

Republic of Panama

MINISTRY OF ECONOMY AND FINANCE

EXECUTIVE DECREE N° 33

Dated 30 March 2010

Whereby Executive Decree N° 29 dated 8 August 1996
that regulates Law 4 dated 17 May 1994 is amended

THE PRESIDENT OF THE REPUBLIC

In use of his legal and constitutional powers, and

CONSIDERING:

That by means of Law 49 dated 17 September 2009 the Tax Code was reformed and other fiscal measures were taken.

That by means of Law 69 dated 6 November 2009 some rules established by Law 49 dated 17 September 2009 were amended.

That in regards to these legal changes it is indispensable to amend the regulation of the provisions that amended the articles of Law 4 dated 17 May 1994, “whereby the preferential interest system to the agriculture sector is established and other measures are taken”, in order to update the legal framework that governs the Special Interest Compensation Fund (FECI) currently in force through Executive Decree N° 29 dated 8 August 1996.

DECREES:

Article 1. Article 2 of Executive Decree N° 29 of 1996 is amended as follows:

“**ARTICLE 2:** FECI’s official account shall be signed by officers appointed by the Commission, called the FECI Commission, composed of the Minister of Economy and Finance, the General Director of Revenue and the Superintendent of Banks.

The Ministry of Agriculture, or the person appointed by him, may participate in FECI Commission meetings, with the right to speak only. His absence or appearance will not affect the quorum required for the Commission meetings.”

Article 2. Article 3 of Executive Decree N° 29 dated 8 August 1996 is amended as follows:

“**ARTICLE 3:** The FECI Commission will provide the necessary measures for the due execution of Law 4 dated 17 May 1994 and its regulatory provisions.

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Also, the FECCI Commission must inform the public of the discount amount determined and establish the necessary technical reserves for the proper functioning of FECCI.

Besides the discount referred to in Article 1 of Law 4 of 1994, the FECCI Commission may fix a higher discount when it is related to the financing of the following foodstuffs: rice, corn, beans, industrial tomatoes, meat (poultry, swine, and sheep), plantain, fresh milk, coffee, pineapple, squash, radishes, cabbage, chives, lettuce, celery, home-use tomatoes, peppers, potatoes, onions, other vegetables and tubers; sugar cane, melons, watermelons, pumpkin, banana, citrus; sheep, goats, and small species.

The FECCI Commission may consider any other item for a higher discount rate, should it receive a request submitted by the Ministry of Agriculture.

PARAGRAPH: For the effects of granting a higher discount rate when financing the production of rice, corn, beans, industrial tomatoes, meat (poultry, swine, and sheep), plantain, fresh milk, coffee, pineapple, squash, radishes, cabbage, chives, lettuce, celery, home-use tomatoes, peppers, potatoes, onions, other vegetables and tubers; sugar cane, melons, watermelons, pumpkin, banana, citrus; sheep, goats, and small species, as well as other items recommended by the Ministry of Agriculture, the following will be taken into consideration:

1. That the term “corn” includes sorghum; and “beans” includes red kidney beans.
2. The higher discount rate will be applied in cases of funding for the purchase of machinery or equipment that will be used for the production of two or more products, as described in Article 6 of Executive Decree 29 of 1996.”

Article 3. Article 4 of Executive Decree N° 29 dated 8 August 1996 is amended as follows:

“**ARTICLE 4:** Each bank and finance company is responsible for classifying the loan according to the classification established in Article 28, paragraph d) of this Decree. In cases where there is doubt or difficulty in classifying them, it will be necessary to consult with the FECCI Commission or the persons appointed by them to resolve these questions.”

Article 4. Article 5 of Executive Decree N° 29 of 1996 is amended as follows:

“**ARTICLE 5:** The Superintendency of Banks of Panama (SBP) will coordinate terms and conditions of the loans authorized in Paragraph 1 of Article 2 of the Law 4 dated 17 May 1994 with the Banco de Desarrollo Agropecuario and agriculture credit unions. Said terms and conditions will include the requirements established in Ordinal III of the following Article, among others.

