

Volume 4, Issue 7 — July — December — 2020

Journal-Law and Economy

ISSN: 2524-2113

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RINOE Journal-Law and Economy, Volume 4, Issue 7, July – December 2020, is a journal edited semestral by RINOE. La Raza Av. 1047 No.-Santa Ana, Cusco-Perú. Postcode: 11500. WEB: www.rinoe.org, journal@rinoe.org. Editor in Chair: VILLASANTE, Sebastián. PhD. ISSN: 2524-2113. Responsible for the latest update of this number RINOE Computer unit. ESCAMILLA-BOUCHÁN Imelda. PhD, LUNA-SOTO, Vladimir. PhD, La Raza Av. 1047 No.- Santa Ana, Cusco-Perú. Postcode: 11500, last updated December 31, 2020.

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Presentation of the content

In the first article we present, *Towards a true tax reform: Proposal to reactivate the economy. Towards real tax reform: Proposal to revive the economy*, by BÁRCENAS-PUENTE, José Luis & ANDRADE-OSEGUERA, Miguel Ángel. with adscription in the Universidad Tecnológica del Suroeste de Guanajuato, in the next article we present, *LFPDPPP*, by ARENAS, Jorge, with adscription in the Universidad Iberoamericana, in the next article we present, *Personal data protection*, by LÓPEZ-JARQUÍN, Sergio Benigno, with adscription in the Universidad Iberoamericana, in the last article we present, *Data privacy*, by FLORES-ROMÁN, Luis Hugo, with adscription in the Universidad Iberoamericana.

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Towards a true tax reform: Proposal to reactivate the economy. Towards real tax reform: Proposal to revive the economy

Hacia una verdadera reforma fiscal: Propuesta para reactivar la economía. Towards real tax reform: Proposal to revive the economy

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DOI: 10.35429/JLE.2020.7.4.1.9

Received August 28, 2020; Accepted December 19, 2020

Abstract

Every one that proposes and publishes a tax reform renews the hope of good news or at least that the situation does not worsen, this year 2020 did not happen, which is not new. The current government promised not to raise taxes, which is also new. While it is true that the Federation Revenue Law for FY 2020 does not provide for the increase in tax rates, it does show the eventual creation of new contributions, a situation that has gone unnoticed by the majority of the population, moreover, of the fervent followers of the person now holding the Presidency of the Republic. Thus, this reform tightens the audit but does not encourage job creation or the preservation of existing ones; 2019 ended without economic growth and that does not seem to matter to this regime, indolent of an economic crisis in the wake of today's pandemic. That is why the proposals for improvement must come from individuals, from the civil society which, though belittled by authority, must take the baton, now distracted and empty; the gravity of the situation deserves it, it claims.

Resumen

Cada que se propone y se publica una reforma fiscal se renueva la esperanza de buenas noticias o al menos que la situación no empeore, este año 2020 no ocurrió, lo cual no es novedad. El gobierno actual prometió no aumentar impuestos, cosa que tampoco es nueva. Si bien es cierto que La Ley de Ingresos de la Federación para el ejercicio fiscal 2020, no contempla el incremento de tasas impositivas, sí deja ver la eventual creación de nuevas contribuciones, situación que ha pasado inadvertida por la mayoría de la población, más aun, de los fervientes seguidores de la persona que ahora ocupa la Presidencia de la República. Así, esta reforma endurece la fiscalización pero no incentiva la creación de empleos ni la conservación de los existentes; 2019 terminó sin crecimiento económico y eso parece no importar a este régimen, indolente de una crisis económica aderezada con la pandemia que se vive hoy en día. Es por ello que las propuestas de mejora deben venir de los particulares, de la sociedad civil que, aunque menospreciada por la autoridad, debe tomar la batuta, hoy distraída y vacía; la gravedad de la situación así lo amerita, lo reclama.

