



LEGAL NEWS

São Tomé and Príncipe

September 2020

COVID-19

Measures Approved to Mitigate COVID-19 Effects

Decree-Law No. 7/2020, of 7 May 2020, approved, exceptional and temporary measures to mitigate the social, economic and financial impacts resulting from COVID-19, notably:

Tax and Social Security

- Exemption from interest and legal costs related to Tax and Social Security debts, accrued before and during the State of Emergency;
- A moratorium of up to 6 (six) months on payments in installments to the Tax Authorities and Social Security;
- Prohibition of attachments and preventive seizures by the Tax Authorities;

Economic, Social and Financial Measures

- Postponement of installments due to commercial banks and other creditor entities;

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- Extension of deadlines for payments to commercial banks;
- Extension of deadlines for payments to water and energy suppliers;
- Reduction of up to 20% of the wage bill of public companies, institutes and other public services, without the possibility of redundancies;
- Suspension of the awarding of public works and services contracts by the State;
- Increase of disability, old-age and survivor's pensions.

Labor

- Approval of an Exceptional Regime for the Suspension of Labor Relations, applicable to up to 30% (thirty per cent) of employees, reducing to 15% (fifteen per cent) the part of remuneration to be borne by employers;
- Restrictions to the right to strike;
- Implementation of shift work.

The measures provided in the new statute will remain in force for 3 (three) months following the end of the State of Emergency, and may be extended, in whole or in part.

Contributions to the Resilience Fund

The Resilience Fund was created by Decree-Law No. 8/2020, of 7 May 2020, aimed at financing the implementation of the measures approved to mitigate the social, economic and financial impacts resulting from COVID-19.

Financing of the Fund will be done through an Extraordinary Contribution, made up of mandatory withholding tax payments calculated on the monthly gross basic salary of taxpayers subject to personal income tax (IRS), for a 3-(three)-month period, as follows:

Public sector:

- 3% for those under the general regime;
- 5% for those under the private regime financed by the State Budget;
- 7% for those working for other public entities, development projects or similar entities.

Private sector:

- 3% for incomes of up to 4 (four) Minimum Wages in the Public Sector (“MWPS”);
- 5% for incomes of up to nineteen (19) MWPS;
- 7% for incomes higher than those mentioned above.

Incomes of up to 2 MWPS are subject to a minimum tax of 25 STP Dbs.

The following categories are exempted from contributing:

- a. Incomes of up to 1 MWPS;
- b. Public health system workers;
- c. State school teachers and educators;
- d. Armed Forces and Defense and Security Services, including the Judiciary Police;
- e. Workers covered by the Exceptional Regime for Suspension of Labor Relations.

The framework provided for in this statute came into force on 8 May 2020.

OIL & GAS

Transfer of Petroleum Products Price Differential Regulated

Decree No. 14/2020, of 14 April 2020, approved the regulation of the price differential transfer process and the respective debt repayment contract, applicable to operators engaged in the wholesale sale of petroleum products, who are required to transfer the price differential generated by the sale of those products, in favor of the State, to the Public Treasury’s account, by the fifteenth day of the following month.

The framework provided in this statute came into force on 14 April 2020, applying retroactively as from 1 January 2020.

Production Sharing Agreements Made More Flexible due to COVID-19

Resolution No. 25/2020, of 23 June 2020, approved the Exceptional Regime for making Production Sharing Agreement terms and conditions more flexible, by granting an extension, by means of an addendum, of up to 12 (twelve) months in respect of the Exploration Period schedule, while maintaining the other agreed terms and conditions during that period. The Contracting Party wishing to benefit from this extension should request it from the National Petroleum Agency of São Tome and Príncipe, the granting of the extension being subject to prior verification of the absence of delays, interruptions or breach of the Agreement.

This Resolution is already in force and is valid until 30 September 2020

TAX

VAT Code Postponed

Law No. 3/2020, of 16 April 2020, amended the Value Added Tax (VAT) Code, approved by Law No. 13/2019, of 6 November 2019, postponing its entry into force to when the technical and operational conditions required by the Ministry of Finance are met.

Consequently, the amendments made to the Property Transfer Tax (SISA) Law and to the Corporate Income Tax Code are suspended, with the following being re-enacted:

- i. Consumption Tax, approved by Decree-Law No. 20/1976, of 30 June 1976;
- ii. Consumption Tax on Transacted Services, approved by Decree-Law No. 35/2000, of 15 May 2000;

Provisions related to receipts and other acquittance declarations set forth in the Stamp Duty Regulations, approved by Decree-Law No. 12/1976, of 19 April 1976, and those related to invoicing as per the General Stamp Duty Table, approved by Decree-Law No. 40/1988, of 20 December 1988, and the Assistance Stamp Regulations, approved by Decree-Law No. 44/T/1975, of 5 June 1975.

STATE AND PUBLIC ADMINISTRATION

Prior Approval from Court of Auditors Waived

In the context of the COVID-19 pandemic, Resolution No. 1/20, of 20 April 2020, was approved, exempting entities subject to the jurisdiction and control of the Court of Auditors from its prior approval in respect of the execution of acts and contracts aimed at preventing the effects of the COVID-19 pandemic. However, the same acts and contracts must be submitted for the appreciation of the Court of Auditors, within a maximum period of 30 (thirty) days after their execution.

National Institute of Water Created

By means of Decree No. 17/2020, of 19 June 2020, the National Institute of Water (“NIW”) was created, a public law body responsible for proposing, monitoring and ensuring the execution of national policy in the area of water resources, with a view to guaranteeing the effectiveness of the Water Resources Framework Law, approved by Law No. 7/2018, of 2 May 2018. The decree, which came into force on 20 June 2020, enshrines the Institute’s organic statute, defining its nature, structure, organs and competences, notably: (i) preparing and coordinating the National Water Management Plan; (ii) inspecting the use of surface and ground waters; (iii) approving and inspecting the operating conditions of dams and reservoirs; (iv) exercising the power of administrative police for the enforcement of the legislation relating to the use of water and applying the respective sanctions; (v) developing and monitoring studies, projects and works related to the hydraulic infrastructure; (vi) charging the relevant fees for the use of collected water.

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