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Bureaucratic Requirements in Mexico.

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COELUM



Audio Message



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The aviation industry in Mexico is currently facing significant challenges due to the inconsistent and, at times, illegal application of normativity's and the implementation of bureaucratic requirements. The capricious management of laws and regulations not only increases operational complexity but also raises costs and impacts the competitiveness of airlines and other participants in the aviation industry.

Instead of a uniform application based on clear criteria, aviation regulations often encounter a series of irregularities that create uncertainty and difficulties for industry participants. These issues not only cover legality and procedural matters but also have practical implications that affect the daily operations of the industry.

Intervention of Bureaucracy in the Application of Regulations

a. "Visitax" Tax in Quintana Roo

Visitax is a tax established in 2020 by the local government of Quintana Roo to mitigate the impact on the state's beaches and natural reserves and to control the sargassum. It is also used to generate infrastructure to improve access and monitoring of Maya archaeological sites and to provide better public services that benefit both tourists and the local population.

The tax known as "Visitax,"¹ implemented by the state of Quintana Roo for international tourists, has been the subject of controversy. Its legitimacy is questioned since tax legislation in Mexico is generally reserved for the Federation, except in certain cases². Therefore, attempting to establish a local tax in an area of federal jurisdiction raises issues of legality and regulatory coherence.

b. Discretionary Requirement for Migration Forms

Article 20, Section II, of the Migration Law³ establishes that immigration authorities are responsible for monitoring the entry and exit of people in the territory of the United Mexican States. This monitoring process is carried out through the presentation and submission of migration forms at immigration control points in various airports across the country, for both nationals and foreigners. However, the application of this requirement has shown some inconsistencies, as recently, some airports and terminals have required the submission of these forms, while others have not. This lack of uniformity in the application of migration requirements generates uncertainty and even complications in the procedures for travelers and airlines.

c. Transmission of Export Cargo Guides

Additionally, at some airports, customs authorities have started requiring the transmission of export cargo guides for departing flights. This not only reflects a deficiency in customs regulation and adds operational costs for airlines but may also be considered contrary to the law, as it is not specified as a mandatory act and there is no sanction for non-compliance with this requirement..

d. Procedure for Challenging Unconstitutional Regulations and the Imposition of Late Fines

The process for challenging the constitutionality of laws in Mexico is costly and prolonged, causing airlines and other characters of the industry significant expenses and loss of time due to the need to contest questionable regulations. This process has become a means for the government to obtain resources.

1.-<https://www.visitax.gob.mx/sitio/>

2.- Ley de Coordinación Fiscal <https://www.diputados.gob.mx/LeyesBiblio/pdf/LCF.pdf>

3.- Artículo 20. The Institute will have the following powers in immigration matters: Section II II. Monitor the entry and exit of individuals into the territory of the United Mexican States and review their documentation. (<https://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra.pdf>)

Similarly, the imposition of late fines perpetuates a vicious cycle of improperly imposed sanctions, representing an additional burden for airlines. This phenomenon is attributed to excessive workload and poor management by the authorities.

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To mitigate these issues, it is crucial to implement a series of reforms in the Mexican regulatory system and laws, that consider at least the following bases:

a. Standardization and Regulatory Clarification

It is recommended to establish clearer and more uniform regulations to ensure consistent application nationwide. The creation of transparent mechanisms for the promulgation and review of laws can prevent the implementation of arbitrary regulations. Additionally, regular audits and stakeholder consultations should be integrated to adapt to emerging needs and challenges, ensuring the regulations remain relevant and effective.

b. Transparency and Participation

It is recommended to establish clearer and more uniform regulations to ensure consistent application nationwide. The creation of transparent mechanisms for the promulgation and review of laws can prevent the implementation of arbitrary regulations. Promoting transparency in the regulatory process and facilitating the involvement of industry stakeholders in the development of regulations will contribute to more effective and widely accepted regulation, fostering trust and compliance.

c. Adoption of International Best Practices

Adopting successful regulatory practices from other countries can provide effective solutions to existing challenges. By integrating internationally proven systems and strategies, Mexico can enhance regulatory stability and efficiency. This approach not only leverages global best practices but also facilitates a more adaptive and resilient regulatory environment, promoting sustainable growth and reducing the risk of failures.

Conclusion

The lack of uniformity and arbitrariness in the application of regulations reflect a deficiency in the regulatory system that severely impacts the industry. The absence of means to defend against the arbitrary actions of authorities, due to complicated and costly procedures, only exacerbates the problem, creating an adverse environment for investment and efficient operation.

A comprehensive reform of the regulatory system and laws, and the implementation of international practices can help address the current issues in the aviation industry in Mexico. Through a more transparent and equitable regulatory framework, the sector will be able to face challenges more effectively and improve its competitiveness in the global market, continuing its growth.

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Ruben is an associate in the Regulatory area. With over 5 years of experience, Ruben oversees the regulatory and compliance aspects for airline operations and obtains governmental licenses and authorizations before the necessary authorities.

Education

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