



## Complaint Procedure.

## **a) Main Purposes of the New Procedure.**

First of all, it is relevant to mention that since the importance of the Ombudsman's role, in Mexico it was considered necessary to provide the establishment of such organisms in the constitutional text itself.

For such purposes, on January 28th 1990 the Political Constitution had an amendment to add part B to the text of Article 102. The current text reads as follows:

### **Article 102.-.....**

**B.** *The Federal Congress and the legislatures of the local states, in their proper spheres of competence, must establish organisms to protect the human rights recognized by Mexican law; such organisms will attend, whenever violations occur of those human rights, the correspondent Complaints against actions or omissions of administrative authorities or public officers, with the exception of acts or omissions coming from the Federal Judicial Power.*

*The mentioned organisms may issue public but non-binding recommendations and they will be entrusted to file any sort of petitions or Complaints when it proceeds. Every public officer must answer the stated recommendations issued by those organisms.<sup>1</sup>*

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<sup>1</sup> Unofficial translation by the author

The constitutional text also provides that, despite the non-binding character of the recommendations issued by the organisms created to protect human rights, if the recommended authorities or public officers involved do not accept the suggestions of the Ombudsman, they, by any means, must give a response based on the law and expose the proper legal arguments.

Now, Mexico counts with an entity to defend and protect the whole spectrum of human rights, an Ombudsman named “*Comisión Nacional de Derechos Humanos*” (National Committee of Human Rights). Nevertheless it has been considered that the specific rights of the individuals or corporations which pay taxes certainly deserve a further and specific system to achieve effectively such important purposes.

Therefore, after more than 20 years since the creation of the National Committee of Human Rights<sup>2</sup>, the specialized defender of taxpayers’ rights, Procuraduría de la Defensa del Contribuyente, began to act on behalf of them, on September 1<sup>st</sup>, 2011. As a result, at present, the National Committee of Human Rights sends to **PRODECON** every Complaint that it receives related to tax matters.

We can appreciate that, according to the Constitutional text -Article 102 part B-, the main reason for the creation of the new official defender is obviously to promote, protect and defend the taxpayers’ rights.

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<sup>2</sup> The mentioned organism was established since June 6, 1990.

Such task is accomplished by **PRODECON** through the reception and proper process of the Complaints that taxpayers submit to its attention.

In this part of our study it is useful to remember that the main importance of the tax Complaint Procedure before **PRODECON** is that it is not a judicial process and, for the same reason, Complaints are merely informal and simple procedures to reach easier, effective and timely solutions for the affected taxpayers.

Thus, the easy access to the Complaint Procedure and its lack of formalities allow taxpayers to find a practical solution to the controversies that arise between taxpayers and tax authorities.

It is important to emphasize that the Complaint Procedure will be appreciated more like a public alternative mean to solve conflicts with the Tax administration, rather than an instrument to develop or endorse a tax dispute. The main objective of the Complaint Procedure is to find the best possible solution to the disagreement among both parties and to avoid further and more complicated litigation.

These kind of alternative instruments seek to achieve solutions which can resolve the substance of the disagreement in a very transparent and institutional way. The taxpayers' Ombudsman actually advocates for the finding of solutions which will be convenient

not only for the taxpayer but also for the tax authority. The objective is to build progressively a new and, as OECD proclaims, enhanced relationship among such parties.

It is important to consider that the purpose of the Complaint Procedure is not only to resolve the conflicts between the taxpayer and the Tax administration at once, but other really important objectives also. As we know, traditionally the relationship between the Taxation State Power and the governed taxpayers is held among two specific parties, so the simple notion of a third and independent party which interacts between them acquires a notorious relevance and might be very helpful.

Thus, we may take into account that the general and panoramic vision of the Ombudsman's performance is that the relationship between the Tax authority and the taxpayers has, reminded Arthur Rimbaud, to be reinvented<sup>3</sup>.

Beyond the poetry quote, undoubtedly the new millennium is characterized by new patterns which, among other intentions, seeks for the promotion and implementation of more equal relations in societies, especially between Governments and citizens. In such way an important purpose of the new models is to become more transparent in such kind of relationships.

<sup>3</sup> Compare: "A season in hell": "*Self-interest exists, attachment based on personal gain exists, complacency exists. But not love. Love has to be reinvented, that's certain*". Arthur Rimbaud.

