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Penalties in case of apocryphal tax receipts

On May 16, the Federal Official Gazette published the Decree adding article 113 Bis and amending article 113, section III of the Federal Tax Code and, thereby, modifying penalties applicable to those who issue, sell or acquire apocryphal tax receipts, i.e., comprising non-existent transactions.

It should be mentioned that, in accordance with article 69-B of the Federal Tax Code (FTC), the authority will presume that an invoice involves non-existent transactions when the issuer does not have the assets, personnel, infrastructure or material capacity to, directly or indirectly, provide the services or deliver the goods covered by such receipt, or when the issuer is not located.

Article 69-B also provides that, in case of such presumption, taxpayers may render the necessary documentation to rebut the facts imputed to them. After assessing the evidence, the authority will publish a definitive list of those who did not succeed in subverting the allegations.

Due to the publication, transactions comprised in such invoices will have no legal effects and shall be regarded as simulated acts or contracts.

On the other hand, any individual or entity who has given any legal effect to tax invoices issued by taxpayers included in the definitive list may demonstrate that they actually acquired the goods or received the services they cover or else they will correct their fiscal situation through supplementary statements. In failing to do so, the authority will determine the pertaining tax credits.

Under the latest amendments to the FTC, in force as of May 17, the penalties currently provided in case of tax receipts that involve non-existent transactions are as follows:

1. 3 months to 6 years imprisonment for those who acquire tax receipts that cover non-existent or counterfeit transactions, as well as simulated acts.
2. 3 to 6 years imprisonment for those who issue or sell invoices that cover non-existent or counterfeit transactions, as well as simulated acts.

Therefore, penalties for **acquiring** such invoices remain the same, while sanctions applicable for those who **issue or sell** them increase to a minimum of 3 years imprisonment.

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