



TRAVIESO EVANS

**MANAGERIAL
ALERT
ORGANIC TAX CODE**

ORGANIC TAX CODE

The Constituent Decree dated January 29, 2020 whereby the Organic Tax Code was issued, was published in Official Gazette No. 6.507 Extraordinary of the same date (the “Decree”). The Decree was issued by the National Constituent Assembly.

The Decree repealed the Decree with the Status, Value, and Force of Law of the Organic Tax Code published in Official Gazette of the Bolivarian Republic of Venezuela No. 6.152 Extraordinary of November 18, 2014 and all legal provisions conflicting with the matters regulated by said Constituent Decree, which will be governed solely by the provisions of the Decree and by the laws to which it expressly refers.

The Decree amended articles 1, 3, 20, 34, 54, 55, 56, 62, 75, 77, 85, 91, 92, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 115, 116, 117, 118, 131, 132, 146, 147, 149, 157, 158, 183, 197, 198, 200, 201, 202, 209 (now, 210), 215 (216), 218 (219) 221 (222), 222 (223), 227 (247), 229 (249), 232 (252), 234 (254), 239 (259), 240 (260), 241 (261), 244 (264), 257 (277), 259 (279), 262 (282), 266 (286), 269 (289), 271 (291), 276 (296), 284 (304), 285 (305), 294 (230), 297 (233), 301 (237), 309 (310), 316 (317), 317 (318), 319 (320), 323 (324), 331 (332), 338 (339), 342 (343), 343 (344), 348 (351), 349 (352).

Also, new articles were incorporated, such as articles 204, 346, and 347.

Following are some of the most significant aspects:

- The Tax Unit (TU) may only be used as unit of measurement for the determination of national taxes the control of which is under the jurisdiction of the National Tax Administration.
- The TU as reference value is substituted by the official rate of exchange of the currency with the highest value published by the Venezuelan Central Bank (VCB). The TU will be now fixed with the previous authorization of the President of the Republic and without the opinion of the National Assembly that was formerly required.
- The period of time for readjusting the TU is suppressed. In the cases of taxes that are determined in annual periods, the applicable tax unit will be the one in effect at the end of the relevant fiscal year.
- The period of time required for declaring the irrecoverability of tax liabilities, their accessory payments and related fines is increased to 8 years.
- The maximum period of time to enjoy the benefit of exemption is reduced to 1 year.
- The National Executive must issue a National Tax Exemption General Decree. This Decree will be for each economic financial year, for purposes of establishing the exemptions that will be in effect in said period. The Decree may be amended, but the validity of the amendment may not exceed the economic financial year to which said Decree corresponds. Any exemption from national taxes that is not contained in the National Tax Exemption General Decree will be null. The Executive is allowed a period of 60 days to issue said Decree. During said period of time, the exemptions granted before the publication of the new Code will continue to be in effect.

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- The adjustment of penalties will be now made on the basis of the official rate of exchange of the currency with the highest value published by the VCB at the time of payment of the penalty.
- The events of formal tax-related unlawful acts are increased and new penalties are established for some of such events.
- Several penalties are now established by multiplying the official rate of exchange of the currency with the highest value published by the VCB by a number of times.
- The possibility of extinguishment of the criminal penalties for the commission of unlawful acts prescribed in numbers 1, 2, and 3 of article 118 was modified; the period of time for payment was reduced to 10 days and the amount to be paid was increased by 500%.
- The period of time to file defenses in the cases in which the Tax Claim Certificate (*Acta de Reparó*) contains indications of tax fraud will be of 15 business days. The period of time for issuing a resolution of termination of summary proceeding in the cases of fraud is reduced to 180 days.
- The Tax Administration is authorized to execute actions of subsequent tax control of the results of a proceeding of verification or audit and determination in the cases determined by said Code.
- The measures that may be taken by the Tax Administration for collecting its credits now include locking up debtor's account.
- The publication of notices in the newspapers is definitely replaced by publications in the web page of the Tax Administration.
- No fractionated payment of tax liabilities is allowed.

The Decree will become effective upon the elapsing of thirty (30) calendar days following the publication of the same in the Official Gazette of the Bolivarian Republic of Venezuela.

In order to access the Decree, please click [here](#).

Should you have any question or comment or require further information, please contact the partner in charge of your account via email.

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