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NEWS

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DECREE-LAW

ORGANIC DECREE-LAW FOR THE REINFORCEMENT OF FAMILY ECONOMY

On May 17, 2023, President Guillermo Lasso issued the Organic Decree-Law for the Reinforcement of the Family Economy (LOFEM) which was finally approved by the Constitutional Court on June 16, 2023. On June 20, 2023, through the Supplement to Official Gazette No. 335, **such Decree became effective and contains important amendments to several legal bodies.**

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The following is a detail of the relevant AMENDMENTS to LRFE:

Amendments to the Income Tax Calculation for Individuals (IT). – One of the main and first reforms applied in the Decree-Law is related to the Income Tax cut from personal expenses for Individuals. Prior to the reform, the maximum amount of IT cut was calculated based on the annual gross income (including non-taxable income) whether or not exceeded an amount equivalent to 2.13 tax-deductible base (Year 2022: US\$11,212); which now with **the reform the rules to obtain the maximum amount of IT cut are**

based on the family burdens or for persons with catastrophic, rare and/or orphan diseases that the Individual has as a dependant. Therefore, in order to establish the maximum amount of the IT cut, the following is taken into account:

- A) **If there are no family burdens**, the IT cut will be 18% on the lower value between: the personal expenses and the value of the basic food basket multiplied by seven (7).

- B) **If there are family burdens**, the IT cut will be 18% on the lower value between: the personal expenses and the value of the basic food basket multiplied by as follows:
- 1 family burden: 9 basic food baskets.
 - 2 family burden: 11 basic food baskets.
 - 3 family burden: 14 basic food baskets.
 - 4 family burden: 17 basic food baskets.
 - 5 or more family burden: 20 basic food baskets.
- C) **If the Individual has dependents with catastrophic, rare and/or orphan diseases**, the amount of the IT cut will be 18% on the lower value between: the personal expenses and the value of the basic food basket multiplied by twenty (20).

As personal expenses, Individuals **may also consider the expenses incurred directly by each dependent**. This includes parents, spouse, and children up to 21 years of age or disabled of any age, as long as they do not receive taxable income and be dependent. If family burdens are shared between

taxpayers, family burdens may be distributed, but **the same family burden is not allowed to be considered for more than one taxpayer**. Additionally, expenses related to pets are also included as a component of personal expenses and it is reminded that for calculating personal expenses, the value must not include VAT and ICE.

Practical examples.

For all examples we will consider that the annual personal expense (hypothetical) is US\$6,700 and the value of the Basic Food Basket is US\$764.71 (according to the reform must be that of January of the fiscal year in respect of which the tax is assessed - Year 2023).

a) No family burden:

$$R = 18\% * \min(US\$6,700 ; US\$764.71 \times 7)$$

$$R = 18\% * \min(US\$6,700 ; US\$5,352.97)$$

$$R = 18\% * \$5,352.97$$

$$R = \$963,54$$

Where R is the income tax cut from personal expenses. In this case, the IT cut is **US\$963.54**; since the minimum value is the basic food basket (without family burdens).

b) In the case of 2 family burdens:

$$R = 18\% * \min(US\$6,700 ; US\$764.71 * 11)$$

$$R = 18\% * \min(US\$6,700 ; US\$8,411.81)$$

$$R = 18\% * \$6,700$$

$$R = \$1,206$$

The IT cut in this case would be **US\$1,206** because the lower amount was personal expenses and not the basic food basket multiplied by 11 (2 family burdens).

c) In the case of family members with catastrophic diseases:

$$R = 18\% * \min(US\$6,700 ; US\$764.71 * 20)$$

$$R = 18\% * \min(US\$6,700 ; US\$15,294.20)$$

$$R = 18\% * US\$6,700$$

$$R = \$1,206$$

The IT cut is **US\$1,206** based on the assumption of personal expenses of **US\$6,700**; however, if the personal expenses are higher than the basic food basket multiplied by 20 (US\$15,294.20), the maximum amount of the IT cut will be that value multiplied by 18% (US\$2,752.96).

It is important to point out that if the value of the tax cut exceeds the amount of the income tax incurred, there will be no tax credit.

