



MIJARES ANGOITIA
CORTES Y FUENTES

25
YEARS

NEW GENERAL ANTIABUSE LAW



The tax reform for fiscal year 2020 contemplates the incorporation of article 5o.-A to the Federal Fiscal Code of the Federation ("FFC"), which establishes that legal acts that lack of a business reason and generate a direct or indirect tax benefit will be recharacterized by the tax authorities in the exercise of their powers of review to those that would have been carried out to obtain the reasonably expected economic benefit.

For these purposes, it is considered that a business reason does not exist when the quantifiable economic benefit, present or future, is less than the tax benefit, or when the economic benefit pursued could be achieved through the performance of a lesser number of legal acts and its fiscal effect would have been more burdensome. In other words, an operation that involves several interconnected steps in order to obtain a tax benefit will be considered a single operation, only for these purposes. Any tax elimination, reduction or temporary deferral will be considered a tax benefit.

However, it should not be understood that the tax authorities may not recharacterize the legal acts in question if the economic benefit is greater than the tax benefit.

The taxpayer may attest what is appropriate to reject the presumption of the tax authorities before they assess a tax deficiency. Before the issuance of the last partial act, observations ruling or provisional resolution, as the case may be, the tax authority shall submit the case to a collegiate body composed by officers of the Tax Administration Service and the Ministry of Finance and Public Credit and obtain a favorable opinion for the application of said article.

Consequently, companies and individuals will have to consider the implications of this rule as of 2020.

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