

Why do you need to Project yourself against IETU?

Dear clients and friends:

The reason for this message is to inform you that within the services we provide in this law suit, at this moment we were offering the attendance to interpose the constitutional remedy (Juicio de Amparo) against diverse dispositions of the Business Flat Tax Law (IETU) and of the Decree by which diverse fiscal benefits in matter of the Business Flat Tax are granted, which already took effect, and that in most of the cases it causes a serious economic damage to the contributors of this tax.

The Amparo is based on diverse aspects that to our consideration are clearly a violation to the Mexican Constitution. Some of these aspects are:

1. The limitation to deduct of the IETU, the 100% of the investments acquired by the contributors from January 1st of 1998 and until December 31 of 2007.
2. The forgetfulness of the legislators to establish in the law the treatment that it will have to give to the inventories of raw materials, half-finished products, finished products or merchandise that the contributors have for December 31st 2007, as well as to the losses generated in investments. It is possible to mention that independently that this is tried to be corrected through the Decree of benefits, according to the Constitution and jurisprudence criteria of the Supreme Court of Justice of the Nation, the regulations or decrees cannot go beyond how it's established in the Law, and therefore such forgetfulness cannot be remedied through the Decree of benefits.
3. The limitation to deduct the inventories that are had for December 31st of 2007, since only 6% of their value according to the rules established in the Decree of benefits will be credited.
4. The omission to recognize the deductibility of the fiscal losses generated in previous fiscal years and that do not come from the deduction of investments.
5. The deduction of payments and wages is limited, since they will not be deductible of the tax, the wages exempt for Income Tax purposes.
6. The granted benefits to companies that operate under the IMMEX Decree, (Decree for Fomentation of the Manufacturing Industry, Assembly plant and of Export Services); will be in force until 2011.

However, all these violations can be challenged through the interposition of the Amparo.

TERM TO INTERPOSE CONSTITUTIONAL ACTION:

1. 15 working days later to the date that the monthly provisional payment has been made corresponding to the month of January of 2008, which has to be paid at February 18th of 2008 at the most. If your company makes the payment the 18th of February, the term to interpose the Constitutional Action overcomes March 10th of 2008.
2. 30 working days later to the date when the IETU Law takes effect, which overcomes February 13 of 2008.

DOCUMENTS NECESSARY TO INTERPOSE CONSTITUTIONAL ACTION:

1. Certified copy of the power of attorney of the legal representative. In case of being foreign, the document that credits its legal residence in Mexico;
2. Documentation that credits that the company counts with assets;
3. Certified copy of Tax I.D.
4. Original copy of the Flat Tax return corresponding to the month of January, 2008.
5. An expert opinion will be necessary for those cases in which you must demonstrate that the company is amortizing the deduction of assets, to credit the losses, or to determine that they count with inventories, etc.
6. Different documentation might be needed according to each case, in which case we will let you know as soon as possible.

In case of being interested in the constitutional remedy (Juicio de Amparo) judgment, please feel free to contact us.

Best Regards.

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

Horacio Heredia

hheredia@tgdm.com

Cd. Juárez, Chih.
Blvd. Tomás Fernández 7930
Suite 209, Oficinas Campestre.
Edificio "B", Cd. Juárez, Chih.
C.P. 32460, México
Tel. (656) 629-2779
Fax. (656) 629-2780

Chihuahua, Chih.
Calle California 5101
Despacho 307, Edificio Vértice.
Fracc. Las Haciendas
C.P. 31250
Tel. (614) 430-1707
Fax. (614) 430-1706

México, D.F.
Séneca 134, 4to piso.
Polanco 11540
Tel. (015) 552-04200

www.tgdm.com.mx