

LAW NO. 99 OF OCTOBER 11, 2019

BY WHICH IS GRANTED A GENERAL TAX AMNESTY FOR THE PAYMENT OF TAXES



Introduction

The National Assembly approved Law No. 99 of October 11, 2019, published in the Official Gazette No. 28881-B of October 14, 2019. Through the aforementioned law, a tax amnesty is approved, which aims to increase the collection of taxes owed by the taxpayers to the General Directorate of Revenue (DGI).

The abovementioned Law eliminates interests, surcharges and even fines related to omitted taxes, improperly paid and in general, delinquencies maintained by taxpayers associated with taxes administered by the DGI. Likewise, the fines and penalties applicable in the case of statements or reports of an informative nature that have been omitted or submitted late by those responsible for reporting, as well as the fines for non-compliance with the payment of tax debts under the jurisdiction of DGI in effect as of June 30, 2019.

Scope of the Law

1. This law extinguishes debts of tax or tax nature corresponding to taxes administered by the DGI, including: interests and surcharges for delinquencies related to taxes, fees and special contributions and any other debts of money, liquid and enforceable.
2. Fines for late statements or omissions filed during the term of this Law.
3. Fines for late submission of reports or compliance obligations until December 31, 2019.
4. Fines for infringements of jurisdiction of the DGI until June 30, 2019.

Adherence to the General Tax Amnesty Period

May avail the benefits of this amnesty of taxes caused and delinquent, rates and special contributions as of June 30, 2019, even if they have payment arrangements at the entry into force of this Law, either by coercive process or administrative collection, without prejudice of the precautionary measures adopted, the following:

1. Individuals taxpayer.
2. Legal persons taxpayers.
3. Real estate, which are considered as taxpayers for tax purposes by the DGI.
4. Withholding agents (except VAT withholding agents. The VAT is named ITBMS in Panama).
5. Taxpayers with additional liquidation processes, ex officio encumbrances or any payment requirement before the DGI, prior to the withdrawal of the action or remedy for the payment of the obligation.¹
6. Others responsible for taxes.

¹ In these cases, the process consists to withdraw the action or remedy first, then the taxpayer must appear before the DGI, within the period of the tax amnesty, to comply with the payment of the amount due in full, without surcharges, interests or fines.

Exceptions

Taxpayers in administrative tax evasion or criminal tax fraud processes as well as ITBMS withholding agents

General Conditions

1. 100% forgiveness, if the payment is made in October and November, 2019.
2. 95% forgiveness, if the payment is made as of December, 2019.
3. 90% forgiveness, if the payment is made as of January, 2020.
4. 85% forgiveness, if the payment is made as of February, 2020.

The amnesty period is granted until February 29, 2020.

Forms omitted until June 30, 2019

It is extended until December 31, 2019 to submit the forms that had to be submitted as of June 30, 2019, which include:

1. Reports on donations received.
2. Report on nonreporting taxpayers (NGOs) – F27
3. Payroll form 03-F3.
4. Reports of retirement fund, pensions and other benefits F-40
5. Insurer reports – certification of medical expenses by insured F-41
6. Certification of interests on residential mortgage loans without preferential interest F-42
7. Reports of purchases and imports of goods and services F-43.
8. Credit Card Sales Report (VTD) F-44.
9. Transfer pricing reports F-930
10. Affidavit of withholdings or remittances abroad submitted by the headquarters of multinational companies and by companies established in Panama Pacifico F-05.
11. Any other omitted affidavit or report of compliance with outstanding obligations as of June 30, 2019, as well as fines for administrative contraventions by the DGI.

Shall be understood as not submitted and subject to sanctions inaccurate or false forms.

Conditions for payment arrangement for taxpayers and those obliged

The same general conditions noted above are applied to follow the General Tax Amnesty Period.

Taxpayers in delinquencies and those that keep a payment arrangement, either by coercive process or administrative collection, at the time of entered into effect of this Law and decide to apply for it, they may withdraw from said payment arrangement and are granted the right to sign a payment agreement. However, the requirement to cancel 25% of the nominal tax due at the time of signing the agreement is established and that the deadline for compliance with the payment arrangement must not exceed June 30, 2020.

Delinquent balances not cancelled within the period of tax amnesty or the expiry of the payment arrangements, are subject to the payment of interests, penalties and surcharges.

Ways to qualify for the Tax Amnesty Period

1. Personal submission of taxpayer to the DGI.
2. By means of Attorney in Fact
3. Through the website (e-Tax 2.0)

Power of DGI to declare the statutes of limitations on tax debts

The DGI is empowered to declare, upon request, the statutes of limitations on existing debts in the checking accounts as of June 30, 2019, once they fall within this period. ITBMS withholding agents are excepted.

The statute of limitations may be declared provided that: (i) the taxpayer pays the amount owed within the tax amnesty period or upon the expiration of the payment arrangement, and (ii) the statute of limitations established in the rules of each tax has been fulfilled.

Late declaration of improvements

The declaration of new improvements and additional improvements shall not cause a fine, provided that the public deed on these declarations is submitted to the Public Registry, during the period of amnesty.

