

## Tax Practice Group Newsletter September 26, 2019

### Amendments to Outsourcing's Tax Treatment

In order to fulfill the tax obligations regarding outsourced services, in order to deduct the expenses for income tax purposes and credit the value added tax, the contracting party and the contractor could provide and review the correspondent information through the electronic format "Authorization of the contractor for consult the CFDI's and tax returns" which was available in the tax mailbox.

On August 20, 2019, the Tax Administration Service ("SAT" per its Spanish acronym) released through its website the First Modification Resolution to the Miscellaneous Tax Resolution for 2019, in which rules 3.3.1.44. to 3.3.1.48, that regulated the tax obligations regarding outsourced services using the electronic format, were derogated.

In this regard, for proper compliance, as of the entry into force of the abovementioned Resolution, meaning, August 21, 2019, the taxpayers have to fulfill their tax obligations regarding outsourced services, providing the information in print or electronic form.

However, it should not go unnoticed that on the proposal of Tax Bill 2020, it is suggested to eliminate the obligation of the contracting party and the contractor of the outsourced services of providing monthly information related to that transactions, modifying the articles 5, section II, and 32 section VIII of the Value Added Tax Law in force.

Additionally, the amendment foresees the addition of section IV to article 1-A of the Value Added Tax Law, in order to establish the obligation of the taxpayers contracting the outsourced services to calculate, withhold and submit, before the tax authorities, the value added tax caused by such operations, in order to secure the payment of the tax.

However, in accordance with Article 1 of the Value Added Tax Law, value added tax withholdings must be made at the rate of 16%, since the Regulations of the Value Added Tax Law does not provide a smaller withholding for the case of outsourcing.

It is important to highlight, that the deduction of expenses incurred by contractors of outsourced services is attached to the withholding and payment of the value added tax to the Federal Treasury, in accordance with Article 27, Section V of the Income Tax Law.

Finally, the information provided through the electronic format, "Authorization of the contractor for the CFDI's and tax returns," will be maintained in the databases of the Tax Administration Service and could be used by the tax authorities in the exercise of their review powers established in the Federal Tax Code.

Sánchez Devanny es una firma de abogados líder en México que brinda asesoría legal integral a clientes mexicanos y extranjeros.

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This bulletin was jointly prepared by Guillermo Villaseñor Tadeo ([gvillaseñor@sanchezdevanny.com](mailto:gvillaseñor@sanchezdevanny.com)), Emilio García Vargas ([egarcia@sanchezdevanny.com](mailto:egarcia@sanchezdevanny.com)), and Yamile Pérez Moreno Chiapa ([yperez@sanchezdevanny.com](mailto:yperez@sanchezdevanny.com)).

We are at your service for any question or additional clarification you may require in relation to the foregoing.

**Contact:**

**Abel Francisco Mejía-Cosenza**  
[amejia@sanchezdevanny.com](mailto:amejia@sanchezdevanny.com)

**Guillermo Villaseñor-Tadeo**  
[gvillaseñor@sanchezdevanny.com](mailto:gvillaseñor@sanchezdevanny.com)

**José Ángel Eseverri-Ahuja**  
[jae@sanchezdevanny.com](mailto:jae@sanchezdevanny.com)

**Luis Antonio Gonzalez-Flores**  
[luis.gonzalez@sanchezdevanny.com](mailto:luis.gonzalez@sanchezdevanny.com)

**Mariana Eguiarte-Morett**  
[meguiarte@sanchezdevanny.com](mailto:meguiarte@sanchezdevanny.com)

**Ricardo León-Santacruz**  
[rls@sanchezdevanny.com](mailto:rls@sanchezdevanny.com)