When there is not any third party like a public agency between Tax authorities and taxpayers, as is the case of **PRODECON**, the interaction of such parties occurs necessarily in a closed environment and that may be an opportunity which might lead to not proper or legal arrangements. In any case the taxpayers and their tax advisers who look for a solution to their controversies by reaching arrangements with tax authorities in a direct way, could not be sure about legal certainty. The solution offered, in such cases, by tax officers could possibly not have solid legal basis or could depend only in the strictly personal approach of such tax officer to the particular case.

In the opposite side, if a public agency, like the Procuraduría de la Defensa del Contribuyente, implements new and transparent procedures to achieve solutions to tax conflicts, this should lead to institutionalize tax justice and, consecutively, to assure equal treatment for all taxpayers in the same or similar situations.

## **b) Actions of Tax Authorities which can be challenged in the Complaint Process.**

Continuing with the importance of having new, informal, transparent and innovative procedures in order to achieve a better tax justice, we can easily appreciate the significance that in such complex matters, taxpayers can count with a public office which has been empowered to act as an independent party in order to provide advice, support and defense to each and every taxpayer, as **PRODECON** does.

So, if there are obvious difficulties in the trials or court processes and it does not result so easy or simple to access to judicial defense (area in which it is so important to count with the support of professional counselors) the opportunity to assure a quick response through a mere and essentially informal procedure of Complaint, seems to appear especially attractive.

In a first approach we can appreciate that, if taxpayers have any sort of disagreements or conflicts with the Tax Administration, in many cases, they cannot go immediately to judicial defense, because only certain classes of final or definitive acts of authorities can be brought directly to the Courts. Court actions require that such authority's acts be definitive, when they only constitute a phase of a whole tax-administrative procedure, the affected taxpayer has to wait for the final decision in the procedure in order to be able to challenge it before the Tax court.

We can read the correspondent criterion formulated by the Normativity Committee of **PRODECON**, available in its website:

*“The Procuraduría de la Defensa del Contribuyente has legal competence to receive and attend the Complaints that taxpayers present against any sort of tax federal authorities acts, when such acts may cause any kind of violation of their rights during tax audits, even if such acts were not final administrative decisions and, therefore, cannot be challenged in trial yet.”*

**PRODECON 4/2012/CTN/CN** (Approved in the 3th Ordinary Normativity Committee. March 16, 2012. With amendments made on March 26, 2023).

On the other hand there can be final tax-administrative decisions which taxpayers are already challenging in Court currently, as well as decisions which have been validated or confirmed in the judicial defense. In both cases, due to the informality and flexibility of the Complaint Procedure, a taxpayer may refer the matter to **PRODECON**, who is going to hear the case with its autonomous determination, in other words, with total independence of the judicial process. That is because the Taxpayers' Ombudsman has different parameters to assess and propose the solution to the tax conflict. Observe the following criterion:

*“The Procuraduría de la Defensa del Contribuyente has legal competence to receive Complaints that*



*taxpayers may present, even if the authority's acts exposed in such Complaints have been challenged in a trial or other mean of legal defense. It is irrelevant if the legal mean of defense has or has not been actually resolved."*

**PRODECON 3/2012/CTN/CN (Approved in the 1<sup>st</sup> Ordinary Normativity Committee. January 20, 2012. With amendments made on March 26, 2013).**

In fact, the Ombudsman is always looking for the "real" justice of the specific case. The organism permanently prefers to achieve solutions that imply an authentic fairness for both parties, especially for the taxpayers. As we know, tax matters could imply severe consequences, which in some cases are produced only because of the inobservance of mere formal requisites. For example if a taxpayer forgot to file an informative notice about some specific loans he acquired, the consequence could be, according to tax law, that the corresponding amounts of borrowed money can be presumed as taxable income.

The Non-Judicial Defender, the Taxpayers' Ombudsman, is enabled to assess the factual relevance of the taxpayer's omission and conclude that tax authorities must attend to the taxes effectively paid, rather than to the lack of specific formalities.

