

# TERRUM

Briefing, analysis, opinion and insight of legal affairs in Mexico  
Digital publication by ABOGADOS SIERRA Y VÁZQUEZ

## TAX

October 15, 2015 year 03 | No. 11

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SIERRA Y  
VAZQUEZ

"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"

## The rights of contributors in Mexican Law.

by Antonio Vázquez

One of the most important challenges that the Mexican Government is facing since many years ago is to obtain money from the contributors through the payment of taxes and duties. In our tax system, there are three different types of taxes and duties that can be paid by a contributor (an individual or a company): Federal, State and local contributions (municipal taxes). However, the most important and major payments of contributions within the Mexican territory are related to federal taxes. The Federal Government of the United Mexican States (please remember that the United Mexican States -this is the official name of our country- is organized under a Republic with a Federal political system) is the largest creditor and collector of taxes (this includes the federal duties), since the major number of the total of contributors are collected by the federal authorities, mainly through the Secretary of Treasury (*Secretaría de Hacienda y Crédito Público*) which is the competent Secretary to prepare the annual budget of the Federal Government which includes among other important matters, the yearly payment of income to (i) the 32 States of the United Mexican States and the Federal District (Mexico City), (ii) all federal authorities and (iii) the Congress and the Federal Judicial Branch and to prepare the yearly proposal of the Income Law of the Federation (*Ley de Ingresos de la Federación*) which must be sent by the Federal Executive to Congress. The main purpose of this Income Law of the Federation is to determine the source and amount of financial resources that the Federal Government estimates to collect in a one year calendar period, which includes the collection of taxes and duties. In this respect, is important to mention, that three main sources of federal financial founding are the following: (i) Income of the Federation (Taxes and other contributions) (ii) Income of governmental entities and decentralized companies (e.g *Petroleos Mexicanos PEMEX*) and (iii) external or internal funding. The income of the Federation through the collection of federal contributions is around the 40% of the total income.

“...but if a federal duty or federal fine imposed to a contributor is not paid, the competent authority to enforce this collection is the SAT, not the federal authority that originally should have collected this unpaid federal contribution. In this way, we have a specialized authority to collect all federal unpaid contributions”.

As mentioned before, the Federal Congress of our country is the authority which formally approves the Federal Income Law every year, however the main authority to prepare and to apply the Federal Income Law is the Federal Executive Power through the Secretary of Treasury of Finance, and this last Federal authority operates the collection of federal contributions through the Service of Tax Administration (*Servicio de Administración Tributaria*) (SAT) which is an important branch of this Secretary whose main activity is to collect the federal contributions. These includes the federal duties, that originally should be collected by every federal authority (e.g on aviation matters, these payment of duties are mainly collected through aviation and airport authorities), but if a federal duty or federal fine imposed to a contributor is not paid, the competent authority to enforce this collection is the SAT, not the federal authority that originally should have collected this unpaid federal contribution. In this way, we have a specialized authority to collect all federal unpaid contributions.

As you may realize, this specialized authority capable to collect all federal unpaid contributions and to inspect that all contributors report and pay in a proper way all taxes related to its economic activity is a powerful and feared authority in Mexico. Although the activity of this authority is clearly regulated by a number of federal laws and regulations, which includes a large number of obligations that the tax authority should comply when

following collecting procedures and detailed rules to follow when initiating enforcing procedures against contributors, is not rare the excess in their daily requests and enforcing acts. For this reason the Federal Law of the Rights of Contributors contains a number of rights of the contributors in different aspects:

1. Rights of the contributors in respect the compliance of tax obligations
2. Rights of the contributors in respect inspections on its accountancy and tax reviews performed by tax authorities.
3. Rights to sign a settlement agreement with the tax authority.
4. Rights in respect the fines to be imposed against contributors.

“To defend and protect rights of the contributors a specialized public entity has been created: The Prosecutor Office to Defend the Rights of the Contributors (Procuraduria de Defensa del Contribuyente) (PRODECOM).”

5. Rights in order to have access to legal proceedings to defend its rights.

All this listed items include a number of obligations that the tax authority must observe when acting in the different mentioned activities. Additional obligations of the tax authorities and rights of the contributors are contained in the Federal Tax Code (*Código Fiscal de la Federación*). To defend and protect rights of the contributors a specialized public entity has been created: The Prosecutor Office to Defend the Rights of the Contributors (*Procuraduria de Defensa del Contribuyente*) (PRODECOM). Its main purpose its to advise the contributors, to defend its interest and even to initiate claims and follow administrative procedures against tax authorities. PRODECOM has created a list of essential rights of the contributors, which are contained in the tax laws and in the Federal Law of the Rights of Contributors. This list is the following:

- I. The right of the contributor to be treated respectfully by the tax authority.
- II. To receive response of all questions and to be attended in accordance to the applicable law and formal receipt of all documents to be submitted before the tax authority.
- III. To provide information to the contributor to facilitate the correct exercise of its tax obligations.
- IV. To keep in confidence the information, data and background provided by the contributor and third related parties.
- V. Assumption of good faith of all contributor's acts.
- VI. Right to be duly informed of the status of its tax procedures and to obtain copy of all documents of these proceedings and/or related to.
- VII. In the course of tax reviews or visits of inspections, to be duly informed of its rights and obligations.
- VIII. The obligation of the tax authority to comply on time with the different acts.
- IX. The right of the contributor to argue and defend before ruling in respect tax credits.

