

## Inspection of bank accounts by SAT and new formal obligations

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In accordance with Decree 37-2016, the new regulation on bank secrecy that allows the Superintendence of Tax Administration (SAT, for its initials in Spanish) to access taxpayers bank information for tax purposes will come into effect on February 22nd, 2017.

The Superintendent, Juan Solórzano Foppa, **has stated** that SAT, according to the Tax Code, will be able to inspect bank accounts for the past 4 years, without such inspection being a retroactive application of the law.

SAT is based on articles 47 and 49 of the Tax Code, according to which the right of the Tax Administration to make verifications of tax obligations must be exercised within a period of 4 years counted from the date of expiration of the obligation to pay the tax.

SAT's criterion generates uncertainty for taxpayers because article 75, paragraph g., of Decree 37-2016 indicates that its entire articles must comply with article 15 of the Constitution, which establishes that the laws have no retroactive effect. At the time of approval of the Decree it was **made public** that SAT could not apply the procedure that it contemplates to obtain bank information from periods prior to the date the Decree entered into force.

In any case, SAT's criterion on the possibility of reviewing bank information of the previous 4 years may be contested by the ordinary and constitutional legal means established by the legal system.

It is also important to take into account that as of February 22nd, merchants required to keep accounting must record in their books all bank accounts used to carry out their business transactions and investments that originate from capital or financial resources of the entity, regardless of whether the accounts are established or kept in or outside Guatemala. They must also prepare bank reconciliations that determine the reasonableness of the balance.

For additional information, you may contact

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