

ITBMS Withholding Mechanism - Conditions for incorporation of companies dedicated to provide e-commerce services.



Resolution No. 201-0999 of February 19, 2016 (hereinafter “Resolution”) was published in Official Gazette No. 27976 whereby the conditions are established for the incorporation in the ITBMS withholding mechanism, of companies dedicated to providing e-commerce services for buying and selling goods and services through electronic means such as the Internet and other computer networks, and using debit and credit cards as payment.

Legal basis

Paragraph 4 of Article 1057-V of the Tax Code, Executive Decree 84 of 2005 as amended by Executive Decree 463 of 2015, by Executive Decree 470 of 2015 and Executive Decree 594 of 2015.

Established conditions

- Applicable to companies dedicated to providing e-commerce services, using debit and credit cards as payment and that they

comply with the conditions to be designated as withholding agents. They must be authorized by the Directorate General of Revenue.

- These companies must submit an application to the Directorate General of Revenue allowing it to verify and validate that they adjust to the way an ITBMS withholding agent operates.
- The application must be submitted with the supporting documents, such as:
 - i. Certificate of Incorporation;
 - ii. Operating licenses delivered per brands or administrative entities of debit and credit cards;
 - iii. Contract signed with the acquiring banks;
 - iv. Technical and operational explanation of the payment mechanism used;
 - v. Filed by an Attorney.

- In the case where the company is authorized by the Directorate General of Revenue to operate as an ITBMS withholding agent in the category of subparagraph e) (Article 19 of Executive Decree 84 of 2005), it shall comply with the significant and formal obligations established in the standards for ITBMS withholding agents.
- These obligations are:
 - i. Exercise ITBMS withholding;
 - ii. Declare and pay the sums withheld to the Treasury;
 - iii. Issue withholding certificates to withholding agents;
 - iv. Submit sales reports with debit and credit cards made by commercial establishments or affiliated persons;
- They must also comply with the established terms, conditions and forms, and in case of default, they will be subject to the penalties provided for in the rules governing this matter.

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