

# Newsletter 27 | Tax authorities' stance towards COVID-19



APRIL 2020

## General *health* outlook

### TEMPORARY TAX POLICY MEASURES SUGGESTED BY THE OECD

Income tax	Indirect taxes	Social security and payroll	Financial support
<ul style="list-style-type: none"><li>• Adjusting the required advance payments on the basis of a revised expected tax liability that more closely approximates the taxpayer's likely final tax liability.</li><li>• Providing tax concessions for workers in health and other emergency-related sectors. Governments could partially exempt labor income.</li><li>• Increasing the generosity of loss carry-forward provisions, e.g. turning loss-carry forward provisions into a loss-carry backward provision.</li></ul>	<ul style="list-style-type: none"><li>• Deferring payments of VAT, customs or excise duties for imported items (e.g. food, medicine), avoiding abuse through careful implementation.</li><li>• Speeding up refunds of excess input VAT, accompanied by targeted measures to limit fraud risks.</li><li>• Deferring or waiving taxes that are levied on a tax base that does not vary with the immediate economic cycle (e.g. recurrent business property taxes).</li></ul>	<ul style="list-style-type: none"><li>• Waiving or deferring employer and self-employed social security contributions, as well as payroll related taxes.</li></ul>	<ul style="list-style-type: none"><li>• Temporarily provide more generous welfare payments and income support, including through benefits provided through the tax system.</li></ul>

# TEMPORARY TAX MEASURES SUGGESTED BY THE TAX OMBUDSMAN ("PRODECON")



Bulletin 005/2020 issued by  
PRODECON on March 24th, 2020.

01

Extend the deadline for the filing of the annual tax return, for both legal entities and individuals, **until July 31st, 2020.**

02

Allow legal entities to pay in no more than 6 installments, the tax liabilities assessed for fiscal year 2019, without requiring them to either provide tax guarantee or receive an express authorization.

03

Extend the term set forth in rule 2.3.2. of the 2020 Tax Miscellaneous Resolutions, so individual taxpayers can request the automatic refund of their income tax favorable balances during the whole fiscal year 2020.

04

**Defer the payment of March, April and May monthly income tax payments until July 31st, 2020,** for both individuals and legal entities.

05

Suspend the terms and deadlines for the filing of administrative appeals, due to taxpayers' inability to renew their tax digital certificate.



“The SAT makes a solidarity call to all taxpayers, so the country can appropriately face the health emergency deriving from the COVID-19 pandemic”

Press release published by the SAT on March 27th, 2020.

## FEDERAL TAXATION MEASURES ADOPTED BY THE TAX ADMINISTRATION SERVICE (“SAT”)

SAT is considered an essential institution for the government (it must continue operating)

With optimal tax collection levels, the government will be able to face the health emergency and fund ongoing social programs.

**Taxpayers are asked to continue paying their taxes and complying with their obligations ordinarily.**

**No federal tax incentives or benefits are granted to taxpayers.**



A federal provision that allows for tax waiving is ignored

### ARTICLE 39, SECTION I OF THE FEDERAL TAX CODE

This article provides that the Federal Executive Power **is able to respond to pandemic outbreaks** (among others) with the issuance of administrative rules that foresee the following:

Totally or partially waive the payment of taxes due, including inflation adjustments and surcharges, and

Authorize taxpayers to either defer the payment of such taxes due or pay them in installments.

