

**TAX FLASH 2004-E2**

**Criteria of the Tax Administration Service  
regarding illegal tax practices**

On May 4, 2004, the Tax Administration Service (*Servicio de Administración Tributaria – SAT*) published through its webpage certain of its internal interpretation criteria. In accordance with the webpage, such publication has been initiated so as to alert the taxpayers, on a periodic basis, on different tax practices that have been observed and which, in their view, should be considered illegal as they result in a harm to the federal treasury.

As per the publication above, the application of the interpretation criteria listed in the SAT webpage will be thoroughly reviewed, and as mentioned in such publication, the lack of compliance with such rules will not only imply economic contingencies, but also criminal penalties when applicable.

It should be noted that the SAT would not have any legal grounds to enforce the criteria listed in its webpage, as such publication does not derive from the regular legislative procedure, nor do they constitute regulatory provisions issued by the Executive Branch. Furthermore, the aforementioned interpretation criteria were not even published through the Federal Official Gazette, and thus they could not be considered as resolutions issued by the tax authorities, establishing general rules (such as the Miscellaneous Tax Resolution).

Nevertheless, considering the variety of topics covered by the publication, and in view of the scope the tax authorities apparently intend to follow in their application, we recommend that such criteria be thoroughly analyzed in order to undertake, if needed, any course of action that may be deemed appropriate.

The full content of the SAT criteria is available through the following link:

[www.sat.gob.mx/sitio\\_internet/informacion\\_fiscal/legislacion/52\\_3967.html](http://www.sat.gob.mx/sitio_internet/informacion_fiscal/legislacion/52_3967.html)

The webpage above is only in Spanish, and the general topics dealt with therein are the following:

- Thin capitalization rules;
- Permanent establishment issues on undisclosed commissionaire structures;
- Determination of basis for Employee Profit Sharing purposes;
- Possible double deduction of basis in the disposition of fixed assets;

- Deduction of investments that cannot be treated as expenses, in the specific cases of the telecommunications and the beer and soda bottling industries;
- Deduction of preventive reserves created by financial institutions; and
- Value added tax basis for insurance companies that sell repossessed damaged vehicles.

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Mexico City  
May 2004

This Tax Flash contains information of a general nature, and thus it does not address any particular case or facts. The information contained herein is accurate as of the date of issuance; however, we make no representation as to the fact that such information be accurate as of the date it is received, or that it will continue to be accurate in the future. Accordingly, we recommend that specific advice addressing your particular circumstances be requested.