

## **SPECIAL NEWSLETTER – FGTS (UNEMPLOYMENT SOCIAL FUNDS)**

Caixa Econômica Federal Circular No. 893/2020 provided for the procedures to be adopted by companies that wish to suspend the FGTS payment related to the March, April and May / 2020 accrual basis periods, with respective maturities in April, May and June. Below we highlight the main guidelines:

1. In order to use the prerogative to suspend the requirement of FGTS payments, the employer and the domestic employer remain obliged to declare the information, until the 7th day of each month, in the following form, through Social and eSocial Connectivity, as applicable;
  - 1.1.1 Employers using SEFIP adopt the guidelines contained in the GFIP/SEFIP Manual for Users of SEFIP 8.4, in its Chapter I, item 7, mandatorily with the use of modality 1 (Declaration to FGTS and Social Security);
  - 1.1.2 Domestic employers who use the eSocial adopt the guidelines contained in the eSocial Guidance Manual for the Domestic Employer, in its Item 4, subitem 4.3 (Issue Guide), highlighting that the eSocial Collection Document-DAE shall be issued, with printing and discharge not required;
  - 1.1.3 The employer that fails to provide information to the FGTS by the 7th day of each month, as provided for in items 1.1.1 or 1.1.2, shall do so by the deadline of June 20, 2020, for purposes of non-occurrence of fines and charges due pursuant to art. 22 of Act 8.036/1990, without prejudice to the application of other penalties provided for by Law and regulation..
- 1.2 The accrual basis periods referring to the months of March, April and May 2020, not declared until June 20, 2020 shall, after this period, be considered overdue and will incur in fine and charges due pursuant to art. 22 of Act No. 8.036, of 1990.
- 1.3 The information provided constitutes a declaration and recognition of the credits arising from it, characterizes a debt confession and constitutes a skillful and sufficient instrument for the collection of FGTS credit.
- 1.4 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, shall be carried out without the application of fines or charges due pursuant to art. 22 of Act No. 8.036, of 1990, provided that the information is declared by the employer or domestic employer in the form and within the period provided for in item 1 and sub-items.
- 1.5 Upon termination of the employment contract, the employer is obliged to pay the amounts resulting from the suspension here referred, as well as the other amounts due to the termination payment, without incurring the fine and charges due, if carried out within the legal term established for its realization.
  - 1.5.1 The obligation to pay referred to in item 1.5 also applies to any installments falling due in the installment dealt with in item 1.6 below, which will have their due date in advance for the term applicable to the payment provided for in art. 18 of Act No. 8.036, of 1990.
- 1.6 The installment payment of the FGTS due, whose information was declared by the employer and domestic employer regarding the accrual basis periods March, April and May 2020, with original maturities in April, May and June 2020, respectively, provides for 6 fixed installments due on the 07<sup>th</sup> day of each month, starting in July 2020 and ending in December 2020.

- 1.6.1 The minimum amount will not be applied to the installments, and the total amount to be paid in installments divided equally in 6 (six) times, which may be anticipated in the interest of the employer or domestic employer.
  - 1.6.2 The installments referred to in the installments referring to the March, April and May 2020 accrual basis periods, if defaulted (unpaid), shall be subject to fine and charges due under the terms of article 22 of Act No. 8.036, of 1990.
  - 1.6.3 Failure to pay the installment shall result in the FGTS - CRF Certificate of Good Standing being blocked.
2. The CRFs in effect on March 22, 2020 will have the expiration date extended by 90 (ninety) days, from the date of their original maturity.

Notice: 1 It is important to warn that, even with the guidance of this Circular regarding the FGTS considering the possibility of suspending the FGTS in transmitting the GFIP until June 20, the Brazilian IRS did not modify the deadlines for sending the GFIP Statement, to be presented until the 07<sup>th</sup> day of the month following the accrual basis month regarding information to the INSS. The exception to this rule applies to companies that have an obligation to transmit the DCTFWEB declaration.

We remain at disposal for further clarification.  
Regards.

**PAULO FLORES**  
**Labor Area**  
**TC-CRC 52.870**