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3.9. Authorized Donees

3.9.1. The Tax Administration Service [Sistema de Administración Tributaria – SAT] shall authorize civil organizations and fiduciaries to receive deductible donations as per Article 31 (I), except subsections a) and f), and Article 176(III), except subsections a) and f) of the Income Tax Law (ISR Law), as well as per Article 31, second paragraph and Article 114 of its Regulations. The authorization shall be granted by publishing the information of such civil organizations and fiduciaries in Annex 14 of the resolution in the Official Journal of the Federation (Diario Oficial de la Federación -DOF) and on the SAT webpage: www.sat.gob.mx.

The Federation, the Federal District, states, and municipalities, as well as their autonomous agencies and decentralized entities that pay taxes according to Title III of the Income Tax Law are authorized by law to receive deductible donations, and, therefore, are not required to obtain any further authorization or to be published as indicated in the previous paragraph.

The annex to which the first paragraph of this regulation refers will include the following information of the authorized donees:

- a) The federative entity in which it is located;
- b) The corresponding local judicial administration;
- c) Its activity or authorized purpose;
- d) Its code in the RFC (Federal Taxpayer Registry);
- e) Its firm name or trade name; and
- f) Its legal domicile.

The information included in this annex is that which the civil organizations and fiduciaries have stated before the tax collection agency and the General Judicial Administration, with respect to their trust.

Prior to the publication to which the first paragraph of this regulation refers, the local judicial administration that corresponds to the legal domicile of the civil organization or fiduciary shall issue an official letter to inform the requesting parties that all of the requirements and formalities to obtain the necessary authorization have been completed.

The civil organizations or fiduciaries that receive the proof of authorization previously mentioned shall be allowed to receive deductible donations as well as to request from the authorized issuers their tax records, which shall include, in addition to the requirements provided by other tax provisions, the number and date of the resolution in order to issue the corresponding receipt.

To obtain the authorization, the interested parties shall submit written proof before the Local Administration for Tax Assistance that corresponds to their legal domicile, which shall also fulfill the requirements of Articles 18 and 18-A (I, III and VII) of the Code. The interested parties shall indicate, as appropriate, the domicile, electronic mail address and telephone numbers of their offices or expressly declare that they have none. In addition to any document required by other tax regulations, the interested parties shall also provide a copy of the tax payer identification of the civil organization or fiduciary in question, as registered in the RFC. For these purposes, the interested parties may use the template included on the SAT webpage: www.sat.gob.mx.

Prior to submitting their request for authorization, civil organizations and fiduciaries may appear before the local judicial administration that corresponds to their legal domicile to jointly analyze the documents that they intend to submit with respect to their trust, so that the authority verifies that the civil organization or fiduciary in question complies with all the requirements established by tax regulations.

This may be done prior to the notarization of the articles of incorporation and/or corporate statutes, or before signing the contract that establishes the respective trust.

In as much as the assumptions upon which the authorization was granted remain in effect and the civil organization or fiduciary complies with all fiscal requirements and obligations, a renewal process shall not be necessary. The SAT shall include the authorized donee anew in Annex 14 of the present resolution and on the SAT webpage, www.sat.gob.mx, when issuing the resolution for the following year.

For the purpose of that which is stipulated in the previous paragraph, in January of each year, civil organizations or fiduciaries shall submit to the Local Administration for Tax Assistance that corresponds to their legal domicile written proof of having met the requirements established in Articles 18 and 18-A (I, III, and VII) of the Code. They shall also declare under oath compliance with all tax requirements and obligations to maintain their status of authorized donee. For these purposes, civil organizations or fiduciaries may use the template included on the SAT webpage: www.sat.gob.mx.

With respect to the trust in question, civil organizations and fiduciaries to which authorization is granted to receive deductible donations for the first time, shall comply with the obligation referred to in the previous paragraph beginning with the second fiscal year following the one for which they were initially authorized.

The civil organizations and fiduciaries authorized to receive deductible donations shall inform the Local Administration for Tax Assistance that corresponds to their legal domicile of any change in their legal domicile, firm or trade name, RFC, suspension or renewal of activities, termination, liquidation or dissolution. This shall be done in writing according to the requirements set forth in Articles 18 and 18-A (I, III, and VII) of the Code. The written document shall be submitted within a 10-day period following the day in which the corresponding notice was sent to the tax authority in the terms set forth by the applicable tax provisions, and shall be accompanied by a copy of the notice.