**PRODECON** is continuously formulating and publishing in its official website the criteria which

informs the public about those kind of decisions. Please observe the following example:

**Formal Requirements. The Legal Consequences of its Omission or its Untimely Filing, could be Overturned if the Loss of the Substantial Right is Notoriously Out of Proportion.** *The Procuraduría de la Defensa del Contribuyente considers that formal requirements imposed by tax regulations as a condition to access to certain rights or special tax deductions or exemptions are certainly relevant by themselves. Even so, and taking into account the pro-person interpretation of law ruled by the new constitutional amendment of Article 1, with the governing principles of universality, interdependence, indivisibility and progressivity of fundamental rights, and also the rule contained in Article 31 – IV of the Federal Constitution, it must be concluded by this Ombudsman that taxpayers only are obliged to pay taxes according to their taxable capacity. Therefore, **PRODECON** as Non-Judicial public taxpayers' fundamental rights defender, ought to consider that the tax authorities should appraise in each case if the omission of a formal requirement is enough reason to penalize the taxpayer with the loss of the substantial right; mainly when the mere lack of such formal requisite implies taxable assumptions to the referred taxpayer.<sup>4</sup>*

**PRODECON 3/2013/CTN/CS-SPDC (Approved in the 4th Ordinary Normativity Committee)**

<sup>4</sup> You may consult this and other criteria of **PRODECON** in Spanish: [http://www.prodecon.gob.mx/Documentos/CriteriosNSAJ/compilacion\\_criterios\\_sustantivos\\_spdc\\_actualizada.pdf](http://www.prodecon.gob.mx/Documentos/CriteriosNSAJ/compilacion_criterios_sustantivos_spdc_actualizada.pdf)

Then, the Tax Ombudsman, as we can easily appreciate has a broad field of action. It results important to recall that tax law implies the possibility that tax authorities can issue several kinds of actions.

In Mexico, for example, tax authorities have four different kinds of faculties upon taxpayers. In the first place, they have the power to assist and help taxpayers to fulfill correctly their obligations. Second, they can review and audit any taxpayer in order to verify the proper compliance of their tax duties. As a third faculty, tax authorities can assess and fix tax debts as a result of tax audits. Fourth, they can impose tax fines and penalties if taxpayers do not comply properly and timely with their tax obligations.

Then, it is easy to appreciate that there are several kinds of tax actions which can interfere or affect taxpayers, and not all of them can be challenged in suitable administrative or judicial defense. Here is where we can find the great strength of the Non-Judicial defense represented by the Taxpayers' Advocate or Ombudsman, since its assistance and protection can be brought to any kind of problems or situations that taxpayers could face.

Look at the two following criteria:

*“The Procuraduría de la Defensa del Contribuyente, as a public and tax specialized organism, defender of the taxpayers’ rights, considers that the term “action of authority” shall be interpreted in the widest sense to provide the maximum benefit to facilitate access to the Complaint Procedure.”*

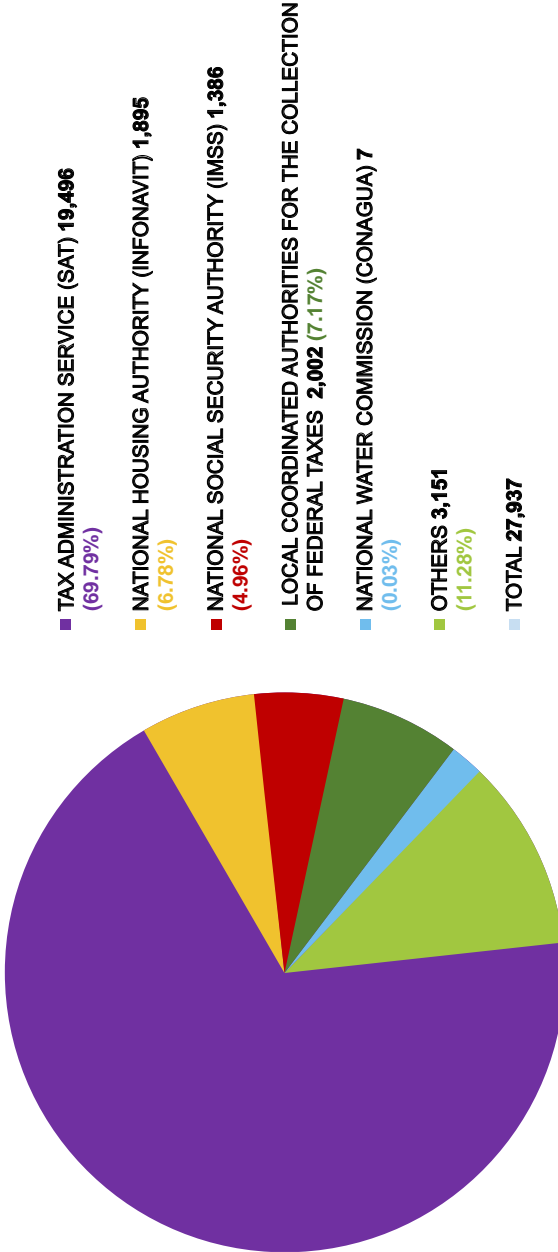
**PRODECON 7/2013/CTN/CN** (Approved in the 6<sup>th</sup> Ordinary Normativity Committee. June 14, 2013).