Law, Consumption, Economy

Ley, Consumo, Economía

Citation: BÁRCENAS-PUENTE, José Luis & ANDRADE-OSGUERA, Miguel Ángel. Towards a true tax reform: Proposal to reactivate the economy. Towards real tax reform: Proposal to revive the economy. Journal-Law and Economy. 2020. 4-7: 1-9

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Introduction

Governments come and go, and with them, proposals that obey a country model that follows political rather than economic guidelines. Now, within this dynamic, the current six-year term faces three types of crisis: The economic one, which started the previous year, marked by a recession officially denied but which resulted in a growth of -0.1% during 2019 (Instituto Nacional de Statistics, Geography and Informatics, 2020) and that for this 2020, a debacle between 7 and 9% is predicted; that of public security, due to the fight for the dominions of organized crime; and, now, the utility, caused by the COVID-19 pandemic, whose government management, for a change, has given much to be desired.

This black panorama makes a tax reform that actually reactivates the economy more urgent than ever, far from political prejudices based on the fact that "all of the above was badly done", "it is the fault of neoliberal governments" and, even more, "that it's over, no more corruption ", although this is implemented more in occurrences than in serious politics. The reality is that this government has been characterized, among other things, by punishing the business class and winning over the popular sector through handouts to ensure votes and thus the sinister permanence in power.

It is precisely this disdain for entrepreneurs that has aggravated the consequences of these crises, since it is they who create jobs, the engine of growth and consequently of economic development; and that they see in this government an insurmountable wall, instead of the support they require.

This work aims to expose what the Federation Income Law hides for 2020; the disparity in the tax burden of the different regimes for natural persons; the importance of wage earners in the national economy; the effectiveness that VAT has undoubtedly had in terms of collection level; the pending issue that exists with street vendors and the subject to the Tax Incorporation Regime, etc.

Finally, the proposal included in this material is exposed with the logic and fundamentals of economic science; in this neoliberal model that the government so much repudiates and that it intends to "abrogate" with decrees or political speeches, showing a deep ignorance and an evident attachment to the idea or project of a socialist Mexico.

1. Federation Income Law for fiscal year 2020

Revenue law of the federation for the fiscal year 2020 Chapter I On Revenue and Public Debt

Article 1. In the fiscal year of 2020, the Federation will receive the income from the concepts and in the amounts estimated in millions of pesos that are listed below:

Concept	Estimated Income
Total	6,107,732.4
1. Taxes	3,505,822.4
11. Income taxes:	1,852,852.3
01. Income tax	1,852,852.3
12. Wealth Tax	
13. Taxes on Production, Consumption and Transactions:	1,534,55.8
01. Value added tax	1,007,546.0
02. Special tax on production and services:	515,733.5
01. Automotive fuels	342,053.6
ces	313,321.0
01. Article 2. Fraction I, subsection D)	28,732.6
02. Article 2. TO	62,166.7
02. Drinks with alcoholic content and beer:	18,888.4
01. Alcoholic beverages	43,277.3
cas	43,679.4
02. Beers and soft drinks	2,968.8
tes	5,923.3
03. Wrought tobaccos	11.6
04. Games with bets and draws	28,660.5
05. Public telecommunications networks	23783.2
06. Energizing drinks	758.1
tes	5,729.3
07. Flavored drinks	10,776.3
you give	70,984.6
08. Non-basic foods with high caloric density	70,984.6
09. Pesticides	70,984.6
10. Fuel	0.0
fossil bles	
03. Car tax	
them new	41,210.2
14. Taxes on Foreign Trade	41,210.2
01. Taxes on foreign trade	6,850.3
01. To the import-	6,850.3
tion	0.0
02. To export-	-130.8

Table 1 Federation Income Law 2020, 2020

This extract from the 2020 Federation Income Law (LIF 2020) has been transcribed, corresponding to income from taxes, since this part contains interesting data, worthy of being analyzed:

- a) In numeral 12 appears "Taxes on Wealth", without any amount.
- b) In numeral 15 appears "Payroll and Assimilable Taxes", also without any amount.
- c) In numeral 16 appears "Ecological Taxes", without any amount, just like the previous ones.

What do these taxes refer to? Why, if it is not budgeted to collect a single peso of them, do they appear in the LIF 2020? Is it intended to establish them in the future? Is it one more betrayal of the current campaign promises government? It is definitely not about simple paranoia, there is a reason to be alert and expose that these are new taxes that will be implemented at any time during this six-year term.

In this regard, experts say the following:

It seems to be fully explored and fully proven that the Federal Revenue Law is the only instrument through which the Congress of the Union can exercise the power provided for in Article 73, section VII: "Congress has the power: to impose the contributions necessary to cover the budget ". (National Autonomous University of Mexico, 2018).