Amendment to the Individual Income Tax Rate. – The following tables show the before and after amendment regards to the 2023 IT table for Individuals:

Before the Decree-Law			
Lower Base (US\$)	Upper Base (US\$)	Fixed Tax on Lower Base (US\$)	Marginal tax on excess (%)
0	11,722	-	0%
11,722	14,935	-	5%
14,935	18,666	161	10%
18,666	22,418	534	12%
22,418	32,783	984	15%
22,783	43,147	2,539	20%
43,147	53,512	4,612	25%
53,512	63,876	7,203	30%
63,876	103,644	10,312	35%
103,644	onwards	24,231	37%

After the Decree-Law			
Lower Base (US\$)	Upper Base (US\$)	Fixed Tax on Lower Base (US\$)	Marginal tax on excess (%)
0	11,722	-	0%
11,722	14,930	-	5%
14,930	19,385	160	10%
19,385	25,638	606	12%
25,638	33,738	1,356	15%
33,738	44,721	2,571	20%
44,721	59,537	4,768	25%
59,537	79,388	8,472	30%
79,388	105,580	14,427	35%
105,580	onwards	23,594	37%

The amendments related to the IT cut and the IT table are applicable for the entire fiscal year 2023; Therefore, it is important that companies, individuals and withholding agents (e.g., employees) request an update of the Projection of Personal Expenses for the whole year 2023, in order to recalculate the monthly withholdings and update them from July to December 2023.

The IRS (Ecuador) web page (<https://www.sri.gob.ec/nl/formularios-e-instructivos>) has published the new Excel format for Projection of Personal Expenses, which now includes the concept of "family burdens" when determining the IT cut.

It is important to point out that the maximum amount of annual personal expense is subject to the family burdens as detailed below ("Maximum Amount of Personal Expense"):

Fiscal Year 2023				
Family Burdens	Basic Food Baskets to be discounted (a)	Basic Food Basket 2023 (US\$) (*) (b)	Maximum Amount of Personal Expenses (US\$) (c) = (a) * (b)	Maximum IT Cut 18% (US\$) (d) = (c) * 18%
0	7	764.71	5,352.97	963.53
1	9	764.71	6,882.39	1,238.83
2	11	764.71	8,411.81	1,514.13
3	14	764.71	10,705.94	1,927.07
4	17	764.71	13,000.07	2,340.01
5 or more	20	764.71	15,294.20	2,752.96
Diseases catastrophic, rare and/or orphan diseases	20	764.71	15,294.20	2,752.96

(*) The Basic Food Basket of January 2023, according to INEC, is US\$764.71. In the case of the Province of Galapagos, the Basic Food Basket is expected to be US\$1,378.77.

It is expected the 2023 tax reform will generate a higher amount for IT cut because until year 2022 the IT cut could be either US\$535 or US\$1,070 approx. according to the Annual Gross Income; while for year 2023, the maximum IT cut starts from US\$963. 53 onwards; Therefore, it is relevant to update the projection of personal expenses so that the withholdings from July to December 2023 be properly adjusted with the Projection of Employees Annual Income 2023.

Special Income Tax Regime for Sports Betting Operators

(IRUOPD). – The amendment establishes a new IT regime for sports betting operators.

For **resident taxpayers**, the **taxable base** is the difference between income generated, including commissions, minus the total of the prizes paid, for which the corresponding withholding must have been previously performed at the time of payment of the prize.

On the other hand, for **non-resident taxpayers**, the **taxable base** is the total amount paid by users in each transaction.

The **tax rate is 15%**.

Tax resident must file a monthly tax return and make the payment according to the deadlines and form to be established by the Tax Authority.

For transactions with non-resident taxpayers or with no permanent establishment, specific withholding and payment procedures will be established through different means, such as collection companies, couriers, remittances abroad, credit or debit cards issued by local financial institutions and electronic wallets, which will be substitutes of the non-resident taxpayer.

This amendment is applicable as of January 1, 2024.

Amendments to the RIMPE

System. – The RIMPE (The Simplified Regime For Entrepreneurs And Small Business) regime applies to individuals and corporations with annual gross income of up to three hundred thousand dollars (US\$300,000). Within this regime, those taxable individuals with gross income of up to twenty thousand dollars (US\$20,000) are considered Popular Businesses, while other

individuals up to US\$300k are considered as Entrepreneurs.

Gross income refers to the taxable income received by the taxpayer, less discounts and refunds. Taxpayers under the RIMPE regime will pay Income Tax according to a progressive table.

