

On September 21, 2023, Law No. 14,689/2023 was published with a significant number of presidential vetoes on Bill No. 2,384/2023 ("CARF Bill").

Law No. 14,689/2023 – MAIN INNOVATIONS AND CHANGES TO THE TAX ENVIRONMENT

- Reinstatement of the **tiebreaker vote** in case of a judgment tie at the Administrative Council of Tax Appeals ("CARF")
- Exclusion of fines and cancellation of tax representation for criminal purposes** in the event of decisions ruled in favor of the tax authorities by a tiebreaker vote
- Possibility of tax liabilities collection** ruled in favor of the tax authorities by a tiebreaker vote **with the exclusion of interest** if the taxpayer carries out the payment within 90 days
- Except in cases of early disposal of assets, **guarantee execution will not be allowed before the unappealable decision of the judicial lawsuit**, when the presentation of a guarantee is required for the judicial dispute ruled in favor of the tax authorities by a tiebreaker vote
- Possibility of negotiation of a specific tax settlement agreement or waiving the requirement** to provide a guarantee with respect to the cases decided by tiebreaker vote under the rule of the Provisional Measure ("MP") 1,160/2023
- Reduction of the qualified fine to 100% and application of the percentage of 150% only in cases of recurrence of willful misconduct

CARF Bill versus Law No. 14,689/2023

Innovations contained in the bill submitted for presidential sanction

Tiebreaker vote in CARF

Specific tax settlement/transaction agreements

Mandatory submission of self-regularization alternatives by the Federal Revenue Department ("RFB")

Criteria readjustment for the application of the **ex-officio fine**, and its reduction from 150% to 100%

Regular ex-officio fine (75%) reduction by 1/3 and its suspension based on the taxpayers' compliance history

Deadline extension for payment of tax liabilities, and possibility of **cumulating fine and interest reductions provided for in the compliance program, in addition to others discounts** already provided for in the tax legislation



LAW NO. 14,689/2023: CARF BILL AFTER APPROVALS AND PRESIDENTIAL VETOES

- The CARF Bill approved by the House of Representatives and Federal Senate was partially sanctioned by the executive branch
- Presidential vetoes on 15 of the Bill's topics on the grounds that they were unconstitutional (legal vetoes) or contrary to the public interest (political vetoes)

VETOED TOPICS

- Reduction/forgiveness of penalties**
- The possibility of **cooperatives** having legal entities or companies as members
- Tax mediation/conciliation**
- Cancellation** of fines greater 100% of the tax liability
- Regulation** of specific tax settlement/transaction
- Self-regularization** methods
- Limitation of guarantee** to the principal amounts of tax liabilities

PENALTIES

- Reduction of the ex-officio fine (75%) by at least 1/3 when observed, in its application, excusable error by the diligent taxpayer in complying with the of the tax obligation, divergent interpretations of legislation or practices practices adopted by the administration or market segment;
- Reduction of late payment fines (20%) by half;
- Forgiveness of the regular ex-officio fine (75%) according to the taxpayer's compliance history
- Removal of aggravated fine for obstructing inspection;
- Cancellation of all fines exceeding 100% of the tax liability;
- Single penalty for the taxpayer in cases of evasion, fraud or collusion;
- Possibility of cancellation of the ex-officio fine in cases where the taxpayer remedies, during the inspection phase, actions/omissions which are characteristic of tax evasion, fraud or collusion.



INSURANCE BOND AND BANK GUARANTEE

- Possibility of providing guarantee to the principal amount of tax liabilities via insurance bond or bank guarantee, not including ancillary costs (interest, fines and charges).



MEDIATION/CONCILIATION

- Creation of the Mediation and Conciliation Chamber of the Federal Public Administration to resolve legal disputes between the tax authority and the regulatory body over possible differences in the tax classification of goods.

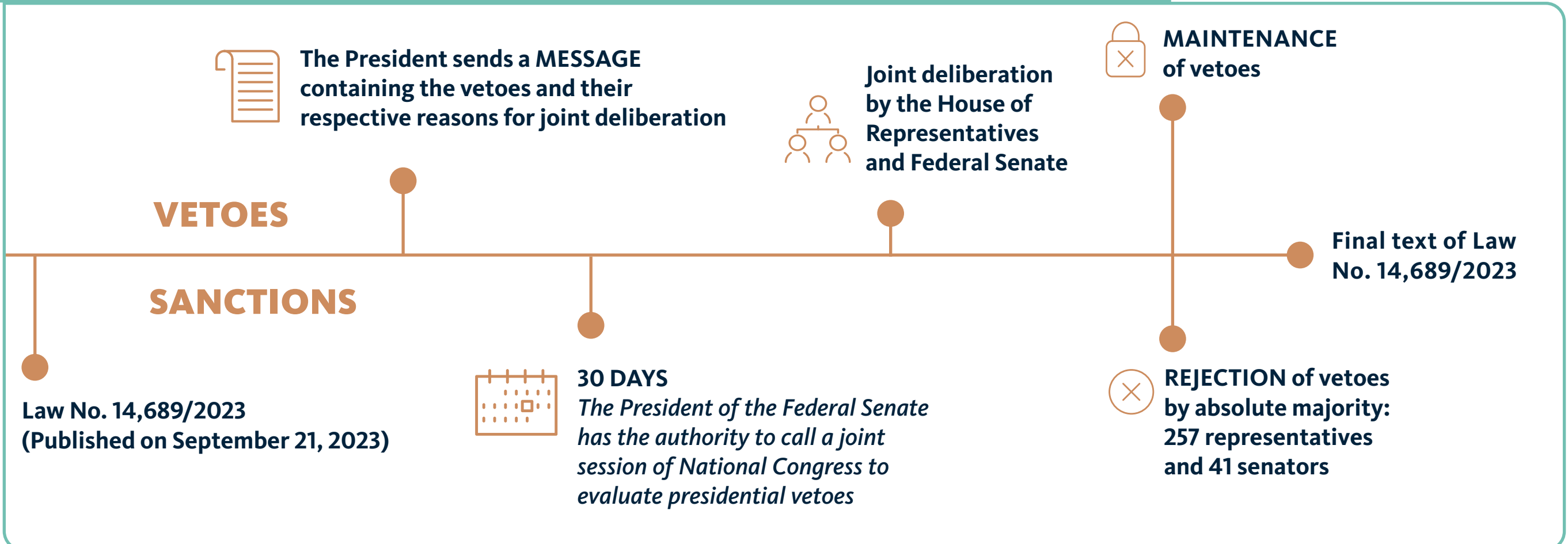
SPECIFIC TAX TRANSACTION

- Possibility that liabilities ruled in favor of the tax authorities by tiebreaker vote could be subject to a tax transaction, which must be regulated by the Attorney-General of the National Treasury;
- Provision for conditions "no less favorable" than those offered to other taxpayers.



NEXT STEPS:

Constitutional provision for deliberation on presidential vetoes



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GISELE BOSSA
PARTNER
gbossa@demarest.com.br
+55 11 3356 1809
[view full profile](#)