



**Toulet, Gottfried, Dávila y Martínez, S.C.**

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## **PROPERTY TAX 2012**

Dear clients and friends:

Please be advised that the tariff used by local authorities to estimate the fair market value of real estate property (hereinafter the "Tariff"), for purposes of the computation of the property tax for 2012, violates Mexican Constitution.

The Tariff that recently was approved by the Congress of the State of Chihuahua contains unclear and undefined parameters to tax realty since it does not describe the techniques that may be used to determine a uniform value of real estate property. For example: buildings occupied by maquiladora companies are classified into three main categories: 1) good-good, 2) good-regular and 3) good-bad; however the criteria applied to classify realty into any of such classifications is not provided nor described.

The principle of tax legality referred to in the Mexican Constitution states that all of the basic elements of tax payment should be established with sufficient precision in order to (i) prevent arbitrary behavior by authorities that are involved in their collection and, (ii) provide certainty regarding the basis upon which individuals and legal entities are taxed. Therefore, it is not possible to conclude that the Tariff complies with this principle, since the determination of real property value is left to the discretion of the municipal authorities.

This criteria was applied by the Federal Courts to solve several lawsuits filed by companies in 2011 against the Property Tax, which in many cases resulted in the reimbursement of the property tax unduly paid.

Taking into consideration that these inconsistencies prevail in the Tariff applicable in 2012, your company could obtain a favorable resolution if the Tariff is challenged through the filing of an Amparo (constitutional remedy). The legal term to contest the Tariff expires 15 working days after the payment of the property tax corresponding to the month of January of 2012.

If we can assist you on initiating this process, please do not hesitate to contact us.

**Respectfully,**

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