

Legal Alert

Main tax and customs rules and/or measures issued as a consequence of the declaration of State National Emergency caused by COVID-19

	Companies and individuals who obtained income of up to 2,300 Tax Units (USD 2'800,000 approx.) in fiscal year 2019	Companies and individuals who obtained income of up to 5,000 Tax Units (USD 6'100,000 approx.) in fiscal year 2019	All taxpayers
2019 Annual Income Tax and Tax on Financial Transactions – filing of return and tax payment	<u>Tax Authority Resolutions 054-2020/SUNAT and 061-2020/SUNAT (13 and 24 March, 2020):</u> New dates for filing return and paying 2019 Annual Income Tax and Tax on Financial Transactions are 24 June, 2020 to 9 July, 2020, based on the last digit of the tax identification number (RUC).		
2020 monthly tax obligations - filing of returns and tax payments	<u>Resolutions 055-2020/SUNAT, 065-2020/SUNAT, 069-2020/SUNAT and 075-2020/SUNAT (16 March, 30 March, 13 April and 29 April, 2020):</u> New dates for filing returns and paying taxes of February 2020 are from 4 June, 2020 to 11 June, 2020, based on the last digit of the RUC number.	<u>Resolutions 065-2020/SUNAT, 069-2020/SUNAT and 075-2020/SUNAT (30 March, 13 April and 29 April, 2020):</u> Based on the last digit of the RUC number, new dates for filing returns and paying taxes of March, to June 2020 are from 12 June, 2020 to 22 June, 2020 (March); 3 July, 2020 to 13 July, 2020 (April), 14 July, 2020 to 22 July, 2020 (May) and 5 August, 2020 to 13 August, 2020 (June).	
Electronic accounting books: purchases and sales	<u>Resolutions 055-2020/SUNAT, 058-2020/SUNAT and 065-2020/SUNAT (16, 18 and 30 March, 2020):</u> Latest dates to file electronic purchase and sales registries of February 2020 postponed to first days of June 2020.	<u>Resolutions 065-2020/SUNAT and 075-2020/SUNAT (30 March and 29 April, 2020):</u> Latest dates to file electronic purchase and sales registries of January and February 2020 (for taxpayers under Schedule "B") postponed to June 2020; latest dates to file electronic purchase and sales registries of March to June 2020 postponed to June, July and August 2020 (for taxpayers under Schedule "A").	

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Refund of Balance in Favor of the Exporter without presenting guarantees		<p><u>Resolutions 055-2020/SUNAT and 065-2020/SUNAT (16 and 30 March, 2020):</u> Taxpayers can request the refund of the Balance in Favor of the Exporter (input VAT) without presenting guarantees, provided the last month elapsed - to be included in the form - is comprised within the special monthly tax obligations schedule.</p>	
Annual return for transactions with third parties – filing of return		<p><u>Resolutions 055-2020/SUNAT and 065-2020/SUNAT (16 and 30 March, 2020):</u> Latest date to file the annual return for transactions with third parties (DAOT for its Spanish acronym) postponed to 29 May, 2020.</p>	
Availability of funds and other facilities for taxpayers		<p><u>Resolutions 058-2020/SUNAT, 065-2020/SUNAT and 067-2020/SUNAT (18, 30 and 31 March, 2020):</u> An emergency procedure was established to allow taxpayers to recover funds deposited in the special withholdings ("detracciones") bank account, in a more expeditious manner. The request is to be filed between 23 March and 7 April, 2020.</p> <p>Accordingly, the original dates to file for the release of funds, under the so-called special procedures and general procedures, are postponed to 8 April to 14 April, and 8 April to 16 April, 2020, respectively.</p> <p>It was also established that taxpayers with approved facilities to pay tax debts (split-ups, deferrals, refinancing) will not lose the benefits if they fail to comply with paying the installments due by 31 March, 2020 and 30 April, 2020, as long as they pay such installments with interest, no later than 29 May, 2020.</p>	
Discretionary application of tax penalties and fines during state of emergency		<p><u>Resolutions 008-2020-SUNAT/700000 and 006-2020-SUNAT/300000 (18 and 20 March, 2020):</u> Approval of the discretionary authority of SUNAT for not imposing tax penalties and fines for any breach committed by taxpayers during the State of National Emergency.</p> <p>Discretionary authority of SUNAT for not imposing customs penalties and fines was approved as well, provided the following conditions are met: (i) the customs infraction must be listed in the appendix included in the Resolution (approx. 50 infractions included); (ii) the customs infraction is committed between 12 March 2020 and 9 June 2020; (iii) the customs infraction is committed by a foreign trade operator, intervening operator or third party; and (iv) the correct and/or omitted information is properly transmitted or registered.</p> <p>On 30 March, 2020, SUNAT posted on its networks that, due to the postponement of the State National Emergency until 12 April, 2020, the discretionary authority for not imposing penalties and fines will remain during such term. Given that the State of National Emergency has been subsequently postponed to 26 April and 10 May, 2020 (as per Supreme Decrees 064-2020-PCM and 075-2020-PCM, respectively), it shall be understood that no fine or penalty would be imposed for any breach committed by up to the latter date.</p>	