In addition, civil organizations or fiduciaries shall inform of any change in their social activity or purposes, or any other requirement that was considered when issuing the respective authorization, within a 10-day period following such a change.

Similarly, in case that the authorization of the corresponding social service or assistance institution is terminated, the civil organization or fiduciary shall give notice to the Local Administration for Tax Assistance that corresponds to their legal domicile of the respective records, the legal effect of the document submitted, the authorization or recognition of the official validation of studies in the terms set forth in the General Education Law, the registration in the National Registry of Scientific and Technological Institutions of the National Science and Technology Council, the agreement of collaboration or economic support with the beneficiary donee or any other document that may have served to authorize the social activity or purpose of the civil organization or fiduciary. This shall be done in writing according to the requirements set forth in Articles 18 and 18-A (I, III, and VIII) of the Code, and submitted within a 10-day period following the day in which the event occurred. The civil organization or fiduciary shall also submit a new authorization, record, recognition, registration, agreement or any corresponding document in effect.

3.9.2. The SAT shall revoke or not renew the authorization of corporate entities or fiduciaries to receive deductible donations for any of the following reasons:

- I. When the assumptions upon which the authorization was granted change or are not in line with the authorization;

- II. When in exercising its verification authority, the SAT discovers that the corporate entity or trust has failed to fulfill a requirement or their corresponding tax obligations;
- III. When as set forth in the tenth, twelfth, and thirteenth paragraphs of provision 3.9.1 of this resolution, written documents or notices are not submitted; and
- IV. A new authorization is not granted, except when the tax authority makes an exception.

Donations made to corporate entities or fiduciaries whose authorization has been revoked shall still be deductible if such donations are made prior to the publication of the revocation in the Official Journal of the Federation.

Notwithstanding the procedures of the tax authorities required by law, the SAT will make the revocation known by publishing it in the Official Journal of the Federation and by posting it on the SAT website: www.sat.gob.mx.

After considering the infraction, the SAT may issue a new authorization if the corporate entity or fiduciary commits itself to comply again with any unfulfilled condition, requirement and tax obligation.

3.9.3. With respect to the various assumptions and requirements of the ISR Law and its Regulation on receiving deductible donations, the following will be established:

- A. An authorized social activity or purpose is understood exclusively as the activity included in the articles of incorporation and/or statutes of the respective corporate entity or trust contract for which accreditation was granted and the respective authorization was published.
- B. Civil organizations and fiduciaries may apply deductible donations received to other additional activities included in their respective articles of incorporation and/or statutes, or trust contract, in accordance with the assumptions of Articles 95(VI, X, XI, XII, XIX, XX), 96, 98, and 99 of the ISR Law, as well as Article 31, second paragraph, and Article 114 of its Regulation. For this purpose, the corresponding request for authorization shall be submitted to the Local Administration for Tax Assistance that corresponds to their legal domicile. The request shall be submitted in the form of a written document that meets the requirements set forth in Articles 18 and 18-A (I, III, and VIII) of the Code. Civil organizations and fiduciaries shall also submit a document that verifies their fulfillment in the terms set forth by the applicable tax provisions, without requiring a new publication in the Official Journal of the Federation or a new posting on the SAT webpage: www.sat.gob.mx.
- C. For the purposes of that which is established in Article 11 of the Regulations of the ISR Law, fiduciary institutions shall be the ones requesting the respective authorization in the form of a written document that meets the requirements set forth in Articles 18 and 18-A(I, III, and VIII) of the Code. The written request shall be submitted to the Local Administration for Tax Assistance that corresponds to the domicile of the respective trust. For these purposes, fiduciary institutions may use the template included on the SAT webpage: www.sat.gob.mx.
- D. Private charitable or welfare institutions or associations authorized by law to carry out any of the activities indicated in Articles 95 (VI, X, XI, XII, XIX, XX), 96, 98, and 99 of the ISR Law, as well as Article 31, second paragraph, and Article 114 of its Regulation, shall be authorized to receive deductible donations from this contribution, as long as they comply with the additional requirements established for these categories.

