Comments about the Tax Measures Implementation Law, the Approval of the Government's General Budget of Revenues and Expenditures for the 2015 Fiscal Year and the Approval of the Financing for the 2014 Fiscal Year

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On December 4, 2014, Decree 22-2014 of the Congress of the Republic was published in the Official Gazette. This Decree contains the **"Tax Measures Implementation Law, the approval of the Government's general budget of revenues and expenditures for the 2015 fiscal year and the approval of the financing for the 2014 fiscal year"**. Such Decree contains the Tax Adjustment Law on Book II, which introduces some amendments that may be of interest to you.

1. Article 61 of the mentioned Law amends article 63 of the Mining Law, increasing to 10% the royalty percentage that must be paid due to the exploitation of minerals and building materials. This increase will be applicable starting on January 1, 2015.

The royalties derived from the exploitation of nickel are exempted from this regulation, which will pay 5%; and the ones of jade will pay 6%.

This duly documented royalty payment must constitute deductible tax cost in the determination of income tax for the taxpayers who are included in the Lucrative Activities Profits Regime, in what would become necessary for the creation of taxable income. The above would produce a reduction in the taxable income for the determination of such tax.

2. On Chapter II of Book II, it is created the Landlines or Mobile Telephone Lines Tax on the lines that are assigned by the Telecommunications Superintendence to the operators of such lines who are authorized and registered by such Superintendence.

The tax structure consists of:

a. Taxable Event: The possession of lines assigned by the Telecommunications Superintendence in the landline or mobile telephone network.
b. Taxpayer: The individuals or legal persons who operate landlines or mobile telephones who have lines assigned by the Telecommunications Superintendence.
c. Exemptions: The communal landlines and public telephone lines, in accordance with the classification of the Telecommunications Superintendence.
d. Tax Rate: These are 2:
    i. Q.5.00 per each landline or mobile telephone line in the network in charge of the taxpayer.
    ii. Q.100.00 for telephone switchboards or private branch exchanges.
e. Taxable Income: 95% of lines assigned to landlines or mobile telephones in charge of the taxpayer.

f. Taxable Period: Per month and it shall be computed per each following calendar month. It must be paid within the ten business days of the month following the corresponding taxable period, through an affidavit.

The duly documented payment of this tax should also constitute deductible cost in the determination of income tax for the taxpayers who are included in the Lucrative Activities Profits Regime, in what would result necessary for the creation of taxable income.

However, it is worth mention that on December 29th of 2014, the Constitutional Court suspended the effect of the tax. The decision follows a provisional basis under four actions that presented by three Telephone companies and the Chamber of Industry last December 19 before the Constitutional Court.

Therefore the Constitutional Court set a deadline of 48 hours for the interposers of the actions present their arguments before the plenary, as well as interested parties in the process: the President and the Attorney General.

3. On the other hand, Chapter III of such Book II amends the Specific Tax on the Distribution of Cement Law since it:

a. Increases the tax rate to Q.5.00 per each 42.5 kg weight bag or its equivalent, if it is "clinker" in bulk or in bags of different weight; and
b. Limits the destination of the tax to just Q1.50 for the financing of the popular housing programs.

This tax rate increase, although it intends to update its rate, means an increase of approximately 4.5% on the value of the 42.5 kg cement bag, and since it is an indirect tax that taxes the distribution for consumption, its repercussion is transferable to the final user or consumer.

Likewise, the duly documented payment of this tax should also constitute deductible expense in the determination of income tax for the taxpayers who are included in the Lucrative Activities Profits Regime, in what would result necessary for the creation of taxable income.

4. Finally, article 79 of Decree 22-2014 states that it amends article 20 of Decree 20-2009. Nevertheless, Decree 20-2009 only has 2 articles and it refers to the Agreement in the Form of an Exchange of Letters executed with the UN; the matter regulated in this article that is amended corresponds to article 20 of Decree 20-2006. The amendment consists of increasing to Q.50,000.00 the amount starting from which the payments different from cash that the taxpayers would make to support deductible costs and expenses or for the creation of tax credits, must be made through any means that the banks of the system would facilitate; in which it is individualized the person who sells the assets or provides the services.