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## Energy and Mines

**T**he Ministry of the Popular Power for Electric Energy issued Resolution No. 024, which extends for forty-five (45) business days as from June 27, 2013, the period of time for Registration and Provision of the Information relating to the Plans for Rational and Efficient Use of Electric Energy to the Web site of the Corporación Eléctrica Nacional S.A (“CORPOELEC”), prescribed in article 2 of Resolution No. 014, published in Official Gazette of May 14, 2013. The Resolution was published in the Official Gazette of July 3.

## Banking and Finance

**A**n Official Notice issued by the Venezuelan Central Bank (“VCB”) was published in the Official Gazette of July 9. Said Notice establishes the interest rates applicable to obligations derived from employment relationships (15.26% and 14.88%); to the acquisition of vehicles under the “balloon payment” method (15,26%); to transactions with credit cards (29% and 17%); and to the credit transactions intended for the tourism sector (9.95%).

The VCB published again an Official Notice dated September 6, 2012, originally published in the Official Gazette of September 6 2012, whereby it was informed that after July 11, 2013, the **bank institutions would be allowed to charge** commissions, fees, or surcharges for the operations and activities mentioned in the same and up to the limits set in the Official Notice. Said Official Notice was published in the Official Gazette of July 11.

The Superintendencia of the Institutions of the Banking Sector (“SUDEBAN”) issued Resolution No. 0013, published in Official Gazette of July 11,

whereby it issued the **instructions relating to the payment of the installment of the contribution** to be made by the bank institutions subject to the supervision and control of the Superintendencia, as well as by the banks subject to special laws. The Resolution establishes that for the second semester of 2013, the following persons and entities **must pay the following installments of contribution:** (i) For bank institutions subject to the supervision and control of SUDEBAN and the banks subject to special laws, the installment is of **0.6 per thousand of the average of the assets** corresponding to the immediately preceding six-month fiscal period and it must be paid according to the formula therein established; (ii) For exchange agencies, risk capital funds, venture capital companies, national funds of reciprocal guarantees, and reciprocal guarantee companies, the installment is of **0.4 per thousand of the average of the assets** corresponding to the immediately preceding semester and it must be paid according to the formula therein established, and (iii) For natural or legal persons that provide financial services or ancillary services to bank and non-bank institutions subject to the supervision and control of the SUDEBAN, companies that issue or administer credit cards, debit cards, prepaid cards and other financing and electronic payment cards, legal persons that transport currency and securities as their principal activity, collection services, accounting services, financial leasing companies and border exchange operators, the installment is of **0.1 per thousand of the average of the assets** corresponding to the immediately preceding six-month fiscal period, after SUDEBAN issues the prudential rules on their operation, control, and their relationships with the banking sector, and it must be paid according to the formula therein established. The Resolution became effective on July 1, 2013, and it **repeals** Resolution No. 001.13, published in the Official Gazette of January 14, 2013.

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The VCB issued an official notice, published in the Official Gazette of July 30. Said notice ratifies that for purposes of **opening accounts in foreign currency**, all universal banks authorized to receive deposits in foreign currency are **prohibited from establishing requirements in addition** to those established to open accounts in national currency. Likewise, financial institutions may not require a minimum amount for opening the accounts, nor may they condition, limit, obstruct, prevent or restrict the opening of such deposit accounts.

The VCB issued Resolution No. 13-07-03, whereby it established that as from August 2013, universal banks, as well as commercial banks in the process of transformation, **may not charge for the credit operations intended for the manufacturing sector** - by reason of said activity – an annual interest rate in excess of eighteen percent (18%). If the credit operations are intended for small and medium-sized industries, State industries, community industries and joint companies – by reason of the manufacturing activity – the financial institutions may not charge an annual interest rate higher than ninety percent (90%) of the interest rate indicated above. Resolution No. 13-05-01, published in the Official Gazette of May 24, 2013, was **repealed**. The Resolution was published in the Official Gazette of July 30 and became effective on August 1, 2013.

## Tax

**D**ecree No. 236 was issued by the President of the Republic. Said Decree Partially Amends Decree No. 9.430 of March 19 that contains the **Schedule of Customs Duties**. The Decree was published in Official Gazette, Extraordinary, of July 15.

The National Integrated Service of Customs and Tax Administration (“SENIAT”) issued Administrative Ruling No. SNAT/2013/0034, whereby it established

the **duty to electronically file the income tax returns**. Special taxpayers will continue to be governed by the provisions established in Administrative Ruling No. SNAT/2009-0034, published in the Official Gazette of May 5, 2009. Administrative Rulings Nos. 0949 and 0103, published in the Official Gazettes of November 22, 2005 and October 30, 2009, respectively, were **repealed**. The Ruling was published in the Official Gazette of July 15 and became effective on July 16.

