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RESOLUTION SRI

REFORMS TO THE ANNEX TO RELATED PARTY TRANSACTIONS AND TO THE INTEGRAL TRANSFER PRICING REPORT

Through Resolution No. NAC-DGERCGC23-00000025 of September 13, 2023 published in the Second Supplement to Official Gazette No. 396 of September 14, 2023, the Internal Revenue Service (SRI) establishes reforms regarding the Annex of Related Party Transactions (AOPR) and the Integral Transfer Pricing Report (IIPT).

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The Resolution modifies several articles related to the application and content of the AOPR and the IIPT contained in Resolutions Nos. NAC-DGERCGC15-00000455 and NAC-DGERCGC16-00000532. The amendments are as follows:

- The threshold for the obligation to submit the AOPR and IIPT to the SRI on an annual basis is modified. Now, **the minimum required amount of operations considered with related parties is that such operations accumulate annually (January to December) an amount higher than US\$10 million. Previously, it was US\$15 million. The minimum annual amount of US\$3 million is maintained in order to be obliged to file only AOPR before the SRI.**
- The **special cases of operations that are not considered** for the calculation of the annual accumulated amount of transactions with related parties for purposes of determining the obligation of AOPR and IIPT before the SRI have been reformed. In this sense, they are operations not contemplated:



- ✓ Cash payments of capital since they would not affect the variables to be evaluated in Transfer Pricing.
 - ✓ Income from banana, agricultural, livestock activities and international transportation (art. 27, 27.1 and 31 of the Internal Tax Regime Law - LRTI) since it has a Unique Income Tax calculation that is not tied to the profitability of the companies.
 - ✓ All operations covered by an absolution to prior consultation (since they are covered by the Advance Pricing Agreement - Ecuadorian APA).
 - ✓ Liability operations except for loans borrowed in the fiscal period being reported (since at least in that fiscal year they must be evaluated if the key conditions of the loan do not change until maturity).
 - ✓ Transactions with LOCAL related parties, except when such related party maintains income pursuant to arts. 27, 27.1 and 31 of LRTI; or, when the taxpayer:
 - ❖ Does not declare taxable income.
 - ❖ Has taken advantage of any type of Income Tax exemption.
 - ❖ Is the administrator or operator of a Special Economic Development Zone (ZEDE).
 - ❖ Is engaged in the exploration or exploitation of non-renewable natural resources; or,
 - ❖ Keeps holders of capital representative rights (shareholders/partners) who are residents of tax havens or lower tax jurisdictions
- The IIPT must be submitted to the IRS in digital form as a PDF-text file, with a signed letter of responsibility including the index of the Report.
- In case the SRI is or has been in the process of reviewing or auditing the IIPT, the taxpayer will not be able to file a new IIPT for such fiscal year.**
- Resolution No. NACDGERCGC16-00000532 and its amendments, as well as the technical document for the standardization of the transfer pricing analysis published on the SRI's website, are the valid sources that **establish the technical rules regarding the content of the IIPT to be submitted to the SRI.**



In that sense, in the event that some of the comparable operations do not have up-to-date financial information, **it is allowed to use the information of the immediately preceding year with year-end after June 30, as long as it is demonstrated that the relevant conditions in both periods did not change. Before the reform, the date of reference was August 31**

- The calculations that support the IIPT must be presented in Excel format (97 or higher), **with the formulas displayed, as well as all links that refer to the financial or other type of information.**

- The AOPR and IIPT submitted to the IRS is confidential, i.e., it must be used only for tax purposes and may not be disclosed or published.
- Considering that these rules do not refer to the settlement or calculation of taxes, but rather to information to be submitted to the SRI, we consider that

such reform is in force as from the tax period 2023 and therefore, applicable to

transfer pricing obligations to be submitted until June 2024.



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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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