

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

TEHAR

Caracas

Edificio Atlantic, Piso 6,
Avenida Andrés Bello,
Los Palos Grandes.

Maracaibo

Unicentro Virginia, Piso 2,
Local
2-12. Avenida 3C con
esquina calle 67, Sector La
Lago.

Valencia

Torre Movilnet, Piso 7,
Oficina
No. 3. Avenida Paseo
Cabriales.

Puerto la Cruz

Torre Banco Venezolano
de Crédito (BVC), Piso 6,
Oficina 6-J, Avenida
Intercomunal,
Sector Las Garzas.

Maturín

Centro Comercial
Petroriente (CCP), Nivel
Oficinas 1,
Oficina 01-N, Ala Norte
Pasillo Amarillo,
Avenida Alirio Ugarte
Pelayo.

Introduction

One of the most outstanding news items in the month of May was the penalty imposed by the United States on the State-owned company PDVSA because of its commercial relationships with Iran. The penalties, which do not affect the sales of crude by PDVSA to the United States or the operations of its affiliate Citgo, involve the impossibility for PDVSA of obtaining contracts with the US government or financing for imports or exports from and to the United States.

Energy

The Ministry of the Popular Power for Energy and Petroleum published in the Official Gazette of May 18 a Resolution whereby a geographical area of 86.53 Km² of the South area of Tía Juana Lago, was set aside for PDVSA Petróleo, S.A., to exploit Non-associated Natural Gas Reservoirs.

Banking

The Ministry of the Popular Power for Housing and Habitat decided to fix at 12% the minimum percentage of the annual gross portfolio that the institutions of the banking sector bound to grant mortgage credits for the acquisition and construction of principal family dwellings – within the *Gran Misión Vivienda Venezuela* - have to obligatorily place from their own resources. Said Resolution was published in Official Gazette of May 2, 2011.

The instructions for the payment of the portion of contribution to be made by the institutions subject to the supervision and control of the Superintendency of Institutions of the Banking Sector, as well as by the banks subject to special laws, were published in the Official Gazette of May 16. The portion of contribution for the second semester of year 2011 to be paid by the banking institutions is of 0.6 per thousand of the average of the assets corresponding to the immediately preceding half-yearly economic period, while that of exchange agencies, risk

Contents

1. [Introduction](#)
2. [Energy](#)
3. [Banking](#)
4. [Taxation](#)
5. [Labor](#)
6. [Miscellaneous](#)

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

capital corporations, and mutual guarantee companies is of 0.4 per thousand. Likewise, this entity established, through a Resolution published in the aforesaid Official Gazette, the Conditions to be met by Exchange Agencies for the Granting of Faithful Performance Bonds as guarantee of the transactions made by them. This bond must be for the amount of 1,100 tax units for the principal office and 110 tax units for each branch or office and it must be updated every time that the tax unit is adjusted.

The Rules for Transfer of Property owned by the Institutions of the Banking Sector and Related Legal Persons Submitted to Administrative Liquidation Regime issued by the Fund of Social Protection of Bank Deposits (FOGADE) were published in the Official Gazette of May 20. These rules are applicable to personal and real property, credit holdings, stock and securities. They also establish the mechanism through which the act of transfer will be published and the process to be followed by the private parties in order to participate in the same. These provisions will be applicable to all liquidation procedures in progress at the time of their publication.

Resolution No. 11-05-01 of the Venezuelan Central Bank was published in Official Gazette of May 31. Said Resolution establishes that the former and the new group of bills and coins issued by the Venezuelan Central Bank may circulate simultaneously until December 31, 2011. Therefore, up to said date, the documents expressing payment obligations will contain the expressions “*bolívares fuertes*” or “Bs.F”. After January 1, 2012, only the use of the word “*bolívares*” or “Bs.” will be required.

The **Regulations on the Electronic Clearing House System** was published in the Official Gazette of May 31. The Electronic Clearing House is a system with national coverage through which the Participating Bank Institutions will clear the transactions made with checks and other means of payment. The Venezuelan Central Bank will be in charge of the operation, administration, and management of this system.