## Local taxation measures adopted by the states

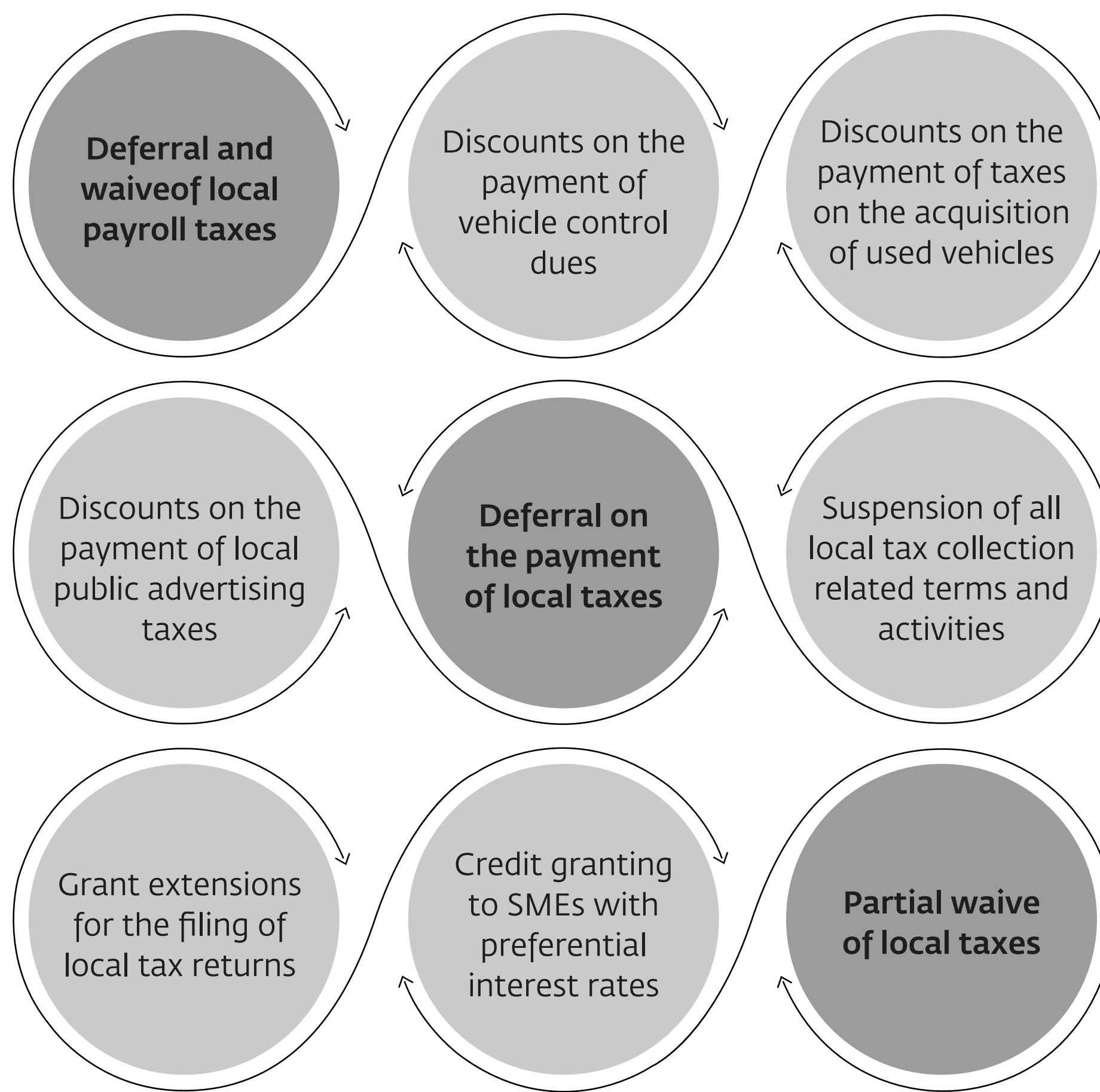
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It is important to take into account the following considerations:

- The tax measures adopted locally in order to face the COVID-19 pandemic, may vary from state to state.
- Certain measures are still subject to modifications.
- In some cases, the measures have not yet been formalized.
- Before trying to apply for any of the measures mentioned herein, taxpayers shall consult the tax regulation in force in the relevant state.

