

**Analysis of the tax provisions and development of a proposal for a solution to the tax discrepancy according to the LISR of SMEs****Análisis de las disposiciones fiscales y desarrollo de una propuesta de solución ante la discrepancia fiscal de acuerdo a la LISR de las PyMes**

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DOI: 10.35429/JAF.2023.27.10.14.17

Received July 20, 2023; Accepted December 30, 2023

**Abstract**

This article presents the results of the research carried out in the first quarter of 2023 using SMEs in the San Martin Texmelucan region as a study factor. The general objective of the research was to analyze the tax provisions and develop a proposal for a solution to the tax discrepancy in terms of income tax in SMEs. The methodology that was carried out was developing mixed research, the data collection technique was a questionnaire of 30 closed questions with a Likert scale was applied, 376 surveys were applied to different companies in the region of San Martin Texmelucan. The most important contribution made was the design of a tax protection plan for SMEs in order to minimize the economic and criminal consequences of the tax discrepancy.

**Tax Discrepancy, SMBs, Strategy****Resumen**

En el presente artículo se presentan los resultados de la investigación realizada en el primer trimestre de 2023 tomando como factor de estudio a las PyMes de la región de San Martin Texmelucan. El objetivo general de la investigación fue analizar las disposiciones fiscales y desarrollar una propuesta de solución ante la discrepancia fiscal en materia de ISR en las PyMes. La metodología que se llevó a cabo fue desarrollando una investigación mixta, la técnica de recolección de datos fue un cuestionario de 30 preguntas cerradas con escala de Likert, se aplicaron 376 encuestas a diferentes empresas de la región de San Martin Texmelucan. La contribución más importante que se realizó fue el diseño de un plan de protección fiscal para las PyMes a efecto de minimizar las consecuencias económicas y penales de la discrepancia fiscal.

**Discrepancia fiscal, PyMes, estrategia**

**Citation:** AGUILAR-PÉREZ, Esmeralda, HERNÁNDEZ-HERNÁNDEZ, María Elena, SOTO-RIVAS, Soledad e IRIGOYEN-ARROYO, Luis Ernesto. Analysis of the tax provisions and development of a proposal for a solution to the tax discrepancy according to the LISR of SMEs. *Journal of Administration and Finance*. 2023. 10-27:14-17.

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## Introduction

The Tax Discrepancy is a legal figure established by the tax authority whose objective is to avoid evasion (Juárez, 2020), which is mainly aimed at individuals through the help of technology and to observe whether taxpayers, through the submission of reports and reports from third parties, of expenditures, expenses, investments and bank deposits among other concepts, know the equivalent link between the income obtained and declared in relation to their expenditures.

The research question is: Will taxpayers be audited by analysing the background of the Tax Discrepancy, and will the situations in which individuals incur in the tax discrepancy be detected so that they avoid filing it?

It is hypothesised that the development of a proposed solution to the tax discrepancy of individuals under Chapter I of Title IV of the LISR will reduce the number of taxpayers in this situation.

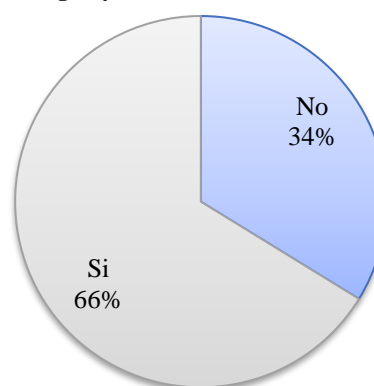
This article is made up of 5 sections, initially presenting the methodology that was developed, followed by the results, conclusions, bibliographical references and acknowledgements.

## Methodology to be developed

The research carried out was mixed, the information was collected through a questionnaire applied to 376 SMEs, to determine how they approach the issue of tax provisions in the face of tax discrepancy.

