

## SPECIAL NEWSLETTER - FEDERAL TAXES

As a result of the Corona Virus Pandemic (COVID-19), several acts were published within the scope of federal taxes, namely:

- I - Government reduces to zero the rates of IPI levied on essential medical products in the treatment of COVID-19** (Decree nº 10.285, of March 20, 2020)  
Decree No. 10.285, published on March 20, 2020, determined the reduction, at zero rate, of the incidence of the Tax on Industrialized Products (IPI) on products for medical and hospital use to combat COVID-19. The list of products is included in the Decree table, and involves materials essential to the health area, such as gloves, masks, alcohol, disinfectants, etc.

The benefit is temporary and is effective until October 1<sup>st</sup>, 2020.

- II - Government extends the deadline for payment of federal taxes, by companies under the “National Simple Regimen” (“SIMPLES NACIONAL – SN”)** (Resolution No. 152, of March 18, 2020)  
Resolution No. 152, of March 18, 2020, extended the maturity date for federal taxes due by companies under the “Simples Nacional – SN”, as follows:
- the March 2020 Calculation Period, with original maturity on April 20, 2020, has the maturity postponed to October 20, 2020;
  - the April 2020 Calculation Period, with original maturity on May 20, 2020, has the maturity postponed to November 20, 2020; and
  - the May 2020 Calculation Period, with original maturity on June 22, 2020, has the maturity postponed to December 21, 2020.

The extension of the period does not imply the right to refund any amounts already paid.

- III - DEFIS and DASN-Simei Statements** (CGSN Resolution No. 152/2020)  
The delivery of DEFIS and DASN-Simei is extended to 09/30/2020.
- IV - CARF (Fiscal Resources Administrative Council) suspends judgment sessions in April and the practice of procedural acts** (Ordinance No. 8.112, of March 20, 2020)  
CARF President, Adriana Gomes Rêgo, determined the suspension, until April 30, 2020, of the deadlines for the performance of procedural acts under CARF, as well as the Council's judgment sessions during the same period.

Ordinance No. 8.112, of March 20, 2020, mentions that the suspension also covers the term for characterization of the fictional summons of the National Treasury Attorney, but does not rule on the suspension of the term for summoning the taxpayer.

- V - Brazilian IRS (Federal Revenue Service – “RFB”) temporarily suspends procedural and administrative acts** (Ordinance RFB No. 543, of March 20, 2020)  
The Brazilian IRS, through Ordinance No. 543, of March 20, 2020, reduced the service to the public in the units and established the suspension of the term for the practice of procedural acts and administrative procedures, as a protection measure for coping the public health emergency resulting from COVID-19. The service in the units will be restricted until May 29, 2020.

In addition, the Ordinance also ordered the suspension of procedural and administrative acts for the same period. The wording is not clear regarding the suspension of the appeal and defense periods within the scope of the Brazilian IRS, but expressly provides that some specific procedures are suspended, such as:

- a) Automated electronic issuance of billing notice and subpoena for payment of taxes;
- b) Notification of record of individual's tax information;
- c) Procedure for the exclusion of taxpayers in installments due to default of installments;
- d) Registration of pending regularization in the National Register of Individuals ("CPF") due to the absence of a declaration;
- e) Registration of disability in the National Register of Legal Entities ("CNPJ") due to the absence of a declaration and;
- f) Electronic issuance of decision-making orders with analysis of merit in Restitution, Refund, and Reimbursement Requests, and Compensation Statements.

It is noteworthy that the deadlines for counting the decay and prescription in the tax scope, as well as procedures related to verifying the origin of the resources applied in foreign trade operations and combating the fraudulent interposition of people, are not suspended.

Ordinance No. 543, of March 20, 2020, is effective until May 29, 2020, and may be extended as long as the state of public health emergency resulting from COVID-19 continues.

**VI - Extension of the maturity of debts and installments within the scope of the Attorney General's Office of the National Treasury – "PGFN" (Ordinance PGFN nº 7.280 / 2020 and Ordinance PGFN nº 7.281 / 2020)**

**VI.1) Ordinance PGFN No. 7.820 / 20: extraordinary transaction**

- a) Applicable to credits registered as Union active debt
- b) Down Payment equivalent to 1% (one percent) of the total amount of debts to be transacted, divided at up to 3 equal and successive installments
- c) Installment Payment of the remaining amount up to 81 months – or up to 97 months in the case of a natural person taxpayer, individual entrepreneur, small enterprise or micro-company
- d) For debts arising from social security contributions related to item "a" of items I and II of article 195 caput of the Brazilian Constitution, the installments term will be of up to 57 months
- e) Postponement of the beginning of the payment of the remaining installments until 30/06/20

The accession to the transaction (installment payment) is subject to the waiver of judicial actions, defenses presented or appeals related to the transacted credits, with the submission of a request extinction of the respective process, with merit resolution, under the terms of item "c" and III of art. 487 caput of the Civil Procedure Code.

Accession to the extraordinary transaction shall be fulfilled made through the REGULARIZE platform of the "PGFN", through the website [www.regularize.pgfn.gov.br](http://www.regularize.pgfn.gov.br).

