

Legal update

Increase in the Venezuelan tax unit's value

May 2018

Tax

Presidential Decree N° 3,393, which authorizes the National Tax Administration (SENIAT) to adjust the value of the tax unit (TU) was published in the Official Gazette No 41,387 dated April 30, 2018, which also contains Administrative Ruling N° SNAT/2018/0028 through which the SENIAT adjusted the value of the tax unit from 500.00 Bs. (bolivars) to 850.00 Bs.

This is the first time the SENIAT has adjusted the value of the TU twice in a single calendar year. Article 131.15 of the Organic Tax Code provides that the TU's value must be adjusted within the first 15 days of February of each year, after hearing the opinion of the Permanent Committee of Finance of the National Assembly.

Among the most relevant tax implications of the increase of the TU's value is the change in the minimum amount required for individuals to qualify as payers of income tax, as well as the minimum amount of wages, salaries and other contributions subject to the withholding of such tax (namely, Bs. 850,000.00 or 1,000.00 TU).

The TU increase will also impact the qualification of entities or individuals as special taxpayers, who act as income tax or Value Added Tax (VAT) withholding agents, and are subject to the Tax on Large Financial Transactions. In this connection, the SENIAT will be entitled to appoint companies that declared gross income in excess of 25,500,000.00 Bs (30,000 TU) in their latest income tax return or that realized sales in excess of 2,125,000.00 Bs. (2,500 TU) according to their latest VAT returns.

In the case of taxes collected annually (such as income tax), the applicable TU will be the one that has been in effect for at least 183 days during the relevant fiscal year. As mentioned above, there have been two adjustments to the value of the TU in 2018, hence each taxpayer must determine which value of the TU was in force for at least 183 continuous days of its fiscal year.

In the case of other taxes that are not levied annually, the applicable TU will be the one in force at the beginning of the taxable period.

The increase in the TU's value also affects the taxable base for entities who are obligated to make contributions to the Sports Fund, since such contribution will now be payable by all companies or other public or private organizations that carry out economic activities within the country and earn annual net profits in excess of Bs. 17,500,000.00 (20,000 TU).

Furthermore, entities who are required to make contributions to the Science & Technology Fund must consider that the increase in the TU's value entails that the taxable base for public and private businesses with income above 100,000.00 TU will now be Bs. 85,000,000.00.

Labour matters

Regarding labour matters, employers in both the private and public sectors are obliged to grant the meal allowance benefit to their employees. Hence, in order to comply with the Law on Socialist Food Tickets for the Workers and Presidential Decree N° 3,233 dated December 31, 2017, the meal allowance benefit will have a fixed daily value equivalent to 61 TU, 30 days per month, up to a maximum of 1,830 TU per month (currently Bs. 51,850.00 per day and Bs. 1,550,500.00 per month).

Other implications

The increase in the TU's value will affect the calculation of levies, contributions, guarantees and procedural benefits, among other items that are based on the TU's value. In this regard, it is worth noting the law that establishes the Calculation Factor of Contributions, Penalties, Procedural and other Benefits in Currently Existing Laws¹ replaced the minimum wage with a value in bolivars equivalent to 3 TU in all existing laws, with the exception of labour and social security legislation, as the basis for calculating contributions, guarantees, penalties and procedural and other benefits.

Penalties that were previously calculated based on the TU's value must now be calculated based on the value of the "Sanctioning Tax Unit," as set forth in the Constitutional Law enacted by the National Constituent Assembly on the creation of the Sanctioning Tax Unit².

Carlos Fernández S.
Fernando Fernández B.
Luis de Freitas
Valentina Albarran

Footnotes

¹ Published in Official Gazette N° 36.362 on December 26, 1997.

² Published in Official Gazette No. 41,305 on December 21, 2017

For further information, please contact one of the following lawyers:

> Carlos Fernández S.	Caracas	+58.212.276.0006	carlos.fernandez@nortonrosefulbright.com
> Fernando Fernández B.	Caracas	+58.212.276.0048	fernando.fernandez@nortonrosefulbright.com
> Luis de Freitas	Caracas	+58.212.276.0031	luis.defreitas@nortonrosefulbright.com
> Valentina Albarran	Caracas	+58 212.276.2842	valentina.albarran@nortonrosefulbright.com

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