

Suspension of Tax Litigation Deadlines

Exceptional and Temporary Measures

Law No. 1-A/2020 of 19 March
(amended by Law No. 4-A/2020 of 6 April)

The Law No. 1-A/2020 of 19 March, amended by the Law No. 4-A/2020 of 6 April, approves exceptional and temporary measures to respond to the current pandemic situation, including also relevant changes in the taxpayer guarantees:

Tax Law Procedure

The reference to the judicial vacation regime contained in the initial version was abandoned, and it is now clear that the **deadlines** relating to acts that must be practiced in proceedings and procedures, **that run in the Tax Courts, the Constitutional Court, the Arbitral Court (CAAD) and the Tax Enforcement Authorities, are suspended, with the following particularities:**

a) Non-Urgent Procedures

In non-urgent cases, all acts (in person or not) can take place when all parties consider that they are able to ensure their practice through informatic platforms or electronic means. This provision thus requires a prior agreement between the Judge or Arbitrator, the Tax Authority and the Taxpayer, in order to ensure that all parties can move forward.

b) Urgent Procedures

The urgent procedures continue to be handled, provided that the proceedings can be carried out by electronic means.

In case that the electronic means are insufficient for this purpose and at the same time the freedom or immediate subsistence of the parties involved is concerned, the proceedings may be carried out in person by complying with the guidelines imposed by the Health Authorities and under the guidance of the higher Councils. In case that it is not possible and appropriate to ensure that any procedural acts in the above are carried out, the suspension of deadlines regime referred above shall also apply to those urgent procedures.

c) Tax Enforcement

In the case of tax enforcement, any acts related to sales, collective insolvency proceedings, the supply of real estate and collection procedures shall be suspended, with the exception of those

which, under the law, may cause serious damage or irreparable damage to the creditor. Given the intention of the legislator (expressly assumed in Decree-Law No. 10-F/2020 of 26 March) to suspend the tax enforcement, we understand that this rule should apply equally to these processes, even if the law expressly refers to acts that are exclusive to the civil enforcement process.

However, lack of payment interest, compensatory interest and indemnity interest are not suspended.

d) Judicial Sentences

Final decisions may be issued in cases in which the Courts and other Authorities consider that further proceedings are not necessary.

Statute of Limitations

The limitation periods for all types of procedures are also suspended. The general limitation period to collect taxes is 8 years (*prescrição*) and for tax authorities to issue assessments is 4 years (*caducidade*), counted from the relevant taxable event or from the end of the relevant tax period. However, the limitation periods in tax matters do not refer to processes or procedures, therefore we believe that they are excluded from the rule under consideration.

Tax Infraction Procedures

Deadlines for the practice of acts within the scope of tax infraction regime are also suspended, including acts of judicial claim of final or interlocutory decisions.

Deadlines for Taxpayers Acts

The **deadlines for taxpayers' acts are also suspended, but limited to acts of judicial claim, administrative appeal, hierarchical appeal, or other procedures of the same nature, and the procedural acts after those.** This means that are excluded from the suspension regime, namely,

the deadlines for the practice of acts in the context of tax inspection, as well as deadlines for reimbursement requests. All deadlines for acts to be carried out by the Tax Authority are also excluded from the suspension regime.

Temporary Suspension

The suspension regime of the deadlines has been in force since March 9, 2020 and **until the date to be defined by decree-law**, in which the end of the present exceptional situation is declared. Except for the suspension of tax enforcement, which, according to Decree-Law No. 10-F/2020, of 26 March, shall be in force until June 30, 2020, if the exceptional situation ceases before that date.

Duty of Decision of the Tax Authority

The period of 4 months for the tax procedure to be concluded, under Article 57 of the General Tax Law, is not included in the rule of Article 7 of Law No. 1-A/2020, thus operating the implicit rejection within regular deadline.

Ana Pinto Moraes
anamoraes@pintoribeiro.pt

Vanessa Lopes Rodrigues
vanessarodrigues@pintoribeiro.pt

www.pintoribeiro.pt

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