*“The Procuraduría de la Defensa del Contribuyente understands the term “action of authority” as any act or omission which, directly or indirectly, impacts the legal or even legitimate interest of the petitioner of the counseling service or in the Complaint Procedure, even when such acts were forthcoming as a consequence of on-going authority acts....”*

**PRODECON 8/2013/CTN/CN** (Approved in the 6<sup>th</sup> Ordinary Normativity Committee. June 14, 2013).

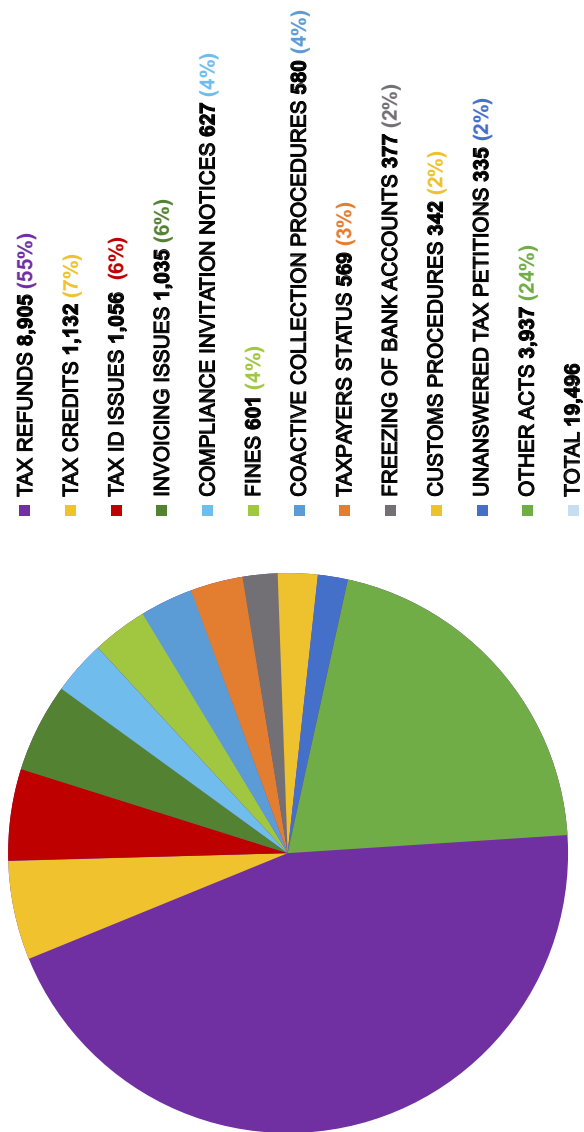
The following statistics can be very illustrative of the issues taxpayers may bring to the Ombudsman. They also show the relevant growth of the number of Complaints that **PRODECON** has received since 2012.

## COMPLAINTS BY AUTHORITY FROM 1<sup>ST</sup> JANUARY TO 31<sup>ST</sup> DECEMBER OF 2016



## MOST COMMON COMPLAINTS AGAINST THE TAX ADMINISTRATION SERVICE (SAT)

FROM 1<sup>ST</sup> JANUARY TO 31<sup>ST</sup> DECEMBER OF 2016



## **c) Opportunity, Promptness and Effectiveness of the Complaint Procedure.**

Here we can appreciate other important and relevant attributes of the Complaint Procedure.

It seems logical that a new and alternative<sup>5</sup> procedure ought to have necessarily special features which effectively assure that every taxpayer who files a Complaint upon the Ombudsman or Public Advocate will be attended to in a very simple and friendly manner. The objective is to provide a more reachable tax justice to every taxpayer involved in any kind of problem with the Tax Administration, such as we analyzed in the preceding chapter.