Indeed, said article 73 of the Magna Carta is the starting point for the analysis of this section.

There are several consequences derived from the previous idea, if it is true. For example, it will be resolved that if the aforementioned law is not approved, promulgated and published before the start of the fiscal year to which it will govern, it is not possible to apply the previous law, which is valid for one year. In this case there will be no tax collection, as the Constitution does not provide a solution to the case. Likewise, if the law was approved by the legislative chambers, but the promulgation and publication is delayed by the Federal Executive and, therefore, the validity begins after days of the fiscal year, in the period, whatever, included between the initiation of the fiscal year and that of the validity of the law, there may not be tax collection either. (National Autonomous University of Mexico, 2018).

In effect, following this reasoning, without LIF there is no tax collection, since it is the source that allows establishing which taxes will be in force during the year.

The annual nature of the law helps a lot to these ideas, as is unequivocally deduced from article 74 of the Constitution: "The following are exclusive powers of the Chamber of Deputies: IV. Approve the annual budget for expenses, first discussing the contributions that, in its opinion, should be decreed to cover it ". Nothing remains to be done if, within the ordinary legislative period that runs from September 19 to December 31 of the year (articles 65 and 66 of the Constitution), the Federal Revenue Law is not approved. (National Autonomous University of Mexico, 2018).

It is clearly stated then that this law is in force annually and that it must be approved within the ordinary legislative period.

Also a consequence of sustaining that idea is the tacit annual validity or tacit extended validity in which all the laws relating to each tax, right, product or use are inevitably placed, which the Income Law prevents as tax sources. It is categorically affirmed - by many authors - that the omission of a tax line in the Revenue Law prevents the application of the regulatory law of that line. For example, if income tax is not included in the Income Law, the Income Tax Law could not be applied by the Ministry of Finance and Public Credit, and the rule would have to be followed for all income. On the contrary, if none of the lines are omitted, the laws that regulate them will continue to apply. (National Autonomous University of Mexico, 2018).

This part of the aforementioned study, carried out by the Institute of Legal Research of the Maximum House of Studies, gives us light on this matter: All the contributions that appear in the LIF (without making a distinction regarding their amount or even lacking it) allow or "authorize" its validity and, with it, its collection.

So things seem as if each tax law can only be applied for one year, and the cause will be in the necessary annual inclusion in the repeated Income Law of the tax resource. Similarly, if the inclusion is made, it happens that the law suffers the curious phenomenon of receiving authorization to apply.

For all this, it is necessary that we change the expressions used in the previous paragraph with a little better precision, to underline this consequence. Instead of validity, the correct thing to do would be to say tacit annual positivity or tacit extended positivity. Indeed, if the aforementioned omission is incurred, the tax law is not repealed, it does not lose its formal validity. If the tax law is in force, a new income law includes the tax line that it regulates, its validity is not extended or renewed, but because of its continued positivity, its application is authorized for one more year. (National Autonomous University of Mexico, 2018).

In other words, according to this correction, what happens is that the tax law in question does not acquire or lose validity as such, but rather its application is extended; In other words, by being included in the LIF of a certain year, the collection provided for in said law is thus formalized. Which leads us to think, if each tax extends its collection each year, being included in the LIF, what happens with the mentioned taxes that do not have any amount but appear in the LIF? It is evident that they will not have collection because although they are there they do not have the corresponding law that regulates them, at least for this year 2020. What is the purpose of including them this year?

Let's review the following review:

It is believed that it is not an essential requirement that when a new tax is approved, it must necessarily appear in the Income Law for the fiscal year in which it will come into force, because the ordinance that establishes the new tax, upon being approved by Congress of the Union, it is a law of the same category as that and, furthermore, because the Constitution does not require that the Revenue Law necessarily consign the tax line of the new tax in order for it to be legally enforceable. The Revenue Law simply had its origin in the idea of saving time for the members of the Congress of the Union. (Margáin Manautou, 2007).

Mystery solved. The LIF for 2020 establishes three new taxes that will not necessarily start their collection (and in fact they do not) in 2020; however, as this prominent author comments, it is simply a matter of "saving time" and in the future, having them already considered.

