

THE POWER OF BEING UNDERSTOOD

AUDIT | TAX | CONSULTING

Legislative Decrees on tax matters

LAW 32089

LAW THAT DELEGATES TO THE EXECUTIVE BRANCH THE POWER TO LEGISLATE ON MATTERS OF ECONOMIC REACTIVATION, SIMPLIFICATION AND REGULATORY QUALITY, STATE BUSINESS ACTIVITY, CITIZEN SECURITY, AND NATIONAL DEFENSE

Objective

To delegate to the Executive Branch the power to legislate on matters of economic reactivation, simplification and regulatory quality, state business activity, citizen security, and national defense, for a period of ninety calendar days from the entry into force of the law.

Validity

From July 5, 2024, to October 3, 2024 = 90 days

Tax Matters of the Delegation of Legislative Powers

- ✓ Regulate the taxation of business models based on the digital economy.
- ✓ Improvement of the tax system.

Legislative Decrees related to Income Tax Law and others

Legislative Decree	Description	Date of publication	Date of entry into force
No. 1624	They amended the Income Tax Law regarding Article 84-B, which establishes the obligation to make advance tax payments on the income derived from the indirect transfer of shares, applicable to individuals, undivided estates, or marital communities.	August 04, 2024	January 01, 2025
No. 1634	It approves the special installment plan for tax debt managed by SUNAT (National Superintendence of Tax Administration).	August 30, 2024	September 01, 2024
No. 1643	It repeals the third transitional supplementary provision of Law No. 30056, a law that amends various laws to facilitate investment, promote productive development, and foster business growth. This change simplifies the formalization of micro and small enterprises by removing the limit on the number of workers and focusing solely on annual income.	September 05, 2024	September 06, 2024



Legislative Decree 1624

Amends the Income Tax Law regarding Article 84-B, which establishes the obligation to make advance tax payments on income derived from the transfer of assets classified as second-category income.

LD 1624 - Obligation to make advance tax payments on income derived from the transfer of assets classified as second-category income

Published

August 04, 2024

Validity

January 01, 2025

1. Objective

Amend Article 84-B of the Income Tax Law, which establishes the obligation to make advance tax payments for the receipt of second-category income by individuals, undivided estates, or marital communities that have opted to be taxed as such, domiciled in the country, originating from the indirect transfer of shares, which are not subject to withholding according to the regulations governing income tax.

Indirect transfer of shares



Article 10 of the Income Tax Law includes within Peruvian-source income those obtained from the indirect transfer of shares or participations representing the capital of legal entities domiciled in the country. An indirect transfer occurs when shares of a non-domiciled entity that directly or indirectly owns shares of an entity domiciled in Peru are sold.

As long as the following conditions are met:

- 1) In the 12 months prior to the transfer, the market value of the shares of entities domiciled in Peru, owned by the non-domiciled legal entity, must represent at least 50% of the market value of all shares of the non-domiciled legal entity.
- 2) Within a 12-month period, the transferor must have transferred shares or participations representing 10% or more of the capital of the non-domiciled legal entity.

LD 1624 - Obligation to make advance tax payments on income derived from the transfer of assets classified as second-category income

2. Advance Payment of Second-Category Income Tax

DIFFERENT FOR THE INDIRECT TRANSFER OF SHARES

- a) **From the income received in the month for each transfer, the corresponding computable cost is deducted.**
- b) From the amount determined according to the previous subsection, capital losses arising from the transfer of assets are deducted.
- c) **The rate of five percent (5%)**

Such as:

- The sale of real estate
- The definitive transfer of rights to keys, trademarks, patents
- Interest generated by the placement of capital
- Interest and any income received by cooperative members as compensation for the contributed capital
- Royalties
- Annuities
- Obligations not to act
- The maturity of a life insurance contract
- The attribution of profits, income, or capital gains
- Dividends and any other form of profit distribution
- Transactions carried out with Derivative Financial Instruments (DFI)
- The sale, redemption, or repurchase of securities

