

Tax Practice Group Newsletter



Reduction of monthly Income Tax advanced payments corresponding to the second half of 2020

As a result of the current health crisis, taxpayers need to optimize their cash flows, while their profitability has been affected by a reduction on the economic activity.

As we noted in past communications (read our April 4th newsletter [here](#) and our April 24th newsletter [here](#)), there are several preventive and reactive measures that taxpayers can take to help them face this situation. Among reactive measures, Income Tax Law foresees the possibility of requesting, as of the second half of the year, the reduction of monthly Income Tax advanced payments for the year, which is available for companies that have reduced their profitability.

It is relevant to keep in mind that monthly advanced payments are calculated through a profit ratio that is applied to the income received in the relevant month. This profit ratio corresponds to the taxpayer's profitability of the prior fiscal year.

1. When to request the reduction of advanced payments?

The alternative of reducing advanced payments should be appropriate if the company forecasts and is able to evidence that the profit ratio applied during the first half of the year to calculate such

payments will be higher than the profit ratio that will result by the close of the year.

2. When to file the request to reduce advanced payments?

The request to reduce advanced payments corresponding to the second half of the year can be done one month before the due date to file the advanced payment that is requested to be reduced. The request can comprise several monthly advanced payments provided it is filed one month before the first payment is due.

For further reference, below please find the different applicable deadlines to file such request:

Advanced payments to be reduced	Deadline to submit request
July to December	July 17
August to December	August 17
September to December	September 17
October to December	October 19
November to December	November 17
December	December 17

3. How to file such request?

The request can be filed in person or through the section "Mi Portal" from the webpage of the Tax Administration Service. If such request is filed online, the procedure to be followed is the one corresponding to the section "Disminuir Pagos Provisionales". In any case, the following documents must be filed together with the request:

1. A written letter requesting such reduction. This letter, must include the following information:
 - a. General information of the company and its legal representative,
 - b. The authority responsible of authorizing or denying the request,
 - c. The reasons to request such reduction.
2. Official identification and power of attorney of the legal representative.
3. Duly completed format "*Solicitud de Autorización para disminuir el monto de pagos provisionales*" (format 34).
4. Spreadsheet with the following information:
 - a. The assessment that includes the concepts that were considered to determine the amount of the previously made advanced payments.
 - b. Offset of favorable tax balances, reductions, exemptions or tax incentives used to determine the advanced payments.
 - c. The amount of Employee Profit Sharing paid in the year in which the reduction of advanced payments is requested.
 - d. In case of having NOLs pending to be amortized, their origin and application must be described.
 - e. Identify the year to which the profit ratio used to calculate the advanced monthly payments corresponds.

4. Analysis to evaluate convenience of filing

If at the end of the fiscal year, the advanced payments result being lower than those that would have been effectively paid if the reduction had not authorized, companies must pay surcharges on the difference between the reduced advanced payments and the payments that would have been due.

In addition, a proper analysis to determine the taxpayer's real position with respect to the request for the reduction of advanced payments is essential to identify the scenario that will effectively result in the lesser possible cash flow

impact and which is not always tied up to an authorization to reduce these payments.

This is why different aspects must be analyzed to determine whether this reduction is feasible from a financial and business standpoint. Among these aspects, we consider that the following must be evaluated to take the best possible decision pertaining to filing or not the request:

- i. Profit margin must have reduced, thereby being insufficient to have a mere income reduction to obtain the authorization to reduce monthly advanced payments;
- ii. If NOLs are pending to be amortized, taxpayers must calculate whether they could be enough to reduce the profit that is estimated for purposes of the advanced monthly payments corresponding to the second half of the year;
- iii. Taxpayers must calculate whether favorable income tax balances corresponding to prior fiscal years could offset the advanced monthly payments for the rest of the year without the need of requesting their reduction, while also comparing the timing that would potentially be involved in obtaining the refund of such favorable balances instead of offsetting them with the advanced payments..

Assuming that, upon conducting the analysis above, taxpayer concludes as being convenient to submit this request, a proper organization of the information to support the financial, business and tax rationale demonstrating the feasibility of the reduction will become crucial to avoid a negative determination from the tax authority.

At Sanchez Devanny, we are able to assist both in assessing the convenience to submit this request and in the request procedure itself, thereby comprising its filing, the organization of supporting documentation and the relevant lobbying activities before the tax authority.

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Tax

This practice pragmatically advises clients on tax planning, federal and local tax optimization for new or existing operations and expansion projects, national and international corporate reorganizations, tax treaties, transfer pricing, private wealth management, and provides representation during complex tax audits and litigation.

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