

## MEMORANDUM TO CLIENTS

### TAX CREDIT RECOVERY PROGRAM OF THE FEDERAL DISTRICT - RECUPERA/DF – DISTRICT LAW N. 5,096 11 OF APRIL 2013

Date **04/12/2013**

---

District Law (*Lei Distrital*) no. 5,096 was published on April 11, 2013, creating the Tax Credit Recovery Program of the Federal District - RECUPERA/DF, which allows the settlement of tax debts (ICMS; ISS; IPTU) owed to the Federal District.

This is an incentive system for the settlement of tax debts held with the Federal District, seeking to encourage the regulation of debts that are collectible or not, recorded as collectible or not, whose taxable event occurred up until December 31, 2011, and also the balance of approved installments, whether active or already officially cancelled by the relevant authority.

Debts in connection with the following may be included in the program: ICMS; ISS; IPTU; IPVA; ITBI; ITCD; *Simples Candango*; TLP; Deriving from monetary penalties, for failure to perform accessory bookkeeping obligations.

The debts will be consolidated considering 3 distinct groups, and the taxpayer may choose whether to pay the 3 consolidations or only some of them<sup>1</sup>.

Debts arising from tax evasion will not be included in Recupera/DF, however, the taxpayer that has received any tax assessment notice in which part of it derives from evasion, may require the breaking down of the collection in order to partially settle it.

---

<sup>1</sup> These are the groups:

- a) the first relates to the ICMS and *Simples Candango*;
- b) the second relates to the penalties for failing to comply with accessory bookkeeping requirements; and
- c) the third group, all the other taxes comprised by the rule.

The same procedure may be adopted for assessment notices containing debts subsequent to December 31, 2011.

The benefit of the law are as follows:

1) reduction of payment interest and fine, including late payment fine, in the following proportions:

- a) 99% of its amount, in cash payments;
- b) 90% of its amount, when paying in 2 installments;
- c) 85% of its amount, when paying in 3 installments;
- d) 80% of its amount, when paying in 4 installments;
- e) 75% of its amount, when paying from 5 to 12 installments;
- f) 40% of its amount, when paying from 13 to 60 installments.

2) reduction of the penalties for failure to comply with accessory bookkeeping requirements, as follows:

- a) 95% of its amount, in cash payments;
- b) 90% of its amount, when paying in 2 installments;
- c) 85% of its amount, when paying in 3 installments;
- d) 80% of its amount, when paying in 4 installments;
- e) 75% of its amount, when paying from 5 to 12 installments;
- f) 40% of its amount, when paying from 13 to 60 installments.

The programs sets some conditions:

**The purpose of this memo, exclusively prepared for the clients of this Firm, is to inform them on the major legal changes and news. Should there be any questions, our attorneys will be fully available for any further clarification.**

- a) The payment through the offsetting against cash release orders (*precatórios*) will not be allowed;
- b) It will be necessary to withdraw from and waive any administrative or judicial proceeding of the debt to be paid, including in cases in which the assessment notice has been broken down, and it will not be possible to maintain the proceeding as to the part not reached by this Law, that is, the complete defense of the assessment is to be waived, and the exceeding part of the assessment is to be settled in cash;
- c) Posting of a real estate guarantee or bank guarantee for debts superior to R\$ 1,000,000.00;
- d) Debts already enforced and in public auction phase may be settled in a lump sum payment.

Adhesion to Recupera/DF must be made until May 27, 2013, by taxpayers subject to offering security interest or those seeking to have the assessment notices broken down. The other taxpayers will receive payment slips from the Treasury Office up to May 30, 2013, with the amount to be paid, and the adhesion will be automatic upon the payment, whether in full or in installments, of the slips sent. The taxpayer that does not receive the payment slips until May 30 must go to an office of the treasury to collect it.

Taxpayers failing to pay 3 installments, consecutive or not, or are in delay of a single installment for more than 90 days will be excluded from Recupera/DF. The delay in the payment of the installments will result in a fine of 5%, if settled within 30 days, and 10% if settled after that.

Our Firm has a team specializing in working with matters related to the State Treasury Offices, and is available to our clients for whatever they deem necessary in this regard.

**The purpose of this memo, exclusively prepared for the clients of this Firm, is to inform them on the major legal changes and news. Should there be any questions, our attorneys will be fully available for any further clarification.**

**Responsible Counsel:**

Eduardo Pugliese Pincelli ([eduardo@ssplaw.com.br](mailto:eduardo@ssplaw.com.br))  
Phone: 55 11 3201-7552

Fernanda Donnabella Camano de Souza ([fernanda@ssplaw.com.br](mailto:fernanda@ssplaw.com.br))  
Phone: 55 11 3201-7584

Flavio Eduardo Carvalho ([flavio@ssplaw.com.br](mailto:flavio@ssplaw.com.br))  
Phone: 55 61 3252-6155