The following are some examples of the tax measures that have been implemented locally by some states:

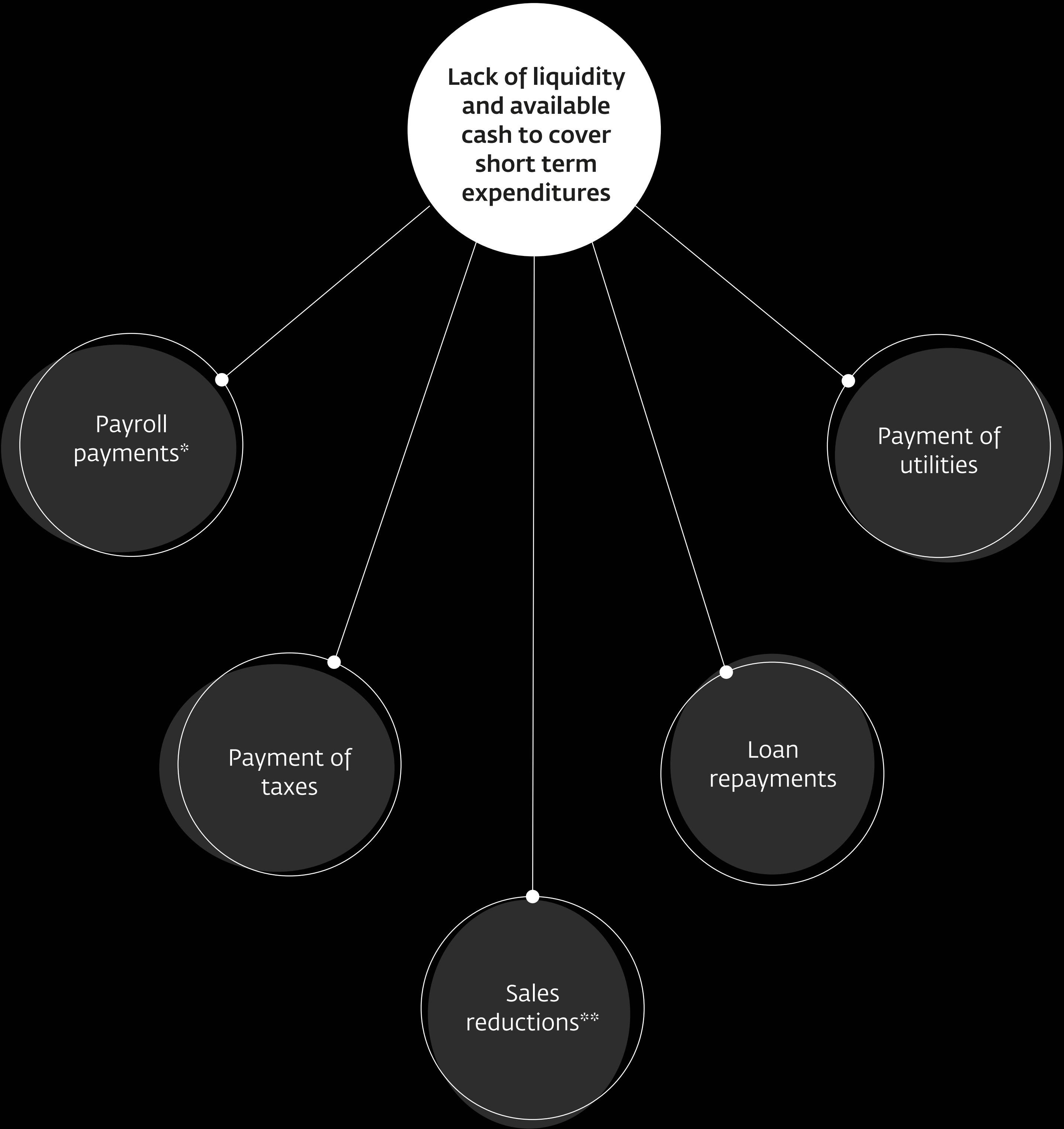


## ADOPTION OF TAX POLICY SUGGESTIONS

Temporary tax measure	OECD Suggestion	PRODECON Suggestion	SAT Adoption	States Adoption
1. Adjusting the required advance payments on the basis of a revised expected tax liability.	✓	—	—	N/A
2. Providing tax concessions for workers in health and other emergency-related sectors.	✓	—	—	—
3. Increasing the generosity of loss carry-forward provisions.	✓	—	—	N/A
4. Deferring payments of VAT, customs or excise duties for imported items deemed essential.	✓	—	—	N/A
5. Speeding up refunds of excess input VAT.	✓	—	—	N/A
6. Deferring or waiving taxes levied on a tax base that does not vary with the immediate economic cycle.	✓	—	—	✓
7. Temporarily provide more generous welfare payments and income support, including through benefits provided through the tax system.	✓	—	—	✓
8. Extend the deadline for the filing of the annual tax return until July 31st, 2020.	—	✓	—	N/A
9. Allow legal entities to pay in no more than 6 installments, the tax liability assessed for fiscal year 2019, without requiring them to provide a tax guarantee.	—	✓	—	N/A
10. Extend the term foreseen in rule 2.3.2. of the 2020 Tax Miscellaneous Resolutions, so individual taxpayers can request the automatic refund of their income tax favorable balances during the whole fiscal year 2020.	—	✓	—	N/A
11. Defer the payment of March, April and May monthly income tax payments until July 31st, 2020.	—	✓	—	N/A
12. Suspend the terms and deadlines for the filing of administrative appeals.	—	✓	—	✓



**MAIN CHALLENGE FACED BY TAXPAYERS AS A  
CONSEQUENCE OF THE COVID-19 PANDEMIC**



\* The Declaration of national health emergency on grounds of force majeure does not allow for the suspension of labor relationships – Art 427 of the Labor Law.  
\*\* Sales reductions are a consequence of the social distancing and isolation measures adopted to face the COVID-19 pandemic.

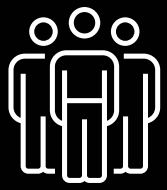
