



Policie



Requirements

COMPLIANCE



MIJARES ANGOITIA
CORTES Y FUENTES

25
YEARS

**TAX AND ORGANIZED CRIME LEGAL REFORMS
SIGNIFICANCE IN RELATION TO CORPORATE RISKS**



Audit

Standards

TAX AND ORGANIZED CRIME LEGAL REFORMS SIGNIFICANCE IN RELATION TO CORPORATE RISKS

MIJARES ANGOITIA
CORTES Y FUENTES

25
YEARS

On November 8, 2019, relevant legal reforms were published in relation to the Federal Law Against Organized Crime, the National Security Law, the National Code of Criminal Procedures, the Tax Code of the Federation and the Federal Criminal Code.

The reforms are directed to facilitate the criminal prosecution of acts of smuggling, tax fraud and the illegal use of electronic invoicing through the rules of investigation, sanctioning and execution of penalties authorized for organized crime.

Congress stated that these unlawful acts are a threat to the National Security. The reforms fade away, in tax matters, the differences between business activities subject to certain tax regulations, and the activities of Cartels and criminal organizations that are in fact aimed at permanently committing crimes.

The new provisions result in compulsory pre-trial detention and the prohibition of plea bargain by the Department of Justice in cases that currently allow for solutions different from mandatory prosecution of companies and their representatives, directors and advisers. It also authorizes the use of special investigative techniques that may be directed to corporations such as private communications intervention, asset forfeiture, protection of investigation records from corporate criminal counsel, as well as support to witnesses that can facilitate the indictment and prosecution of the investigated companies.

The Decree amends Article 11 BIS of the Federal Criminal Code on the matter of criminal liability of legal entities. Corporations may be criminally charged with smuggling offences and similar acts, tax fraud, and other offences such as the issuance, sale, disposal, purchase or acquisition of tax receipts covering non-existent, false or simulated legal acts in terms of under articles 102, 105, 108, 109 and 113 BIS of the Tax Code of the Federation. The above, regardless of the criminal liability in which managers, employees or administrators may incur.

The reforms will come into force on the first day of January 2020. Criminal risks of corporations can be anticipated and mitigated through compliance strategies like those provided by the international standards UNE 19601 for criminal compliance management systems and UNE 19602 for tax compliance management systems, which represent the best practices in the prevention of tax crimes and that will allow companies to safely navigate in this new environment of corporate prosecution of organized crime.

For any questions or comments regarding this note, please contact:

Gabriel Calvillo Díaz
Of Counsel

Corporate Criminal Liability and Compliance Practice
gcalvillo@macf.com.mx
+52 (55) 52017468