

TAX TRANSACTION: LAW No. 14.375/22 EXPANDS HYPOTHESES AND IMPROVES CONDITIONS FOR PAYMENT OF FEDERAL DEBTS

The tax transaction, an institute that allows the renegotiation of debts with the tax authorities, now has more advantageous conditions with the publication, this Wednesday (22/6), of Law 14.375/2022.

With legal innovations, the transaction instrument becomes stronger and more attractive for reduction of litigation and payment of tax debts. It will be taken into account the debtor's financial situation.

In general, the legislator has set conditions and parameters previously only provided for in the Tax Recovery Plans (REFIS).

A relevant innovation is the possibility of transaction, on the taxpayer's initiative, of debts yet at the tax administrative litigation (within the scope of the Federal Revenue Service of Brazil).

In summary, the main changes were as follows:

Discounts	The law increases from 50% to 65% the maximum discount on the total value of credits to be traded.
Tax Losses and and Negative Bases of the Social Contribution on Net Profits (CSLL)	The use of tax loss credits and negative calculation base of the Social Contribution on Net Income (CSLL), in the calculation of the Corporate Income Tax (IRPJ) and CSLL, up to the limit of 70% (seventy per cent) of the balance remaining after the incidence of discounts, if any.
Precatory	Possibility of using precatories or credit rights with a final judgment for amortization of the main tax debt, fine and interest.
Fiscal installments in progress	Maintenance of benefits granted in previous installment programs, with no cumulation of reductions between the transaction and the respective installment programs.
Deadline for payment of debt	Increases from 84 to 120 monthly installments.
Collateral	The impossibility of providing guarantees does not constitute an obstacle to the completion of the transaction.
Taxation	Discounts granted within the scope of the transaction will not be computed in the calculation basis of IRPJ, CSLL, PIS and COFINS.

It is recommended to reassess cases of goodwill in administrative proceedings in light of the new conditions of Law No. 14,375/22, in the form of transaction of Union credits, compared to the previous Public Notice. The Attorney General's Office of the National Treasury and the Federal Revenue must regulate the new rules in their own act.

Finally, it should be noted that the President of the Republic vetoed the provision of Law No. 14,375/2022, which provided for the non-taxation by IRPJ/CSLL and PIS/COFINS of discounts granted under the Special Tax Regularization Program (PERT).