Furthermore, the participation of the Taxpayers' Ombudsman in any kind of problem that such taxpayers can face with the Tax Administration, becomes friendlier than any traditional relationship. It is very common that when taxpayers go to Tax authorities in order to elucidate their tax situation, tax authorities have a simple and unique kind of answer to such problems. Through the Complaint Procedure, Tax officers develop an approachable attitude to listen and solve the specific problems of different taxpayers.

The Complaint Procedure also has other important attributes.

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<sup>5</sup> Alternative to the judicial defense.

For example, it is essential to ensure that in each and every step of the Complaint process, **PRODECON** counts with a wide range of flexibility to develop the specific procedure to each taxpayer in the best possible way to achieve concrete and positive results for him in a short time.

The Complaint Procedure is regulated in only seven articles of **PRODECON**'s organic law<sup>6</sup>. Also, the Taxpayers' Ombudsman has been developing criteria in order to mold the same procedure and make all the necessary adjustments to achieve its objectives: the efficient defense, safeguard and protection of the taxpayers' rights.

It is important to mention that the Complaint process has to be a speedy one. When **PRODECON** receives the taxpayer's Complaint, it almost immediately issues the official requirement to the responsible tax authority, which is compelled to respond within seventy two hours. Tax authorities must answer such requirements with clarity and they have to expose and justify the reasons of their actions which have generated the Complaint, as well as the legal and specific basis for them.

As well, it is important to remark that the effectiveness of the Complaint Procedure is basically sustained in the same nature of the Ombudsman. That is because such a kind of autonomous organism seeks essentially

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<sup>6</sup> Articles 15 to 21 of the referred law.



to solve the taxpayer's problems considering the "factual truth" over the strictly legal truth.

Let's see to the following criterion:

*"Procuraduría de la Defensa del Contribuyente, as a Defender of Taxpayers' Rights (Ombudsman), will search not only for the legal but for the factual truth in order to achieve an effective defense of such rights."*

**PRODECON** 5/2012/CTN/CN (Approved in the 8th Ordinary Normativity Committee. August 17, 2012).

Additionally, **PRODECON** is empowered with important faculties of investigation in order to inquiry about the facts that caused the Complaint. Such investigation can be made on its own initiative or at the request of the complainer taxpayer. In fact, the law which rules **PRODECON** textually confers the organism the power to require not only tax authorities, but also any public agency of Government.

#### ***"Article 4- Personnel in Charge of Service Rendering***

*Services rendered by the agency will be exclusively rendered at the request of the interested party and by the General Taxpayer Defense Attorney, Regional Delegates, and by a sufficient number of legal counsels to satisfy the demand having at least one Delegate with legal*

*and administrative personnel in each Regional Court of the Federal Tax and Administrative Justice Court.*

### ***Obligations of the Federal Tax Authority***

*Federal Tax Authority and federal, state and municipal public servants related to or possessing information or documents linked to the matter that is made known to the Agency, or that by virtue of their function or activity may provide useful information must respond punctually and promptly, in accordance with the provisions of the Federal Transparency and Access to Government Public Information Law, any information requested by this Agency needed to clarify any facts under investigation. Also Federal Tax Authority will be obligated to:*

#### ***Hold Periodic Meetings***

- I. Hold periodic meetings with the Agency, when requested by the latter, and*

#### ***Provide Information Related to In-House Criteria***

- II. Maintain constant communication with Agency's personnel, and make available to such personnel information related to criteria in force as to performance with tax obligations of tax standards by the tax authority, as to the various forms used and how to fill them out, and in general, every information required by the Agency for the fulfillment of its purpose.*

### ***Collaboration within the Sphere of Competence***

*Federal, local and municipal authorities and public servants shall collaborate with this Agency within the sphere of their respective authority.*

### ***Penalization for Noncompliance with Obligations***

*Non-compliance with obligations established herein with result in penalizations herein established and, as applicable Administrative Accountability of Public Servants Law.*

### ***Concept of Federal Tax Authority***

*Federal Tax Authority is to be understood including coordinated authorities regarding federal tax income, as well as autonomous tax federal organisms, such as the Mexican Social Security Institute (IMSS) and the National Worker Housing Fund Institute (INFONAVIT).”*

Then, it is easy to appreciate that these sort of faculties actually contribute to the effectiveness and promptness of the Complaint Procedure. For example it is common that people come to **PRODECON** after suffering their bank accounts freezing, but they do not even know which authority ordered such measure. Through the Complaint process **PRODECON** easily investigates which is the public department of the Revenue body in charge of the case and helps the taxpayer to obtain the fast release of his bank accounts.