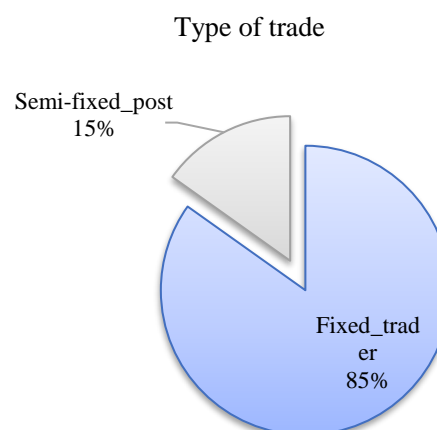
It began with a theoretical analysis of the background of tax discrepancy and the way in which the authority carries out audits on individual taxpayers. Subsequently, the LISR was analysed to detect the situations in which individuals incur in tax discrepancy and finally a tax protection work plan was designed to minimise the economic and criminal consequences of the exercise of the authorities' auditing powers.

Has your company filed a tax discrepancy during any of the months of the last year?



Graphic 1

This graphic shows that 66% of the respondents indicate that they have spent a higher amount compared to the income they received and only 34% indicate that they have not presented such a situation. This indicates a problem as the tax authority may exercise its powers of verification and determine some kind of sanction that affects the finances of SMEs, to solve this problem it is necessary to design a strategy that generates a support to companies to provide a solution to it.



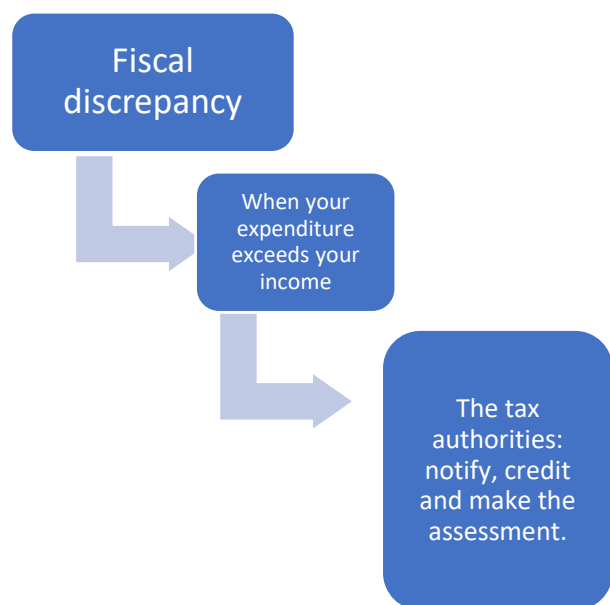
Graphic 2

Of the 376 SMEs surveyed, 85% indicate that their type of trade is with a fixed establishment and that they have an RFC, while only 15% carry out their activities in semi-fixed stalls. This is important to determine the degree of formalisation of the surveyed enterprises and to analyse how strategies are developed to reduce the tax discrepancy in SMEs.

**Results**

The results obtained in the research carried out in the first quarter of 2023 with respect to the tax discrepancy of SMEs in the San Martin Texmelucan region indicate that with respect to the general objective of analysing the tax provisions and developing a proposal for a solution to the tax discrepancy.

A diagram was prepared based on Article 91 of the Income Tax Law (SAT, 2023), which explains the concept of tax discrepancy.



**Figure 1**

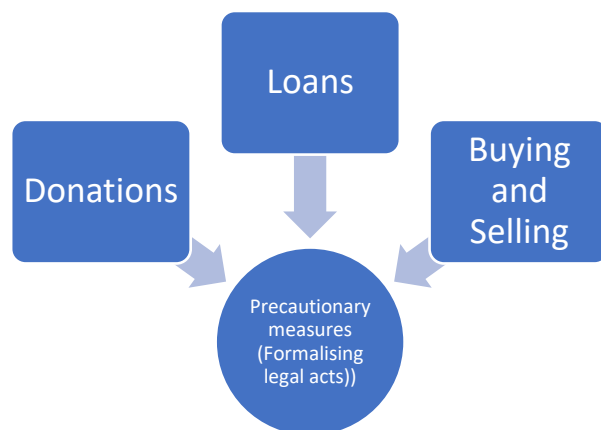
The results of Specific Objective 2 of Analysing the LISR to detect situations in which individuals incur in tax discrepancies. It is presented through the following cases:

| EXAMPLE 1              |           |
|------------------------|-----------|
| DECLARED INCOME        | 0         |
| BANK DEPOSITS          | 500,000   |
| + ACQUISITION OF GOODS | 200,000   |
| + ACQUISITION OF GOODS | 250,000   |
| FINANCIAL INVESTMENTS  | 400,000   |
| TAX DISCREPANCY        | 1,350,000 |

