CONSTITUENT DECREE OF AMENDMENT TO THE VALUE ADDED TAX LAW

The National Constituent Assembly issued a Constituent Decree dated August 17, 2018 and published in Official Gazette No. 6.396 Extraordinary of August 21, 2018, (the "Decree") through which the Valued Added Tax Law ("VATL") was amended.

Following are the most significant amendments established in the Decree:

1. Number 4 of article 18 of the VATL was removed. It established that the sales of fuels derived from hydrocarbons, as well as the supplies and additives intended for optimizing the quality of gasoline, such as ethanol, methanol, methyl-ter-butyl-ether (MTBE), ethyl-ter-butyl-ether (ETBE) and the derivatives of the same intended for the aforesaid purpose, were exempt from the tax.

2. Number 2 of Article 19 of the VATL was removed. It established that ground transportation of the goods indicated in numbers 1, 8, 9, 19, 11, and 12 of article 18 was exempt from the tax. Said number 2 now establishes that the transportation of merchandise will be exempt from the tax.

3. The final part of number 2 of article 33 of the VATL was removed. It established that the fiscal credits not directly and exclusively connected with the **entrepreneurial or professional activity of ordinary taxpayers** would not be deductible. Said number 2 now establishes that the fiscal credits **not directly and exclusively connected with the activity** will not be deductible. Such removal is evidenced from the amended VATL printed in one single text, according to article 5 of the Law of Official Publications ("LOP"). It was not indicated in the Decree.

4. Number 3 of the Sole Paragraph of article 33 of the VATL was removed. It established that the fiscal credits borne by reason of the receipt of services of food and beverage, alcoholic drinks, and public entertainment events would not be deductible. Such removal is evidenced from the amended VATL printed in one single text, according to article 5 of the LOP. It was not indicated in the Decree.

5. As to article 57 of the VATL, relating to the requirements, formalities, and specifications to be complied with in the printing and issue of the invoices and other documents, the following amendments were made:
   a) The first paragraph was partially removed. It established that the provisions issued by the Tax Administration were to establish the obligatory nature of electronic invoicing, allowing the issue of documents by non-electronic means only in the case of existence of technological limitations.

b) The obligation to issue invoices with a single consecutive numeration per each establishment or branch was included in number 1 for the taxpayers that develop activities in more than one establishment or branch.
c) Number 2 was amended. It now establishes that the invoice or document concerned must contain the consecutive and single Control Number **per each printed document** that begins with the phrase "N° de Control…" ¨[Control Nº …]. **This number will not relate to the invoicing number prescribed in number 1, unless so established by the taxpayer. If the taxpayer develops activities in more than one establishment or branch, the taxpayer must issue the invoices with a single consecutive numeration per each establishment or branch. If the taxpayer requests the printing of originals and copies of the documents, the original and the respective copies must contain the same Control Number . The order of the documents must begin with Control Number 01. The taxpayer may repeat the numeration when it exceeds eight (8) digits.**
d) Numbers 4 and 5 now include the requirement of adding the Tax Identification Number (TIN) of the issuer and of the acquirer of the invoice or document, if they have it.
e) A Third Paragraph was included establishing that in the operations of export sales of tangible assets and exportation of services, the taxpayers will not be required to comply with the requirements, formalities, and specifications established in article 57 for printing and issuing invoices and equivalent documents substituting for them.

Such modifications are evidenced from the amended VATL printed in one single text, according to article 5 of the LOP. They were not indicated in the Decree.

6. Letters a, b, f, h, i, and j of number 1 of article 61 of the VATL, relating to luxury goods and services, were amended in the following terms:

"Article 61: The sales or operations equated with sales, the importation of luxury goods and provision of luxury services, customary or not, indicated below, in addition to the general tax rate established under article 27 of this Law, will be taxed with an additional rate, calculated on the taxable base that corresponds to each of the operations generating the tax herein established.
The additional tax rate applicable will be of fifteen percent (15%) up to the time when the National Executive establishes a different rate according to article 27 of this Decree-Law:

1. For sales, operations equated with sales, or importation of:
   a. Automobiles with a customs value or manufacturer's price in the country equal to or higher than forty thousand dollars of the United States of America (US $ 40,000.00).
   b. Motorcycles with a customs value or manufacturer's price in the country equal to or higher than twenty thousand dollars of the United States of America (US $ 20,000.00)…
   f. Jewelry and watches with a price equal to or higher than three hundred dollars of the United States of America (US $ 300)…
   h. Accessories for vehicles not incorporated into the same in the assembling process, with a price equal to or higher than one hundred dollars of the United States of America (US $ 100).
   i. Works of art and antiquities with a price equal to or higher than forty thousand dollars of the United States of America (US $ 40,000.00).
   j. Garments and articles of clothing made of leather with a price equal to or higher than ten thousand dollars of the Unites States of America (US $ 10,000.00)..."

7. Number 3 of article 48 of the Decree with the Status, Value, and Force of Organic Hydrocarbon Law ("OHL"), published in Official Gazette No. 38.493 of August 4, 2006, was repealed. It

established that without prejudice to the tax provisions of other national laws, the persons performing the activities to which the OHL refers had to pay the General Consumption Tax per each liter of hydrocarbon byproduct sold in the domestic market ranging from 30% to 50% of the price paid by the end consumer, the rate of which between both limits would be annually fixed in the Budget Law. It also established that said tax to be paid by the end consumer would be withheld from the source in order to be delivered to the National Treasury on a monthly basis.

The Decree will become effective as from September 1, 2018.

In order to access the Decree, click here: http://www.traviesoevans.com/memos/Gaceta-Ext-6396-21082018-ReformaLey-IVA.pdf