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Suspension of administrative (including tax and customs) procedures	<p><u>Urgent Decrees 026-2020 and 029-2020, Supreme Decree 076-2020-PCM and Urgent Decree 053-2020 (15 March, 20 March, 28 April and 5 May, 2020)</u>: All on-going administrative procedures subject to (affirmative or negative) silence were suspended for thirty (30) working days counted as from 16 March, 2020, and subsequently for an additional fifteen (15) working days counted as from 29 April, 2020.</p> <p>Likewise, all administrative procedures (other than those affected by the above rule) were suspended for thirty (30) working days counted as from 21 March 2020, and subsequently for an additional fifteen (15) working days counted as from 7 May, 2020. The suspension includes the legal term to start the procedure, as well as the processing period.</p> <p>Public entities have been empowered to approve lists of specific procedures that will fall outside the scope of the above rules.</p>		
Granting of legislative faculties for tax topics	<p><u>Law 31011 (27 March, 2020)</u>: Granting of legislative faculties by the Congress to the Executive, in order for the latter to legislate on the following tax topics:</p> <ul style="list-style-type: none"> • Temporary suspension of current tax rules and approval of measures to reactivate national economy. • Provisions to facilitate payment of tax debts administered by SUNAT. • Amendment of income tax laws in respect of income tax advance payments, carry-forward losses, depreciation terms and deductibility of donations. • Redesign, eliminate and/or modify simplified tax regimes for micro-and small taxpayers (MST); extension and broadening scope of VAT refund for MST; and other measures applicable to MST. • Extension of SUNAT term to exercise functions of registry entity and verification in relation to digital signature. 		
Custom duties during Sanitary Emergency	<p><u>Supreme Decrees 051-2020-EF and 059-2020-EF (13 March and 28 March, 2020)</u>: Customs duties on the importation of certain medicines, medical equipment, devices and other goods reduced to 0% during the Sanitary Emergency Period (90 calendar days counted as from March 12, 2020, which may be extended). At the end of that period, the rate will go back to 6% or 11%, as the case may be.</p>		
Entry into force of certain customs procedures	<p><u>Resolution 063-2020/SUNAT (28 March, 2020)</u>: Entry into force of the general "Definitive Export" procedure (DESPAPG.02, version 7) and the specific "Actions related to exit of goods and transport means" procedure (DESPA-PE.00.21, version 1) for Puno and Tacna intendencies, and Callao sea intendency, has been postponed to June and July 2020. Likewise, entry into force of the general procedure "Material for aeronautical use" (DESPA-PG.19) has been postponed to July 2020 (instead of the original date, 30 April, 2020).</p>		
Subsidy for employers of the private sector – communication of interbank code	<p><u>Resolution 064-2020/SUNAT and 068-2020/SUNAT (30 March and 6 April, 2020)</u>: Employers of the private sector entitled to the subsidy for salaries of low-income employees, established by Urgent Decree 033-2020, must inform to SUNAT (or correct, as the case may be) the interbank code until 13 April, 2020. Communication is presented via SUNAT online system.</p>		