The Complaint Procedure is a very fast way to solve further taxpayers' difficulties, giving them a holistic solution. As an example if the person who files the Complaint comes to **PRODECON** because he received a negative administrative resolution to have a special tax regime (e.g. a tax authorization to receive donations which may be tax deductible), in such a case through the Complaint Procedure the involved tax authority can help or assist the taxpayer in order that he can again present the correspondent petition in the proper way, and therefore obtain the special tax regime.

As a matter of fact, in 8 out of 10 Complaints **PRODECON** has obtained satisfactory solutions for the taxpayers' problems. Therefore if the taxpayer complain is pleased, the Ombudsman issues the respective written decision in which it concludes that the tax officer or authority involved does not have any responsibility, because beyond that he actually caused a problem to the complainer, the solution was nevertheless achieved through the Complaint process.

Therefore in several ways the flexibility of the Complaint Procedure is a key factor to assure its effectiveness, even beyond the same procedure. And that is because it becomes a real an effective opportunity to assist taxpayers; so they can leave the procedure counting with the specific guidelines that they may follow to

avoid further difficulties. As an example if somebody comes to **PRODECON** because the tax authority refused to partially make a tax refund, and in the Complaint Procedure the authority responds that the refund was incomplete because the taxpayer must justify some expenses which have been deducted, the taxpayer can leave the Complaint Procedure with the provided advice to do the request in a correct manner.

## **d) Main Achievements and a Selection of Relevant Cases.**

First of all, it is important to remember that the main goal of the new alternative procedure, which seeks to achieve real tax justice to taxpayers, is to offer a novel and transparent space to improve and facilitate dialogue between taxpayers and Tax authorities in order to solve in an easier, effective and friendly way tax conflicts, as we have seen through the preceding paragraphs.

Within this framework, we can enumerate five main achievements of the Complaint Procedure developed by **PRODECON**:

1. The Complaint Procedure has evolved to offer every taxpayer a real and effective alternative to solve any kind of tax conflicts.
2. Tax authorities have progressively modified various of their current criteria for the application of tax regulations, following several suggestions and proposals from the Taxpayers' Ombudsman. The numerous and frequent Complaints promoted by taxpayers in the few years that **PRODECON** has been working, have contributed to a more general and panoramic view of taxpayers' problems and to fair solutions for them. Such a modification of the Tax authorities' criteria is actually promoting a deeper change in the tax relationship, making it fostering its equality and transparency.

3. Step by step, Tax authorities have been acquiring more confidence in their approaches towards taxpayers. They feel more comfortable and confident when the Ombudsman proposes new ways to solve conflicts.
4. Meanwhile taxpayers are obtaining more efficient and less costly solutions and they are avoiding further pricey Court litigation.
5. Through the Complaint Process any taxpayer can get complete knowledge of his specific problems against tax authorities, and obtain the complete guidance to solve such problems.
6. A very important point is that through the performance of **PRODECON**, Tax authorities procure, not only to comply exactly with tax law regulations, but also to embrace best practices in their procedures and actions.
7. The Complaint Procedure allows and also guarantees a prompt, complete and efficient solution to taxpayers.

Look at the following cases:

## Case 1

An enterprise incorporated different liabilities and assets from several subsidiaries that merged into it. So, these subsidiaries stopped filing tax returns, and the surviving company accepted the corresponding tax liability.

The merger agreement was presented on time to the Tax Authority, however, the Authority continued issuing tax return requests to the subsidiaries. Due to the lack of compliance, the Tax Authority penalized the subsidiaries with an important amount of fines that the surviving company decided to pay in order to avoid major contingencies.

Thereafter the company went to **PRODECON** asking for assistance and advice. The company pursued to obtain a refund of the unduly paid amount.

Through the Complaint Procedure, the Tax Authority realized that the evidence provided by the company showed that it actually filed a merger notice on time, and therefore the merged companies were no longer obliged to file tax returns.

Moreover, during the Complaint Procedure it was proven that other Authorities within the Tax



Administration Service cancelled the tax registration of the merged companies since the date of the merger; therefore, the fines imposed should have not been issued.

It is important to mention that the administrative resolutions which imposed the fines had not been challenged by the merging company, so actually they were presumed legal. Nevertheless, as a result of the dialogue achieved through the Complaint Procedure, the Tax Authority accepted to cancel all fines and refund the correspondent amount to the taxpayer.

