



Tax and Legal Services

Tax Controversy Flash 1/2019

January 8, 2019

Constitutional challenge against the cancellation of the universal offsetting process

On December 28th, 2018, the Decree to issue the Federal Revenues Law for 2019 was published in the Federal Official Gazette. In said law, Section VI of Article 25 eliminated the possibility of offsetting taxes of a different nature, by stating that, in lieu of Article 23 of the Federal Fiscal Code, taxpayers who are obligated to file tax returns may only offset favorable balances against due taxes when the former and the latter share the same nature.

In addition, this provision states that, regarding value added tax, when a favorable balance is

derived in the applicable tax return, said balance will only be liable to be offset against value added tax due in the following months, thus effectively eliminating the possibility of offsetting this favorable balance against other federal taxes.

We believe this provision (Article 25, Section VI of the Federal Revenues Law for 2019) to be in breach of a taxpayer's constitutional rights as provided for by the Mexican Constitution. This creates the opportunity to challenge said provision via an Amparo (Constitutional Challenge), in order to reinstate the right to offset

any federal tax favorable balance against any federal tax due (universal offsetting process).

The Constitutional Challenge must be submitted before a District Judge by February 14th, at the latest.

We will be happy to elaborate on the matter should this be of interest to you, as our Firms is prepared to Support you in any such effort you might deem useful. You may, at your earliest convenience contact any of our professional at the contacts included herein.

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3

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