THE TAX DISPUTES AND LITIGATION REVIEW

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Editor
David Pickstone

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THE Tax Disputes and Litigation Review

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PREFACE

It is increasingly common for tax practitioners to be involved in disputes that span multiple jurisdictions. We operate in a global economy. Supply chains cross continents, and the increasing role of technology accelerates the pace at which economic activity becomes divorced from the structures intended to tax it. The pace of economic and technological change potentially increases the gap between the reality of commerce and that of taxation.

Although supranational agencies, such as the European Commission and the Organisation for Economic Co-operation and Development, work hard to keep pace with change, there is an inevitable lag between intention and action. Of late we have seen individual countries start to take unilateral actions, with digital taxation being a prime example. In coming years, a combination of economic developments and unilateral actions by individual countries is likely further to emphasise the importance of double tax treaties and the OECD multilateral instrument.

Hot on the heels of the economic impact of the covid pandemic, tax authorities face the compounding impact of the war in Ukraine and hugely increased energy prices. Pressure on government budgets, particularly in the UK, is increasing. In response, the UK and EU have introduced windfall taxes, and the US government has threatened an equivalent. Both the UK and EU are looking closely at compliance as a way to close the tax gap. The UK has increased compliance focus on individuals, and the EU has proposed VAT measures, including a move to real-time reporting and e-invoicing for cross-border businesses, and a single VAT registration across the EU.

Regardless of whether tax authorities increase in cooperation or increase in competition, one thing is certain: they will not stand still. Tax, and particularly the international approach to tax, is a permanent fixture on the political agenda. The resulting frequent (and sometimes abrupt) changes in key elements of tax law inevitably lead to high-value and complex disputes, which often take many years to resolve.

The purpose of this book is to provide insight into the issues that give rise to tax disputes in different jurisdictions, the procedures for resolving those disputes and the powers and approach of local tax authorities. It is hoped that it will provide valuable insight into the process, timescale and cost of resolving complex difficulties when they arise across more than one jurisdiction.

We are lucky to have contributions from many leading and impressive tax practitioners across a wide range of jurisdictions. Each provides an up-to-date insight into dealing with contentious tax issues in their jurisdiction. I have enjoyed and learned from reading their contributions and I hope you will do, too.

I would like to thank my friends and colleagues Victor Cramer, Lee Ellis and Anastasia Nourescu for their valuable assistance in compiling this and previous editions.

David Pickstone
Stewarts Law LLP
London
February 2023

Chapter 15

MEXICO

Denise Lester, Alejandro Madero, Nayely George and Emiliano Fernández[1]

I INTRODUCTION

The most common federal taxes comprise income taxes (individuals and corporations, partnerships, and certain taxable arrangements), value added tax (VAT), and excise taxes.

Recently, tax authorities have increasingly issued taxpayers non-official 'invitations', which differ from carrying out a formal audit, but are intended to increase tax collection. Although these invitations are not challengeable, the consequences of not replying or clarifying the taxpayer's situation can result in a restriction of the digital certificate to issue invoices.

Additionally, tax authorities have the power to initiate formal tax audits, which must conclude within a 12-month term and are subject to suspensions. However, there are several exceptions to the general rule, such as: cases related to the financial sector (which must be concluded within 18 months), and cases related to transfer pricing[2] or in which the tax authorities request information and documentation from abroad (which must be concluded within two years).

Once the tax authority concludes the audit, it has six months to determine a tax assessment.

Tax authorities still hold a very formalistic approach when carrying out tax audits and resolving tax refund requests, especially after the 2019 Supreme Court Precedent[3] was issued. Under this precedent, taxpayers seem obligated to formalise or register private documents in order for them to have an 'identifiable and valid date' in a tax audit. Taxpayers have used 'substance over form' administrative appeals and lawsuits to challenge this.

