

Tax Insights Newsletter / April 8th, 2024

In specific

The limitation on the timeframe for canceling Digital Tax Invoices (CFDI) in the fiscal year in which they are issued is unconstitutional.

In detail

The First Chamber of the Supreme Court of Justice of the Nation resolved the unconstitutionality of the fourth paragraph of Article 29-A of the Federal Fiscal Code, published in the Official Gazette of the Federation on November 12, 2021. This paragraph establishes a temporal limitation for the cancellation of Digital Tax Invoices (CFDI), restricting the timeframe for carrying out such action to the fiscal year in which they are issued and only if the recipient accepts their cancellation.

Key points

The arguments of the First Chamber to declare the unconstitutionality are as follows:

- Contrary to the principle of legal certainty: The provision conditions the possibility of canceling CFDI to the same fiscal year they were issued, disregarding cases where such temporality becomes arbitrary and unreasonable.
- Importance of CFDI issuance: The relevance of issuing CFDI arises when the operations they cover have fiscal effects, i.e., when taxpayers submit their respective declarations and settle their contributions. This may not necessarily occur within the fiscal year in which the CFDI are issued.
- Overlooking commercial operation dynamics: The norm overlooks the dynamics of commercial operations in reality, where not only errors may occur at the time of issuing the CFDI but also premature termination or breach of contracts, service cancellations, among others.
- Lack of congruence with legal temporality: Despite the reform's aim to facilitate compliance with tax obligations and their monitoring, the term set by the legislator lacks consistency with the legal system of temporality in fulfilling these tax obligations.
- For more information, you can download the Press Release from the following link: : <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=7771>

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