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# TAX

Legal Flash | Portugal

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## > **Introductory note**

Law 7/2021 was published on February 26, 2021, approving tax measures that reinforce taxpayers' guarantees and simplify tax procedures by amending several tax codes.

Following the report of the Working Group for the Prevention and Amicable Resolution of Disputes between Taxpayers and the Tax Authorities, this law introduces several changes aiming to improve the relationship between the tax authorities and taxpayers and to reinforce taxpayers' guarantees.

Below, we summarize some of the most relevant measures of this law.

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## > **Amendments to the waiver, reduction, mitigation, and early payment of fines**

### ***Amendments to the waiver of fines***

The scope of the fine waiver regime has been extended, providing that taxpayers must now meet the following requirements:

- > In the five years prior to the infraction, taxpayers must not have received a ruling against them in a final decision of an administrative infraction process or a crime for tax infractions.
- > In the five years prior to the infraction, taxpayers must not have benefitted from a waiver or a reduced fine.
- > Taxpayers' infractions must not have caused a loss of tax revenue.
- > Taxpayers must have regularized the offense committed.

Taxpayers may request the waiver of a fine within the period granted for the defense, and they must regularize the fault at stake until the end of that period.

These changes enter into force on January 1, 2022

### ***Amendments to the reduction of fines***

Fines for tax infractions paid voluntarily on taxpayers' request may now be reduced under the following terms:

- > If the notice of the fine has not yet been issued, if the tax authorities have not received the participation or complaint of the fault, and no tax inspection procedure was started, the fine is reduced to 12.5% of the minimum legal amount, provided the taxpayer regularizes the fault and pays the reduced fine within 30 days after the competent authority issues the notification.



- If the tax inspection procedure has already started, but the period for exercising the right to be heard has not yet expired, the amount is reduced to 50% of the minimum legal amount, provided the taxpayer has regularized the fault.

These changes enter into force on January 1, 2022.

### ***Amendments to the mitigation of fines***

Within this regime fines for tax infractions may now be reduced to 50% of the legal minimum and maximum limits of the fine, provided, within the period of defense, the taxpayer:

- submits a special mitigation request.
- recognizes its liability; and
- regularizes the fault.

Whenever the reduced gravity of the offense and the fault of the agent justifies it, the competent authority may only issue an admonition.

These changes enter into force on January 1, 2022.

### ***Amendments to the early payment of fines***

The early payment of fines within the period of defense is now widely accepted for most tax infractions, allowing a 50% reduction of the legal minimum for fines and costs.

These changes enter into force on January 1, 2022

As of January 1, 2020, the regime for the early payment of a fine within the period of defense extends to most general tax administrative offenses (i.e., the regime under which a fine may be reduced to the legal minimum and costs may be reduced by 50% is no longer limited to simple tax administrative offenses).

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## ➤ **Amendments to the tax audit regime**

### ***Voluntary settlement***

Tax audits now include a period aimed at settling tax debts voluntarily.

After the draft inspection report is notified, and within the period given for exercising the right to be heard, taxpayers may indicate the faults they intend to settle and request that the applicable fines be reduced.

This period will result in a meeting between the taxpayer (or the respective representative), the tax inspector, and the director of the department responsible for the inspection procedure to define the exact terms under which the settlement should take place; i.e., the declarative obligations to be fulfilled



for this purpose. The terms of settlement are put into writing in a document that the taxpayer (or its representative) and the manager of the department responsible for the inspection procedure must sign.

The signature of the settlement document and the voluntary fulfillment of its obligations within 15 days after the meeting inhibits the taxpayer from later challenging the legality of the corrections that were settled.

These changes enter into force on January 1, 2022.

### ***Inhibition of presenting tax returns during audits***

While audits are pending, taxpayers are now inhibited from presenting tax returns regarding taxable events included in the scope of the tax audit.

The amendments to the tax audit regime enter into force on January 1, 2022.

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## **> Amendments to the binding ruling procedure**

The binding ruling procedure will now entail hearing taxpayers before the ruling is issued if they request that being heard before the final decision.

This amendment will enter into force on July 1, 2021.

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## **> Deferral and suspension of deadlines**

The following regime is introduced to defer and suspend procedural deadlines that take place in August:

- >** Tax obligations that have to be fulfilled in August may be fulfilled by August 31, without any accruals or penalties.
- >** Deadlines for tax audit procedures are suspended until after August.
- >** The expiry of deadlines for taxpayers' acts in tax audit procedures, review of tax acts, recognition or revocation of tax benefits, issuance or revocation of other administrative acts in tax matters, administrative claims, hierarchical appeals, and direct or indirect assessment of income or equity values, as well as to exercise the right to be heard in procedures or to provide any clarifications the tax authorities request that end in August are pushed back to the first business day of September.

These amendments entered into force on February 27, 2021.



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### ➤ **Amendments to the expiry of guarantees within tax enforcement procedures**

Taxpayers may now request that the expiry of guarantees issued to suspend tax foreclosure procedures be recognized when a judicial claim is pending and the court of first instance has not issued a ruling within four years from the date the claim was lodged, unless the delay is attributable to the taxpayer.

The court, through a reasoned decision and after hearing the tax authorities, will determine whether the guarantee should expire or be maintained for an additional and non-renewable period of up to two years if there is a risk of loss to the Public Treasury.

These amendments entered into force on February 27, 2021.



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