

# VAT Friday – MEX – Set-off agreements not a means of payment

## Issue

On August 12, 2022, the Mexican Administrative Court of Guanajuato ruled on whether the offsetting of debt obligations results in a means of payment allowing value added tax (IVA) to be considered creditable.

## Background

The Administrative Court of Guanajuato decided that the applicability of the debt offsetting system – that is established under the civil law to cancel reciprocal debts and credits - is not a means of payment allowing the value added tax to be considered creditable.

This decision is based on the fact that the offsetting of debts may only be utilized to settle tax obligations when the taxpayer is both the creditor and debtor vis-à-vis the tax authority, but not when involving another taxpayer.

## Application

Please note that this court precedent is only legally binding in the State of Guanajuato as from its date of publication, although it may serve as guidance for other courts throughout Mexico ruling on similar cases. In practice surely all the controversies that exist on this subject, will be resolved according to the criteria contained on it.

## To do

Based on the above, and in order to avoid contingencies in terms of VAT crediting, we suggest:

- That without any exception the creditable VAT should be effectively paid (cash flow) to suppliers.
- Avoid making use of different means other than payment to extinguish obligations (offset, novation, debt remission, etc.) and prefer the use of cash flow.

## Questions

For questions, please contact:

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