- E. With respect to Article 95 (XIX), first assumption of the ISR Law, the defined geographic areas to which this precept refers are the ones included in Annex 13 of the present Resolution.
- F. With respect to Article 111 (II) and the last paragraph of the Regulations of the ISR Law, as well as the documentation that verifies that the entity in question falls into the assumptions to be an authorized donee, the following aspects will be considered:
1. The tax authority may exempt civil organizations and fiduciaries from submitting such documentation during a period of up to six months counted from the date that the authorization notice takes effect, when the civil organizations and fiduciaries conduct the activities to which sections VI, XII, clauses a), b), and c) second assumption, and XIX, second assumption of Article 95 of the ISR Law refer, and which fall under the following assumptions:
 - a. When the requesting entity has been incorporated for less than six months, counted from the day the document by which it was constituted was authorized or the respective trust contract was signed.
 - b. Over six months after the civil organization was constituted or the respective trust contract was signed, and the entity has neither begun operations nor developed any of the activities for which it seeks authorization.

The requesting civil organization or fiduciary shall explain in its written request and under truthful affirmation, the reasons for not having been able to obtain the accreditation.

In any event, the authorization will be conditioned upon the submission of all relevant documentation; otherwise, the authorization will be without effect.

2. The document that serves to approve the activities for which the civil organization and fiduciary request authorization to receive deductible donations shall be issued by the competent federal, state, or municipal authority which, in compliance with their own competencies, shall apply the legal provisions regulating matters that fall under the aforementioned activities. A description of these activities, the domicile or location where they occur or the time to conduct them shall be included.

In order to obtain approval for their activities, civil organizations and fiduciaries that seek authorization to receive deductible donations, or those already authorized to do so whose social purpose is to provide economic support to more than one authorized donee, or those who are related to public works or services may submit once single adherence agreement that supports this qualification with the different beneficiaries.

- G. For the purposes of that which is established in Articles 31(I) and 176(III) of the ISR Law, as well as Articles 31, second paragraph, 108 and 114 of its Regulation, donations given to an authorized donee in order to have access to or participate in different events, as well as those that give rise to receiving a good, service, or benefit that these lend or give, shall be considered onerous or remunerative and, hence, are not deductible. The donation of services is prohibited.
- H. Corporate entities or natural persons that give donations in the terms set forth in Articles 31(I) and 176(III) of the ISR Law must verify that vouchers submitted for this purpose include the same identification information, such as RFC, name, firm name, social activity and legal domicile of the authorized donee which, as such, shall be included in Annex 14 of the present Resolution or made known on the SAT webpage: www.sat.gob.mx. Notwithstanding that which is set forth in paragraph

six, Provision 3.9.1. of this Resolution, authorized donees shall also meet all other requirements for this type of voucher, so that these may be deductible in compliance with all applicable tax provisions.

- I. For the purposes of that which is established in Article 97(III) of the ISR law, authorized donees may grant benefits over its distributable remnant to other civil organizations and fiduciaries different from those indicated in such article, provided that these are authorized to receive deductible donations.
- J. Civil organizations and fiduciaries authorized to receive deductible donations, whose social activity or purpose is governed by Article 95(IV) of the ISR Law, shall carry out the assistance activities to which this article refers. These activities shall be carried out exclusively in Mexico.

3.9.4. For the purposes of that which is established in Article 95(XII), paragraph d), libraries that are not part of the national network of public libraries are included, provided that they are open to the general public.

3.9.5. For the purposes of that which is established in paragraph 4, Article 69 of the Code, the SAT may provide a directory of authorized donees which shall include, in addition to the information indicated in paragraphs a) to f) of provision 3.9.1. of this Resolution, exclusively the following information:

- a) Number and date of the record of authorization;
- b) A brief description of the authorized activity;
- c) Name of the legal representative;
- d) Telephone number(s);
- e) Physical or electronic address; and
- f) Domicile(s) and telephone number(s) of its offices.

The directory to which this regulation refers is the same that the SAT shall post on its webpage; www.sat.gob.mx. The information included shall be the same that the civil organizations and fiduciaries have submitted to the tax agencies and the General Judicial Administration.

3.9.6. For the purposes of that which is established in the last paragraph of Article 110, of the ISR Law, the distribution of administrative costs to which that provision refers shall only include costs directly related to office or administrative activities.

3.10. Deductible Donations Abroad

3.10.1. Civil organizations and fiduciaries authorized to receive deductible donations in Mexico that fall under the assumptions established in Article 95(VI, X, XI, and XII) of the ISR Law, shall also request authorization to receive deductible donations in the terms established by the treaties to which Mexico is a signatory party to avoid double taxation, as long as they comply with the provisions of this Chapter.