# Alternative

## that could be immediately applied to alleviate the lack of liquidity in 2020



### Legal entities

- ✓ Assess the foreign exchange effects arising from investments denominated in foreign currencies, either made in Mexico or abroad.
- ✓ Deduction of outstanding depreciation amounts corresponding to obsolete or unproductive investments.
- ✓ Assess the tax consequences deriving from the collection of insurance premiums, as well as the payment or collection of indemnities arising from default and the assessment of penalties.
- ✓ Request the refund of favorable tax balances resulting from the filing of fiscal year 2019 annual tax return.
- ✓ Request for authorization to reduce monthly income tax payments (this option is only available for Q3 and Q4).
- ✓ Assess the loss of assets incurred due to force majeure, including the deduction of inventory that became obsolete due to the health emergency.
- ✓ Assess the possibility to apply the local tax incentives and/or benefits that have been enacted by some states.
- ✓ Adjust the cost of sales in accordance with relevant inflationary effects.
- ✓ Adjust the maximum income tax depreciation percentages being used for the deduction of investments.
- ✓ Deduction of bad debts arising as a consequence of the COVID-19 pandemic.
- ✓ Review the excess input VAT balances as well as those whose application is still pending, in order to generate potential refund requests.
- ✓ Optimize the items being considered for purposes of assessing the annual inflationary adjustment.
- ✓ Request for authorization to defer the payment of income tax due (for up to 12 months) or make installments (of up to 36 months). This option is not applicable regarding taxes that became due in the current fiscal year, the 6 previous months, or transfer taxes or withheld taxes.



## Individuals

01

Request for the immediate refund of the favorable income tax balances resulting from the filing of the fiscal year 2019 annual tax return, as per rule 2.3.2 of the Tax Miscellaneous Resolutions (the request shall be filed no later than July, 2020).

