
Advance version of the miscellaneous tax rule relative to the universal offsetting of credit balances generated up to December 31, 2018

Mexico office

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On December 28, 2018, the Federation Income Act (*Ley de Ingresos de la Federación*) for tax year 2019 was published in the Official Federation Gazette (*Diario Oficial de la Federación*, “DOF”), establishing various limits on the offsetting mechanism, removing universal offsetting, i.e., offsetting between different taxes and against withholdings.

Under article 25 section VI of this Act, in tax year 2019, taxpayers can only offset their credits against the tax amounts they must pay by debit and arising from the same tax.

Likewise, in the case of credits regarding the Value-Added Tax (“VAT”), taxpayers can credit them in the following months until exhausting them or request a refund, but they cannot offset them against other federal taxes, as had previously been done.

In line with the above, on January 7, 2019, the advance version of Resolution Six on Amendments to Miscellaneous Fiscal Resolution for 2018 and its Annex 1-A (“MFR”), which is pending publication in the DOF, was published on the Tax Administration Service website.

This MFR includes rule 2.3.19, which establishes that taxpayers that must pay by means of a statement and have credits generated by December 31, 2018 that are declared in compliance with the tax provisions, which were not offset or for which a refund was not requested, can continue to opt to offset them against those amounts to be paid by debit.

To this end, this rule establishes that the traditional requirements set in article 23 of the Federation Fiscal Code (*Código Fiscal de la Federación*, “CFF”) must be met, i.e., that credits arise from federal taxes other than those accrued for the import, are managed by the same authority and have no specific purpose.



In addition, the rule establishes that the offsetting notice established in article 23 paragraph one of the CFF must continue to be submitted, without the benefit of submitting it through the “statement service” established in rule 2.3.13 of MFR 2018.

As a result, each specific case must be reviewed to establish the necessary and convenient measures to be applied, and, if necessary, launch a defense against the provisions of the rule in question.

Contact

Cuatrecasas is available for any clarification, comment, or advice regarding the information in this legal flash.

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