Thus, it is expected that in this six-year term, without a doubt, these three contributions will be implemented, contradicting the rhetoric that of "there will be no increase in taxes and no new ones will be created."

2. Natural persons, the key

This work presents a proposal for tax reform, at least at the conceptual level; For this, it is necessary to start with a simple reflection on the role that the taxpayer plays, either as a natural person or as a legal entity, in tax collection.

For years, the legislator has tried to put padlocks and toughen control measures with dedication to legal entities; the income tax rate has been modified, deductions are limited, complex tax regimes have been created, etc .; however, tax evasion continued to persist. Thus, as has been commented on in multiple forums, the Ministry of Finance and Public Credit (SHCP), long before the creation of the Tax Administration Service (SAT), in June 1997, realized that inexplicably "there were companies (read moral persons) poor and entrepreneurs (read natural persons) rich "; In other words, legal entities declared tax losses year after year, while their shareholders went on vacation to Europe.

The tax authority, starting to do the task, then comes to the conclusion that it had missed the path, it is not the legal persons who must be watched, but the natural persons; and it is then that the fiscal discrepancy, the declaration of donations and loans, etc. appears in the LISR, thus directing all the artillery to this objective.

The reason has always been very simple, we individuals are the engine of economic development, legal entities are only a legal invention to associate and seek a goal. Under this premise, why not design a tax reform that has individuals as protagonists? But not imposing clumsy regimes such as the Regime of Tax Incorporation (RIF) or exercising fiscal harassment by pursuing the returns in zeros or forcing them to open the so-called tax mailbox; but a reform that in reality represents for them an easy compliance with tax laws, for the treasury itself an increase in collection, and, in addition, that reactivates the economy.

3. Employees, the main productive force in the country

Now that it has been explored who actually moves the country, it is necessary to distinguish which is the main activity of natural persons in Mexico; remember that, according to the LISR there are the following chapters within Title IV, namely:

- a) Income from wages and in general from the provision of a subordinate personal service.
- b) Income from business and professional activities.
- c) Income from leasing and in general from granting the temporary use or enjoyment of real estate.
- d) Income from the sale of assets.
- e) Income from the acquisition of goods.
- f) Interest income.
- g) Income from obtaining prizes
- h) Income from dividends and, in general, from profits distributed by legal entities.
- i) "Other income"

A wide range of activities can be seen, until ending with item i), which represents the "sack" that contains those that do not correspond to any of the previous items.

Let's review the most current figures available regarding the occupation of the Mexican population:

Position in occupation and gender	ENSO July 2020	ETOE 2020			ENO July 2019	Difference in percentage points with respect to: June 2020
		June	May	April		
United States of Mexico	100.0	100.0	100.0	100.0	100.0	
Subordinate and paid workers	68.0	70.9	72.3	74.9	67.9	-2.8
Employers	5.0	4.5	4.5	5.3	4.8	0.5
Free-lancers	22.3	20.4	19.0	17.9	22.6	1.9
Unpaid workers	4.7	4.3	4.2	1.9	4.7	0.4
Men	100.0	100.0	100.0	100.0	100.0	
Subordinate and paid workers	68.4	69.1	69.0	71.3	68.6	-0.7
Employers	6.3	5.2	6.2	7.5	6.2	1.1
Free-lancers	22.0	22.9	22.0	20.0	22.1	-0.8
Unpaid workers	3.3	2.8	2.8	1.2	3.1	0.4
Women	100.0	100.0	100.0	100.0	100.0	
Subordinate and paid workers	67.3	73.5	77.3	80.6	66.8	-6.2
Employers	2.8	3.4	2.0	1.8	2.6	-0.6
Free-lancers	22.8	16.6	14.5	14.5	23.4	6.2
Unpaid workers	7.1	6.5	6.3	3.1	7.3	0.6

Table 2
Source: INEGI (2020)

These figures, taken from the National Institute of Statistics and Geography, still known as INEGI (although more properly it could be "INEG") show the preponderance of subordinate and paid workers (salaried), with 68% as of July 2020, above of employers and own-account workers (who are located in the rest of the income contemplated by the LISR). (National Institute of Statistics and Geography, 2020).