02

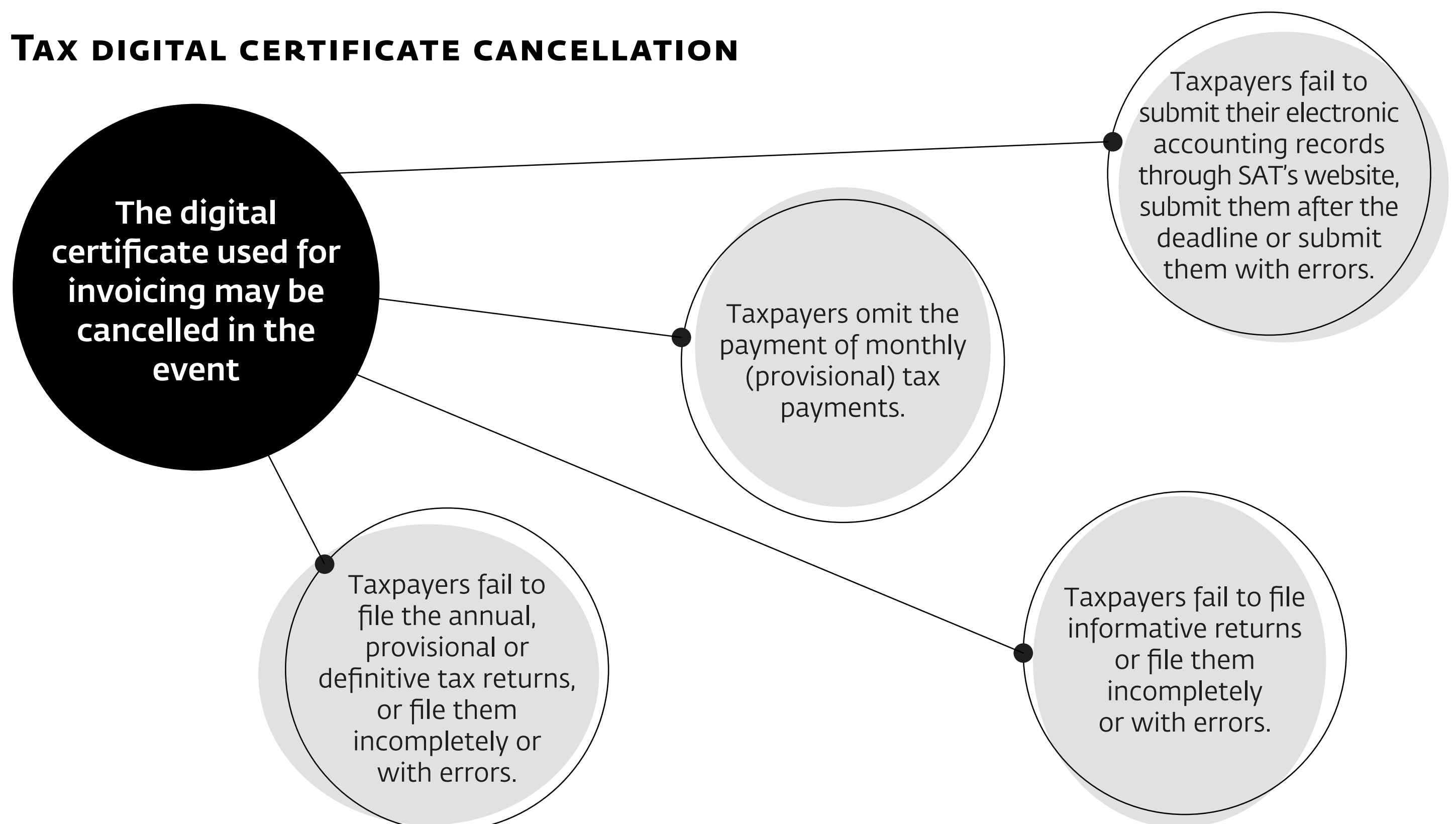
Opt to pay income tax due for fiscal year 2019 in 6 installments, as per rule 3.17.4 of the Tax Miscellaneous Resolutions (shall opt-in no later than April 30th, 2020 and pay the first installment along with the filing of the annual tax return).

03

Assess the possibility to sale and repurchase positions held in financial assets, if any.