When it deems convenient for determining the portion of each loan that falls under the rules established for the 25% of the FECCI surplus mentioned in the Law above,

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the Superintendency of banks may also require the interested credit unions to provide their current articles of incorporation and proof of their participation in the agricultural credit system, so that the loans may be used in the proper proportions among only those credit unions that are accredited with the Superintendency of Banks by the 31st of December of each year.

Dependent on the approval of the Superintendency of Banks of Panama, the provisions of the paragraphs above do not prevent loans to agriculture credit unions from being arranged, executed and managed as trust funds or, by using IPACOOOP, Banco Nacional de Panamá, Banco de Desarrollo Agropecuario, any General License bank or any recognized association comprising a majority of the agriculture credit unions, or by any other means approved by the Superintendency of Banks of Panama.”

Article 5: Paragraphs 5 and 8 of Paragraph of article 8 of Executive Decree N° 29 of 1996 are amended as follows:

“ARTICLE 8: ...

PARAGRAPH: ...

1. ...
2. ...
3. ...
4. ...
5. Domestic loans granted for the purchasing of public transportation vehicles, except the ones destined for tourism promotion.
6. ...
7. ...
8. New loans granted throughout the national territory as of the enactment of Law 4 of 1994, including the international free trade zones owned or operated by the Colon Free Zone or any other zone or free trade zone established or to be created in the future. The development projects granted through international bidding shall be excluded.”

Article 6. Paragraphs 3, 4 and 5 and Transitory Paragraph of article 13 of Executive Decree N° 29 of 1996 are amended as follows:

“ARTICLE 13: It is expressly understood that not subject to withholding are:

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1. ...
2. ...
3. Loans granted to credit unions recognized by Law 17 of 1997 who grant credit to their members.
4. Loans granted to agro-industrial production associations recognized by Law 17 of 1997.
5. Interbank loans, loans secured with bank deposits, foreign loans, and loans granted to finance companies regulated by Law 42 of 2001. Also, funding through the issuance of bonds and securities duly registered with the National Securities Commission shall not be subject to withholding.

Funding through the issuance of bonds and securities approved prior the enactment of Law No. 6 of 2005 will be exempted from withholding.

6. ...
7. ...
8. ...
9. ...

TRANSITORY PARAGRAPH: Banks are ordered to return the FECI interest applied since the enactment of Law 49 of 2009, i.e. since 18 September 2009, on loans secured with bank deposits.”

Article 7: Article 26 of Executive Decree N° 29 of 1996 is amended as follows:

“ARTICLE 26: The Superintendency of Banks of Panama (SBP) will periodically remit 50% of the income received because of the one percent (1%) withholding in domestic personal and commercial loans granted, and that will be granted after 18 September 2009, date of the enactment of Law 49 of 2009, to the National Treasury and 25% to the Banco de Desarrollo Agropecuario.

The remittance will be made through wire transfers in favor of the account designated by the Banco de Desarrollo Agropecuario, within fifteen (15) days following the receipt of such funds.

The Superintendency of Banks will transfer the remaining funds for each semester that are not considered necessary technical reserves for the application of the Special Interest Compensation Fund to the National Treasury within ten (10) days following the expired semester, with a report supporting the corresponding technical reserves.

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TRANSITORY PARAGRAPH: The funds accumulated by the Interest Clearing Special Fund up to 31 December 2008 that are not considered as necessary technical reserves for the application of the Special Interest Compensation Fund will be automatically transferred to the National Treasury as of the enactment of Law 49 of 2009.”

Article 8: Article 27 of Executive Decree N° 29 of 1996 is amended as follows:

“ARTICLE 27: In the event of claims referred to in Article 20, 50% of any reimbursement made will be charged to the income of the National Treasury and 25% to the income of the Banco de Desarrollo Agropecuario. Said payment will be made by a wire transfer to the FECI account.”

Article 9. This Decree shall become effective as of its promulgation.

Given in the city of Panama on the thirtieth (30th) day of March, two thousand ten (2010).

LET IT BE PUBLISHED AND ENFORCED,

RICARDO MARTINELLI B.
President of the Republic

ALBERTO VALLARINO CLÉMENT
Minister of Economy and Finance