This information, although the current federal government claims "to have other data", can well be corroborated by taking a look at what happens in daily life. Even those of us who are fortunate enough to have a profession, the first step out of college is to buy the newspaper (now consulting social networks), to look at the appropriate notice for some employment option. In second place, with 22.3% are self-employed workers (independent professionals and various trades); further still, with 5%, employers, those people who have created sources of employment, whose "entrepreneurial spirit" is threatened by public insecurity in the country, through the "collection of floor fees."

In this way, it can be concluded that we are a country of wage earners, whose income, mostly insufficient for basic needs, causes an income tax that is withheld by the employer, making us "captive clients" for the SAT, since this way he controls us without lifting a finger.

4. VAT, a tax that is here to stay

Let's review some interesting data about the origin of value added tax (VAT) in our country, a contribution that to date, ranks second in collection, only after income tax (ISR).

In Mexico, VAT is a contribution contained in the Law of Value Added Tax (LIVA), published in the Official Gazette of the Federation (DOF), on December 29, 1978, whose validity began on January 1, 1980. Said contribution replaces the tax determined based on the Mercantile Income Law and other existing legal regulations at that time. (Mexican Institute of Public Accountants, 2019).

To locate ourselves in time, we are talking about the government of José López Portillo; VAT is in force this year for 40 years.

Since its creation, the LIVA contemplated a generalized rate of 10%. However, for the alienation of goods, use or enjoyment and provision of independent services, performed by residents in the 20-kilometer border strip, the tax was calculated by applying the value of acts or activities established in said legislation, the rate of 6% . (Mexican Institute of Public Accountants, 2019).

The tax then starts with a rate of 10%; except in the northern border strip, where the 6% rate was applied. This indicates that the preferential conditions for taxpayers in said area are not new compared to the current stimulus that allows a rate of 8%. Could it be then that not everything was wrong in the past, as the President of the Republic says?

With the LIVA, all agricultural and livestock products that do not undergo industrial transformation, as well as meat, milk, eggs, dough, tortillas and bread, are released from paying the tax. (Mexican Institute of Public Accountants, 2019).

As it happens to date in the current article 2-A of the LIVA.

The LIVA does not tax the land or the constructions destined to dwelling houses, when they are sold or when they are a reason for leasing. Likewise, in order to deduct the agricultural and livestock activity, the machinery used for these purposes, the fertilizers and the services that are provided for these activities are also exempt from VAT. (Mexican Institute of Public Accountants, 2019).

In the same way, it is now provided in article 9 of the LIVA.

In 1978 it was pointed out, (...), that the set of exemptions represented more than 40% of final consumption and their tendency was to protect the purchasing power of the majority of the population.

An interesting fact is found in February 1982, when the Bank of Mexico withdrew from the exchange market and the Mexican government was forced to declare a default on payments, which caused the devaluation of the currency. , which came to be from 22 to 70 pesos per dollar. The Federal Executive, at the end of 1982, proposed a 15% increase in the general VAT rate, claiming a greater need for resources to face the economic crisis caused by the shortage of foreign exchange and the subsequent devaluations of the peso in the second semester of 1982. (Instituto Mexicano de Contadores Públicos, 2019).

The protection of the purchasing power of the population, especially of the most vulnerable sectors, referred to in the first paragraph of the quote, has always been the political banner of every candidate, even more so since he is a populist.

Then, in 1982, the economic debacle came as a result of the disastrous devaluation and the government decided to increase the general VAT rate; which means that since its inception, this tax has served as an escape valve to economic pressures, the question would be, having a capitalist economy (or neoliberal, although the current regime is sick to hear it), and being one of the characteristics the presence of cycles such as recession, crisis and the longed-for boom, why hasn't the rate lowered again? At least in the few times in which the situation seems to allow it ...

This is how VAT has evolved to this day, always staying at the forefront of collection. Surely the author has ever heard the phrase: "The only sure thing in life is death and taxes"; Well, according to the indirect nature of VAT, it could be ensured that said phrase is dedicated precisely to this contribution. Indeed, if we take into account that it is a consumption tax and since we all have the need to consume an infinity of goods and services, the payment of VAT is unavoidable.

