



Panama Tax News

Executive Decree 173 of 2021 amending Article 19 of Executive Decree 84 of August 26, 2005 regulating the Tax on the Transfer of Movable Goods and Services (ITBMS)

September 2021

Executive Decree 173 of September 1, 2021, amending Article 19 of Executive Decree 84 of August 26, 2005, which regulates the Tax on the Transfer of Movable Goods and Services (ITBMS) and establishes other provisions

- That Executive Decree 84 of 2005 has been amended through Executive Decree 463 of 2015, 470 of 2015, 594 of 201 and 128 of 2017.
- Article 19 of Executive Decree 84 of 2005, states that in the case of taxpayers who are subject to ITBMS withholding, the percentage of tax withheld constitutes a tax credit for them and must be included as payment on account in the ITBMS affidavit corresponding to the month in which the tax on which the

withholding occurred is incurred.

- That from the application of Executive Decree 84 of 2005 and its amendments, it has been identified that some ITBMS taxpayers to whom withholdings of this tax have been made, have been accumulating excess credits for withholdings made in several periods and in an accumulated manner and for which reason it is necessary to adjust the established regime.

Amendment of Article 19, paragraph d) of Executive Decree 84 of August 26, 2005:

- The withholding of the tax shall be made by those who are or are not ITBMS taxpayers, and who comply in the immediately preceding fiscal period with the criterion of annual local purchases of goods and services, equal or superior to three million balboas (B/. 3,000,000.00). Minor purchases made by these withholding agents are excluded. The Panamanian Tax Authority (DGI) by



means of a resolution shall establish the limits and conditions for minor purchases.

- In cases where withholding applies, the amount to be withheld will be 50% of the ITBMS included in the invoice or equivalent document submitted by the supplier to the withholding agent.
- The DGI will publish each year in the Official Gazette (GO) a resolution containing the list of withholding agents that meet the criteria for such status.
- Withholding agents that were designated by Resolution 201-4050 of September 1, 2016, published in its OG No. 28110 of September 6, 2016, with its subsequent amendments, will maintain such quality in subsequent periods, even if they do not meet the criteria of the limit of purchases in the list published each year by the DGI.
- The DGI will publish a list with the new withholding agents that meet the criteria established in this Decree to have such quality, so that they apply the ITBMS withholding mechanism as of September 15, 2021 and subsequent periods.

Amendment of paragraph 11 of Article 19 of Executive Decree 84 of August 26, 2005:

- The DGI may, in particular cases evidenced as exceptional, upon duly sustained request, authorize the reduction of the ITBMS withholding percentage, for those taxpayers who, in the last six (6) consecutive periods, have had balances in favor in their ITBMS returns, originated in withholdings of this tax and can demonstrate that, as from February 1, 2016, date on which the ITBMS withholding mechanism was extended, the relationship between the tax caused and the amount of the withholdings supported, has generated, in successive periods, an increase in the surplus of tax credits, product of purchase and sale operations of taxed goods and services.
- Taxpayers who consider themselves entitled to the reduction of the ITBMS withholding percentage, must file before the DGI the request for reduction of the ITBMS withholding percentage, as from the month following the date of filing of the ITBMS return corresponding to the

last of the six consecutive periods with balances in favor derived from ITBMS withholdings made in excess, complying with the requirements, conditions and formalities established by the DGI. The reduction of the withholding percentage will only apply when the Resolution of the DGI, which authorizes the reduction of the withholding percentage, is duly executed.

- Likewise, the DGI may, in cases evidenced as exceptional, upon duly sustained request, authorize the reduction of the ITBMS withholding percentage for those taxpayers that belong to literal c) companies without legal status (de facto, irregular groups or companies, joint venture consortiums and similar), that do not comply with the term of six consecutive periods with balances in favor coming from ITBMS withholdings practiced in excess, but that according to the analysis and particular situation of each request, it is demonstrated and sustained that an increase is generated in the surplus of tax credits, product of purchase and sale operations of taxed goods and services, originated in withholdings of this tax.

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