Taxpayers can use diverse methods to resolve a tax dispute. Initially, taxpayers may opt to resolve a case (1) during the audit but before an administrative resolution exists; (2) through alternative dispute resolution (ADR); or (3) under a conciliation procedure with the tax authorities and the Taxpayers' Advocate Office (Prodecon) acting as a mediator.

Once an administrative resolution exists, taxpayers have the option to file an administrative appeal directly with the Tax Administration's legal branch, or a nullity claim before the Federal Administrative Justice Court.

Additionally, taxpayers may opt to file an 'administrative reconsideration'. This procedure consists in the authority's review of a resolution emitted by a hierarchically inferior

1 Denise Lester is a partner, Alejandro Madero is a senior associate and Nayely George and Emiliano Fernández are junior associates at Galicia Abogados.

2 Before the 2022 tax reform, this term only applied to transfer pricing cases with foreign related parties. As of 2022, it also applies to cases involving national related parties.

3 See court precedent 2ª/J.161/2019 (10a.), published on 6 December 2019.

authority. If filed and the claim is sustained, the superior authority may, at its discretion, revoke the resolution, provided the taxpayer proves that the resolution is clearly illegal and did not challenge it in a timely manner.

Finally, it is important to point out that during 2022, the Secretary of Finance and Public Credit submitted the 2023 federal revenue program to Mexico's Federal Congress, which does not contain any statutory amendments to the Income Tax Law, the Value Added Tax Law, nor the Federal Tax Code.

II COMMENCING DISPUTES

i Federal tax disputes

The federal tax authorities have several powers to prove that taxpayers complied correctly with their tax obligations.

Federal tax disputes generally begin with an assessment of a tax credit after the authority's exercise of a formal audit or by the denial of a tax refund claim, although certain precedents also allow a withdrawal of a refund request to be challenged.

In general terms, formal audits initiated by the tax authorities must conclude, as a general rule and subject to certain exceptions, within a one-year period. The conclusion of the audit generally results in the notification to the taxpayer of the observations that have resulted therefrom. After the observations have been notified, the tax authorities have a six-month period to issue and notify the corresponding tax assessment.

ii Authority lawsuits

The tax authority is entitled to initiate a tax dispute, through a procedure known as *juicio de lesividad*. The dispute generally originates when a tax authority considers that a taxpayer received an undue benefit from an administrative resolution. After the dispute is initiated, a trial is carried out to determine the legality of said resolution, which may result in its annulment. The tax authority has the burden to prove that the resolution was unlawfully issued.

The tax authority has a five-year term to file this claim before the Federal Court of Administrative Justice, whereas the taxpayer has a 30-business day term to file its annulment lawsuit. Although this five-year term has been subject to challenge before the Supreme Court of Justice, the Court concluded that this considerable difference in time term is constitutionally valid.

iii Mediation

Once the tax authority issues its findings in a desk or in situ review or an electronic audit (formal audit procedures), a taxpayer may initiate a settlement agreement before the tax assessment is determined, by means of an ADR process managed by Prodecon (see Sections I and VII.i).

As of 2021, ADR requests must be filed with Prodecon within 20 working days from the taxpayer being notified of the ruling containing the authority's observations.[4]

4 Specifically, as per Article 69–C of the Federal Tax Code, in case of an *in situ* review, this term is calculated from the issuance of the final inspection minute.

III THE COURTS AND TRIBUNALS

i Administrative appeals

Federal administrative appeals are filed electronically within a 30 business day term of the notification date of the tax resolution. Such appeals are resolved by the authority's legal branch.

In this procedure, taxpayers are relieved from submitting a guarantee and are able to submit additional evidence not provided during the tax audit or the tax refund process. Afterwards, in court, taxpayers are generally barred from offering additional evidence that was not submitted before or during the audit, refund process, or administrative appeal procedure.

Taxpayers can opt to file an appeal under the 'substance over form' process, provided certain requirements are met. Under this special procedure, taxpayers are barred from making procedural arguments.

ii Administrative Court

Aside from directly challenging tax assessments and refund resolutions, taxpayers can challenge negative administrative appeal rulings by filing an annulment claim before the Federal Court on Administrative Matters.

