



## **Tax and Legal Services**

Tax Alert 23/2019

July 11th, 2019

# Tax Court decided the deductibility for income tax purposes of commercialization costs and advertising and publicity expenses incurred in connection with a trade marks' license agreement

In a recent decision, the Mexican Higher Tax Court analyzed the deduction for income tax purposes of commercialization costs and advertising and publicity expenses incurred in connection with a trade marks' license agreement.

In effect, in a tax case where the Mexican Tax Administration Services (SAT) rejected the deduction for income tax purposes of costs and expenses of commercialization, advertising and publicity incurred by taxpayer as a consequence

of a non exclusive trade marks' license agreement, the Second Section of the Mexican Higher Tax Court decided that the deduction of commercialization cost are deductible for income tax purposes, reversing the position of the SAT in connection with the deductibility of those costs.

The Higher Court decided that the commercialization costs are deductible because these expenses are incurred by a company in order to promote, offer and distribute its products to the consumers. In addition,

the Higher Court sustained this deduction irrespective of the fact that the company was not the owner of the trade mark of its products.

Conversely, the Mexican Higher Tax Court upheld the position of the Mexican Tax Authorities of rejecting the deduction of the expenses for advertising and publicity on the grounds that the company was not the owner of the trade marks of its products.

The Higher Court found that those expenses

are incurred in order to increase the value of the trade marks of the products and not the products itself, and that the beneficiary of those expenses is the owner of the corresponding trade mark.

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