

## Legal update

### Ruling – interpretation of article 31 of the Income Tax Law (taxable base for calculating income tax on employee remuneration)

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#### August 2016 Tax

On August 2, 2016, the Constitutional Chamber of the Supreme Court of Justice (CC of the SCJ) issued a decision on an action for annulment filed by practicing lawyer R. Guilarte against article 31 of the 2014 Income Tax Law (ITL)<sup>1</sup>, which regulates the taxable base for calculating income tax on employee remuneration (the Decision)<sup>2</sup>.

In the Decision, the CC of the SCJ ruled that article 31 of the 2014 ITL replicates the content and intent of article 31 of the 2007 ITL, which was subject to constitutional review by the CC of the SCJ in its 2007 decision in the case *Adriana Vigilanza and Carlos Vecchio*<sup>3</sup>, where it analyzed the scope and content of the provision that defines the taxable base of employee remuneration.

In the Decision, the CC of the SCJ ruled the action as inadmissible on the grounds that such court had already ruled on the issue with the authority of a final decision in the above-mentioned 2007 case, where the CC of the SCJ held that only employee remuneration that is earned on a regular and permanent basis, namely the “*normal salary*,” is subject to income tax.

Through the Decision, the CC of the SCJ confirmed the position held in the decision issued on June 30, 2016, in the case *SINTRALCASA*<sup>4</sup>, where it concluded that only employee remuneration that qualifies as normal salary is subject to income tax.

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#### Footnotes

<sup>1</sup> Published in Special Edition of Official Gazette No. 6,152 dated November 18, 2014

<sup>2</sup> Ruling No. 499 of the CC of the SCJ

<sup>3</sup> Ruling No. 301 of the CC of the SCJ dated February 27, 2007

<sup>4</sup> Ruling No. 499 of the CC of the SCJ dated June 30, 2016

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