

Tax Alert 15/2014

Accounting records in electronic media and its monthly submission to the tax authorities via the Tax Mailbox

On July 4, 2014, the Second Amendments to Miscellaneous Tax Resolution for 2014 and its Annexes 1, 1-A, 2, 3, 6, 11, 14, 15, 18, 22, 23 and 24, were published in the Official Gazette. Due to their importance, among other rules, it is worth mentioning the rules on electronic accounting and monthly delivery through the Tax Mailbox.

Accounting records in electronic media

Taxpayers obligated to keep accounting records, except those who register their operations in the electronic tool "Mis Cuentas", shall keep the records in an electronic systems with the ability to generate XML files that contain the following (small taxpayer who cannot afford their own software may use the authorities bookkeeping tools in "Mis Cuentas" – in other words they may keep their accounting records on line with the authorities platform):

- I. Chart of accounts used in the period; this chart will be added a field with the grouping code of SAT's accounts contained in Annex 24, paragraphs A and B.
- II. Trial Balance including beginning balances, movements of the period and ending balances of all and each of the accounts of assets, liabilities, capital, P/L (revenues, costs,

expenses) and memorandum accounts; in the case of the balance of the year end, it shall include the information on adjustments that are recorded for tax purposes. All taxes should be identified, by rates, fees and activities not levied for tax purposes; as well as transferred tax actually collected and creditable taxes actually paid in accordance with Annex 24, paragraph C.

- III. Information of the journal entries, including transaction detail, account, subaccount and item, as well as its auxiliary reports.

In each journal entry, it must be possible to distinguish the CFDI supporting the various transactions; it should also be possible to identify the different tax rates and activities not levied for tax purposes. In operations with related third parties, the tax ID number (RFC) shall be included in accordance with Annex 24, paragraph D.

Financial Institutions subject to the supervision and regulation of the Treasury Department (SHCP), obliged to comply with the general regulations issued by the CNBV, CONSAR or the CNSF, instead of using the grouping code of the SAT code provisions of Section I of this regulation, they shall use the

chart of accounts provided for in the general provisions.

Compliance with the monthly provision of accounting records in electronic media

Taxpayers obligated to keep accounting records, except those who register their operations in the electronic tool "Mis cuentas" should share through the Tax Mailbox in accordance to the following periods:

- I. The chart of accounts as specified in the applicable rule. Provided once in the first delivery and subsequently each time the chart is modified.
- II. Monthly, in the month immediately after the corresponding data, relative files to the trial balance, as follows:
 - Legal entities, by the 25th of the following month.
 - Individuals, by the 27th of the following month.
- III. The file corresponding to the year-end information in which the adjustments are included for tax purposes:
 - Legal entities, not later than April 20 of the year immediately following.
 - Individuals, not later than May 22 of the year immediately following.

If the files contain IT errors, a notice through the Tax mailbox will be sent by the authority, so that within 3 working days from effective date of the notification of such notice, the taxpayer must correct this situation and send the corrected files. Failure to submit the corrected files within that period shall be considered as not filed.

In the case the taxpayer subsequently modifies the files already sent, a replacement must be made, through the delivery of the new files, which should be done within 3 business days of when modification of information takes place by the taxpayer. Taxpayers who are in areas where they cannot access the Internet service or, in the case that the file size does not allow sending it, taxpayers must deliver the information to the Tax Office (ALSC) of their territorial jurisdiction through electronic media such as CD, DVD or flash drives within the deadlines specified above.

Compliance with the provision of accounting records requested by authorities

It is established that when authorities request information of the taxpayer's journal entries when in the process of an audit, or when required in the event the taxpayer applied for a tax refund or a tax offsetting, the taxpayer is obligated to submit to the tax authority the corresponding electronic file with information of journal entries and CFDI that support the operation and the acknowledgments of receipt corresponding to the information already provided corresponding to the chart of accounts and the trial balance for the same period. Whenever balances in favor for prior periods are offset, the supporting documentation corresponding to the period in which the favorable balance arose shall be delivered if it corresponds to the month of July 2014 and subsequent months.

If the taxpayer does not have the acknowledgment or acknowledgments of information delivery of the chart of accounts and the trial balance, the taxpayer must deliver it through the Tax Mailbox.

Start of the obligation to provide the accounting records through Tax Mailbox and its provision at the request of the authority

These obligations will be applicable to the legal entities from the month of July 2014; notwithstanding the foregoing, information of the trial balance concerning the months from July to December 2014, should be uploaded as follows:

- July, in October 2014.
- August, in November 2014.
- September and October, in December 2014.
- November and December, in January 2015.

The information corresponding to the chart of accounts must be provided to the authority in October 2014.

In the event that the authority requests accounting information of journal entries relevant to any of the months from July to December 2014, regarding the application or processing of tax refunds or tax offset, the date for delivery of the information will be in accordance to the above mentioned calendar.

Furthermore, any request of journal entries will be enforced as from 2015. Nonetheless, the information concerning the trial balances for the months of 2015 shall be uploaded in accordance with the monthly deadlines.

Unconstitutionality of the monthly provision to SAT of the electronic accounting records through the Tax Mailbox

From a legal point of view, the obligation to make available to the authorities the accounting records in electronic media has far-reaching implications, both the private nature of the information to be provided to the tax authority and the surrendering of information not following the parameters established by the Constitution, as well as the administrative burden implied, which

should be properly regulated from the law itself.

These issues could be subject to constitutional scrutiny through an Injunction (Amparo) trial, so that the Judicial Power of the Federation, decide whether or not the procedures departs from the fundamental rights under the Constitution.

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