The SENIAT issued Administrative Ruling No. SNAT/2013/0046, which establishes the rate applicable to **the calculation of late payment interest** accrued during **June 2013**. Said Ruling provides that the weighted average interest rate for loans of the six (6) principal commercial and universal banks of the country with the highest volume of deposits, excluding portfolios with prime rates, set by the VCB for June 2013 is **16.33%** which rate is to be increased 1.2 times for the calculation of late payment interest accrued during June 2013. Said Ruling was published in the Official Gazette of July 22.

Administrative Ruling No. 0048, issued by the SENIAT, was published in Official Gazette of July 25. Said Ruling regulates the Sole Registry of Fiscal Information (Registro Único de Información Fiscal - “RIF”). The natural and legal persons and the unincorporated entities that are payers of taxes administered by SENIAT or that have to comply with formalities before any entity or agency of the Public Administration **must be registered with the RIF**, as well as the persons or entities not residing or not domiciled in the Bolivarian Republic of Venezuela that do not have a permanent establishment or fixed base, if they carry out economic activities in the country or have property capable of being taxed. The SENIAT, after verifying compliance with the conditions, requirements, and procedures established, will issue a **Digital RIF Certificate**. This Certificate will be valid for three (3) years after the date of issue.

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The persons/entities registered with the RIF must present the Certificate when requested by a SENIAT officer and exhibit the same at all places indicated in the Ruling. The Ruling became effective upon its publication in the Official Gazette and **repealed** Administrative Ruling No. 0073 of February 6, 2006, published in Official Gazette No. 38.389 of March 2, 2006.

Administrative Ruling No. SNAT/2013/0050, issued by SENIAT, was published in the Official Gazette of July 29. Said Ruling establishes the duty to electronically file the inheritance tax returns. The Ruling establishes that the beneficiaries of inheritances and legacies **must electronically file the inheritance tax returns**, based on the technical specifications established in the Fiscal Web Site and at the time established by the legislation in force. The Ruling became effective upon its publication in the Official Gazette.

### Exchange Control

**E**xchange Agreement No. 22, issued by the VCB (the "Agreement"), was published in Official Gazette of July 2, 2013. The Agreement establishes that **the acquisition and sale of foreign currency** will be made through the Complementary System of Administration of Foreign Currency ("SICAD"), by means of special auctions. The Agreement provides for the possibility of participating in special auctions carried out through the SICAD for the operations of **purchase and sale in national currency of Securities in Foreign Currency ("TVME")** issued by the Republic, its decentralized entities, or any other entity. The operations of purchase of TVME may only be made with the final purpose of obtaining balances in foreign currency through the sale of the same in international markets, in order to cover the expenses in foreign currency for which they were acquired. The bids for the acquisition of foreign currency in special

auctions and for the acquisition of TVME **may only be made** by the natural and legal persons determined in each call. Said persons must be registered with the special registry to be determined in the corresponding rules. Rates lower than the official rate of exchange for sale prescribed in Exchange Agreement No. 14 of February 8, 2013 **will not be admitted**. The VCB will regulate the terms and conditions of the special auctions of foreign currency to which the Agreement refers, through the rules issued for such purpose and will announce the calls to the relevant acts. In the regulation issued by the VCB according to the Agreement, the issuing institution will determine the methodology of the corresponding awarding. The minimum and/or maximum amount per bid to purchase to be channeled through SICAD will be determined in the calls to be published for each act. At the closing of each act, the VCB will carry out the awarding process and inform the results to the financial market, through the specialized and/or public information systems, according to the terms of the call. The bids awarded in the auctions determined in the Agreement will be paid by the VCB at the value date indicated in the call, through the authorized institutions that presented said bids. The Agreement became effective upon its publication in the Official Gazette.

The Foreign Currency Administration Commission ("CADIVI") issued Ruling No. 116, whereby it issued the requirements and formalities relating to the request for authorization of foreign currency ("AAD") intended for payment of academic activities abroad. The purpose of the Ruling is to establish the administrative procedure for the AAD request in order to pay expenses of **maintenance, tuition fees, and student health insurance**, for academic classroom activities out of the national territory, in the areas and sub-areas of priority education determined by the Ministry of the Popular Power with competence over university education, according to the National Economic and Social Development Plan established by the National Executive. This Ruling **repealed** Ruling No. 110,

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published in the Official Gazette of April 30, 2012, which established the requirements, controls and formalities for the administration of foreign currency intended for the payment of expenses of those taking academic studies abroad. The Ruling became effective on July, date on which it was published in the Official Gazette.

