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# Tax Implications of Recent SAT Invitations on Subcontracting and REPSE

Recently, the Tax Administration Service (**"SAT"**) has implemented a mass communication strategy through the sending by email of invitation letters or communications related to alleged transactions carried out by taxpayers with specialized service providers whose Specialized Services or Specialized Works Provider Registry (**"REPSE"**) has been canceled.

These SAT invitation letters or communications aim to promote voluntary self-correction by taxpayers pursuant to Articles 33, section IV, subsections b) and c), and 63 of the Federal Tax Code (**"FTC"**), emphasizing that only specialized service providers with active registration in REPSE may issue Digital Tax Receipts via Internet (**"CFDI"**) that are tax-deductible for Income Tax (**"IT"**) purposes and creditable for Value Added Tax (**"VAT"**) purposes.

## I. Legal nature of SAT invitation letters

In accordance with criteria issued by the Federal Judicial Branch (jurisprudences 2a./J. 62/2013 and PC.III.A. J/59 A (10a.)), these invitation letters constitute only declarative and non-final acts; that is, they do not create immediate obligations, do not directly affect the taxpayer's legal sphere and, therefore, are not challengeable through administrative litigation, given that they do not determine any payable amounts, do not establish specific rights or penalties, nor constitute final or definitive resolutions issued by the tax authority.

It is important to point out that pursuant to Article 42 of the Federal Tax Code, tax authorities are empowered to verify proper compliance with taxpayers' fiscal obligations through the exercise of their auditing powers, such as desk reviews, on-site inspections, or electronic audits.

Therefore, it should be considered that only through the formal exercise of auditing powers, respecting the principle of legality, through a duly substantiated, reasoned, and notified written act issued by a competent authority, may the tax authority require the necessary information to verify that taxpayers, jointly liable persons, or third parties related to them have complied with tax and customs provisions and, if applicable, determine omitted contributions or tax assessments, as well as verify the commission of tax offenses and provide information to other tax authorities.

However, it should be considered that formal audits conducted by SAT usually involve high costs for the federal government, derived primarily from the time, human resources, and materials invested in each individual audit. In this sense, preventive actions such as invitation letters are especially attractive to SAT, as they imply significantly lower costs compared to traditional auditing procedures such as on-site inspections or desk reviews.

Likewise, this strategy allows SAT to focus its human and technical resources on specific cases where tax inconsistencies are significant, thus reducing the operational burden arising from unnecessary audits and optimizing the allocation of institutional resources.

## II. Tax obligations regarding subcontracting of specialized services

According to Article 15-D of the FTC, it is essential that payments for subcontracting specialized services are not part of the corporate purpose or main economic activity of the beneficiary of said services in order to have tax effects in terms of deduction or credit.

In this regard, Article 27, section V, of the IT Law establishes that payments for the provision of specialized services may be deductible provided the contracting party verifies that the contractor is registered in REPSE at the time of payment, obtains copies of CFDI for salaries, holds bank receipts of withheld taxes, and ensures compliance with the payment of social security contributions to IMSS and INFONAVIT.

On its part, according to Article 5, section II, of the VAT Law, such specialized services may be creditable provided that the contracting party verifies that the contractor has its REPSE registration, and obtains a copy of the corresponding VAT return and payment.

## III. Practical analysis of SAT strategy (use of technology and digital information)

This SAT action is part of its current preventive auditing strategy, based on intensive use of technology, artificial intelligence, and systemic analysis of large volumes of information (*big data*).

That is, regardless of the taxpayer response to the invitation letter, the tax authority has permanent and direct access to detailed information, such as issued and received invoices (CFDI), tax returns, payments made, and information provided by related third parties (banks, clients, suppliers), integrated into the so-called Single Tax File (**"EFU"**).

Thus, SAT can easily perform automatic data cross-checking to identify suppliers with canceled REPSE registrations and eventually proceed to conduct detailed monitoring, audits, electronic reviews, or presumptive determinations of tax assessments pursuant to article 55 of the FTC.

## IV. Specific tax implications derived from transactions with suppliers whose REPSE registration has been canceled

In accordance with articles 15 of the Federal Labor Law; 27, section V, of the IT Law; and 5, section II, of the VAT Law, for IT deduction and VAT crediting purposes, it is an essential requirement that the specialized service provider has a current REPSE registration at the time of the corresponding payment. Failure to comply with this requirement results in the inadmissibility of expense deduction, as well as the impossibility to credit transferred VAT.
In this regard, it is relevant to point out that persons registered in REPSE are currently facing various difficulties when renewing their registration (which has a validity of 3 years), causing multiple providers to lose the validity of their registration.

Consequently, if transactions with suppliers whose REPSE registration has been canceled are confirmed, the taxpayer should evaluate the convenience and feasibility of filing supplementary returns to self-correct their tax situation, as otherwise they could face formal audits, penalties for omissions or differences in tax payments, inflation adjustments, surcharges, as well as the possible temporary restriction of the Digital Seal Certificate for issuing CFDI as provided by article 17-H Bis of the FTC.

## V. Specific recommendations

Although there is no obligation to respond in writing to SAT invitation letters or communications, in our opinion this strategy could indicate that the tax authority is paying attention to this type of transactions. Therefore, in order to implement preventive measures timely anticipating the exercise of auditing powers, we would recommend:

1. Conducting a detailed review of the REPSE registration of your suppliers to verify their validity and requesting renewal of such registration where applicable.

2. If inconsistencies are detected (suppliers with canceled REPSE registration), it is advisable to evaluate the convenience of filing supplementary returns, taking advantage of the voluntary self-correction benefit provided under article 73 of the FTC, thereby avoiding more costly and complex formal procedures.

3. If no inconsistencies or transactions with REPSE-canceled providers are identified, there is no legal obligation to respond or file any clarification. Given that invitation letters lack immediate legal effects according to jurisprudence from the Supreme Court, filing a clarification before SAT in these cases is optional and discretionary.

## VI. Conclusion and final recommendations

We recommend taking these invitations or communications with due seriousness and leveraging this preventive opportunity to review your company fiscal situation and regularize possible infringements, thereby avoiding more severe fiscal and administrative consequences.

For further information on how to address this type of SAT invitations or communications, as well as self-correcting your company tax situation, please find below the contact details of our experts:

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