INDIRECT TRANSFER OF SHARES

- a) From the taxable income received in the month for each indirect transfer, the corresponding computable cost is deducted, only to the extent that it results from applying the determined percentage of participation that the non-domiciled legal entity, whose shares or participations are transferred, has in the capital of the domiciled legal entity. If the former owns the latter through one or more other legal entities, its percentage of participation will be determined by multiplying or adding the percentages of participation that each legal entity has in the capital of the other, according to the procedure established by the regulations.
- b) In the event of capital losses arising from the transfer of assets, they are deducted from the amount determined or the sum of amounts determined according to the previous subsection, only those generated as a result of indirect transfers. These losses will be compensated in the fiscal year and cannot be used in subsequent years.
- c) **The rate of five percent (5%)**

LD 1624 - Obligation to make advance tax payments on income derived from the transfer of assets classified as second-category income

Modification to Article 84-B of the Income Tax Law

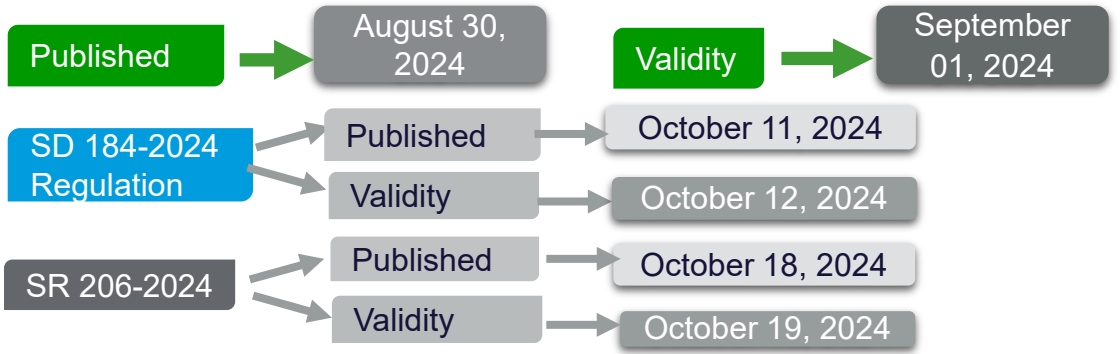
Income Tax Law	
Before	After
<p>Article 84-B.</p> <p>a) From the income received in the month for each transfer, the corresponding computable cost is deducted. To establish the computable cost referred to in this subsection, the increase in the computable cost mentioned in numeral 21.4 of Article 21 of this Law should not be considered.</p> <p>b) From the amount determined or the sum of the amounts determined according to the previous subsection, the losses referred to in the second paragraph of Article 36 of this Law are deducted. For this purpose:</p> <p>i. Net second-category losses subject to attribution according to Article 29-A of this Law and those losses registered in the Securities Clearing and Settlement Institution or similar entity established in the country, referred to in numeral 1 of Article 73-C of this Law, are not considered.</p> <p>ii. The provisions of the third and fourth paragraphs of Article 36 of this Law do not apply.</p> <p>c) The amount of the advance payment is the result of applying the rate of five percent (5%) on:</p> <p>i. The amount resulting from the sum of the amounts referred to in subsection a) of this article, if there are no losses to deduct.</p> <p>ii. The amount resulting from the operation referred to in subsection b) of this article.</p> <p>The provisions of this article do not apply to the transfers referred to in subsection e) of Article 10 of this Law.</p>	<p>Article 84-B.</p> <p>1. In the case of advance payments for transfers other than those established in subsection e) of Article 10 of this Law:</p> <p>a) From the income received in the month for each transfer, the corresponding computable cost is deducted. To establish the computable cost referred to in this subsection, the increase in the computable cost mentioned in numeral 21.4 of Article 21 of this Law should not be considered.</p> <p>b) From the amount determined or the sum of the amounts determined according to the previous subsection, the losses referred to in the second paragraph of Article 36 of this Law are deducted, excluding those that are subject to deduction as indicated in subsection b) of numeral 2 of this article. For this purpose:</p> <p>i. Net second-category losses subject to attribution according to Article 29-A of this Law and those losses registered in the Securities Clearing and Settlement Institution or similar entity established in the country, referred to in numeral 1 of Article 73-C of this Law, are not considered.</p> <p>ii. The provisions of the third and fourth paragraphs of Article 36 of this Law do not apply.</p> <p>c) The amount of the advance payment is the result of applying the rate of five percent (5%) on:</p> <p>i. The amount resulting from the sum of the amounts referred to in subsection a) of this numeral, if there are no losses to deduct.</p> <p>ii. The amount resulting from the operation referred to in subsection b) of this numeral.</p> <p>2) In the case of advance payments for indirect transfers referred to in the first and fourth paragraphs of subsection e) of Article 10 of this Law:</p> <p>a) From the taxable income received in the month for each indirect transfer, the corresponding computable cost is deducted, only to the extent that it results from applying the percentage determined according to the second paragraph of numeral 1) of subsection e) of Article 10 of this Law. For this purpose, the increase in the computable cost mentioned in numeral 21.4 of Article 21 of the same Law is not considered.</p> <p>b) In the event of losses referred to in the second paragraph of Article 36 of this Law, they are deducted from the amount determined or the sum of amounts determined according to the previous subsection, only those generated as a result of indirect transfers.</p>