The Court is divided into collegiate bodies: the superior chamber and regional chambers. Certain regional chambers focus on specialised areas, such as intellectual property or foreign trade.

With the incorporation of a newly implemented system, taxpayers may now file annulment claims through the traditional method or electronically. Before a recent amendment, all electronic trials were conducted by the specialised chamber for electronic trials based in Mexico City. Now, certain regional chambers have the power to hold electronic trials, but this process is being implemented gradually.

Taxpayers may also file for a trial under the 'substance over form' approach, provided again certain requirements and a *de minimis* threshold are met. Similarly to an administrative appeal, taxpayers who opt for this approach are barred from raising any procedural arguments.

The Federal Court on Administrative Matters (Specialized Chamber) has ruled that taxpayers may also file for a 'substance over form' trial to challenge a refund denial, provided the tax authority previously exercised its auditing powers to corroborate the refund request.[5]

As a general rule, taxpayers must provide a guarantee when challenging a tax assessment, unless they opt for a 'substance over form' trial. Interpretation has arisen to determine if the relief to guarantee in this special trial is only applicable before the first instance court ruling or until the matter is definitely resolved.

Taxpayers have the right to file a constitutional claim – an *amparo* lawsuit – to challenge an unfavourable resolution.

iii Amparo lawsuits

A taxpayer may file an *amparo* lawsuit within 15 working days of the contested ruling's notification date.

Under this proceeding, aside from 'legality' arguments, taxpayers can also raise constitutionality arguments on the provisions addressed or interpreted in the ruling or contested resolution.

5 See Administrative Court precedent VIII–CASE–REF–15, published in January 2021.

If an *amparo* lawsuit is resolved unfavourably, an appeal can be filed before the Supreme Court of Justice. In this regard, such appeals may only resolve constitutional matters, and the case must be exceptional from a constitutional or human rights perspective. If the Supreme Court does not find the case to be exceptional, it may reject the appeal. Following a 2021 reform, this rejection may no longer be challenged.

IV PENALTIES AND REMEDIES

Generally, if taxes are not paid on time, tax authorities may impose fines. The amount due will be updated for inflation (the rate is based on Mexico's national price index) and shall be subject to a monthly interest rate (the 2023 rate is still 1.47 per cent). The total amount of interest is usually capped at five years.

Where taxpayers challenge the imposition of these penalties, they are generally entitled to file a nullity claim (see Section II).

Fines can be mitigated in several forms. First, where the unpaid tax is settled spontaneously, before an authority's requirement is issued, the applicable fine is waived.

Second, where taxpayers formalise a settlement agreement, a 100 per cent fine reduction is applicable, as a one-time benefit. Furthermore, taxpayers can benefit from other fine reduction mechanisms, depending on the promptness on which the taxpayer settles its debt and in terms of the Federal Tax Code and the Federal Taxpayer's Rights Law. Furthermore, in certain cases, taxpayers can also request a reduction of the late payment interest rate.

Finally, criminal penalties are also applicable in cases omitting the payment of taxes, unlawfully benefiting from tax incentives and false declarations of deductions or income for taxable purpose, among other things. Under a certain interpretation, the criminal action of tax fraud only arises if a taxpayer showed deceit or took advantage of errors, and payment of taxes is not fulfilled as established in Article 108 of the Federal Tax Code.

Recently, the Supreme Court of Justice resolved that certain tax-related crimes should not be considered a national security risk that warrants preventive detention.

V TAX CLAIMS

i Recovering overpaid tax

Since the repeal of the universal offset system in 2019, the only available mechanisms to recover overpaid tax are: (1) the 'compensation' of the same tax, when applicable and provided the taxpayer is the debtor and not a withholding agent; and (2) applying for a refund from the tax authorities.