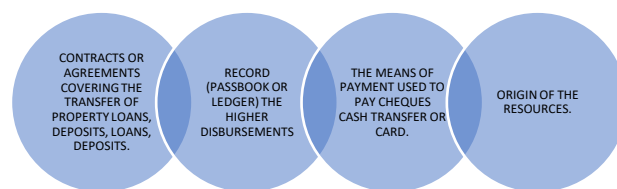
**Table 1** Cases and examples of tax discrepancy

| EXAMPLE 2              |           |
|------------------------|-----------|
| DECLARED INCOME        | 1,100,000 |
| BANK DEPOSITS          | 500,000   |
| + ACQUISITION OF GOODS | 200,000   |
| + ACQUISITION OF GOODS | 250,000   |
| FINANCIAL INVESTMENTS  | 400,000   |
| TAX DISCREPANCY        | 250,000   |

**Table 2** Example 2 of tax discrepancy



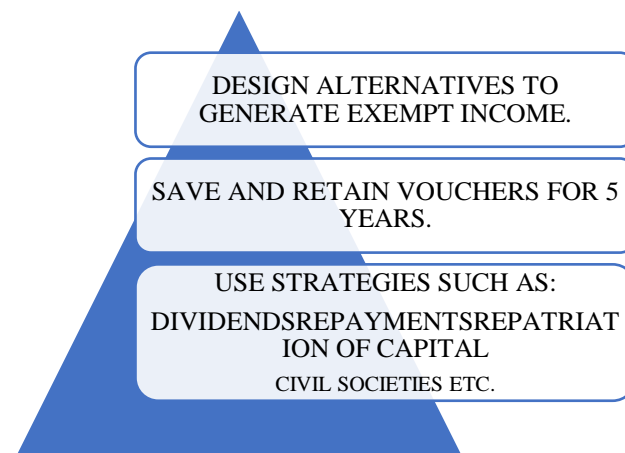
**Figure 2** Precautionary measures of the tax discrepancy



**Figure 3** Simulation of legal acts

| Retain supporting documentation of income and expenditures made |   |   |
|---|---|---|
| Proof of income.  | Withholding of salaries, alineation, acquisition of goods, etc. | Contracts or agreements for expenditure, acquisitions, disposal of furniture and real estate. |

**Table 3** Avoiding simulation of legal acts  
Source: (Alva, 2023)



**Figure 6** Alternatives for resolving tax discrepancies  
Source: (SAT, 2023)

**Acknowledgement**

We are grateful to the Instituto Tecnológico Superior de San Martín Texmelucan for the facilities provided for the development of this project, as well as to the Tecnológico Nacional de México for the financing of the Project Key 18323.23-PD.

**Conclusions**

SME owners may be subject to the tax discrepancy procedure when it is found that the amount of expenditures in a calendar year is higher than the declared income or the income that should have been declared.

Expenditures that are considered income will be taken into account as omitted in the chapter declared by the taxpayer or in the other income chapter of Title IV of the LISR (Congreso de la Unión, 2023).

Deposits and transfers between the taxpayer's own accounts, including those made to the spouse or to lineal ascendants and descendants in the first degree, and deposits made in third-party accounts, are considered to be expenditures when it is shown that such deposits are made for the acquisition of goods and services and the payment of consideration for the granting of the temporary use or enjoyment of goods.

In disclosing the amount of the expenditures referred to in the Article, the tax authorities may use any information in their possession, either because it is contained in their files, documents or databases, or because it has been provided by a third party or another authority. The tax authorities shall proceed as follows: they shall notify the taxpayer of the amount of the expenditure detected, the information used to obtain it, the means by which it was obtained and the resulting discrepancy.

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