


INFOTAX – August 2017





BILL OF  
ACCOUNTABILITY  
ACT  
FOR THE YEAR  
2016

**H&H**

## **The Bill of Accountability Act for the year 2016.**

- Last June 20th, the Government sent to the Parliament the Bill of Accountability Act for the year 2016 (hereinafter “the Bill”), which contains – as usual in every Accountability Act – several changes in tax matters (see the original version of the Bill in the following link: [\[CLICK HERE\]](#)).
- The Bill was recently voted within the House of Representatives introducing relevant changes to the original draft. A few days ago the Bill passed to the Senate for its consideration (see the amended version in the following link: [\[CLICK HERE\]](#)).
- In this InfoTax we will briefly analyze the main tax changes introduced by the Bill.

CHANGES IN MATTER OF  
AMORTIZATION AND TAX BENEFITS  
APPLICABLE TO THE SOFTWARE INDUSTRY



## **Changes in matter of amortization and tax benefits applicable to the software industry.**

- Currently the IRAE rules allow to deduct from the gross income the amortization corresponding to intangible property (as trademarks, patents, and organizational expenses,) provided that such costs entails a real investment and the seller is identified.
- The Bill states that in case of software the amortizations will be deducted provided that they comply with the general criterion established in matter of expenses' deductibility (i.e., the expenses must be necessities for obtaining and maintaining the income, they must be duly documented and they must also entail taxable income – in whole or in part – for the counterpart).
- In addition, the Bill eliminates the increased deduction (of one and half time the real amount of the expenses) currently applicable to the expenses incurred in concept of software services rendered to those who pay IRAE (Tax on Income of Economic Activities).

## **Changes in matter of amortization and tax benefits applicable to software industry (cont.).**

- Finally, the Bill introduces certain changes to the exemption currently in force applicable to the income obtained through investigation and development activities in the area of Biotechnology and Biocomputing, and also the production of software ("*soportes lógicos*"), provided that the resulting assets will be comprehended in the rules in force in matter of protection and registration of intellectual property rights.
- In this sense, it is stated that when the referred services are entirely used abroad, the income obtained will be exempted exclusively for the amount corresponding to the relation between the direct costs or expenses incurred to develop the referred software, increased in 30% (thirty per cent) over the whole costs or expenses incurred to such development. To this purpose, it will be considered in the numerator, among others, the cost or expenses incurred by the developer and the services hired with non-related parties or with resident related parties. However, they will not be considered the costs or expenses corresponding to the license for use or acquisition of intellectual property rights or the services hired with non-resident related parties.

## **Changes in matter of amortization and tax benefits applicable to software industry (cont.).**

- There is also comprehended in the tax exemption the income obtained through:  
(i) investigation and development activities in the area of Biotechnology and Biocomputing, and also the production of software ("*soportes lógicos*"), which were not referred in the previous hypothesis, and (ii) services connected with the referred software ("*soportes lógicos*").
- It is stated that the income obtained through the operative rendered by the IRAE taxpayers with related non-resident entities will be comprehended in the tax exemption, provided that such activities were rendered by the referred taxpayers.
- Finally, the Government will regulate the terms and conditions for the application of the tax exemption.

CHANGES IN MATTER OF  
INCOME FROM INTERNATIONAL SOURCE  
AND TAXATION OF SERVICES RENDERED  
THROUGH INTERNET, PLATFORMS, APPS  
OR SIMILAR





## **Changes in matter of income from international source and taxation of services rendered through Internet, platforms, apps or similar.**

- The Bill introduces several changes in matter of income from international source, and also in relation to services rendered through Internet, platforms, apps or similar.
- It is stated that after January 1st, 2018, the income obtained through the production, distribution or intermediation of films and tapes, and also for direct TV transmissions or other similar mechanisms, will be considered as 100% (one hundred per cent) from Uruguayan source.
- Furthermore, it will be also considered as from Uruguayan source the income obtained by non-resident entities who directly rendered services through Internet, technological platforms, apps or similar, when the client or requesting party is located within the Uruguayan territory.