5. Proposal to reactivate the economy through a tax reform

So far it has been commented that it is the individuals who constitute the productive force of this country, which is why the tax authority focuses its efforts to keep an eye on us. It is also a fact that the main activity carried out by these natural persons refers to obtaining income from wages, remuneration that sadly is far from covering the average needs of a human being. On the other hand, many of the tax reforms that we have undergone are focused on legal entities, and those that have referred to individuals have only made them more impoverished and made it difficult for the few who manage to comply with obligations, despite the organized crime, have your own business.

All this in the context of the three crises that we currently face and that were already mentioned at the beginning of this material: The economic one; that of security; and the sanitary. As if that were not enough, we suffer from an irascible federal regime with those who do not share its ideas, which causes divisiveness and is dedicated to "blaming the one behind" instead of giving results; all with the purpose of appearing as the hero of history, perpetuating himself and achieving projects more out of whim than out of social necessity.

The proposal included in this work could be defined as logical in its concept, risky to implement (for political actors), but which can be effective over time. This last qualifier is opposed to what has been "achieved" so far in the tax reforms, which have only meant palliative or analgesics that sometimes calm the symptoms, but the flu, or influenza, or worse still, COVID-19, are still there .

Already Adam Smith in his work "The Wealth of Nations" argued that it is not natural resources that define the wealth of a country, but its labor force, based on the division of labor and combined with free competition to achieve growth economic; according to what has been exposed in this material.

Later, John Maynard Keynes, in 1936 publishes the "General Theory of Employment, Interest and Money", and exposes, in an extract, the following, as part of his ideas:

Our theory can be outlined as follows. When the level of employment increases, so does total real income. The psychology of the community is such that when total real income increases, total consumption also increases but to a lesser extent. Therefore, if the entire world of the occupation went to satisfy the increased demand for goods for immediate consumption, the entrepreneurs would suffer losses. Consequently, to justify any given volume of employment, there must be a certain volume of current investment sufficient to absorb excess production with respect to what the community decides to consume at this given level of employment; because, unless there is this volume of investment, the income of entrepreneurs will be below the level necessary to induce them to offer the given volume of employment. Hence it follows, therefore, that, given what we will call the community's propensity to consume, the equilibrium level of employment, that is, at the level at which nothing induces all employers to increase or reduce employment , will depend on the current investment volume. Its volume will depend, in turn, on what we will call the incentive to invest, which, as we will see later, depends on the relationship between the curve of the marginal efficiency of capital and the structure of the interest rates on loans with different maturities and risks. (Keynes, 1985).

To better understand the quote, it is important to place ourselves in the context in which Keynes made his thought known through his masterpiece.

- a) He was a British economist opposed to "laissez-faire", a classical school that held that everything has a natural order and that the system itself is capable of self-correcting imbalances.
- b) On the other hand, he argued that capitalism needs the intervention of the State on occasions to correct the excesses of the system, specifically, as a regulatory agent for investment.
- c) His work belongs to the time of the Great Depression in the United States, in fact, his recommendations served the recovery of the American economy.
- d) Even after World War II, his ideas were adopted and led to him being appointed British representative at the Breton Woods conference and receiving the title of Lord.

The quoted extract refers specifically to aggregate demand, investment, employment and consumption, without elaborating on interest and money. However, it is enough to present the central idea that serves our theme:

All part of the investment, having it, increases employment and with it total income (income). People, having money, the product of their work, will tend to consume more, although not in the same proportion as their increase in income; if there is excessive consumption, there would not be sufficient production of goods and services and the system collapses, that is where the State must regulate investment (well planned and in decisive sectors). Thus, the part of the income that people do not consume, save it and have the possibility of investing, favoring private investment, starting from public investment. Easy, right?

The proposal included in this work tries to collect these ideas. Reactivate the economy through consumption; if people buy the companies they win and can in turn generate more jobs. Let's analyze each of these variables separately:

- a) Public investment is in Mexico retracted by a denied economic crisis, whose scarce resources are directed to electoral social programs and sexennial whims more than to support to companies.
- b) Faced with this lack of support to face the three crises mentioned, job creation is compromised, there is unemployment and those who manage to have a paid occupation hardly survive on their salary.
- c) Aggregate demand is contained because consumption is very limited. People do not consume what they would like because their resources are insufficient.
- d) If there is not enough consumption, companies lose and many of them have to close, the three crises have annihilated them.
- e) Given these conditions, it is impossible to think about saving, and consequently, about private investment.