From a Federal Tax Code perspective, Mexican tax residents and non-residents requesting refunds are treated equally. Generally, a non-resident will appoint a Mexican representative to complete this procedure.

The Federal Tax Code foresees interest payments to taxpayers when the refund is performed, disregarding the statutory time terms. Additionally, if a refund request is denied and the taxpayer wins an appeal or a trial, interest is payable by the tax authorities.

The calculation depends on the nature of the favourable balance, if it involves taxes unlawfully paid, and whether the taxpayer or the authority determined the tax due.

Finally, a current trend in tax refund procedures, derives from the excessive requirements (documentation) in tax refund claims, involving mainly VAT.

ii Challenging administrative decisions

Tax authorities provide free guidance to all taxpayers through a special physical segment, on-site offices and electronic channels. An authority's position described in such guidance cannot be used as an argument during tax disputes, as it is not binding.

Additionally, taxpayers have the right to request an authority to confirm its position on a specific tax item and obtain a ruling containing the authority's interpretation. However, these rulings are not binding and thus cannot be challenged, unless the position is specifically applied in a definitive resolution (e.g., a tax assessment).

iii Claimants and related parties

From a VAT perspective, the acquirer of goods or services may contractually agree with a third party that they bear the consideration and respective VAT. Therefore, Prodecon has recognised that the acquirer has the right to credit this VAT (although borne by a third party) provided it complies with the requirements set forth in Article 5 of the VAT Law.

Additionally, there is no express prohibition to request the tax authorities a refund from any VAT unlawfully charged by a supplier. Accordingly, the tax authorities have the power to collect any underpaid VAT. Certain court precedents have been issued in the past, sustaining this position.[6]

VI COSTS

The Federal Court on Administrative Matters and the tax authorities do not require taxpayers to pay any costs for filing tax disputes. The main costs borne by taxpayers are attorney fees, which vary.

In order to challenge a tax assessment during a trial, taxpayers will have to provide a guarantee through one of the options established in the Federal Tax Code. The cost of some of these guarantees (e.g., surety bonds) varies from approximately 2 per cent to 5 per cent of the secured amount.

As of a 2021 reform, it is unclear whether an enterprise – and its proceeds – can be the subject of a guarantee. We believe this is viable under the Federal Tax Code.

VII ALTERNATIVE DISPUTE RESOLUTION

i Prodecon

As stated above, taxpayers can file a settlement agreement before Prodecon, in a term of 20-business days after the notification of the findings by the tax authority following a tax audit and before the determination of a formal tax assessment. The filing suspends certain statutory time terms, including the 20-day term to rebut the observations or findings in a desk review.[7]

Although the filing of a second settlement agreement derived from the same audit was possible in the past, in certain cases, since a modification was made to the applicable regulation from 2020 onwards, settlement agreements can only be requested once per audit

6 See court precedent VII-TASR-NOIII-14, which derives from a ruling issued upon solving docket number 3786/11-03-01-2.

7 See internal Prodecon criterion 5/2015/CTN/CS-SG approved in ordinary session on 24 April 2015.

and will have a maximum duration of one year. Even though the suspension of the 20-day term to rebut is waived after the conclusion of the first conclusive agreement procedure, the time term to file the second conclusive agreement should not be suspended.

The procedure for this type of ADR is flexible, and throughout it taxpayers may submit additional evidence. Prodecon acts as a mediator, with the main purpose of facilitating an agreement between the taxpayer and the tax authorities.

Although the tax authorities are free to accept or reject the taxpayer's agreement proposal, they have the legal obligation to participate in the procedure. Because of this, working or technical sessions can be carried out during the procedure to resolve specific matters where consensus is not reached initially.

Once an agreement is reached, it becomes binding and unchallengeable for both parties. However, the agreements that are made do not constitute a precedent.

