

RITCH M U E L L E R

Amendments to Mexico City's Tax Code 2023

On December 14, 2022, Mexico City's Congress approved several amendments to its Tax Code, which were published in the Official Gazette on December 27, 2022, and became effective as of January 1, 2023. Below is a summary of the amendments that we consider companies or individuals may be able to challenge.

Property tax

The amendment establishes that for immovable property that includes special installations (elevators, heating equipment, among others), accessory elements (boilers, emergency plants, among others) or complementary works (walls, cisterns, pumping equipment, among others), the owner must increase the applicable cadastral value of the immovable property by 8%.

Courts have determined that this mechanism is unconstitutional (it infringes the tax proportionality principle), as it fails to recognize the owners' ability to pay taxes by not identifying the specific value of each special installation, accessory element or complementary work.

Therefore, companies or individuals may challenge the amendment through an *amparo* petition, with the objective of obtaining a decision that eliminates the obligation to pay such additional percentage. The petition should be submitted no later than February 10, 2023.

Real estate acquisition tax (ISAI)

Congress adjusted several elements of the ISAI's tariff (lower and upper limit, fixed fee and the surplus' percentage), which structure has been practically the same since fiscal year 2020, in order to recognize inflation.

While this amendment itself is not unconstitutional, it does open the possibility for companies or individuals to challenge the tariff's structure, which Courts have recognized infringes the tax proportionality principle, as it may force taxpayers that are located in lower tax brackets to pay a higher tax.

Therefore, subject to a detailed analysis of each specific case, companies or individuals may challenge the amendment through an *amparo* petition, with the objective of obtaining a decision that eliminates the obligation of having to pay such tax. The petition should be submitted no later than 15 business days following the date in which the tax is paid, which is typically withheld by the notary public once the transaction is duly formalized.

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Should you have any questions or require further information, our team of professionals is available to assist you. We encourage you to reach out to your ordinary Ritch Mueller contacts to seek advice or to reach out to us at contacto@ritch.com.mx or we may direct your query to the appropriate team members.

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