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Reduction of interest on late tax payments	<p><u>Resolution 066-2020/SUNAT (31 March, 2020)</u>: Late payment interest applicable to tax debts, and accordingly, interest on tax refunds, have been reduced as follows:</p> <ul style="list-style-type: none"> • Late payment interest: for tax debts in local currency, from 1.2% to 1% per month; and for tax debts in foreign currency, from 0.6% to 0.5% per month. • Refund interest: for refunds in local currency, from 0.5% to 0.42% per month; and for refunds in foreign currency, from 0.3% to 0.25% per month. <p>Reduced rates apply as from 1 April, 2020.</p>		
Acceptance of donations from abroad to public entities	<p><u>Legislative Decree 1460 (16 April, 2020)</u>: Relaxation of legal requirements to be complied by all Peruvian public entities in order to accept donations from abroad that enter the country as “international non-reimbursable aid”.</p> <p>Acceptance minutes or a sworn statement signed by the corresponding officer will suffice for formally accepting donations related to the sanitary emergency. The corresponding acceptance resolution will need to be regularized within 30 calendar days as from the conclusion of the sanitary emergency. Requirements set forth in the Regulations for the Exemption of VAT, Excise Taxes and Customs Duties upon Donations (Supreme Decree 096-2007-EF), as well as internal procedures of public entities, are not affected.</p>		
Tax deductions for waste inventories	<p><u>Supreme Decree 086-2020-EF (21 April, 2020)</u>: Temporary measures to facilitate destruction of waste inventories, required to take Income Tax deductions:</p> <ul style="list-style-type: none"> • Destructions performed between 22 April and 31 July, 2020, must be supported on a technical report which contains certain minimum information, provided the destructions are communicated to SUNAT at comunicaciones_desmedros@sunat.gob.pe, at least two working days before its occurrence. The presence of a Notary Public or Justice of the Peace is not necessary. • Taxpayers that, due to the State of Emergency (established by Supreme Decree 044-2020 and extensions) were not able to follow the procedure in force before the amendment, may support the destruction with the above-mentioned report. <p>In both cases, destruction of waste inventories will be accepted as long as the reports are presented to SUNAT by the end of the fifth working day counted as from 1 August, 2020 (or the later date that may be established by the said authority).</p>		
Electronic invoicing – postponement	<p><u>Resolution 073-2020/SUNAT (28 April, 2020)</u>: In general terms, the date as from which certain taxpayer are required to issue invoices - and other related documents – electronically, has been postponed to 1 September, 2020.</p>		

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Reduction or suspension of Income Tax advance payments	<p><u>Legislative Decree 1471 (29 April, 2020)</u>: Income tax regulation has been temporarily modified so as to allow taxpayers to reduce or suspend income tax advance payments of April, May, June and/or July 2020.</p> <p>The procedure consists of comparing the net income derived in any of the said months, with the one derived in the same months of year 2019. If the income has diminished in more than 30%, the advance payment of the corresponding month is <u>suspended</u>; while if the income has diminished in up to 30%, the advance payment is <u>reduced</u> to the amount resulting from applying 0.5846 to the advance payment determined under general rules in force.</p> <p>If the income has not diminished, advance payment must be made under general rules in force.</p> <p>Specific provisions have also been included for cases in which taxpayers had no income in April, May, June and/or July of year 2019.</p>		
Tax carry forward losses	<p><u>Legislative Decree 1481 (8 May, 2020)</u>: Income tax regulation has been exceptionally modified so as to allow taxpayers that have chosen or chose carry-forward system "A", to carry losses obtained in fiscal year 2020 for one additional year. In this sense, losses generated in fiscal year 2020 can be carried forward for up <u>to five years</u> (instead of the usual four years), counted as from fiscal year 2021.</p>		