Where the taxpayer reaches a partial agreement, the tax authority will have the power to issue a formal tax assessment pertaining to what was not agreed upon. However, taxpayers may file a nullity claim before the Federal Court of Administrative Justice, to challenge the assessment. This procedure represents a benefit for taxpayers that are signing their first conclusive agreement, since a 100 per cent fine reduction is applicable.

To this regard, it is important to point out that taxpayers who sign a conclusive agreement but opt to pay the corresponding fines or obtain a reduction in terms of the Federal Tax Code (see Section IV) should also be allowed to receive the 100 per cent fine reduction in a subsequent settlement agreement.

ii Mutual agreement procedures

The mutual agreement procedure (MAP) is another form of ADR provided in double taxation treaties. This procedure exclusively concerns cases of double taxation, in which the competent authorities involved try to provide remedies or a solution, when a case is upheld.

This form of ADR is not used frequently in Mexico, compared to other countries. For example, for the year 2021, only 25 cases were initiated,[8] whereas other countries, such as the United States, initiated 254 cases.

Part of the 2022 reforms requires a taxpayer requesting a MAP to provide a guarantee, if they have not previously filed an administrative appeal.

VIII ANTI-AVOIDANCE

i Base erosion and profit shifting

In 2020, Mexico adopted several base erosion and profit shifting (BEPS) provisions, such as the anti abuse provision that limits (1) excessive interest deductions (30 per cent of the taxpayer's adjusted taxable profit); and (2) payments made to preferential tax regimes, as a general rule.[9]

8 https://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics-2021-per-jurisdiction-other.htm.

9 The deduction limitation is also applicable to structured agreements, where the recipient's income is subject to a preferential tax regime. It also applies to 'triangular cases' under certain conditions.

Recently, the Supreme Court of Justice upheld the constitutionality of both provisions. In essence, the Court, under the analysis of the 'reasonability test', stated that the provision aims only to impose certain requirements – not a full denial – on the deduction of payments made to preferential tax regimes, disregarding the fact that this provision, as expressed in the law initiative, is based on the OECD's BEPS Action 2, which targets only hybrid mismatches.[10]

On the other hand, to sustain the constitutionality of the interest expense deductions, the Court acknowledged that abuse of excessive financing, has eroded the Mexican tax base and originated profit shifting, which the 2020 provision aims to limit.[11] However, in our view, the abuse cases should not affect interest deduction, based on limited and isolated cases, especially when interest payment to Mexican non-related parties should not give rise to tax elusion or erosion.

ii Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS

As part of OECD BEPS Action 15, Mexico signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) as a tool for mitigating tax treaty abuse by implementing treaty-related measures in a synchronised and efficient manner. The Mexican Senate approved the content of the MLI and a Decree, with its approval, which was published on 22 November 2022.

Once Mexico deposits the ratification, the instrument will enter into force on the first day of the month following a period of three full calendar months after the deposit. However, the instrument's entry into effect will vary depending on the MLI's subject.

The majority of the tax treaties that Mexico has in force and effect are considered covered tax agreements under the MLI. The current content of those treaties will be reformed and complemented by the instrument's provisions that concern general anti-abuse rules, permanent establishments and treaty abuse, in conjunction with a principal purpose test and arbitration, among other things.

Any modification to a treaty that Mexico has in force and effect is subject to the other country's approval of the MLI and the designation of their treaty with Mexico as part of the treaties that will be modified as consequence of the MLI.

Specifically, during Mexico's approval process of the MLI, Mexico reserves the right not to apply certain sections of Article 7 of the MLI to covered tax agreements that already contain 'principal purpose test' (PPT) provisions. In addition, Mexico reserves the right not to apply the MLI simplified limitation of benefits when the tax treaty contains provisions that already limits benefits under those agreements, under the terms as described in Section 14 of Article 7 of this instrument.

10 Double non-taxation or double deduction scenarios, as recognised by the Court. See court precedent A.R. 483/2021 ruled by the First Chamber of the Supreme Court of Justice, page 50. The date has been omitted on the public version of the ruling.

