

## GENERAL RULE 08-2023 FOR THE APPLICATION OF LAW 51-23, WHICH ESTABLISHES A SPECIAL TRANSITORY TREATMENT FOR TAX ASSESSMENT, MANAGEMENT AND RECOVERY OF TAX DEBT IN THE DOMINICAN REPUBLIC

In compliance with Article 35 of Law 51-23, which mandates the issuance of a general rule for the application of this law, on November 10, 2023 the DGII issued General Rule 08-23 (NG 08-23). For reference, Law 51-23, which establishes a special transitory treatment for the examination, management and recovery of tax debts (Law 51-23) was enacted on August 10, 2023. The objectives of this law are:

- Create a special treatment for the statute of limitations and extinction of tax debts to be declared ex officio by the General Directorate of Internal Taxes (DGII) by means of 4 electronic sweeps.
- Establish an abbreviated tax assessment.
- Establish payment facilities for tax debts
- Amnesty for government tax debts.

### ***Who can apply to this law?***

Individuals, legal entities, unincorporated entities, state entities and undivided estates may apply to Law 51-23, depending on the line of interest:

- Ex officio statute of limitation of debts
- Abbreviated tax assessment
- Debt payment facilities
- Amnesty of debts for State institutions

### **I. EX OFFICIO STATUTE OF LIMITATIONS OF DEBTS**

Taxpayers with tax obligations generated after filing their tax returns through the virtual office (VO), for fiscal periods up to 2015, may apply, only if such obligations are in the taxpayer's current account in the OV prior to the date of publication of Law 51-23 (August 10, 2023).

### ***Which taxes are included in the ex officio statute of limitations?***

- Income Tax (IT).
- Tax on the Transfer of Industrialized Goods and Services (ITBIS or VAT).
- Excise Tax (ET).
- Asset Tax, including the installments corresponding to the year 2015.
- Property Tax (PT).
- Taxes on lottery, betting and sports betting.

### ***Which debts are excluded from the ex officio statute of limitations?***

- Debts due to withholding or perception of any type of tax.
- Debts arising from the Simplified Tax Regime (RST).
- Firm debts originated by final judgments or due to the expiration of the legal term for the filing of an appeal by the taxpayer or responsible party.
- Debts for surcharges and interest on unpaid advances for the income tax return for the 2015 tax period and subsequent tax periods.
- Debts for late tax returns filed after August 10, 2023.
- Income reported by third parties or inconsistencies from the 2016 tax period to date, when the taxpayer has declared with operations, zero operations or tax losses.

### ***How can you benefit from the ex officio statute of limitations?***

- Taxpayers must settle debts prior to 2015, for which they may request the payment facilities established by Law 51-23.
- Taxpayers' filing omissions from tax periods prior to 2015 and after 2016. Debts arising from the filing of returns prior to 2015 are excluded from the ex officio statute of limitations, but taxpayers may request the payment facilities of Law 51-23.

## *How is the ex officio statute of limitations applied?*

The ex officio statute of limitations is automatic and performed by the DGII's technological platforms through 4 electronic sweeps (automatic process generated by the DGII) that began on September 29, 2023. The remaining sweeps will be performed on November 30 and December 29, 2023. If in the first two electronic sweeps, the taxpayer was not benefited for not complying with any of the requirements, they may be regularized in order to be considered in the remaining sweeps.

## *How do I know that I benefited from the ex officio statute of limitations in any of the sweeps?*

After each sweep, the DGII will issue a certificate of application of the ex officio statute of limitations that the taxpayer will receive through the VO, if it is his tax domicile; otherwise, he may file the application with the corresponding local administration to obtain the certificate., if it is his tax domicile; otherwise, he may file the application with the corresponding local administration to obtain the certificate.

## *With the sweeps, what happens to the credit balance?*

Credit balances in favor that: (i) exceed RD\$50,000,000, (ii) have been originated in 2015 or previous years, (iii) and are taxpayers benefited with the ex officio statute of limitations for the referred tax periods are considered prescribed. In this case, DGII will issue an ex officio rectifying declaration in which these credit balances are eliminated. In case of remaining balance to be paid, the taxpayer may opt for the payment facilities expressed in Law 51-23.

## **II. ABBREVIATED TAX ASSESSMENT**

Applies to taxpayers with desk audit for IT or VAT and their withholdings notified by DGII prior to December 20, 2023, date on which Law 51-23 expires. It also applies to taxpayers who requested the referred audit, provided that the taxpayer has zero operations or has filed with tax losses and has inconsistencies derived from income reported by third parties in periods from 2016 to date.

## *How is it requested?*

The taxpayer may complete the "Abbreviated Tax Procedure" form through the VO or file the application with the corresponding local administration before December 20, 2023. Through the same means of filing, within the following 30 days, DGII will respond accepting or rejecting the request.