Can fiscal matters do something to reactivate the economy, even so?

The answer is yes, although it requires a serious political and legislative commitment, according to the following points:

- a) Reduction of income tax on wages, modifying the rate of article 96 of the law or reviewing the table of credit to wages. On this second, the idea of subsidizing ISR to workers who earn 1 to 4 minimum wages, implemented in the administration of Carlos Salinas (another sample of previous successes), was well received, but has been exceeded by inflationary periods. In this way, the worker will have more money in his pocket, regardless of whether his salary increases.
- b) Reduce the VAT rate, returning to the general rate of 10%. Thus, goods and services will go down in price, having a cheaper VAT for the final consumer.
- c) To compensate for the previous reductions and not to fall, it is mirages or happy accounts that the President of the Republic promised while he was campaigning (although some say that he still is); eliminate exemptions and 0% rate in the VAT. Perhaps the most difficult measure to implement, as it represents a high political cost; hardly any government, of any color or acronym, will assume the taxation of food and medicine, sensitive goods in the population. However, for many, it is the solution. To see who dares.

Conclusions

You can conclude the following:

- a) The Income Law of the Federation provides for the implementation of three new taxes ready to come into force in any year of this hazardous administration, contrary to what was promised in the campaign by the current government, we will have to be attentive to this.
- b) Individuals are the focus of attention for the tax authority to exercise verification powers; however, there is no tax reform that encourages their productivity and facilitates compliance with the laws.
- c) Income from wages is the main activity of the Mexican population, it is a captive regime that practically controls itself.
- d) The VAT, 40 years after its creation, has demonstrated its collection efficiency, as it is a consumption tax.

- e) Under these assertions, it is proposed to design, through a serious study, a fiscal reform that seeks to reactivate the economy through consumption; reducing the payment of ISR in salary, thus increasing the liquidity of workers, in addition to reducing the VAT rate to lower the price of goods and services but eliminating exemptions and 0% rates on them, thus balancing tax collection.

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LFPDPPP

LFPDPPP

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DOI: 10.35429/JLE.2020.7.4.10.13

Received August 15, 2020; Accepted December 20, 2020

Abstract

The LFPDPPP recognizes the rights of citizens (referred to in the Law Headlines) to protect your privacy and empower people to apply to the responsible, at any time, access rectification, cancellation or opposition regarding the personal data that concerns you. Derived from the above, data processing personal is subject to the consent of the Owner. all individuals, such as companies, non-governmental organizations.

Law, Citizen, Personal, Sanctions

Resumen

La LFPDPPP reconoce los derechos de los ciudadanos (referidos en los Titulares de la Ley) de proteger su privacidad y facultar a las personas para que soliciten al responsable, en cualquier momento, la rectificación, cancelación u oposición de acceso respecto de los datos personales que le conciernen. Derivado de lo anterior, el tratamiento de datos personales está sujeto al consentimiento del Titular. todas las personas, como empresas, organizaciones no gubernamentales.

Derecho, Ciudadano, Personal, Sanciones

Citation: ARENAS, Jorge. LFPDPPP. Journal-Law and Economy. 2020. 4-7: 10-13

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Introduction

Non-profit organizations, among others, have the obligation to inform the Data Holders by means of the privacy notice of what is collected from them and for what purposes. The Law establishes as a violation that the request for access, rectification, cancellation or opposition to the processing of the personal data of the citizen is not complied with, as well as acting with negligence or fraud in the treatment of the same. It also sanctions whoever collects or transfers this data without the express consent of the Holder and prohibits the creation of databases in contravention of said Act.

LFPDPPP

The LFPDPPP regulates the right to the protection of personal data so that this information, in the possession of those responsible, has a legitimate, controlled and informed treatment. Therefore, the Mexican Law includes rules, requirements, conditions and minimum obligations to achieve the proper treatment of personal data held by those responsible, without this being translated into the imposition of barriers to the development of economic activities of Mexico.

Article 14 of the Mexican articles of the constitution related to LFPDPPP establishes that both the responsible party and the person in charge are obliged to observe compliance with the principles of protection of personal data (lawfulness, consent, information, quality, purpose, loyalty, proportionality and responsibility), and Therefore, they must establish and maintain administrative, technical and physical security measures to protect personal data against damage, loss, alteration, destruction or unauthorized use, access or processing, which is provided for in Article 19 of this Law .