11 See court precedent 1a. XXXII/2022 (11a.) published on 18 November 2022.

IX DOUBLE TAXATION TREATIES

A double taxation treaty case was recently ruled upon by the Second Section of the Higher Chamber of the Federal Tax on Administrative Matters.[12]

The case derives from payments made by a Mexican tax resident to its German related counterpart in consideration for technical services. The Mexican entity applied a 10 per cent WHT upon payment of 'royalties', pursuant to the Mexico–Germany treaty.

Afterwards, the company requested a refund of the tax withheld arguing no WHT was applicable, on the basis of considering such payments as business profits. The Mexican tax authorities denied the claim on the basis that the German counterpart deducted the tax withheld from its corporate tax basis, and thus, the refund of the WHT would give rise to an undue 'double' benefit.

Upon challenging this decision, under the Court's view, the deduction by the German counterpart 'forbids' the Mexican entity in requesting the refund of the tax withheld, since it would result in double non-taxation, which in its opinion conflicts with one of the treaty's purposes. The Court dismissed the argument raised by the Mexican entity, stating that if the refund was authorised, the German counterpart was bound to increase its tax basis, considering that the basis of the refund request cannot legally depend on 'future and conditional' acts.

We consider the Court's ruling raises concerns since it disregards the local requirements for tax refunds and uses an alleged treaty purpose to dismiss the refund claim. The claim was to be mainly resolved by determining if the requirements of the local provision (Article 22 of the Federal Tax Code) were met and not an alleged purpose of a tax treaty. Furthermore, it is not clear that the deduction of the tax withheld, to reduce tax basis and the refund of the tax withheld would give rise to double non-taxation. Even if this assumption is made, double non-taxation clearly should not be tantamount to tax evasion (in the best case, it would be tax elusion – another purpose – which is not argued by the Court), nor is itself a treaty purpose under the OECD commentaries.[13]

Finally, under the incorrect assumption the refund would give rise to tax evasion, which has no legal basis in the case analysed, this could be construed as breaching the 'good faith' principle of taxpayers.[14]

X AREAS OF FOCUS

i Tax authorities' 'invitations'

During recent years, it has become common practice for tax authorities to issue non-official invitations requiring taxpayers to exhibit documentation or explanations regarding specific tax obligations.

12 See court ruling dated 17 February, 2022, related to docket number 28097/19-17-11-1/1485/21-S2-07-02 of the referred chamber. The extract of the ruling was published by the Official Gazette or Magazine of the Federal Tax on Administrative Matters on April 2022.

13 See OECD Commentary 54, to Article 1 of the 2017 Model Tax Convention on Income and on Capital, published on April 25, 2019, under the section 'Improper use of the Convention'. Pg. C(1)-25.

14 This is set forth in Article 21 of the Federal Law on Taxpayer's Rights.

Although these invitations are not challengeable, the consequences of not replying or clarifying the taxpayer's situation can result in a restriction of the digital certificate to issue invoices.

As a result of the above, according to information published by the Tax Administration, these non-official invitations have resulted in an increase in 'efficient' collection of 62.4 per cent during the first six months of 2022 compared to the same period for 2021.

ii Merger notices

To avoid considering a merger a taxable disposition, taxpayers must comply with several requirements. One of the requirement includes filing a notice of cancellation of Tax ID of the merged entity.

The cancellation must be filed by the merging entity during the month following the merger, in compliance with the conditions of the form 86/CFF. Recently, the authorities implemented a pre-validation process regulated under form 316/CFF, which has even been subject to amendments.

In practice, we have identified a number of practical complications upon the implementation of this pre-validation process, which include the denial due to alleged non-compliance of requirements under form 316/CFF, mainly due to a misinterpretation of the requirements. We have also seen certain problems arising when the surviving entity is a foreign resident, and does not have a Mexican Tax ID.

