



June 6, 2007
Circular No. 034-2007

General Manager
IN YOUR OFFICE

Ref.: Law 3 of May 20, 1985. Preferred
Interest Regime for mortgage loans

Dear General Manager:

Because we deem it of interest, we hereby share the criteria adopted by the General Revenue Directorate (DGI) regarding queries related to the application of the preferred interest established by virtue of Law No. 3 of May 20, 1985. The queries and the Directorate's criteria are as follows:

Query No. 1:

A person acquires a residence protected by the preferred interest regime established by Law 3 of May 1985 and its later extensions. After a period of 4 years has elapsed from the beginning of the preferred mortgage loan, the person changes their loan to another entity that offers a lower interest rate than the one offered by the preferred mortgage loans (that is, a rate not protected by the preferred subsidy); however, after a period of 3 years since the person has resorted to this special rate different than the Preferred Regime, he/she decides to cancel this loan by means of a balance purchase from another institution, asking the latter to resort to the Preferred Interest Regime for the remaining 3-year term of the 10 years stipulated by the Preferred Interest Law. Can this person resort again to the Preferred Interest Regime for the remaining 3-year term after the incentive of this Law was interrupted for a time period, given that the residence owner decided to resort to another type of mortgage loan?

DGI Criterion:

Article 6 of Law 3 of 1985, as modified by Law 11 of 1990, stipulates the following, literally:

"..... The mortgage loans in effect for more than ten (10) years will receive these benefits which are valid only during at most ten (10) years according to the original loan, and they cannot be extended by refinancing or second mortgages"

As a consequence, if the transfer of the preferred mortgage loan towards another entity is verified through financial transactions that comprise the annulment of the obligation that is object of the mentioned tax benefit, giving birth to a new link with different contracting subjects (new bank), in this case the tax prerogatives to which Law 3 of 1985 refers will not have continuity. The written standard is sufficiently clear and therefore it does not allow ambiguous interpretations regarding the non-continuity of said tax benefits, concerning second and subsequent mortgages.

Query No. 2:

A person at the time of applying for a mortgage loan for a new residence decides to choose a special rate different than the Preferred Interest Rate. After a period of 10 years has elapsed he/she decides to resort to the preferred interest regime given that his/her residence complies with the conditions of having been a new residence when he/she acquired it. It is also the person's main residence and has not been registered as preferred interest. Can this person change their current mortgage loan to the Preferred Interest Regime and have the option of applying it in the future if from the beginning he/she did not make use of the preferred interest?

DGI Criterion:

This person cannot change their current mortgage loan to the Preferred Interest Regime given that pursuant to article 6 of Law 3, 1985, as modified by Law 11 of 1990, said regime is only applicable during the first 10 years of the original loan, term which has already elapsed, the right to function of the preferred interests requested has expired, and they cannot be subrogated in the subsequent loans even though the benefit was not used initially.

We encourage General Management to take into account the General Revenue Directorate's criteria for granting loans to the preferred mortgage sector.

Attentively,

Gustavo A. Villa Jr.
Interim Superintendent