3.10.2 Civil organizations and fiduciaries to which this Chapter refers shall fulfill the following requirements, as provided by Article 97(I) of the ISR Law:

They shall also fall under either assumption 1 or 2, as follows:

- 1. Receive at least one-third of its funds from the Federation, the Federal District, states or municipalities or from direct donations from the general public, without taking into account any income derived from the fulfillment of their social activities.

In the event that they do not fall under the assumption established in the previous paragraph, and they receive at least 10 percent from said sources, without taking into account any income derived from the fulfillment of their social activities, civil organizations and fiduciaries must comply with the following:

- (a) Be incorporated and operate in such a way that it continuously attracts new public or government funds or obtains additional funds to those already received, and
- (b) Be a civil organization or fiduciary that receives funds from the Federation, the Federal District, states or municipalities or the general public and comply with the following:
 - i. Receive funds from government entities or the general public, but such funds shall not come from one single person or persons related by kinship as determined by civil law;
 - ii. Be administered by a board that represents the general interest instead of a particular or private interest of a limited number of donors or persons related to those donors;
 - iii. Use or allow the continuous use of its physical structure or provide services for the direct benefit of the general public, such as museums, libraries, nursing homes, and centers for training purposes, for the promotion of the arts or for health services for the sick;
 - iv. Use the services of persons that have specialized knowledge or experience in the subject areas related to social activities of the entity;
 - v. Maintain an ongoing work program that complies with any of the assumptions set forth in Article 97 of the ISR Law and that constitute its social activity or purpose; and,
 - vi. Receive a significant amount of its funds from any of the entities described in Articles 96 and 97 of the ISR Law, and assume some responsibility with respect to the use referred to in these articles, as a requirement for its granting.

Taking into account the percentage of the income derived from funds received from the Federation, the Federal District, states or municipalities and from direct or indirect donors from the general public, and evaluating the nature or importance of the social activity or purposes of the civil organization or fiduciary and the length of its incorporation, the SAT may determine which of the requirements referred to in items 1 and 2 of this provision are most essential to consider a civil organization or fiduciary as having complied with Article 97(I) of the ISR Law.

For the purposes of that which is established in this provision, donations from the general public are those that do not exceed more than one percent of the income received by the person, civil organization or fiduciary authorized to receive deductible donations in the period in question, as well as donations derived from the corporate entities described in Articles 97 and 98 of the ISR Law, regardless of the amount.

2. Receive more than one-third of its income from donations, sale of merchandise, rendering of services, or granting of the use or enjoyment of goods, provided that the income is derived from an activity substantially related to the development of its own social purpose. To this effect, the following amounts shall not be included:
 - (a) Amounts received from corporate entities or natural persons or from government bodies, in the amount exceeding 75 thousand pesos (75,000) in the calendar year in question, or one percent of the income of the organization during the same year, whichever is the larger amount.
 - (b) The amounts received from persons not qualified in accordance with that which is set forth in provision 3.10.3 of this Resolution.

3.10.3 For the purposes of that which is established in provision 3.10.2, number 2, paragraph b) of this Resolution, the following are not qualified persons:

- I. Those that donate or bequeath important amounts, considering as such amounts greater than 75 thousand (75,000) pesos, provided that the amount is greater than 2 percent of the donations or bequests received by the organization in the calendar year in which those donations or bequests are made. A natural person is considered a donor or devisor for the amounts donated or bequeathed by the spouse.

An important donated amount is one that is transferred through a trust, when such a donation is greater than the amount or the percentage mentioned above.

A person considered an important donor in an established period of time, shall be considered as such in the future.

- II. Those that administer the donee organization.
- III. Direct or indirect holders of more than 20 percent of the voting stocks in a corporation or those who receive benefits or profits in a greater percentage from an association or trust, provided that the corporation, association or trust is an important donor to the organization.
- IV. Spouses, ascendants, and descendants up to the fourth degree of any of the persons described in the previous clauses, as well as the spouses of the aforementioned descendants.
- V. Corporations, associations, trust or successions in which any of the persons described in these clauses is the direct or indirect holder of more than 35 percent of the voting stocks or those who receive benefits or profits in a greater percentage.