This is just a list of general rights of the contributors. Each of the listed rights may contain specific detailed rights, but we just provide a general list to give a brief idea of this. In practice however, all the efforts to cease arbitrary acts of some tax authorities are not enough, so we should continue looking for the rights of contributors and to provide adequate defense of its interests.

## **Mexico, in the Global Innovation Index.**

Mexico is positioned in the 57th place in the Global Innovation Index 2015, made by the University of Cornell, which means ranking nine places above compared to last year when the country ranked the 66th position. The Global Innovation Index is developed by the University of Cornell; the INSEAD business school and the World Intellectual Property Organization (WIPO). The study examines the effective innovation policies for the development that expose new methods that can be applied to encourage innovation and promote growth. [www.maquilaportal.com](http://www.maquilaportal.com) 23/09/15.

## **Syria conflict: UN assembly highlights divisions.**

The US and France insisted Syria's President Bashar al-Assad must go, but Russia said it would be an "enormous mistake" not to work with him to tackle Islamic State (IS) militants. Barack Obama said he would work with any nation, and Vladimir Putin called for a "broad coalition". In his speech, Mr Obama said compromise among powers would be essential to ending the Syrian conflict, which has claimed more than 200,000 lives and forced four million to flee abroad. Speaking soon after, Mr Putin said it was an "enormous mistake to refuse to cooperate with the Syrian government and its armed forces who are valiantly fighting terrorism face-to-face". He also called for the creation of a "broad anti-terror coalition" to fight IS, comparing it to the international forces that fought against Nazi Germany in World War Two. [www.animalpolitico.com](http://www.animalpolitico.com) 27/09/15.

## **Mexico, a new record on car production.**

For the fifth consecutive year, Mexico will bring the number of cars production record at 3.4 million units, said the President of the Mexican Association of Automotive Industry (AMIA), Eduardo Solis Sanchez. The automotive sector is the main generator of foreign exchange in Mexico, with more than US\$50 billion, informed Eduardo Solis. He added that an auto plant arrives in Mexico for several reasons, such as the network of agreements it has with more than 40 countries, the strengthened supply chain, among others. Mr. Solis also stressed, that it is expected that Mexico exceeds the 5 million units produced, thanks to the existing production volume, added to the investments arrival by 2020. [www.mexico-now.com](http://www.mexico-now.com) 28/09/2015.

## **Boosts on the manufacturing Mexican industry.**

According to the National Institute of Statistics and Geography (INEGI), the personnel of the manufacturing sector increased by 3.2% during July 2015, compared to the same period in 2014, which totaled 65 months with increases at an annual rate. The manufacturing of transportation equipment registered the largest increment in jobs, with an increase of 6.8%; followed by the manufacturing of computer equipment, communication, measurement and other type of equipment, electronic components and accessories, with an up to 5.6% increase. [www.mexico-now.com](http://www.mexico-now.com) 28/09/2015.

## **Signs of liquid water found on surface of Mars, study says.**

Despite its reputation as a forebodingly dusty, desolate and lifeless place, Mars seems to be a little bit wet even today. Scientists reported on Monday definitive signs of liquid water on the surface of present-day Mars, a finding that will fuel speculation that life, if it ever arose there, could persist to now. "This is tremendously exciting," James L. Green, the director of NASA's planetary science division, said during a news conference on Monday. "We haven't been able to answer the question, 'Does life exist beyond Earth?' But following the water is a critical element of that. We now have, I think, great opportunities in the right locations on Mars to thoroughly investigate that." *New York Times* 28/09/15.

## CONTRIBUTORS

### Antonio Vázquez

Attorney at Law: Admitted to practice law in 1991. Mr. Vázquez of Mexican nationality obtained his law degree at the Universidad Nacional Autónoma de México (UNAM). Mr. Vázquez attended post-graduate studies in Civil Law, Corporate Law, "Amparo" Financial and Procedural Law, Civil and Commercial matters. Mr. Vázquez has been Professor of "Amparo" in UNAM and Lecturer at various universities throughout Latin America. Currently Mr. Vázquez is member of the International Bar Association. Authorized as a private mediator in civil and commercial matters recognized by the Center of Alternative Justice of the Federal District and the Superior Tribunal of Justice of the Federal District since January 2010.

LANGUAGES: Spanish and English.

PRACTICE AREAS: Arbitration, Civil Law, Civil Litigation, Amparo, Corporate Law and Foreign Investment.

e-mail: [avazquez@asyv.com](mailto:avazquez@asyv.com)