

Tax authority's report on analysis of tax evasion within the mining industry

Mexico City, July 12, 2022

On June 21, the tax authority ("SAT") published press release number 030/2022¹ whereby it gave notice of the results of two research papers elaborated by academic bodies in 2021, regarding tax evasion within the mining and the financial industries.

This note addresses the most relevant aspects of the investigation on evasion within the mining industry², as well as the potential practical consequences that said investigation could generate to the industry.

▪ High-level summary

The University of Coahuila carried out an analysis based on the hypothesis that there are tax-evasive conducts within the mining industry, which consist in the distortion of reported expenses and/or sales costs to disguise investments and generate "a greater number of deductions" for the fiscal year.

The study focused on the subsectors of metallic and non-metallic ores, as well as on the related services sector, excluding the extraction of oil and gas industry.

Within the analyzed categories, for the period of 2016 to 2019, an estimated tax evasion of 19 thousand million pesos was detected, allocating 70% of that estimated evasion in the sectors of silver, lead, zinc and iron extraction industries.

The reason that drives the disguise of investments as expenses, according to the research paper, relies on the fact that taxpayers seek to deduct one hundred percent of the disbursements made

¹ The press release can be further consulted in the following link:
<https://www.gob.mx/sat/prensa/informa-el-sat-los-resultados-de-los-estudios-de-evasion-fiscal-realizados-en-2021-030-2022>

² The study can be further consulted in the following link:
http://omawww.sat.gob.mx/cifras_sat/Documents/Evasi%C3%B3n_sector_de_miner%C3%ADa.pdf

in the fiscal year, instead of redeeming the maximum allowed percentages throughout several year as provided by the Income Tax Law (“ITL”).

▪ **Conclusions and suggestions of the study**

Essentially, the research paper suggests the following measures to inhibit the detected evasion:

- Modifying the ITL provisions that regulate the deduction of investments to set clear which expenses made on mining machinery and equipment are considered investments, as well as to clarify the maximum allowed redeeming percentages.
- Target tax audits on mining companies dedicated to the extraction of silver, lead, zinc and iron, given that they represent the mayor percentage of the estimated evasion.

Based on the foregoing and considering that the SAT has acknowledged both the hypothesis and conclusions of the research paper as valid, we consider it appropriate and necessary to conduct an internal risk-assessment analysis focused on the referred deductions, with the objective of improving and reinforcing the argumentative and evidentiary elements that uphold the application of such, in case of a tax audit.

It is worth mentioning that in words of the SAT, this research paper “contains analysis tools that allow for appropriate detection mechanisms of possible tax-evaders in order to increase collection, reduce evasion and elusion and fight corruption”. Thus, we believe that the central matter of this research will transcend academic purposes and may establish a concrete and imminent course of action from the SAT.b

Galicia’s tax practice will be alert to immediately react to any question or comment regarding this executive brief.

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