## Case 2

The Tax Administration seized the bank accounts of a psychologist and ordered the transfer of all the funds deposited in those accounts, supposedly to collect a multimillion tax liability, because it was argued that a few years ago, this person had a bank account in which she received deposits of large amounts of money.

When filing her Complaint at **PRODECON**, she mentioned that when the bank deposits occurred she had not even been registered in the Federal Taxpayer Registry and neither done any process to open bank accounts, because in that time she was only a university student.

Thanks to the Complaint Procedure, it was found out that someone stole the identity of this taxpayer. The offender forged her identity and then opened a bank account. In only six months this account had deposits for almost 900 million pesos<sup>7</sup>. Afterwards the unknowable offender withdrew all the money from the bank account and closed the account.

Such situation was informed and fully demonstrated to the Tax Authorities through the Complaint Procedure, pointing out that the evidence confirmed an identity theft case.

Therefore, due to the support and participation of **PRODECON**, Tax Authorities withdrew her tax liability.

### Case 3

By the coercive collection procedure, a Tax Authority requested a tax liability and proceeded to seize real estate of the taxpayer which, afterwards, the Tax Authority assigned to itself.

The Tax Authority then notified the taxpayer that there was a surplus obtained from the auction of her property.

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<sup>7</sup> In that time the equivalent of sixty million dollars.

Therefore, the taxpayer requested the return of the surplus, but time passed without an answer.

Through her Complaint before **PRODECON**, the Ombudsman inquired about the case with the Tax Authorities and it appeared that the property had not yet been sold. The taxpayer expressed her interest in recovering the property after the due payment of the tax assessment.

Thanks to the suggestions of the Ombudsman, the Tax Authority was able to cancel the legal consequences of the supposed auction because it was found that it lacked some special formalities. This situation was clarified through an extraordinary appeal provided in Article 36 of the Federal Tax Code, named in Spanish “*reconsideración administrativa*”<sup>8</sup> the Authority cancelled its acts and the taxpayer was able to obtain her property back.

This way, taxpayer’s claim was satisfied and the objective of the Tax Administration to collect taxes in accordance with the law was reached.

## Case 4

A taxpayer came to **PRODECON** because he received a note of SAT inviting him to pay some income tax he

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<sup>8</sup> This is an extraordinary appeal which Tax Administrative Authorities can use in very special cases in order to be able to cancel tax liabilities if it is proven that they were not imposed according with the law, even in the case that such liabilities were final decisions because they were not timely challenged.

supposedly owed since 2014. The note explained that the tax was caused because of the cash deposits the taxpayer had received in his bank account.

However, the taxpayer expressed that he did not have a bank account in any financial institution in that year and consequently, he was not obliged to pay any income tax with regards to such deposits.

In the Complaint Procedure, **PRODECON** requested from the Tax Authorities involved in the case a report that specified which precise information was in their databases that led them to consider the existence of a tax liability for the taxpayer.

The Tax Authorities informed **PRODECON** that the taxpayer obtained cash deposits during the year 2014, as was reported by a financial institution. **PRODECON** helped the involved taxpayer to submit a Complaint upon another public organism named CONDUSEF<sup>9</sup> to pursue an action against the financial institution for having reported such inexact information to the Tax Authorities.

Finally, the bank situation of the taxpayer was clarified and the financial institution issued to the taxpayer a letter acknowledging that the deposits previously reported to the Tax Administration Service, SAT, did not

<sup>9</sup> CONDUSEF, Spanish acronym of *Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros*, National Commission for the Protection and Defense of Financial Services' Users.

actually correspond with the Federal Tax Registration (*RFC for its acronym in Spanish*) of the complainer taxpayer but belonged to an homonymous person. In such way, the taxpayer acquired full legal certainty about his tax status.

## Case 5

A taxpayer who had traveled abroad returned to the country and when going through the Verification Point at Customs got the red traffic light. Therefore, the Authority carried out an inspection, and withheld several items that were part of the hand luggage of the traveler, including a special watch that a family member had given him. In order to recover his assets, the taxpayer paid the contributions supposedly omitted, but the Authority did not return him the goods.

Through the Complaint Procedure, it was demonstrated to the Customs Authority that the seized merchandise was for personal use. Then the taxpayer was not even obliged to declare or pay any contribution, and so the Customs Authority returned to the complainer taxpayer both the seized merchandise and the unduly paid amount of tax.