LEGISLATIVE DECREE 1634

Approves the special installment payment of tax debt administered by SUNAT
(National Superintendence of Tax Administration)

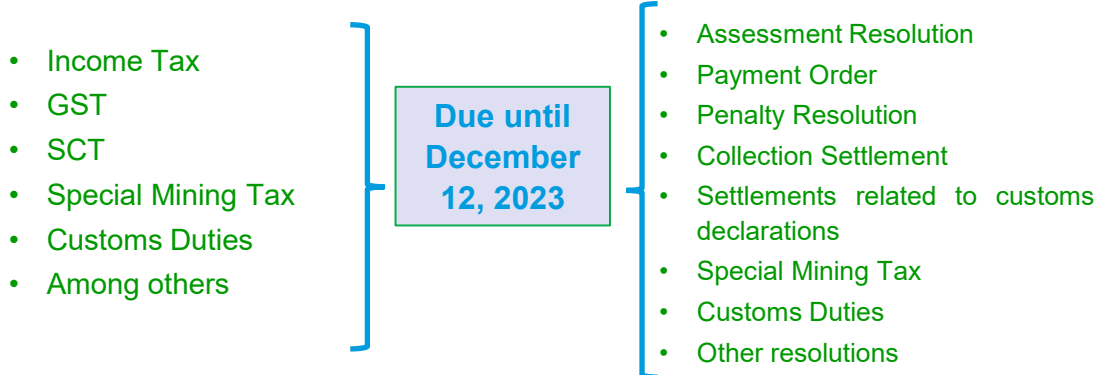
LD 1634 - Approves the special installment payment of tax debt administered by SUNAT



1. Objective → Regulate a special installment payment plan for tax debts administered by SUNAT that constitute revenues of the Public Treasury

2. Debt subject to the Special Installment Payment.

Revenues of the Public Treasury



The aforementioned debt includes interest, updates, and capitalized interest up to the date of approval of the application for acceptance, except in the case of acceptance with a lump-sum payment, in which case the update is up to the date of submission of the application for acceptance.

3. Debt excluded from the Special Installment Payment

- a) Withheld or collected taxes, as well as contributions to ESSALUD, ONP, 5th category income, and 4th category income.
- b) Debts that, upon the entry into force of this regulation and having been challenged, are subject to a final and binding judicial resolution or have the status of res judicata.
- c) Surcharges for verifying compliance with obligations and preventing customs offenses.

4. Excluded subjects

- a) Individuals with a final and binding conviction
- b) The National Public Sector, except for companies involved in the State's business activities
- c) Those who are or have been subject to immediate payment of civil reparations to the Peruvian State in cases of corruption and related crimes

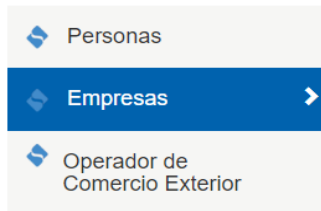
5. Approval of the form

Virtual Form No. 1707 - 'Special Installment Payment Virtual Form' is approved, available from October 19, 2024.

