

Injunction granted in the amparo proceeding in relation to the powers of the Federal Executive contemplated by article 39 of the Federal Tax Code

By ruling issued on April 3, 2020, in the indirect amparo proceeding number 293/2020 processed before the Third District Court in the State of San Luis Potosi, it was determined to grant an injunction to a taxpayer.

Such injunction was granted to the effect that the President of the Republic will issue the measures and actions for complying with article 39, section I of the Federal Tax Code by pronouncing (through general resolutions) on condoning or exempting, totally or partially, the payment of taxes and ancillary charges, authorizing their payment in installments or deferment, due to the current situation of the country caused by COVID-19.

The foregoing considering that such an article establishes that the Federal Executive has the authority to issue such measures when the situation of a place or region of the country, a branch of activity, the production or sale of products, or the carrying out of an activity has been impacted or it is wished to prevent such an impact, as well as in cases of catastrophes suffered due to weather phenomena, plagues or epidemics.

The injunction granted does not imply that the Federal Executive is obliged to issue the requested measures. Furthermore, the granting of such an injunction does not mean that the amparo proceeding filed by the taxpayer will be resolved favorably, and in fact the ruling is subject to be challenged.

On the other hand, on April 7, 2020, the Ministry of Finance and Public Credit, through the Tax Attorney General, issued the official announcement number 035 clarifying that the referred injunction was not granted in order to condone taxes.

Such an authority also argued that the injunction granted was illegal upon considering that it did not fall under any of the hypothesis established in the Amparo Law to grant an injunction. Additionally, it clarified that it refers to discretionary powers of the President.

Therefore, in such an announcement it was stated that the Tax Attorney General will challenge the injunction granted by the Third District Court in the State of San Luis Potosi, warning that it will remain attentive to the due compliance of tax obligations and will proceed according to law in case of non-compliance.

The comments contained in this document do not constitute an opinion or legal advice and the amparo proceeding referred to herein was not litigated by our Firm.

For further information, please contact our experts who may provide their opinion and more specifics on the matter:

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