

# TAXPAYERS' RIGHTS IN A TRANSPARENT AND GLOBAL SOCIETY

---

## The Mexican's Ombudsman experience



Diana Bernal Ladrón de Guevara



**Procuraduría  
de la Defensa  
del Contribuyente**  
PROTEGE • DEFIENDE • OBSERVA

# **TAXPAYERS' RIGHTS IN A TRANSPARENT AND GLOBAL SOCIETY**

---

## **The Mexican's Ombudsman experience**



Diana Bernal Ladrón de Guevara





**Diana Bernal Ladrón de Guevara** is the Taxpayers' Ombudsman of México, proposed by the President, and appointed by the Senate, since the creation of **PRODECON**, for its acronym in Spanish: *Procuraduría de la Defensa del Contribuyente*.

Ms. Bernal earned a law degree from *Universidad Iberoamericana*, with a specialty in *Amparo* from the Institute of Judicial Specialization of the Supreme Court of Justice of Mexico, and Tax Law Diploma from *ITAM*.

With an extensive legal background, she has been designated District Judge, Circuit Judge and confirmed for another period by the Supreme Court of Justice of Mexico for the previous post. She has also acted as Judge of the Federal Court of Tax and Administrative Justice, nowadays, the Federal Court of Administrative Justice.

In the legislative area, in 2003 she was elected as Congresswoman in the Federal Congress of Mexico serving during the LIX Legislature. In this assignment, she designed and proposed the Federal Taxpayers' Rights Law and actively participated in the approval of the Taxpayers' Ombudsman Organic Law.

She is the first Taxpayers' Ombudsman, a position she has held since 2011, being elected by the Senate and ratified for a second period.

She has been a lecturer at the *Universidad Iberoamericana* and has taught at other prestigious higher education institutions.



**TAXPAYERS' RIGHTS IN A TRANSPARENT AND GLOBAL SOCIETY**

---

**The Mexican's Ombudsman experience**

# Summary

I. Foreword by Jorge Narváez Hasfura.....	9
II. The Mexican Experience in the Non-Judicial Defense of the Taxpayers' Rights.....	17
a) Mexican Legislation in the New Millennium. The Taxpayers' Rights Federal Bill and the Law which created the Procuraduría de la Defensa del Contribuyente.....	25
b) The Importance of an Ombudsman as a Special Protector and Defender of the Taxpayers.....	33
c) Main Powers and Faculties of the Mexican Taxpayers' Ombudsman. The Brand New Procedures in the Defense of the Taxpayer.....	38
III. Complaint Procedure.....	49
a) Main Purposes of the New Procedure.....	51
b) Actions of Tax Authorities which can be challenged in the Complaint Process.....	56
c) Opportunity, Promptness and Effectiveness of the Complaint Procedure.....	64
d) Main Achievements and a Selection of Relevant Cases.....	71
IV. Conclusive Agreements.....	79
a) First Alternative Dispute Resolution Procedure (ADRP) in Tax Audits.....	81

b) Descriptive Analysis of the “Conclusive Agreements Procedure”. <b>PRODECON</b> as a Neutral and Independent Mediator between Tax Administration and Taxpayers .....	84
c) Technical Features, Legal Effects and Advantages of the Conclusive Agreement Procedure.....	89
d) Principal Achievements and a Selection of Relevant Cases .....	100

## V. Challenges for the Taxpayers’ Rights.

<b>Building Trust</b> .....	107
a) Transparency vs. Tax Confidentiality.....	110
b) Transparent Experience in APA’s Rules.....	114
c) Mexican Digital Experience to Improve Taxpayers’ Compliance.....	116
d) Transparency in the age of BEPS. <b>PRODECON</b> as a Unique and Modern Public Intermediary in the Domestic Design of the Rules to Comply with the New Informative Files Recommended by OECD (Master File, Local File and Country by Country Report).....	119
e) The New Mexican Tax Substance Trial.....	124

## VI. Appendix.....131

I. Taxpayers Advocacy Agency’s (Procuraduría de la Defensa del Contribuyente/ <b>PRODECON</b> ) Organic Law .....	133
II. Federal Mexican Taxpayer Rights Law .....	171

**TAXPAYERS' RIGHTS IN A TRANSPARENT AND GLOBAL SOCIETY**

---

**The Mexican's Ombudsman experience**

First Published 2017 by **Procuraduría de la Defensa del Contribuyente**  
**(PRODECON)**

Copyright © **PRODECON** 2017

All rights reserved. No part of this book may be reproduced or transmitted by any person or entity, (including Google, Amazon or similar organizations in any form or by any means, electronic or mechanical, including photocopying, recording, or by an information storage and retrieval system without permission in writing from the publisher.



**Procuraduría de la Defensa del Contribuyente**  
Insurgentes Sur # 954, Col. Insurgentes San Borja,  
Del. Benito Juárez, C.P. 03800, Ciudad de México.  
(5255) 1205 9000



**Procuraduría  
de la Defensa  
del Contribuyente**

PROTEGE • DEFIENDE • OBSERVA