



TOULET, GOTTFRIED, DÁVILA Y MARTÍNEZ, S. C.

eNEWS

Enero 2008

Municipal Lighting Tax

To our Clients and Friends:

Please be advised that on December 26, 2007, the Official Gazette of the State of Chihuahua, published the Annual Budget Law for Ciudad Juárez, Chihuahua, which came into force on January 1st, 2008.

Pursuant to this law and the State Municipal Code, the municipalities of Juárez and Chihuahua are being unduly empowered to continue to levy entities and individuals the Municipal Lighting Tax for the fiscal year of 2008, which it is a contribution collected by the Federal Electricity Commission on behalf of the referred municipalities. This tax consists on an additional charge of 5% on the total of the monthly electricity bill.

This tax has been declared unconstitutional by the Mexican Supreme Court, since it considered that it violates article 73, paragraph XXIX-A, subparagraph 5 of the Political Constitution of the United Mexican States, which establishes that only the Federal Congress have the powers to enact laws that establish taxes on electric power. This means that said municipalities, do not have legislative powers to levy contributions on this specific matter, and therefore they do not have jurisdiction to charge taxes on electricity bills.

According to the after mentioned, electricity consumers could claim the right to obtain the reimbursement of the amounts paid under an unconstitutional law, through filling a constitutional remedy (Juicio de Amparo) before the Federal District Courts. The purpose of the Amparo in this case is to preserve the rights and freedoms granted by the Federal Constitution.

The legal term to file the Amparo, is 15 working days after the payment of the electricity bill corresponding to January, 2008. Please be advised that the relief applies only to the petitioner and the decision serves only as a reference for subsequent cases (and does not have the same force and effect as precedent does under US law).

Also, it is worth to mention that if your company obtained a favorable relief against this tax in fiscal year 2007, it would be necessary to file a new Amparo, since the Budget Law expires each fiscal year.

To file the suit of Amparo, the following documents are required:

1. Power of attorney for lawsuits and collections of the legal representative.
2. Original or certified copies of the electricity bill of January, 2008, and the corresponding receipt.

In case you require additional information, please feel free to contact us at:
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Kind Regards,

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