

Tax Insights Newsletter / December 10th, 2024

In
Summary

In Detail

Scenario in which a tax refund for a favorable balance cannot be refiled

The Second Chamber of the Supreme Court of Justice of the Nation (SCJN) issued a binding precedent, resolving a contradiction of criteria, concluding that a taxpayer cannot submit a new refund request for a favorable balance if the initial request was rejected due to formalities and was not subsequently challenged.

I. Key Points of the Contradiction of Legal Precedents

A. Issue

The contradiction of criteria 191/2024 arose between the Fourth Collegiate Administrative Court of the Third Circuit (Central-South Region) and the Regional Administrative Plenary Court of the Central-North Region, based in Mexico City. The central issue revolves around the legal right of taxpayers to submit a new refund request for a favorable balance corresponding to a specific period when the initial refund request was denied, either in whole or in part, solely for formal reasons.

B. Fourth Collegiate Administrative Court of the Third Circuit

The main arguments presented by the Fourth Collegiate Administrative Court of the Third Circuit are as follows:

- a) When the tax authority issues a definitive resolution denying a refund request, either in whole or in part, due to substantive or formal issues, the taxpayer's right to submit a new refund request for the same period and tax concept is extinguished.
- b) The Court argued that such a resolution determines the taxpayer's fiscal status and can only be modified through the available legal appeal mechanisms. Submitting a second refund request outside the legal defense process would conflict with Article 22 of the Federal Fiscal Code (CFF).

In summary, the initial exercise of the right to a refund, regardless of the outcome, precludes any subsequent opportunity to request the same favorable balance for the same tax and fiscal period. This approach underscores the importance of exhausting the legal remedies available if a taxpayer intends to challenge an initial adverse resolution.

The ruling highlights the need for taxpayers to carefully evaluate their refund requests and any legal challenges. Definitive resolutions acquire binding authority when they are not challenged within the required timeframe, thereby limiting further actions concerning the same case.

C. Regional Administrative Plenary Court

The primary argument presented by the Regional Administrative Plenary Court is that if a tax authority's resolution is unfavorable and does not address the substantive facts or rights of the taxpayer, the taxpayer retains the right to submit a new refund request. This is contingent upon the taxpayer rectifying the formal deficiencies or errors that led to the initial rejection.

This approach reinforces the protection of taxpayers' rights, allowing them to correct omissions or formal errors in their filings without losing their substantive right to a refund. The resolution highlights the importance of tax authorities addressing the core issues of disputes raised by taxpayers.

II. Conclusions and Recommendations

Following an in-depth analysis, the Second Chamber of Mexico's Supreme Court of Justice (SCJN) concluded that the thesis **"Refund Requests for a Favorable Balance: A Taxpayer Who Fails to Challenge a Resolution Denying the Request on Formal Grounds Cannot Resubmit It"** should prevail with the force of jurisprudence.

This decision means that if a taxpayer does not challenge a negative resolution—whether partial or total—issued due to formal issues, they cannot submit a new refund request for the same favorable balance, tax period, and concept. This ruling ensures that refund requests are resolved within the framework established by Article 22 of the Federal Fiscal Code (CFF).

Therefore, it is crucial for taxpayers to respond promptly and appropriately to the tax authority's information requests. In the event of receiving negative resolutions, they should use the appropriate legal remedies to protect their rights.

The complete document is available at the following link:

<https://sjf2.scjn.gob.mx/detalle/tesis/2028093>

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