7. Requirements, Form, and Deadline for Application

To submit the application for the installment plan, keep in mind:

- Log in to SUNAT Online Operations with your user code and SOL password, and locate the option "Request Special Installment Plan."
- Obtain the personalized debt through the debt request.
- Locate Virtual Form No. 1707 - "Virtual Form for Special Installment Plan."
- Verify the information loaded in the virtual form.
- Identify and confirm the tax debt for which the application for the installment plan is being submitted.
- Choose the payment method: lump sum payment, summary payment, or installment payment.
- Provide guarantees when opting for the summary payment or installment payment method.
- If you agree with the information in Virtual Form No. 1707, follow the instructions provided by the system for submission.



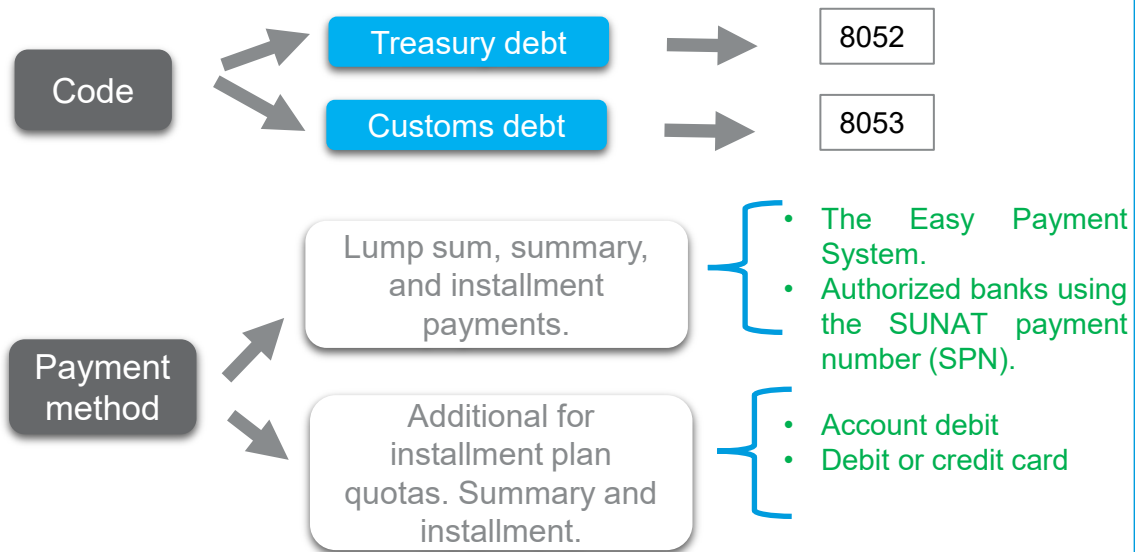
Submit by December 20, 2024.

LD 1634 - Approves the special installment payment of tax debt administered by SUNAT