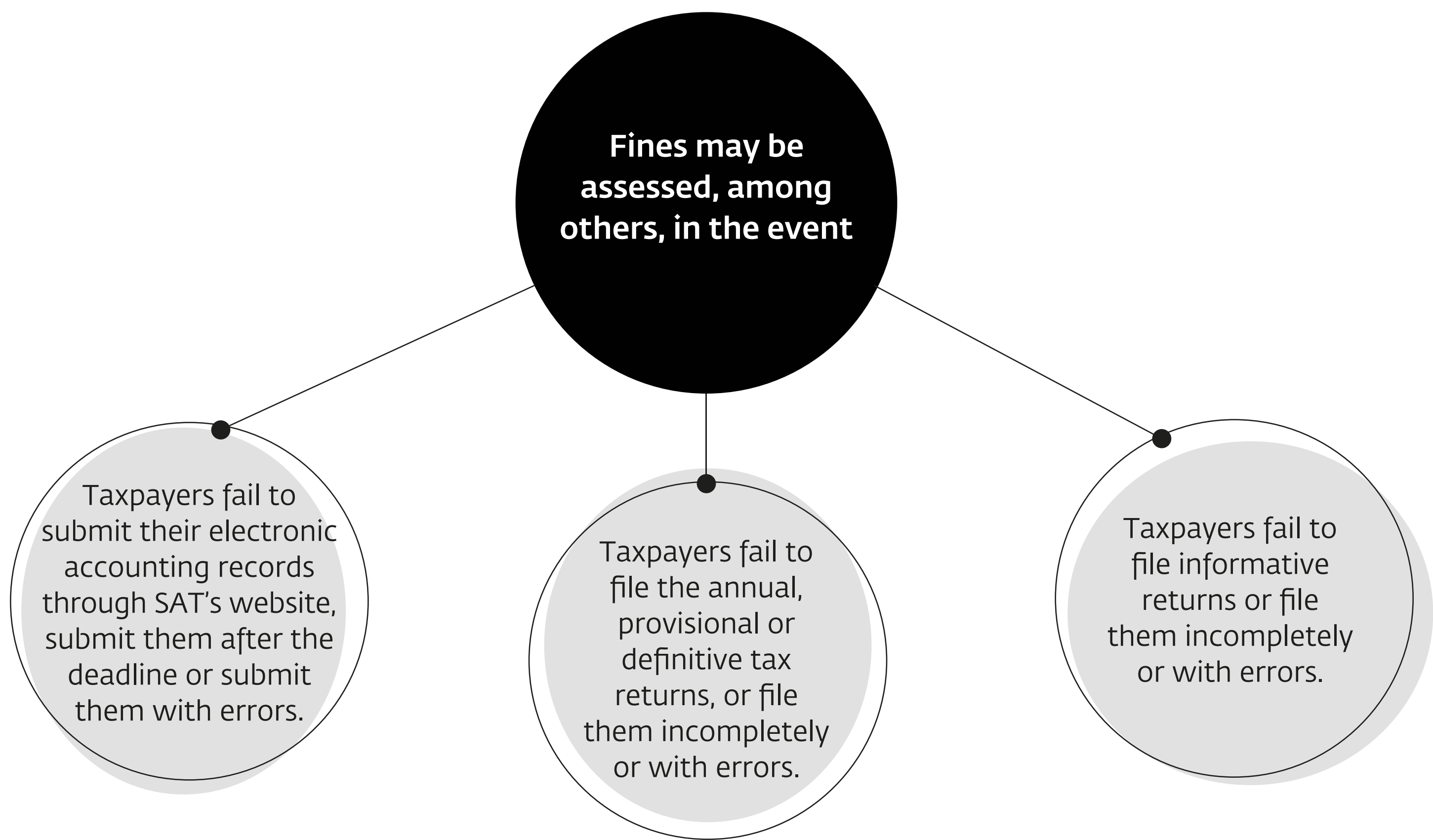
## Considerations applicable in the event taxpayers fail to comply with their *obligations*