An Official Notice of the VCB was published in the Official Gazette of July 4, which corrects, due to an error in the form, Resolution No. 13-07-01 of July 2, 2013 that issued the SICAD General Rules. The special auctions to be carried out through SICAD will be governed by the provisions of the Resolution and by the relevant calls, circular letters, manuals, instructions, and other rules issued by the VCB to that end. The **minimum and/or maximum amount per bid to purchase or sell** foreign currency or securities denominated in foreign currency through SICAD will be determined by the calls published for each act. Likewise, the Resolution establishes that the parties interested in making bids to acquire or sell foreign currency or securities denominated in foreign currency through the SICAD **must be previously registered with** the Registry of Users of the Complementary System of Administration of Foreign Currency ("RUSICAD"). The Resolution prescribes that the natural persons residing in the country **may acquire foreign currency or securities through the SICAD**, in the following cases: (i) consumption expenses for trips abroad; (ii) expenses of studies abroad; (iii) expenses related to recovery of health, and (iv) payment of goods required for the provision of professional services. The Resolution became effective upon its publication in the Official Gazette. The doubts arising by reason of the application, interpretation, and scope of the Resolution will be settled by the Board of Directors of the VCB. The persons registered with the Registry of Users of the System of Transactions with Securities in Foreign Currency ("RUSITME"), regulated by Resolution No. 11-11-02 of the VCB, dated November 3, 2011, will be understood to be registered as a matter of law with the RUSICAD, to the exclusion of those penalized by

the competent authorities for irregularities or exchange crimes.

The VCB issued an Official Notice published in the Official Gazette of July 4, whereby it informs the bank institutions governed by the Law of Institutions of the Banking Sector and by special laws and the general public that the Board of Directors of the VCB at its meeting No. 4.602 of July 4, 2013, according to article 5 of Resolution 13-07-01 of July 2 of the present year that contains the SICAD General Rules, **authorized** universal, microfinancial **banks** and commercial and development **banks** and savings and loans associations in the process of restructuring **to act as authorized institutions** in order to process the operations of purchase and sale of foreign currency or securities denominated in foreign currency through SICAD.

### Consumer Protection

**T**he Institute for Defense of Individuals in the Access to Goods and Services ("INDEPABIS") issued Ruling No. DP/CJ-13, whereby it urges all natural and legal persons, importers, producers, manufacturers, or those who make sales to the end user/consumer that up to date have not **marked the Price of Sale to the Public** (*Precio de Venta al Público* - "PVP") or **Maximum Price of Sale to the Public** (*Precio Máximo de Venta al Público* - "PMVP"), **to do it immediately**, as prescribed in the Ruling, in order to comply with the provision of article 45 of the Law for the Defense of Individuals in the Access to Goods and Services (the "Law"). The Ruling **revokes** the authorizations issued before the date of entry into force of the Ruling and granted to natural and legal persons, importers, producers, manufacturers or those who make the sale to the end user/consumer for the marking of prices other than as established in article 45 of the Law. Failure to comply with the Ruling **will be penalized with a fine ranging between 100 Tax Units and 500 Tax Units and temporary**

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**shutdown for up to 90 days.** The Ruling became effective on July 2, date on which it was published in the Official Gazette.

### **Criminal Law**

**T**he National Assembly of the Bolivarian Republic of Venezuela enacted the Special Law for Prevention and Penalization of Torture and other cruel, inhuman, or degrading Treatment. The purpose of the Law is to prevent, penalize and define the crimes of torture and other cruel, inhuman, or degrading treatment, as well as the reparation of the damage caused to the persons who are victims of said crimes. The Law **repealed** article 181 of the Criminal Code and became effective on July 22, date on which it was published in the Official Gazette.

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#### **Obligations of beneficiaries of tourist credits**

**T**he Ministry of the Popular Power for Tourism issued Resolution No. 070, whereby it established that all **beneficiaries of tourist credits must** place and maintain in a visible place of the establishment or transportation unit an identification indicating that they are beneficiaries of the portfolio intended for the tourism sector, subject to the provisions of the Resolution. Likewise, all beneficiaries of tourist credits must **include in their web sites** that they received such benefit. The Resolution was published in the Official Gazette of July 17 and will become effective on October 15, 2013.

Caracas, August 27, 2013.

NOTE: THIS NEWSLETTER SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER AND ITS CONTENT ARE INTENDED AS A MANAGEMENT ALERT AS TO CURRENT DEVELOPMENTS IN VENEZUELA. ANY SPECIFIC LEGAL QUESTIONS REGARDING THE POSSIBLE APPLICATION OF NEW OR PROPOSED LEGISLATION TO PARTICULAR SITUATIONS SHOULD BE ADDRESSED TO TRAVIESO EVANS ARRIA RENGEL & PAZ.