## *For which taxpayers does this apply to?*

Those taxpayers who have filed with zero operations or have filed with tax losses and who present inconsistencies as a result of income presented by third parties in the Cross Information System of DGII from 2016 to date, may apply for the abbreviated audit.

In case of not having benefited from the ex officio statute of limitations, after the last technological sweep, the taxpayer with inconsistencies due to income presented by third parties in IT and VAT and withholdings may request the initiation of the abbreviated audit procedure within 10 business days following December 29, 2023. This only proceeds if these inconsistencies were the cause of the exclusion of the ex officio statute of limitations.

## *For which taxpayers does this NOT apply to?*

- Taxpayers undergoing external audit.
- Taxpayers under criminal tax prosecution.
- Taxpayers under investigation for tax crimes.

## *What is the Abbreviated Procedure Rate (APR) for IT and VAT?*

APR is the rate to be applied to the income for the taxpayer to be eligible for the abbreviated tax audit procedure. The APR is the result of the average of the Effective Tax Rate (ETR) of the application of the ETR, whichever is greater, of: 1) that established in NG 07-14 for tax periods 2019, 2021 and 2022 or 2) the average of the ETR of the tax returns filed for the referred tax periods.

The ETR is the ratio between the income tax paid and the gross income. The ETR for legal entities is the result of dividing the tax assessed by the net operating income, as reflected in the income tax return.

## ***What does the DGII issue as a result of the abbreviated tax assessment?***

The DGII will issue the Resolution of Determination of the Tax Obligation (the "Resolution") as a result of the abbreviated audit and will be notified via VO or at the taxpayer's domicile. The resulting amended return and/or adjustment will be attached to the Resolution. This payment must be a one-time payment and made within the next 30 calendar days. Although the payment facilities of Law 51-23 are not applicable, the adjustment made in this procedure is subject to appeal. The rejection by the DGII of the request for the application of this procedure is also subject to appeal.

### **III. PAYMENT FACILITIES**

Payment facilities available for taxpayers with: i) debts for tax liabilities from tax periods from 2016 to 2021; ii) debts for tax liabilities excluded from the ex officio statute of limitations; iii) debts on physical or legal owners of lottery banks.

The payment facilities are: a) a one-time payment of 70% of the tax due, eliminating 100% of the surcharges and interest and b) payment of 100% of the tax and up to 6 months of interest, eliminating 100% of the surcharges within 120 calendar days counted from the date of enactment of Law 51-23 or in 4 installments, in which case, interest will be calculated.

## ***Which specific debts may be subject to the one-time payment facilities of 70% of the tax without surcharges and interest (a)?***

- Debts for capital gains, provided that it has been determined up to and including 2021.
- Inheritance and donations tax debts, provided they have been determined up to and including the 2021 tax period.
- Debts for non-compliance with formal duties, tax evasion and prevention of money laundering.
- Debts due to challenges for expenses corresponding to: personal expenses, salary expenses and expenses without vouchers.
- Fines due to real estate discharge.

## ***Which specific debts may be subject to the payment facilities of 100% of the tax and up to 6 months interest, without surcharges (b)?***

- Debts for real estate and motor vehicle transfers provided that: (i) DGII has knowledge of the transfer document prior to Law 51-23 or that the same is notarized and legalized before December 31, 2021, and (ii) the Purchaser is up to date with the filing of its tax returns.
- Ordinary donations debts.

## ***Do I have to withdraw the appeals in order to take advantage of the payment facilities?***

Yes, the taxpayer must purely and simply desist from any current appeals related to the debt that will benefit from the payment facilities. Before proceeding, the DGII will issue an act of acceptance, where the taxpayer will have the certainty that its request to benefit from the payment facilities was accepted.

If the appeal covers other taxes or items that do not affect the debt in question, the waiver may be partial.

### **IV. AMNESTY OF STATE INSTITUTIONS**

Law 51-23 grants amnesty to tax debts (until July 31, 2020) held by state institutions for withholdings made to third parties (IR-3 - wages and IR-17 other withholdings) and not remitted to the DGII, arising from the IT and VAT. Excluded debts corresponding to tax periods prior to July 2020, must be settled in order to apply for the amnesty. State institutions must be up to date in their tax obligations and payment of fines.

**FOR MORE INFORMATION, PLEASE DO NOT HESITATE TO CONTACT US:**

**Caroline Bonó**

**Partner**

Biography

[cbono@pellerano.com](mailto:cbono@pellerano.com)

+1 (809) 473-4545

**Website:** [www.pellerano.com](http://www.pellerano.com)

**Linkedin:** <https://do.linkedin.com/company/pellerano-nadal-law-consulting>

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