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Self-regularization programs for the prevention of money laundering

In order to simplify compliance by those who carry out activities susceptible of money laundering, the Income Law for 2019 (“Income Law 2019”) allowed for them to implement self-regularization programs, prior authorization of the Tax Administration Service (SAT). Such concession is directed only to those subjects who carry out activities considered vulnerable according with the Federal Law for the Prevention and Identification of Transactions with Resources of Illicit Origin (“Anti-Money Laundering Law”), among which the following are noteworthy:

- Provision of real estate services to third parties, such as construction, development or sale.
- Exchange of virtual assets by individuals other than financial institutions.
- Issuance and commercialization of credit cards, service cards, prepaid cards and money storage cards not marketed by financial institutions.
- Issuance and commercialization of traveler’s checks other than those carried out by financial institutions.
- Offers of loans, credits or insurance made by entities or individuals other than financial institutions.
- Specific brokerage and notarial services, in terms of the Anti-Money Laundering Law.
- Customs broker services, where goods specified by the Anti-Money Laundering Law are concerned.
- Commercialization of jewelry, watches, gemstones, precious metals, art and vehicles.
- Donations collected by non-profit organizations.

The Anti-Money Laundering Law sets the minimum amounts and modalities under which the above activities will be considered vulnerable and, as provided, those who carry them out will be regarded as obliged subjects.

The self-regularization programs referred to in the Income Law 2019 (“Programs”) are designed to facilitate compliance by obliged subjects, insofar they:

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- a) Have failed to meet their obligations any time from July 1st, 2013 to December 31, 2018, and,
- b) Have complied with obligations pertaining 2019.

Likewise, The Income Law 2019 provides that during the non-compliance period covered by the programs, the SAT will not impose penalties and may waive fines already fixed.

Normative framework

For the implementation of the programs, on April 16, the SAT published in the Federal Official Gazette the General Provisions for Self-Regularization Programs (“Provisions”), which will enter into force 45 working days after their publication, as set out in their single transitory article.

The most relevant aspects of the Provisions are the following:

1. The obliged subject must submit application for authorization of the program through the Internet Money Laundering System within 30 working days following the entry into force of the Provisions.
2. The application must include the program itself, which must comply with the following requirements:
 - a) Description of incurred irregularities.
 - b) Detail of circumstances that lead to them.
 - c) Description of corrective measures to be taken.
3. The program must be concluded entirely in a maximum period of 6 months.
4. In the event the SAT has already initiated a verification procedure, the obliged subjects may still submit their applications for authorization, provided that they do so before the completion of such procedure.
5. Obligated subjects may also submit their applications for authorization in cases where the verification procedure has been completed prior to the entry into force of the Provisions.
6. Authorization applications will be considered inadmissible in any of the following scenarios:
 - a) The obliged subject is not registered in the Obligated Subjects Record as provided by the Anti-Money Laundering Law.
 - b) The information provided by the obliged subject in such Record is not duly updated.

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c) The obliged subject has not fulfilled obligations pertaining 2019.

d) The non-compliance or irregularity in question constitutes a crime.

7. To access the waiver of fines imposed during the period covered by the program, the obliged subject must submit a request for waiver within 20 working days after the program has been completed, as well as certify that all irregularities have been corrected.

8. The request for waiver will be dismissed where:

a) The imposed fine is a result of aggravating factors in the commission of the infringement.

b) The irregularities constitute a crime.

c) The obliged subject has submitted some means of defense against the fine, except when such is withdrawn.

d) The fine has already been paid for.

e) The program has not been fulfilled entirely and in time, or the authorization has been revoked.

9. The SAT shall not impose sanctions regarding the period covered by the program, provided that it is fully complied with and all irregularities are corrected.

10. The SAT will impose the appropriate penalties when it determines that the program was inadmissible or that irregularities were not dutifully corrected, or when such program is not concluded within the time limit.

For information regarding this subject, please do not hesitate to contact us at 9178 7000 or through the following e-mail: contacto@ritch.com.mx