### TAX DIGITAL CERTIFICATE CANCELLATION

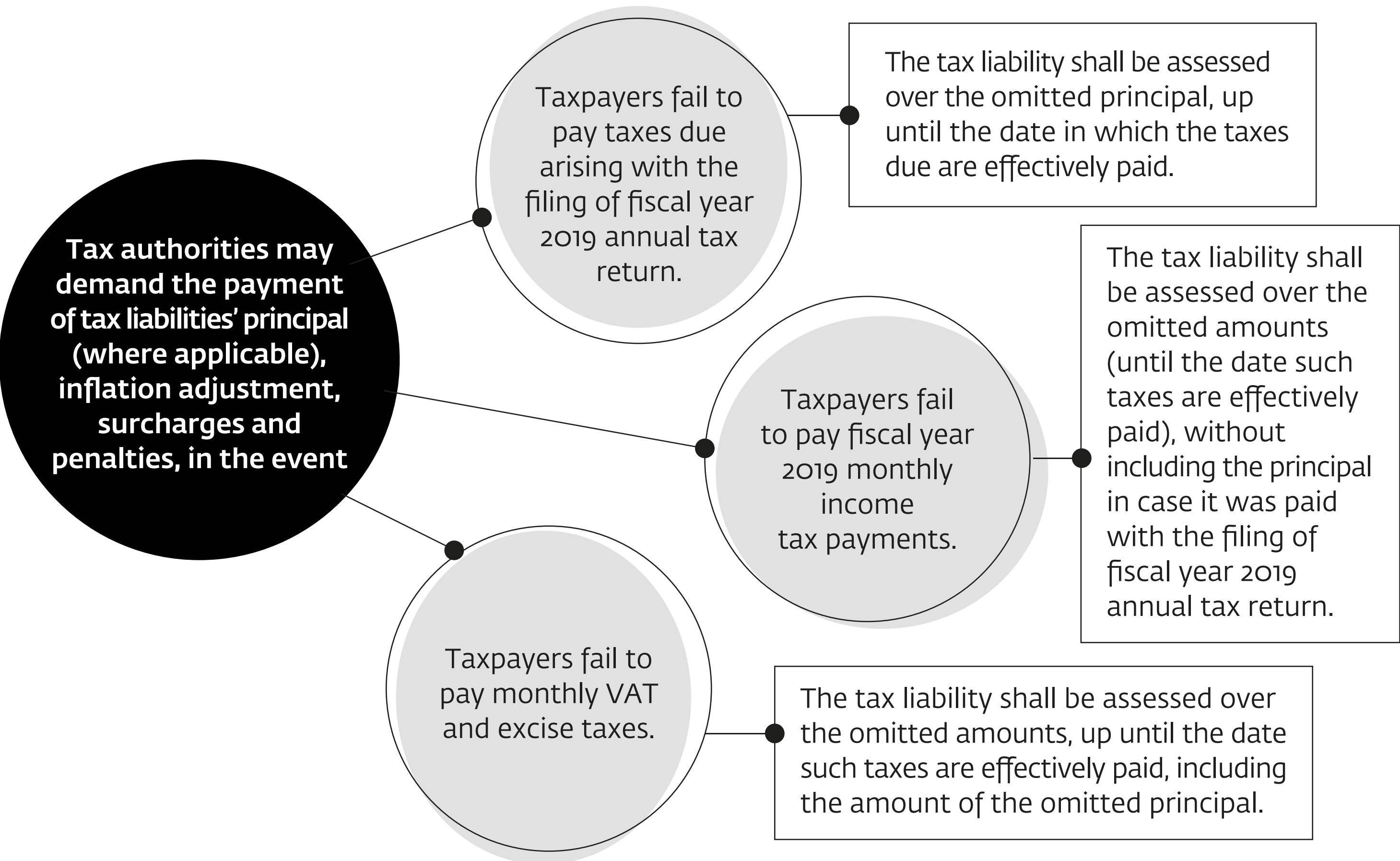




**PENALTY ASSESSMENTS ON TAX COMPLIANCE FORMAL DEFAULTS**



**COLLECTION OF TAX LIABILITIES**





## Spontaneous fulfillment of tax obligations

Taxpayers who spontaneously fulfill their pending obligations or correct infractions that were incurred due to force majeure, **prior to the start of a tax audit\***, will not be assessed with penalties.

\* The latest press releases published by the tax authorities indicate that taxation activities will be carried on rigorously, despite the pandemic.



In case of needing additional information or advice on the foregoing topics, please get in touch with our professionals.

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