Contents

7. [Introduction](#)
8. [Energy](#)
9. [Banking](#)
10. [Taxation](#)
11. [Labor](#)
12. [Miscellaneous](#)

Taxation

Presidential Decree No. 8.174 was published in Official Gazette of May 3, 2011. Said Decree establishes an exemption from the Value Added Tax (VAT) for the sales of personal property and provision of services made by natural and legal persons when such property or services are acquired for constructing, repairing, refurbishing, conditioning, improving, and maintaining housing units. The exemption includes cement, plaster, lime, glass, blocks, etc. Also, Presidential Decree No. 8.175 was published in the same Official Gazette establishing an exemption from the payment of Income Tax for the net income of

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

Venezuelan source resulting from the activities of construction, maintenance, and repair performed in compliance with the Organic Law of Emergency for Pieces of Land and Housing Units and the *Gran Misión Vivienda Venezuela*.

Presidential Decree No. 8.210 was published in Official Gazette of May 10. Said Presidential Decree establishes an exemption from the payment of Income Tax for the net income of Venezuelan source resulting from the primary exploitation of agricultural, forest, livestock, poultry, fishing, aquaculture, and fish farming activities, obtained by natural persons, legal persons, and unincorporated entities residing in the country. The Decree establishes that the beneficiaries of this

exemption must allocate 100% of the Income Tax that they would have had to pay to direct investments in scientific and technological research for the respective activity. This Decree will be in effect until December 31, 2012.

The SENIAT published in the Official Gazette of May 13, 2011, Ruling No. SNAT/2011/0036, informing that the weighted average interest rate for loans of the six (6) principal commercial and universal banks of the country with the highest volume of deposits, excluding portfolios with prime rates, set by the Venezuelan Central Bank for April 2011 is 20.02%, which rate is to be increased 1.2 times for the calculation of late payment interest accrued during April 2011.

The Decree with the Value and Force of **Law on Port Charges** was published in Official Gazette, Extraordinary, of May 25. This law establishes the duties to be paid by the natural and legal persons by reason of the following activities at ports managed by the State: (i) dock charges; (ii) wharfage; (iii) loading and unloading dues; (iv) surface use charges; (v) warehouse charges; (vi) storage charges; (vii) vehicle and machinery parking fees; and (viii) registration fee. Likewise, penalties are established for those who fail to give notice of hazardous goods, omit international symbols, or submission of a cargo declaration which does not match what was actually loaded or unloaded.

The Rules on the Procedure for Collection, Verification, and Auditing of the special contributions established in the Organic Law on Drugs (OLD), contained in Administrative Ruling No. 007-2011 of the National Anti-drug Fund (FONA), were published in Official Gazette dated May 26, 2011. The possibility is established for the FONA to audit the declarations and payments filed by the payers and it may issue reports, certificates of inquiry, certificates of receipt of documents, and summons. Also, it is established that the acts issued by the FONA that involve taxes and imposition of penalties must be processed and notified in accordance with the Tax organic Code.

Contents

1. [Introduction](#)
2. [Energy](#)
3. [Banking](#)
4. [Taxation](#)
5. [Labor](#)
6. [Miscellaneous](#)

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

The National Assembly approved the Agreement for Avoidance of Double Taxation and Prevention of Tax Evasion between Venezuela and the Government of the United Arab Emirates. Said Agreement will be applicable to Income Tax and Tax on Net Worth (Official Gazette of May 31, 2011).

Labor

The Decree with the Status, Value and Force of Law of Partial Amendment to the Law of Nourishment for Workers was published in the Official Gazette of May 4, 2011. Article 4 of this Decree establishes that the benefit of nourishment may be paid in cash in the following cases:

1. When compliance with the benefit of nourishment by the means prescribed in the Law is difficult for employers with fewer than twenty (20) workers.
2. When having access to the establishments enabled to exchange the coupons or meal tickets or using the electronic card is difficult for the workers, regardless of the number of workers employed by their employer.
3. In the case of the situations prescribed in the Sole Paragraph of article 6 of the Law, namely: When the granting of the nourishment benefit was implemented by the means established in numbers 1 (employer's own cafeteria operated by the employer or contracted with third parties), 2 (contracting of service of meals prepared by specialized companies), 5 (installation by several companies of common cafeterias, near the work places) and 6 (use of cafeteria services administered by the entity with competence over nourishment matters) of article 4 of this Law, said benefit must be paid through meal coupons, tickets, or electronic cards, or money in cash or its equivalent, delivered or provided to the worker, for the period of duration of the situation that prevents the worker from providing the service, as prescribed in this article, or for the period of duration of his/her pre and post maternity leave, permit or license of paternity, or disability for illness or accident not exceeding twelve (12) months.

