayer, the combination of his (i) status as a partner with (ii) the receipt of remuneration as a senior staff makes the limitation of his deductibility.

On the other hand, the DNIT also clarified that the limitation of deductibility would not apply in the following cases:

1. When the partner, owner or shareholder does not have such status and is a taxpayer of the IRP or the Non-Resident Income Tax ("INR").
2. When the partner, owner or shareholder, despite being a partner, owner or shareholder, (i) is an IRP or INR taxpayer, and (ii) receives remuneration for the rendering of other independent personal services that do not correspond to the quality of senior personnel.

Regarding the second assumption indicated, the DNIT mentioned that the relationship of independent providers of services other than senior personnel must be verifiable through reliable means and the remuneration must be supported by the receipt issued by the service provider for the remuneration in this concept to be deductible in its entirety in the IRE.

Finally, to distinguish the different qualities in which the partner, owner or shareholder of a taxpayer may act, the DNIT cited Article 23 of the Labor Code and indicated that senior personnel are considered to be those persons who occupy positions in which the elements of subordination do not predominate, due to their nature as representatives of the company, and who, due to the importance of their fees, nature of the work and technical capacity, enjoy notorious independence in their work, such as directors, managers, administrators and other executives of a company.



Contact



Rodolfo G. Vouga
rgvouga@vouga.com.py



Andrés Vera
avera@vouga.com.py



Horacio Sánchez
hsanchez@vouga.com.py