Edson Uribe: Notes on ICTR, Panel 1.

Statutory periods of limitation for collecting taxes.

**Present status:** In Mexico, there is a general term of 5 years to collect taxes from the time the tax obligation is legally enforceable. This period may be interrupted (not suspended) each time the Tax Administration decides to carry out collection actions.

The Federal Tax Code does not require tax authorities to complete the collection actions executed, so the SOL period can be unilaterally interrupted when the 5-year term is close to elapse and discretionally initiate a new tax collection process.

There are documented cases in which the Tax Administration decides to interrupt the 5-year term of the SOL when it is about to expire and then start new procedures without completing the previous ones, which means an unnecessary extension of the powers of the authorities, legal uncertainty and a significant increase in tax liability against taxpayers.

Legislative changes were made to avoid this situation by granting the tax authorities a maximum limit of 10 years to enforce the tax obligation, but it seems that the remedy for this problem could be better solved by somehow forcing the tax authorities to effectively conclude the collection actions intended against taxpayers.

**Should be:** Best practices on the due control of legally enforceable tax obligations. Good faith and better communication with taxpayers is needed. Necessary to understand this problem is not a issue of laws but of economic sense for both tax administration and taxpayers.

Requirement of paying first before dispute resolution.

**Present status:** Once taxpayers are notified of a tax obligation in Mexico, there are two options: pay the debt or dispute it. For the latter, the taxpayer has 30 business days to decide whether to go to the administrative appeal or go directly to litigation before the courts, without the authority being able to carry out collection actions before said term expires.

When taxpayers opt for the administrative appeal, there is no obligation to exhibit guarantee to suspend the collection actions until the administrative resolution is

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1In Mexico, a tax liability is considered legally enforceable when the taxpayers do not challenge it by any legal means, or when having gone to litigation, they do not show sufficient guarantee to secure the tax liability during the trial.
issued. In case of opting for litigation, taxpayers must exhibit before the Judge sufficient guarantee to maintain suspended the collection powers of the tax authorities.

In practice, even when taxpayers file means of defense in a timely manner, the tax authority illegally initiates collection actions.

Indeed, even when the taxpayer, in an act of collaboration, timely informs the collecting authority about the filing of an appeal or administrative claim, the latter simply ignores it and argues that as long as its internal legal department does not notify it at the administrative level, it is empowered to exercise its coercive powers against the taxpayer.

Should be: Best practices are needed on tax administration for a better internal communication between collection and legal departments. It is vital that the tax authorities are sensitive to the impact that collection acts such as the seizure of assets or even the freezing of bank accounts have on taxpayers, not only in the economic sphere but also at a reputational level.

When talking about this point I will share my experience as former Deputy Chair of PRODECON, when the naming and shaming policy was implemented in Mexico to reveal the names of “non-compliant” taxpayers and how the lack of updating taxpayer data in the platform led to the improper publication of some names of public figures that were affected at a reputational level.

Availability of judicial review of agency collection actions.

Present status: Currently, taxpayers in Mexico can dispute tax collection acts through administrative or jurisdictional channels until the tax authorities publish the call for auction of the seized assets.

This general rule was introduced in 2006, since prior to that year, any kind of collection act could be disputed at an administrative or judicial level and therefore the procedure for recovering debts in favor of the treasury was very long and costly.

There are exceptions to this general rule, for example, in cases where the seizure is carried out on cash or deposits in the taxpayer's bank accounts, given that due to the nature of these assets (money) a call for auction is not necessary to be adjudicated in favor of tax authorities.

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2 Exception made in the event that the taxpayer chooses and is eligible to file a specialized tax trial on the merits, in which it is not necessary to exhibit collateral to suspend tax collection acts.
Although this limitation on the moment in which the acts of the tax collection procedure can be disputed by taxpayers may make sense, in practice, it has been abuses by the tax authorities for example in discretionally deciding to extend the seizure of assets without relying on an appraisal in order to pressure taxpayer to pay the debt without the need to call for auction and then give the opportunity to file an administrative appeal or litigation.

**Should be:** Better practices are necessary on the development of the coercive tax procedure. The discretion nowadays minor officials have to decide on certain acts of said procedure is very high and this goes against the legal certainty of taxpayers. On the other hand, tax officials' fear of being subject to internal affairs procedures makes the collection approach much more aggressive.