We have seen that some cases are not even solved, even with the intervention of the PRODECON, and some taxpayers have even resorted to challenging before the Federal Tax Court.

Not fully complying with the requirement of filing the notice, as previously mentioned, could result in originating a taxable merger; we consider that maintaining close communication with the tax authorities and proper documentation could be helpful in complying with this obligation and avoiding this contingency.

XI OUTLOOK AND CONCLUSIONS

We foresee an active tax administration in the following years, especially for corporate and 'large' taxpayers, which is aligned with the 2022 Master Plan elaborated by the agency specialising in auditing these taxpayers.[15]

A trend we have identified for this and the following year, consists in actively auditing corporate and 'large' taxpayers, such as the financial sector.

As stated, another trend we have identified is the recurring 'issues' and excessive requirements (documentation) in tax refund claims, mainly involving VAT. This is aggravated by the recent Court decision (Plenary Chamber of the 16th Federal Circuit) that essentially, concludes that when VAT is paid under an offsetting or compensation mechanism with the supplier, cannot be credited since it was not effectively paid.

15 Recently the head of the Tax Administration Service was substituted.

We believe this derives in an incorrect interpretation of the tax provisions and fails to take into account that the tax administration's internal criteria allow for VAT to be paid in 'kind', while not losing the right to credit.[16] Article 5 of the VAT Law, which sets forth the requirements for crediting VAT, does not expressly foresee this possibility.

Additionally, we still see the tax administrations actively pursuing tax collection through non-auditing methods. As stated, from a comparison of this and the last year, an increase of 'efficient' collection of 62.4 per cent has been achieved by the authorities, through non-official invitations.

A consequence of having differences among the tax declarations and the information stated in the tax administration's database (from invoices and other documents), can be a restriction of the digital certificate to issue invoices. This is relevant considering recent amendments that have resulted in different consequences for taxpayers upon trying to circumvent the restriction of such a certificate.

These undesired consequences shall be triggered when related companies issue invoices using the infrastructure, assets or personnel of the taxpayer that has a restricted certificate.[17] Additional consequences may be applicable when a shareholder (with effective control) has a restricted certificate or participates in a company with this restriction.

16 See SAT's Internal Criterion 1/IVA/N.

17 See Article 17-D, sixth paragraph and 69-B, last paragraph of the Federal Tax Code.

Appendix 1

ABOUT THE AUTHORS

DENISE LESTER

Galicia Abogados

Denise has over 20 years of experience specialising in tax litigation, honing her skills as an expert in complex proceedings before the tax authorities and Mexico's Tax Ombudsman Agency (Prodecon). In her practice she has been able to reverse criteria that had already shaped jurisprudence. She has analysed issues ranging from procedures carried out by the tax authorities, such as the temporary restriction of digital seals, to the filing of means of defence through which precedents have been established that have served as guidelines for the resolution of new cases, as well as for the interpretation and application of tax provisions and international treaties.

ALEJANDRO MADERO

Galicia Abogados

Alejandro has more than 14 years of experience, and specialises in strategic advisory on tax audits and procedures before the tax authorities, as well as in alternative dispute resolution procedures in tax matters before Mexico's Tax Ombudsman Agency (Prodecon). He also specialises in tax controversy procedures regarding federal and local taxes as well as cases involving tax treaty application.

He is a part-time professor of the Monterrey Institute of Technology and Higher Education's bachelor programme, instructing in tax matters. He is co-author of the 2021 book *El juicio de amparo en materia fiscal* from a recognised publishing house.

NAYELY GEORGE

Galicia Abogados

Nayely George joined Galicia's tax team in 2018 and specialises in tax litigation. She has a bachelor's degree in law from the National Autonomous University of Mexico and a master's degree in tax law from the Panamerican University.

EMILIANO FERNÁNDEZ

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Emiliano Fernández joined Galicia in 2019 as a law clerk. He has a bachelor's degree in law from the Panamerican University and is currently studying a post-graduate specialisation course in commercial law.

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