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## Taxand News

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### **TAX REFORM OF THE “EQUITY TAX” ON HIGH NET WORTH TAXPAYERS LAW AND ITS REGULATIONS (RELATED TO THE VALUATION OF PROPERTY AND RIGHTS, AS WELL AS THE REQUIREMENTS AND FORMALITIES TO DECLARE AND PAY THE TAX)**

In the Venezuelan Official Gazette No. 41,696, dated August 16th, 2019, was published a tax reform of the **Equity Tax on High Net Worth Taxpayers Law**, which was formerly enacted on July 3, 2019.

Also, in the Official Gazette No. 41,697, dated August 19th, 2019, an Administrative Providence (AP) was issued by SENIAT, regarding special rules for the valuation of assets to be declared, as well as the requirements and formalities to declare and pay the tax.

**In regard to the present tax reform, the most important changes to be considered are as follows:**

- ❖ **Article 1 of the amended Law was modified** and now the **Taxable Net Equity Value (TNEV) was unified** in 150,000,000.00 of tax units (UT, by its acronym in Spanish), both for individuals and legal entities qualified as Special Taxpayers by SENIAT. The amended Law had a distinction in the TNEV for individuals (36,000,000.00 UT) and legal entities (100,000,000.00 UT). The current value of each UT is Venezuelan Bolivars (VEB) 50,00 and the Foreign Exchange Rate, as today, is around VEB 23.500,00 per 1 US Dollar.
- ❖ **Article 11, regarding the temporality and occurrence of the taxable event, was amended;** the amended Law states that the taxable event will occur on September 30th, annually, **being the first taxable year September 30<sup>th</sup>, 2019.**
- ❖ **Article 15, regarding the tax base, was modified.** The new amended provision refers clearly that liabilities will form part of the determination of the TNEV. This means that the total value of the taxable assets and rights shall be reduced not only with the charges and encumbrances, and exempted or exonerated assets, as it was referred in the reformed Law, but also with any liability related to the value of assets and rights to be declared. In the same provision was deleted the statement that referred that the tax only applies on the TNEV that exceeds the threshold established in Article 1 above.

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**Taxand Asesores S.R.L.**

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Final Av. Libertador c/c Av. Ávila,  
Torre Xerox, Piso 1, Oficina 1-B

Caracas – Venezuela

Teléfono: +58 212 750 0095/96

Fax: +58 212 750 0099

- ❖ Article 15 of the tax reform states that **the taxable basis is clearly the TNEV**, which is consistent with the content of the article 23 of the Law, which states that the tax rate will be applied to the TNEV, and with article 24, which states that the tax is also caused on the value TNEV.
- ❖ **Article 24 of the amended Law was modified** and refers that **the tax will be caused annually**, based on the TNEV **as of September 30 of each year**. The previous article indicated the tax period was annual but didn't specify the period for the determination of the tax.
- ❖ **Article 25** of the amended Law, which established that individuals and legal entities whose assets were equal to or greater than 150,000,000.00 UT had to declare it in the terms and conditions established by the Tax Administration, was deleted.
- ❖ **Two Transitional Provisions of the amended Law, the Sixth and Seventh, were incorporated**, as follows:
  - The Sixth Transitory Provision establishes that taxpayers, for the first tax period, must declare the TNEV they have and know at the time of the first filing, adding that this first tax return to be filed using those values above may be subject challenged by SENIAT if are not reasonable. The provision above may generate confusion and uncertainty due to the lack of regulatory precision.
  - The Seventh Transitional Provision states that **the first tax period will occur on September 30, 2019**.
- ❖ Regarding **the Administrative Providence No. 00213 (AP)**, dated August 19, 2019, issued **by SENIAT**, the valuation rules that must be applicable to the assets and rights, which are part of the TNEV, were established. For this purpose, articles 2, 3 and 5 of the AP indicate three (3) valuation rules: a) Those published by SENIAT in its Web Portal; b) The cadastral value made by the Municipalities over the properties located in their jurisdiction; c) The documentation available and to be provided by the taxpayer that allows a reasonable determination of the value of the assets and rights included as part of the TNEV.
- ❖ It is stated in the article 4 of the referred AP, that the filing of the tax return and payment of the tax is mandatory to be done between October 1st and November 30th of each year, starting on 2019.

- ⚙️ Likewise, the AP, in accordance with the Sixth Transitional Provision of the Law, states that the rules for updating the value of property and rights established in Articles 2, 3 and 5 of the AP will be applicable starting from the second tax year and subsequent tax periods; **for the first tax year, the taxpayers declare the TNEV available at that time.**
- ⚙️ The Second Transitional Provision of the AP establishes that individuals and legal entities subject to this tax, **must submit a tax return and make the payment corresponding to the first tax year, between October 1st and November 30th, 2019.**

In Caracas

	Phone:	Ext:	E-mail:
Manuel Candal	+ 58-212-7500095	101	<a href="mailto:mcandal@taxand-ve.com">mcandal@taxand-ve.com</a>
Carmen Molina	+ 58-212-7500095	110	<a href="mailto:cmolina@taxand-ve.com">cmolina@taxand-ve.com</a>
Anneliese Domínguez	+ 58-212-7500095	119	<a href="mailto:adominguez@taxand-ve.com">adominguez@taxand-ve.com</a>
Cesar Montes	+ 58-212-7500095	100	<a href="mailto:cmontes@taxand-ve.com">cmontes@taxand-ve.com</a>



@taxandvzla  
@candaladvisorsgroup

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**Taxand Asesores S.R.L.**  
**RIF J –40868957-0**  
Final Av. Libertador c/c Av. Ávila,  
Torre Xerox, Piso 1, Oficina 1-B  
Caracas – Venezuela  
Teléfono: +58 212 750 0095/96  
Fax: +58 212 750 0099