Tax rates have been updated for taxpayers within the RIMPE regime focused on Popular Businesses:

POPULAR BUSINESS		
Lower Limit	Upper Limit	Tax to be Paid (Tax in US\$)
0.00	2,500.00	0.00
2,500.01	5,000.00	5.00
5,000.01	10,000.00	15.00
10,000.01	15,000.00	35.00
15,000.01	20,000.00	60.00

ENTREPRENEURS			
Lower Limit	Upper Limit	Basic Tax	Marginal rate on excess
20,000	50,000	60.00	1.00%
50,000	75,000	360.00	1.25%
75,000	100,000	672.50	1.50%
100,000	200,000	1,047.50	1.75%
200,000	300,000	2,797.52	2.00%

Additional relevant amendments:

- Deadline of tax returns for filing and payment will be until June (previously it was until March).
- Popular Businesses (individuals with gross income up to US\$20,000) are not subject to IT withholding at source, while Entrepreneurs (individuals with gross income below US\$300,000 and above US\$20,000) are subject

to IT and VAT withholding at source, except for payments made with credit or debit cards, collection or debit agreements, or other electronic means of payment.

- Additional Activities excluded from the RIMPE Regime are:
 - a) Craftsmen
 - b) Transportation (except cabs)
 - c) Commission agents
 - d) Leasing of real estates or property
 - e) Production, importation and/or first stage of commercialization of goods or rendering of services taxed with ICE.
- In case a taxpayer registered in its Tax ID (RUC) or develops any of the activities expressly excluded from the RIMPE regime, he will be 100% outside of RIMPE regime even if he registers or exercises other non-excluded activities. Before the amendment, only non-excluded activities were considered RIMPE and other tax regimes were considered excluded activities for the same taxpayer.
- It will not be a cause for exclusion when the taxpayer receives income from dividends, sale of capital rights or financial yields, which will be settled according to the corresponding regime.

- If it exceeds US\$300K per year, income tax must be filed and paid applying the general regime from that same period and thereafter. Before the amendment, the taxpayer remained within the RIMPE regime with a marginal rate of 2% and the change of tax regime was performed the following year.
- Popular Businesses and Entrepreneurs must keep a record of income and expenses or keep accounting records in accordance with local requirements (e.g. all companies and in the case of individuals when income exceeds US\$300k, capital exceeds US\$180k or annual expenses exceed US\$240k).
- Popular Businesses will be able to issue sales notes or electronic invoices at their choice. Before the amendment, they could only issue sales notes.
- RIMPE taxpayers are not withholding agents except as indicated in paragraph 2 of art. 92 RALRTI:
 - a) Distribution of Dividends.
 - b) Sale of capital rights.
 - c) Payments and reimbursements abroad.

- d) Payments for remunerations, bonuses, commissions in favor of its employees.
 - e) Among others.
- VAT applies to RIMPE except for Popular Businesses where the VAT rate is 0% and they do not have to file a VAT return.
 - No Income Tax or Value Added Tax will be withheld from taxpayers categorized as Entrepreneurs when payments are made through credit or debit cards, collection or debit agreements, or other electronic means of payment.

The above amendments are applicable as of January 1, 2024 except for the 0% VAT for Popular Businesses which is effective as of July 2023.

Other Amendments. – They are detailed below:

Public shows will be taxed at 12% of the Value Added Tax (VAT) **as of July 2023.**

The Tax Code is amended (art. 99) to emphasize that the information, taxpayers' returns, as well as the control plans and programs carried out by the Tax Administration are not publicly disclosed and will be used for the Tax Authority's own purposes. The subsection related to the fact that the Tax Administration shall annually disclose the taxpayers' names and the tax amounts paid remains.

NOTE: It is expected the current tax reforms and their application methods shall be extended through an amendment to the Regulations of the Internal Tax Regime Law (RALRTI) which, according to non-formal communications from the Tax Authorities, may be published in July - August 2023; therefore, we as BALTA will send future press releases in case of any explanatory scope according to the additions to be included in RALRTI.

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As experts in the field, we understand that **legislative changes and regulations** can generate doubts and concerns. So we are committed to being your trusted partner and providing clear and accurate answers to all your questions. **Our team of highly trained professionals** is here to guide you through any legal or tax challenges you may face.

If you have any questions, concerns or would like to take advantage of our services, please do not hesitate to contact us. We are eager to listen to your inquiry and offer solutions tailored to your business needs.



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