



## ***Audits***

The tax authorities apply the faculties provided in tax laws to review taxpayer's compliance.

These faculties are developing through information requirements that will be assessed by the auditors, who will inform the taxpayer about the findings that may entail non-compliance with the corresponding tax provisions; when this happens, the taxpayer can clarify the findings through arguments and bookkeeping documentation deemed pertinent.

To properly carry out an audit, the tax advisor must have in-depth knowledge of the taxpayer's economic activities, its corporate purpose – in the case of a legal entity – and the way in which it develops its business model, because only in this way it will be possible to successfully meet the information requirements issued by the auditors.



## ***Conclusive Agreements***

They are the first alternative means of dispute resolution in audit procedures. The Conclusive Agreements were incorporated into the Federal Tax Code in 2014 and its procedure is carried on by the Mexican Taxpayer Ombudsperson (PRODECON as its acronym in Spanish).

The purpose of these agreements is to generate consensus between the taxpayer who is being audited and the tax authority, about the findings that may entail non-compliance with tax provisions. This mediation procedure is a friendly means of dispute resolution through which the parties will try to put an early end to the audit, avoiding litigation before Courts.

Also, the Conclusive Agreements involve important economic benefits to taxpayers who self-correct their tax situation before PRODECON, such as the 100% reduction of fines.



## ***Tax debts***

If it is not possible to clarify the findings observed in an audit, the Mexican tax administration will determine a debit for unpaid contributions, to which other amounts will be added for updating, surcharges and fines.

However, it is possible that the tax liability was determined incorrectly, either because the auditors made an improper assessment of the facts, failed to assess the evidence provided, or because the tax provisions were not properly interpreted and applied.

When this happens, the tax law provides for the possibility of applying means of defense. The circumstances of each case will determine which of them (administrative appeal, nullity claim or amparo trial) will be more convenient to apply.



## ***Tax Invoices Cancellation***

Invoicing is one of the most important parts of the daily life of companies since the existence of sufficient resources for the payment of payroll, services, acquisition of goods, payment of taxes and other expenses depends on it.

However, when the databases of the Mexican tax administration (SAT) detect discrepancies between taxpayers' annual or monthly tax returns and their tax invoices, the authorities temporarily suspend the digital certificate which is necessary for invoicing.

When this happens, it is important to analyze the nature of the discrepancies and submit the corresponding explanatory documentation as soon as possible; otherwise, the digital certificate will be definitively cancelled and the taxpayer will not be able to invoice again until the differences detected by the databases available to the SAT are resolved.



## ***Removal from a specific register***

It is common for some tax benefits to be subject to the incorporation of the taxpayer into a specific register (v.gr. importers program).

The temporary or permanent removal from this register may mean that the taxpayer loses their tax benefits and, therefore, their operation could be seriously affected.

Therefore, the prompt clarification of the assumptions that led to the deregistration and the corresponding reinstatement of the taxpayer to the registry become a priority that must be addressed through the preparation of a defense file to prove the taxpayer's compliance with each one of the requirements provided for in the law to enjoy the benefit.

In this sense, the filing of complaint procedures before the Mexican Taxpayer Ombudsperson (PRODECON) can significantly help in the rapid reactivation of the taxpayer in the registry.



## ***Loss of tax incentives***

The Mexican Supreme Court has defined tax incentives as "economic benefits granted by the State to a person or group of people, with the aim of supporting them or promoting their economic or social development, in a situation of disadvantage or inequality".

As with the specific registers, in the cancellation of a tax incentive, it would be necessary submit to the Mexican tax administration the documentation to proof the taxpayer complied with all the requirements to be able to obtain the corresponding incentive.

In the same way, the filing of a complaint letter to PRODECON can be useful to speed up the assessment by the tax authorities of the documentation mentioned above. As part of the most frequently used incentives, we can mention the VAT at 8% in border areas or the tax credit against the income tax for mining duties or the one granted to taxpayers affected by Hurricane Otis in Acapulco.



## ***Refusal of the authorities to return a balance in favor or payment of the undue amount***

The Federal Tax Code and the Federal Law on Taxpayers' Rights provide for the right to get a refund of a balance in favor or payment of the undue.

However, it is common for the refund requests filed by taxpayers to be subject to information requirements issued by the tax authority, in order to verify the origin of the refund and the materiality of the transactions from which the credit balance derives.

When one of these information requirements is not met or is partially resolved, it is common for the authorities to end the process considering that the refund request has not been submitted. Both in these cases, as well as in those in which the refund is denied, it is necessary to weigh the need to apply the means of defense that allow the recovery of the balances in favor or the payments of the undue, giving preference to those periods in which the right to refund is about to expire.