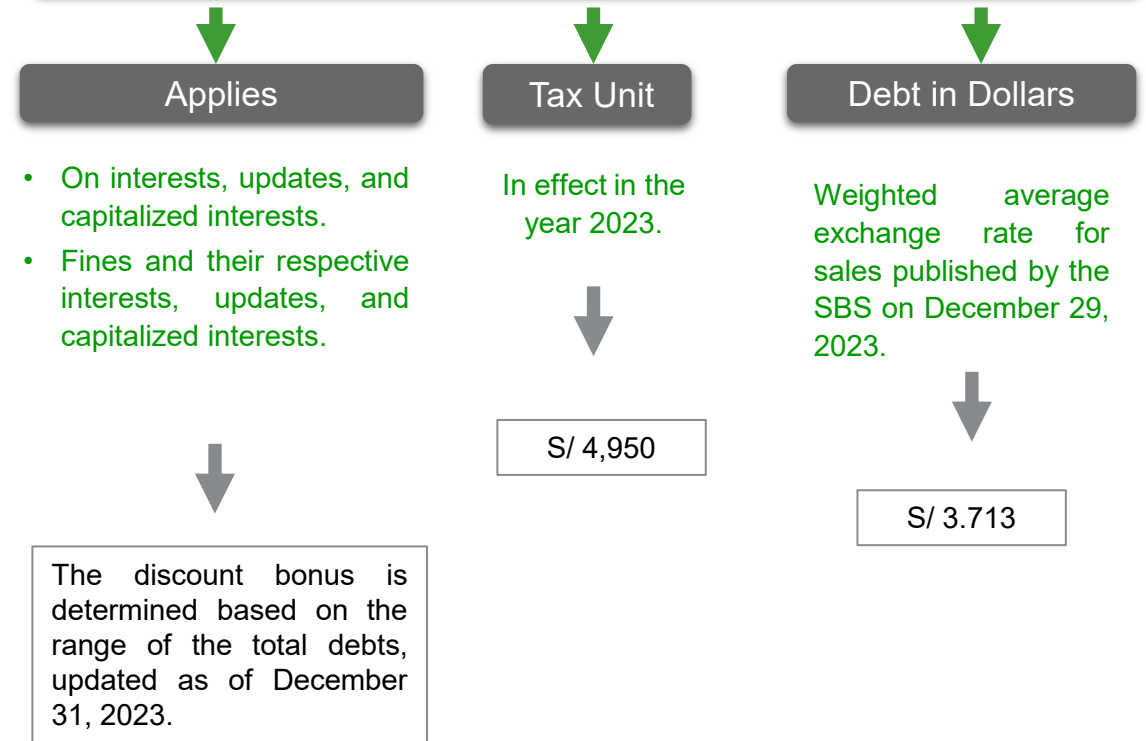
6. Causes for Rejection

1. The existence of a pending application submitted for the same concept.
2. The existence of an application with an approval resolution for the same concept.
3. Virtual Form No. 1707 - "Virtual Form for Special Installment Plan" is generated on a date later than when the personalized debt is obtained.

7. Payment



8. Debt Discount Bonus for Special Installment Plan



9. Discount Bonus, Payment Methods, and Deadlines

Payment Method

Lump sum

- i. You can apply until December 20, 2024.
- ii. The debtor must pay the total amount of the updated debt, minus the discount bonus, when submitting the application.
- iii. The discount bonus is calculated and applied on the date of submission of the application, and payment must be made on that date. Payment is not required when the debtor only has debt for fines and their respective interests and updates, and these are extinguished by the application of the 100% discount bonus, if applicable.
- iv. For this bonus, the percentages established in the following table are considered:

Rando de deuda de UIT	Bono de descuento
De 0 hasta 100 (S/495,000)	100%
Más de 100 (S/495,000) hasta 2,000 (S/9,900,000)	90%
Más de 2,000 (S/9,900,000) hasta 5,000 (S/24,750,000)	70%
Más de 5,000 (S/24,750,000)	50%

Tax Unit in effect in the year 2023 (S/ 4,950).

Summary

- i. To qualify for the bonus, an initial payment of 25% of the updated debt minus the discount bonus must be made, and the balance is paid in up to 3 monthly installments.
- ii. The percentages established in the following table are considered for this bonus:

Rando de deuda de UIT	Bono de descuento
De 0 hasta 100 (S/495,000)	100%
Más de 100 (S/495,000) hasta 2,000 (S/9,900,000)	90%
Más de 2,000 (S/9,900,000) hasta 5,000 (S/24,750,000)	70%
Más de 5,000 (S/24,750,000)	50%

- iii. The discount bonus is communicated to the debtor from the submission of the application, and its application is maintained only if the debtor pays all the installments of the summary payment.

Tax Unit in effect in the year 2023 (S/ 4,950).

Installment payments

- i. The installment for the application cannot be less than 10% of the debt subject to the application, which must be paid on the date of submission of the respective application. The balance can be paid in up to 72 monthly installments.
- ii. The discount bonus is calculated on the date of approval of the application and is applied with the amortization of each paid installment.
- iii. The percentages established for the application are considered:

Rando de deuda de UIT	Bono de descuento
De 0 hasta 100 (S/495,000)	90%
Más de 100 (S/495,000) hasta 2,000 (S/9,900,000)	70%
Más de 2,000 (S/9,900,000) hasta 5,000 (S/24,750,000)	50%
Más de 5,000 (S/24,750,000)	30%

- iv. In no case can the monthly installment be less than S/ 260.

Tax Unit in effect in the year 2023 (S/ 4,950).