**VI.2) Ordinance "PGFN" No. 7.821 / 20 - suspension of deadlines and collection acts within the scope of "PGFN" - suspends two types of acts for 90 days, namely:**

- a) Suspension of the following deadlines for 90 days:
  - Deadline for administrative defense and deadline for appeal against a decision issued under the Administrative Procedure for Recognition Responsibility – "PARR"
  - Deadline for submitting a statement of nonconformity and appeal against a decision that excludes the taxpayers from "PERT" (Amnesty Program established by Law no. 13.496-2017)
  - Deadline for the Administrative offering of guarantees before a Tax Collection Action, deadline for submitting a request for review of overdue liability certificate and deadline for appeal against a decision that rejects the requests. These deadlines are the ones established in article 6 of Ordinance 33/2018 ("Ordinance 33/2018, Art 6: Once the overdue liability is certified, the taxpayer will be notified to: [...] II - within 30 (thirty) days: a) offer a guarantee in advance of the tax collection action; or b) submit a review of overdue liability certificate (PRDI)").
- b) Suspension of the following means of collection by the National Treasury for 90 days:
  - Presentation of overdue liability certificate ("CDA" for registration by Notary Protest Office
  - Establishment of new Administrative Procedure for Recognizing Responsibility – "PARR"
  - Establishment of new procedures for the exclusion of taxpayers from installment programs under the scope of the National Treasury ("PGFN")

**VII - Extension of the validity of the Negative Debt Certificates related to Federal Tax Credits and the Active Debt of the Union (CND) and Positive Certificates with Effects of Negative Debts related to Federal Tax Credits and the Active Debt of the Union (CPEND), due to the coronavirus-related pandemic (COVID-19)** (Joint Ordinance RFB / PGFN No. 555, of March 23, 2020)

The validity of negative certificates ("CND") and positive certificates with negative effects ("CPEND") was extended for 90 (ninety) days under the RFB and PGFN, valid on 23.03.2020.

**VIII - Reduction to zero rate of the Tax on Financial Operations - IOF** (Decree nº 10.305 / 2020)

IOF rates are reduced to zero - including the additional rate of 0,38% applicable in credit operations, factoring discounts, loans / financing, contracted in the period from April 3, 2020 to July 3, 2020.

**IX - Deferral of PIS, COFINS and INSS contributions** (Ordinance ME nº 139/2020)

The Federal Government authorized the deferral of taxes and contributions reg. PIS / Pasep, COFINS and Employer's Social Security Contributions (INSS). Contributions due in April and May / 2020 will be deferred for payment in August and October / 2020.

**X - Reduction of "S" System rates - Reduction of tax burden** (Provisional Measure No. 932/2020)

Reduces by 50% the rates of the "S" System included in the INSS on payroll, in the period from 01/04 to 30/06/2020.

**XI - Payment in Installment of the Unemployment Social Funds (FGTS)** (CEF Circular nº 893/2020)

The payment in installment of the FGTS, whose information was declared by the employer and domestic employer regarding the accrual basis periods March, April and May 2020, with maturity in April, May and June 2020, respectively, provides for 6 fixed installments due on the 7<sup>th</sup> each month, starting in July 2020 and ending in December 2020.

The payment made by the employer, referring to the accrual basis periods March, April and May 2020, during the period of suspension of the liability, will be carried out without the application of fines or charges due pursuant to art. 22 of Law 8.036, of 1990, provided that the information is declared by the employer or domestic employer, within the legal deadlines already established.

**XII - "EFD-CONTRIBUTIONS" and "DCTF" statements - Delivery deadline extension (Normative Instruction RFB nº 1.932 / 2020)**

Statements of Federal Tax Debts and Credits – DCTF, originally scheduled to be transmitted by the 15<sup>th</sup> business day of April, May and June 2020, shall be sent now by the 15<sup>th</sup> business day of July 2020.

The digital bookkeeping of PIS and COFINS, EFD-Contributions, originally foreseen to be transmitted until the 10<sup>th</sup> business day of April, May and June 2020, including cases of extinction, incorporation, merger and total or partial spin-off, shall be delivered by the 10<sup>th</sup> working day of July 2020.

**XIII - IRPJ, CSLL, IPI, ICMS and ISSQN taxes (Resources have not yet been established)**

Despite the request of several class entities and associations, no measure has yet been stipulated by the Federal, State and Municipal Governments for the extension, deferral or suspension of these taxes.

In court, there is the possibility of requesting the application of Ordinance MF (Ministry of Finance) No. 12/2012, which provides: "The maturity dates of federal taxes administered by the Secretariat of the Brazilian IRS, due by taxpayers domiciled in the municipalities covered by a state decree that has recognized a state of public calamity, are extended to the last business day of the third (third) subsequent month."

However, according to article 3 of the said Ordinance, the Brazilian IRS and PGFN shall issue, within the limits of their powers, the necessary acts for the implementation of this provision, including the definition of the municipalities referred to in art. 1<sup>st</sup> of the Ordinance. These acts were not issued by the Brazilian IRS, and therefore, there is no mandatory extension. PGFN has already extended the regulated debts as described in item V.

Any questions or clarifications, please contact us.

Regards

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