

Tax Practice Group Newsletter



Continued Activities of the Tax Administration Service During the COVID-19 Health Emergency

In our newsletter released last April 3 ([available here](#)) we observed the absence of a relief plan from the federal government to support taxpayers in the midst of COVID-19 health emergency and the very low expectations that the “economic reactivation plan” announced on April 5 by the Federal Government would significantly change this situation.

We also anticipated that, while scant expectations existed of having the Federal Government release economic and tax measures to support companies, revenue collection activities of the tax authority would remain uninterrupted as their continuation during the pandemic was deemed to be essential through the March 31st statement of the Ministry of Health.

As a reaction to this situation, our recommendation for corporate taxpayers in Mexico has been to adopt both (i) preventive and (ii) reactive tax strategies.

On the preventive front, we have insisted that companies should continue observing and even increasing their efforts towards a strict compliance of their tax obligations in Mexico. In this regard, it is convenient to be aware of some situations taxpayers are currently facing or could be facing during the pandemic crisis as a

consequence of the uninterrupted revenue collection activities from the tax authority.

– Continued tax investigation and collection activities

While the Mexican Social Security Institute (IMSS) suspended deadlines or terms for the practice of actions, proceedings, hearings, notifications or requirements, starting from March 31 and ending by the date the health contingency ends per the Institutional Strategic Plan for the Attention to the Contingency by COVID-19, unfortunately the Tax Administration Service (SAT) has not issued any communication regarding the suspension of deadlines or terms, and continues its tax investigation and collection activities. The foregoing seems to be in line with the March 31st statement of the Ministry of Health where revenue collection activities are deemed to be essential during the pandemic.

According to a press note published by the SAT pertaining to the “Operation Master Plan 2020”, the tax authority will be carrying out the following actions:

- » The scheduling of expedited audits and the reinforcement of the income tax inspection, for

the concepts of payments abroad, corporate restructures, preferential tax regimes, investment deductions, losses, tax deferral and tax registration accounts, among others, as well as the incorrect application of the 0% rate of value added tax and in the northern border region stimulus.

- » Verification reinforcement on the application of positive balances on the value added tax, in order to corroborate their origin and disposition through tax credits, refunds and compensations.

Likewise, it is important to point out that currently the SAT has implemented as a collection practice, an invitation to identified taxpayers with certain debts or observed ones to correct their tax situation. In the event that a taxpayer is in this situation, having an integrated defense file is essential to attend to such invitations and to undermine the statement of the tax authority.

As a result of the above, we consider it appropriate for companies to stay alert to any notification that may be made to them through traditional ways or through the tax mailbox and, in the event of being notified of any act of authority in the use of verification powers, to initiate the corresponding actions for the defense of any observation or tax credit.

Defense Strategy

As an alternative to the integration of the file and the initiation of the defense against observations issued by the SAT during the verification procedure until the issuance of a tax credit, it is possible to present a **conclusive agreement** before the Taxpayer Defense Office ("**PRODECON**"), which, even though declared the suspension of on-site activities, has provided virtual elements to request a conclusive agreement.

Likewise, in the event that a tax credit is determined to the detriment of a taxpayer, an **appeal** may be attempted and filed before the competent authority of the SAT itself. This means of defense gives the taxpayer the opportunity to integrate an adequate defense file, provide evidence and present arguments, in addition to the fact that it is not necessary to guarantee the Federation's tax interest, which means additional expenses for gaining a guarantee such as a bail.

Also, it is important to specify that, in case it is necessary to present a **nullity claim**, derived from the fact that a suspension or precautionary measure is required, it is possible to do so.

Although the Federal Tax Court issued an agreement extending their activities' suspension period from April 20 to May 5, 2020, they still take the urgent cases, suspensions and precautionary measures matters.

– Digital Seal Cancellation

As a result of the 2020 tax reform, the Federal Tax Code established several situations by which it temporarily or permanently restricts the use of taxpayer's digital seal certificates. Such situations refer to the taxpayers' failure to comply with their tax obligations, generally speaking.

Defense Strategy

As a result of the above, in the event that companies are subject to temporary or definitive restrictions on the digital seal use, the filing of a complaint before **PRODECON** could be attempted, through which the clarification of facts that motivated the cancellation could be made and the seal reinstated immediately.

It should be noted that, although PRODECON issued an Agreement announcing that it will continue to provide its advisory, complaint, inquiry and conclusive agreement services, whenever urgent or necessary, the cancellation of digital seals is understood as an urgent matter.

In the event that the aforementioned restriction is final, the appeal and nullity claim mentioned earlier could be attempted, alongside the complaint filed before PRODECON.

– Tax refund requests

The competent administrations of the SAT will continue to analyze the taxpayers' tax refund requests, issuing requirements and solving them.

We consider of utmost importance to integrate an adequate file with the tax refund support. The lack of an adequate file that supports it is one of the main causes of rejection.

Defense strategy

In the case of requirements issued within the tax refund requests, we have known that in most cases they are excessive, so filing a complaint before **PRODECON** helps to point out the excessiveness of it and to receive a backing up that observes the actions of the authority within such procedures.

Although the complaints that may be filed before PRODECON are not urgent as for the health emergency, they can be filed, depending on the justification of the urgency.

On the other hand, it should be pointed out that in the case of unfavorable decisions on tax refund requests, due to the health emergency, an appeal may be filed for the purpose of adjusting the file, and thus, in the event that a trial has to be initiated to face an

unfavorable decision on the **appeal**, you may have a solid file for the **nullity claim**.

Derived from the above, we remain at your service to support you on any observation issued by the tax authorities or tax credit determinations, cancellation of digital seal certificates and filing and follow-ups on tax refund requests, as well as for the defense strategy that suits your interests.

At Sanchez Devanny our Tax practice has wide experience in these matters. Please do not hesitate to contact us with any comments or questions.

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