10. On the Withdrawal of the Application for the Special Installment Plan.

- The debtor can withdraw their application for the installment plan before the notification of the resolution approving or denying it takes effect.
- Log in to SUNAT Online Operations with your user code and SOL password, and in the option "withdrawal of the application for the installment plan," select the number of the application(s) you wish to withdraw.
- SUNAT, through a resolution, accepts the withdrawal of the application for the installment plan, which must necessarily contain:
 - a) The number and date of the application for the installment plan for which the withdrawal request was submitted.
 - b) The number and date of the withdrawal request.

11. On the Resolution Approving or Denying the Application for the Installment Plan.

Resolution Approving the Installment Plan

- a) Lump Sum Payment Method:
 - The details of the tax debt subject to the Special Installment Plan.
 - The amount of the discount bonus.
- b) Summary or Installment Payment Method:
 - The details of the debt subject to the Special Installment Plan and the amount of the installment paid.
 - The amount of the discount bonus.
 - If the payment is made in a single installment, its amount and due date.
 - If paid in more than one installment, the schedule of installments and the amount of each installment with their respective due dates.
- c) Summary and Installment Payment Method:
 - The applicable interest rate.
 - The guarantees provided in favor of SUNAT, if applicable.

Resolution Denying the Installment Plan

- a) The number and date of the application for the installment plan.
- b) The details of the reason for denying the application and the indication that the taxpayer is not entitled to the discount bonus..

12. Non-Payment of Installment

Summary

- The discount bonus will not be granted when an installment is overdue and pending payment, either in whole or in part.
- When an installment is overdue and pending payment, either in whole or in part, SUNAT will automatically convert the remaining debt subject to the summary payment to the installment payment method, up to 12 installments.
- In cases of non-compliance, SUNAT is authorized to proceed with the collection of the total balance of the debt subject to the summary payment.

Installment Payment

- When two or more installments are overdue and pending payment, either in whole or in part, SUNAT is authorized to proceed with the collection of the overdue installments after applying the corresponding discount bonus.
- The overdue and/or pending installments, after applying the corresponding discount bonus, are subject to the late interest rate:
 - a) For overdue and pending installments, from the day following the due date of the installment until its payment; and,
 - b) For non-overdue and pending installments, from the day following the due date of the second overdue installment.

13. SUNAT Actions Regarding the Debt Subject to the Special Installment Plan Application

1. If the application for the Special Installment Plan is approved, the coercive collection is concluded, and the precautionary measures adopted in that procedure are lifted.
2. SUNAT must resolve the applications for the Special Installment Plan within forty-five (45) business days from the date of submission of the application.

14. Guarantees

Guarantees must be provided in the following cases when:

- The debt balance exceeds 200 Tax Units (UIT).
 - The applicant is an individual with a pending criminal process for a tax or customs offense.
- Debtors must offer guarantees such as a surety bond or a first-rank mortgage guarantee.



Legislative Decree 1643

Repeals the third transitory supplementary provision of Law No. 30056, a law that amends various laws to facilitate investment, promote productive development, and business growth.

DL 1643 - Repeals the third transitory supplementary provision of Law No. 30056, a law that amends various laws to facilitate investment, promote productive development, and business growth



1. Objective → Repeal the Third Transitory Supplementary Provision of Law No. 30056, a law that amends various laws to facilitate investment, promote productive development, and business growth, in order to unify the requirements for companies to access and remain in the National Registry of Micro and Small Enterprises (REMYPE).

Third Transitory Complementary Provision of Law No. 30056
Third. Regime for Micro and Small Enterprises Established Before the Effective Date of This Law (07/03/2013)
Companies established before the effective date of this Law are governed by the requirements for the regime of micro and small enterprises regulated in Legislative Decree 1086.

Article 2 of Legislative Decree No. 1643
Repeal the Third Transitory Supplementary Provision of Law No. 30056, a law that amends various laws to facilitate investment, promote productive development, and business growth.

According to DL 1086 (Effective from June 19, 2008, to September 5, 2024)

According to DL 1643 (Effective from September 6, 2024)

Requirements

Requirements

- Microenterprise → **Number of workers:** up to 10 workers.
Annual sales: up to 150 Tx Unit.
- Small enterprise → **Number of workers:** up to 100 workers.
Annual sales: up to 1,700 Tax Unit

- Microenterprise → **Annual sales:** up to 150 UIT
- Small enterprise → **Annual sales:** up to 1,700 UIT.

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Anna

One of the
RSM team



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