

Normative criterion on the withholding of 6% of the Value Added Tax in the case of certain services

Today Annex 7 of the First Resolution of Modifications to the Omnibus Tax Bill for 2020 (“**Annex 7**”) was published in the Official Federal Gazette (“**DOF**”), which contains the normative criterion 46/IVA/N called “Withholding of 6% of the Value Added Tax referred to in section IV of article 1o-A of the Value Added Tax Law”.

As a result of the publication of the “Decree amending certain provisions of the Income Tax Law, the Value Added Tax Law, the Special Tax on Production and Services Law and the Federal Tax Code” in the DOF, in force in general as of January 1, 2020, a section IV was added to article 1-A of the Value Added Tax Law (“**VAT**”), to establish the obligation to withhold 6% of the value of the consideration actually paid in the case of certain services.

However, given the uncertainty that the addition of this section to article 1-A has generated, by indicating that the withholding applies to the services through which personnel are made available to the contracting party, the normative criterion 46/IVA/N was issued and published to clarify the cases where the withholding should be made.

In this regard, according to this criterion, when an entity from the Title II or Title III of the Income Tax Law or an individual with business activity, as a contracting party, receives services through which personnel are made available to it, there will be withholding if the functions of such personnel are used directly by the contracting party or by a related party thereof. Otherwise, there will not be withholding if the services provided correspond to a service in which the personnel of the contracted party perform functions that are used directly by the contracted party itself.

It is important to mention that the normative criterion 46/IVA/N was released in an advanced version of Annex 7 (on January 31, 2020 through the webpage of the Tax Administration Service), the text of which remains intact in the published version of Annex 7 which can be consulted [here](#).

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Mexico City, May 14, 2020.

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