## **Changes in matter of income from international source and taxation of services rendered through Internet, platforms, apps or similar (cont.).**

- In matter of activities of mediation or intermediation in the offer or demand of services rendered through Internet, technological platforms, apps or similar, the income from Uruguayan source corresponding to those activities is fixed by the Bill in the following percentages:
  - (i) 100% (one hundred per cent), when the service provider and the client or requesting party (main operative) are located within Uruguayan territory,
  - (ii) 50% (fifty per cent), when the service provider or the client/ requesting party (main operative) are located abroad.

## **Changes in matter of income from international source and taxation of services rendered through Internet, platforms, apps or similar (cont.).**

- In matter of VAT, services of mediation or intermediation rendered through Internet, technological platforms, apps or similar, with the purpose to intervene directly or indirectly in the offer or demand of services (main operation), are considered as rendered entirely in Uruguay – and therefore subject to taxation – if both parties are located in Uruguay.
- Moreover, the rendering of the referred services is considered as entirely performed in Uruguay – and therefore subject to taxation – when such services are intended, consumed or economically used in Uruguay.

SERVICES RENDERED THROUGH INTERNET,  
PLATFORMS, APPS OR SIMILAR  
REFERRED TO GAMBLING



## **Services rendered through Internet, platforms, apps or similar referred to gambling.**

- The Bill declares that the rendering of services through Internet, platforms apps or similar referred to gambling or online bets is comprehended by the principle of illegality stated in section 1° of Act 1.595 dated December 16, 1882. The aforementioned is without prejudice of the authorization in favor of the Government in order to organize bet on international sports' results, and also the specific authorizations granted by the appropriate authority.
- It is stated that casino bets (for example, roulette, poker, slots, among others created or to be created) through on-line, virtual or similar mechanisms are prohibited.
- The Government is authorized to carry out preventive and repressive measures in order to avoid the proliferation of activities of commercialization of bets through Internet, in particular blocking access to websites, to financial flows, and prohibition of commercial communications, sponsorship and marketing related to non-authorized bets.

TAXATION OF GAMBLING  
AND HORSERACING



## **Taxation of gambling and horseracing.**

- The Bill introduces a specific tax which levies gambling through electronic machines or bets with automatic and immediate result installed in Casinos or entertainment rooms duly authorized.
- The tax rate will be of 0,75% (zero point seventy-five per cent) of the bet.
- Bettors will be taxpayers and the entities that carry out the bet will be liable substituting the taxpayer (*"responsable sustituto"*).
- The tax will be assessed and paid on a monthly basis, in the conditions to be determined by the Government.

## **Taxation of gambling and horseracing (cont.).**

- The Bill modifies the exemption currently in force in matter of IRPF and IRNR (Personal Income Tax / Non-Resident Income Tax) related to the prizes of gambling and horseracing. In this respect, the exemption will be applicable for those prizes which do not exceed the limit to be determined by the Government (for the quantification it must be considered the amount of the prize and the relation between such price and the amounts involved in the bet, and the limit could not be less than seventy-one times the value of the bet).
- It is expressly stated that the prizes of the National Lottery ("*Lotería Nacional*") will remain exempted of IRPF/IRNR disregarding the relation between the amount of the prize and the amounts involved in the bet.



INCREASE OF TAX ON IMPORTS



## **Increase of tax on imports.**

- The Bill states an increase for the tax applicable to imports (*Tasa Consular*), establishing its rate in 5% (five per cent) of the customs' value of the imported goods.
- Notwithstanding such increase, the rate will be 3% (three per cent) for imports of goods under the Agreement of Economic Complementation No. 18 (MERCOSUR).
- Otherwise, there are exempted from the Tax the import of goods under the Temporary Admission regime, crude oil, import of capital assets in agriculture-livestock and fishing industries, whose Global Customs' Duty extra zone (*Tasa Global Arancelaria*) is 2% (two per cent) or 0% (zero per cent).
- Finally, after January 1st, 2020, the Government is authorized to reduce the referred Tax and even proceed to its elimination for the imports made under the Agreement No. 18 (MERCOSUR).

AGGRAVATING CIRCUMSTANCE  
OF TAX FRAUD



## **Aggravating circumstance of tax fraud.**

- The Bill states a new aggravating circumstance related to the crime of tax fraud established in section 110 of the Tax Code.
- In this sense, it is included as an aggravating circumstance – increasing the sentence between two and eight years of prison – the use, in whole or in part, of invoices or any other similar document which are ideologically or materially false.

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