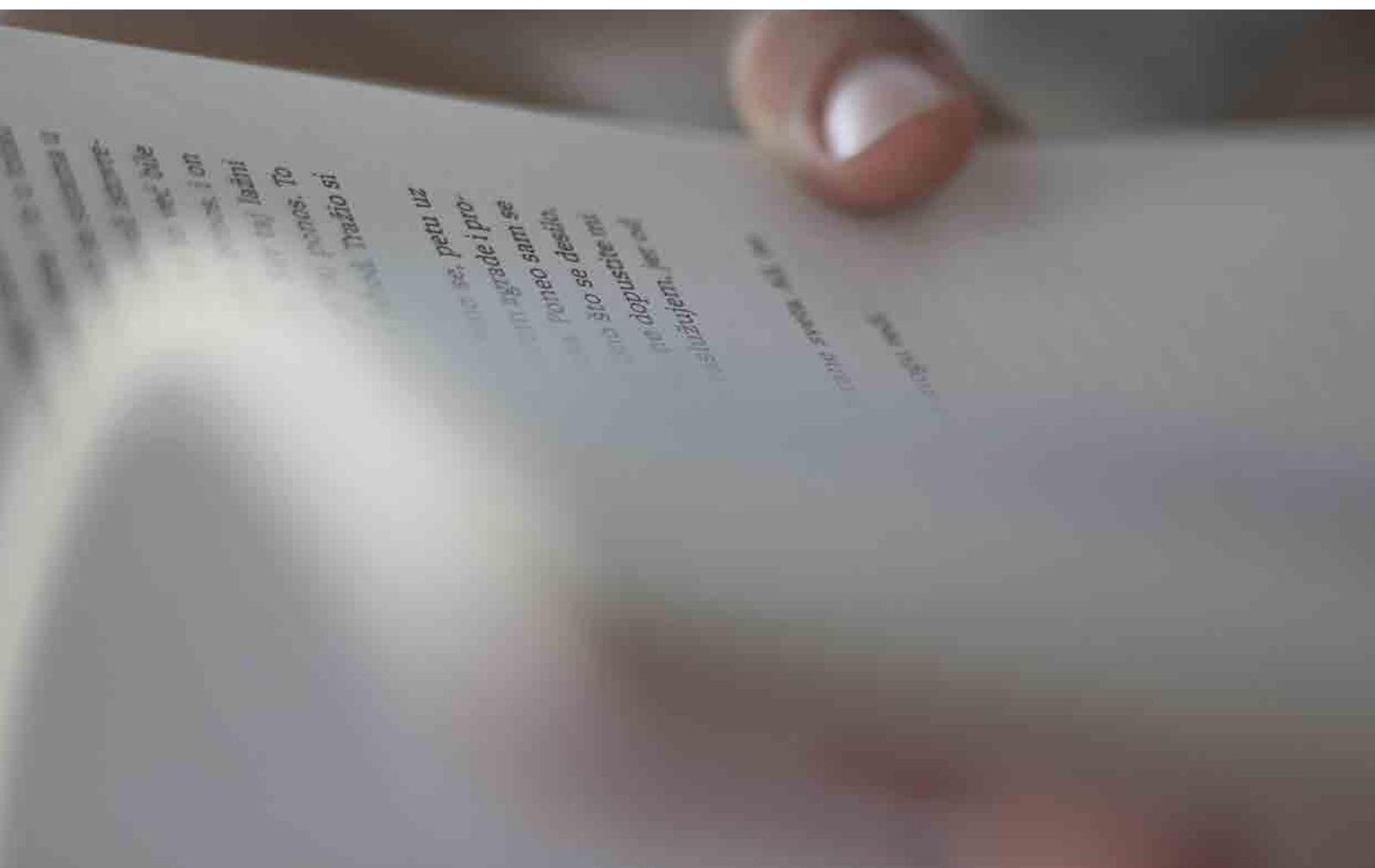
In addition, it shall be necessary to submit a sworn statement before the Notary or a Certification issued by a Certified Public Accountant stating the date of construction of these improvements and subsequently registering in the Public Registry and submitting the deed registered in ANATI for its corresponding update.

Employee-employer fees of the Social Security Fund

The tax amnesty period includes the interest and surcharges, until December 31, 2019, on the employee-employer fees of the Social Security Fund, which corresponds to be pay by the State to the former employees affected by Law 25 of 1990.²

Other provisions: Amendments to the Tax Procedure Code

Law 76 of 2019	Amendment
Section 1 of Article 88. Prescription of 12 years for indirect taxes and 5 years for direct taxes.	5-year prescription for both indirect and direct taxes.
Amendment and addition of paragraph to Article 89. The calculation of the limitation period, at the end of 5 and 12 years...	Calculation of prescription at the end of 5 years. Paragraph: The statutes of limitations apply for taxes caused as of January 1, 2021.
Valid as of January 1, 2020	Valid as of January 1, 2021



² Law No. 25 of 1990. Obligation of the State that arises based on the Decision of the IACHR. Ricardo Baena Case and others.

Recommendations

Given the opportunity for tax regularization offered by the new amnesty law approved, we can make the following general recommendations:

I) The tax amnesty shall be extended for a period of five (5) months, that is, until February 29, 2020; therefore, taxpayers must evaluate early all those positions in which they are delinquent in payment of taxes in order to pay any balances, eliminating the respective surcharges and interests accrued to date.

II) Likewise, all taxpayers or responsible parties who are delayed or have omitted compliance of formal obligations to provide information to the DGI, should take advantage of the grace period granted until December 31, 2019 to correct such omissions without the application of the respective fines.

III) Finally, we recommend all taxpayers who have tax administrative processes (at the level of reconsideration, appeal or contentious administrative) to evaluate the possibility of availing themselves to this tax amnesty, especially in those cases in which the positions at issue are of an uncertain nature or in those cases where the adequate means of proof are lacking to support the positions initially adopted by the taxpayer or the tax responsible.

In BDO we have a complete team of professionals to assist our clients and taxpayers in general, in order to make efficient use of the opportunities presented with this new tax amnesty law.

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