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Tax & Legal



# NEWS

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## RESOLUTION SRI

### RULES REGARDING THE APPLICATION OF INCOME TAX (IT) CUT FROM PERSONAL EXPENSES

Through the **Fourth Supplement of the Official Gazette No. 344 dated July 3, 2023**, the Internal Revenue Service (SRI) has issued new rules regarding the Application of the Income Tax (IT) Cut from Personal Expenses **as a result of the tax reform to the Internal Tax Regime Law (LRTI)** under the Organic Law Decree for the Reinforcement of Family Economy (LOFEM) of June 20, 2023.

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**The Resolution No. NAC-DGERCGC23-00000020** replaces the previously effective one (No. NAC-DGER2008-0621), taking into account the family burden concepts established in the current tax reform for the year 2023. The main considerations are as follows

It is restated that **withholding income tax performed by employers** must consider the reforms in effect from 2023 regarding the determination of the income tax cut resulting from personal expenses (projection) and family burdens, if any.

For the application of the withholding income tax, it is **optional for employees to submit the projected personal expenses to their employers**

**in FEBRUARY** (previously it was in JANUARY) in physical or electronic way, two copies of the projected personal expenses **considering the " FORMULARIO SRI-GP"** which is available at the SRI website (<https://www.sri.gob.ec/nl/formularios-e-instructivos>); considering the following:

a) **Detail the employee's total projected income on an annual basis** (January to December). **If the employee has two or more employers, the withholding agent shall be the employer where the employee receives the highest income;** therefore, the other employers shall issue a certificate with the projected taxable income and social security contributions to the employer with the highest income so that the latter may perform the corresponding withholdings. A copy of the " FORMULARIO SRI-GP " certified by the employer where the higher income is received must be submitted to the other employers so that they may refrain from making the withholdings.

b) **Detail the number of family burdens, if any,** for which it should be reminded that family burdens may comprise :

- ✓ Father
- ✓ Mother
- ✓ Spouse or common-law partner
- ✓ Children up to 21 years
- ✓ Children with disabilities

**As long as they do not receive taxable income and are employees' dependents,** i.e., the employee covers almost all personal expenses incurred by such dependents in a fiscal year.

**It is important to note that the family burden must be met or is incurred in the taxable year for which the IT cut** is to be applied. In addition, the family burden will be maintained in the tax year even when it has ceased to apply, except in the case of obtaining taxable income, which is completely excluded.

c) **In any case, 2 or more employees may not consider the same family burden** in a fiscal year.

d) **Documentation must be submitted to the employer to justify the existence of the family burden** (e.g.: copy of spouse's ID card, disability card, certificate of catastrophic, rare or orphan disease, express consent from parents to be considered as a family burden).

e) **Projected annual personal expenses.** It is important to point out that pets in categories such as food, health, education and clothing may be applied as personal expenses.

In the case of employees residing physically in Galapagos for at least 183 calendar days or that during a 12-month period the condition of 183 days is met; **for the calculation of the IT cut from Personal Expenses, the Special Consumer Price Index of Galapagos (IPCEG)** will be considered, which is currently 1.803 multiplied by the value of the basic food basket for January of each year.

As a result of the above mentioned, **the employer shall apply the monthly income tax withholding considering the following:**

- 1) **Withholding shall not be applied on income for the month of JANUARY**, but rather withholding shall begin as of FEBRUARY.
- 2) **All the employee's remuneration**, excluding the thirteenth and fourth remuneration, **must be totalized**.
- 3) **The personal contribution to the Social Security and the tax benefit applicable to the senior citizens and the disabled** or substitutes taxpayers must be considered.
- 4) **The resulting amount (taxable base)** shall be applied to the progressive Personal Income Tax Table.

- 5) **The IT cut from employee's projected personal expenses** will be applied to resulting income tax; and,
- 6) **Finally, this amount will be divided by the remaining number of months (11)** within the fiscal year, in order to obtain the monthly income tax withholding.

**When changes in remunerations are incurred**, the employer must recalculate future withholdings, as well as the employee has the right to update his personal expense projection in JUNE or SEPTEMBER of every year.

**For the year 2023**, employees may submit a new projected personal expense form in the month of JULY. **Employees must re-state the Income Tax considering the new projected personal expenses and** must perform the withholdings with the adjusted amounts from July to December 2023.

Employers will not be able to offset the amounts already withheld from January to June 2023 to their employees.

If as a result of the projected personal expenses, it is noted that the employer must not perform more withholdings



from July to December 2023, he must not withhold more for the year 2023 and the employee may file the respective tax refund request due to excess withholdings in accordance with the guidelines set forth by the current tax regulations.

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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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