Contents

1. [Introduction](#)
2. [Energy](#)
3. [Banking](#)
4. [Taxation](#)
5. [Labor](#)
6. [Miscellaneous](#)

The Decree with the Status, Value and Force of Organic Law of Partial Amendment to the Organic Labor Law was published in Official Gazette dated May 6, 2011. The purpose of this amendment was to establish that residential workers, formerly called Janitors ("*Conserjes*") will be governed by the Organic Labor Law to the extent applicable to them, by reason of the compatibility between its provisions and the nature of the services that they provide. Said category of workers will be applied in preference the provisions of the Special Law to be issued to this end.

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

Also, the Decree with the Status, Value and Force of Special Law for Dignifying Residential Workers was published in the Official Gazette of May 6. Said Decree rules the activities of Janitors, now called Residential Workers. The most significant provisions include: (i) the granting of a three-month period to vacate the premises in the cases of termination of the employment relationship for any reason whatsoever; (ii) the obligation that janitors' work hours have to be day work hours; (iii) the obligation that weekends have to be free; and (iv) the prohibition against working at unusual hours.

Miscellaneous

The Decree with the Status, Value and Force of Law Against Eviction and Arbitrary Dispossession of Housing Units was published in Official Gazette of May 6. The purpose of said Decree is to protect lessees, borrowers, occupiers, or usufructuaries of real property used as principal family dwellings, and acquirers of new housing units or housing units in the secondary market, against administrative or judicial measures that seek to interrupt or terminate their lawful possession or that involve the loss of possession of the real property used as dwelling. Likewise, judicial and administrative proceedings in progress are suspended, regardless of their status or stage, until the parties present evidence of having completed the previous administrative proceeding established in the Law.

The Decree with the Status, Value and Force of Special Law on Integral Regularization of Land Possession in Urban and Periurban Settlements, intended to regulate the possession of said land for purposes of granting awarding titles (*títulos de adjudicación en propiedad*), was published in the Official Gazette of May 6, 2011.

A Resolution of the Ministry of the Popular Power for Nourishment was published in Official Gazette of May 27, 2011. Said Resolution establishes the guidelines and criteria that govern the issue of the Single Guide for Transportation, Monitoring, and Control of Conditioned Raw Material and Food Products, intended for commercialization, human consumption and animal consumption, with a direct impact on Human Consumption, in the national territory. The Resolution establishes the guidelines and criteria that govern the requirements, conditions, processing, form, issuance and registration of the Single Guide, which is required for transporting, monitoring, and controlling conditioned raw material and conditioned, transformed or finished food products. This Single Guide must be requested through the web, www.sada.gov.ve, at the link of the Integral System of Agrifood Control (*Sistema Integral de Control*

Contents

1. [Introduction](#)
2. [Energy](#)
3. [Banking](#)
4. [Taxation](#)
5. [Labor](#)
6. [Miscellaneous](#)

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

Agroalimentario - SICA) and is valid for seven days as from the date and time of its approval. This Resolution repeals the one published in the Official Gazette of March 18, 2009.

Caracas, June 17, 2011.

Contents

1. Introduction
2. Energy
3. Banking
4. Taxation
5. Labor
6. Miscellaneous

NOTE: THIS NEWSLETTER SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER, AND ITS CONTENTS ARE INTENDED AS A MANAGEMENT ALERT AS TO CURRENT DEVELOPMENTS IN VENEZUELA. ANY SPECIFIC LEGAL QUESTIONS REGARDING THE POSSIBLE APPLICATION OF NEW OR PROPOSED LEGISLATION TO PARTICULAR SITUATIONS SHOULD BE ADDRESSED TO TRAVIESO EVANS ARRIA RENGEL & PAZ.