Similarly, Article 20 of the Law establishes that security breaches that occur in any phase of the processing of personal data that significantly affect the economic or moral rights of individuals, must be immediately reported by the person responsible, to so that the holders of this information can take the corresponding actions for the defense of their rights.

Article 48 of the Regulations of the Law states that the person responsible must adopt measures to achieve the proper treatment of personal data, privileging the interests of the owner and the reasonable expectation of privacy. Among the measures that may be adopted by the person in charge are at least the following:

1. Develop mandatory and enforceable privacy policies and programs within the responsible organization.
2. Implement a training program, update and awareness of the staff on the obligations regarding the protection of personal data.
3. Establish a system of internal supervision and surveillance, external verifications or audits to verify compliance with privacy policies.
4. To allocate resources for the implementation of the programs and privacy policies.
5. Implement a procedure to address the risk for the protection of personal data for the adoption of new products, services, technologies and business models, as well as to mitigate them.
6. SAW. Periodically review security policies and programs to determine the modifications that are required.
7. Establish procedures to receive and answer questions and complaints from the holders of personal data.
8. Have mechanisms for compliance with the policies and programs of privacy, as well as sanctions for non-compliance.
9. Establish measures for the assurance of personal data, that is, a set of technical and administrative actions that allow the responsible party to compliance with the principles and obligations established by the Law and its Regulations.
10. Establish measures for the traceability of personal data, that is, actions, technical measures and procedures that allow the tracking of personal data during your treatment.

Article 60 of the Regulations of the Law stipulates that the person in charge must determine the security measures applicable to the personal data that he / she deals with, considering factors such as:

1. The risk.
2. The sensitivity of the personal data processed.
3. The technological development.
4. The possible consequences of a violation for the owners.
5. The number of owners.
6. The previous vulnerabilities occurred in the treatment systems.
7. The risk due to the quantitative or qualitative potential value that personal data treated by a third party not authorized for possession may have.
8. Other factors that may affect the level of risk or that result from other laws or regulations applicable to the person responsible.

The equivalence table

The Equivalence Table is a reference material for those responsible and in charge that will allow them to evaluate if the implementation of certain international standards in terms of information security and privacy in their organization facilitate compliance with the requirements and obligations established by Law and its Regulation with regard to security measures, as well as the Recommendations on the Security of Personal Data issued by the Institute.

The advantages of the Equivalence Table are the following:

1. Provides technical support to those responsible and charged with the protection of personal information.
2. It contains international standards related to information security and privacy and wide acceptance in Mexican organizations.
3. It helps determine if the implementation of the controls established in international standards related to information security and privacy facilitate compliance with the obligations and requirements established by the LFPDPPP.
4. Facilitates those responsible and charged with the fulfillment of their obligations in security matter of personal data.
5. Help reduce the impact in terms of implementation costs of the LFPDPPP.
7. SAW. Enriches the purpose of binding self-regulation schemes in terms of personal data protection.

8. Help those responsible and managers demonstrate to the Institute the compliance with the obligations set forth in the LFPDPPP.



Figure 1 Equivalence Table

The privacy notice in the modalities to which it refers, in the following cases:

1. When the personal data is obtained personally from the owner, the person in charge must make available the integral privacy notice;
2. When the personal data is obtained directly or indirectly from the owner, the person in charge may make the integral or simplified privacy notice available to them.
3. III. When the space used to obtain personal data is minimal and limited, so that the personal data collected or the space for the dissemination or reproduction of the privacy notice are also used, the notification modality may be used. short privacy.

The provision of the simplified or short privacy notice does not exempt the person responsible for their obligation to provide the mechanisms so that the owner can know the content of the integral privacy notice. The person in charge will not be able to establish a charge for the owner for the use of these mechanisms.

The person in charge may opt for any of the three modalities referred to in the Eighteenth of these Guidelines for making his privacy notice available, in accordance with the conditions set forth in this guideline, regardless of whether he is obliged to have the comprehensive privacy notice.

Mechanisms for the owner to know the integral privacy notice.

The simplified privacy notice should indicate the mechanisms that the person in charge has implemented so that the owners can know the integral privacy notice.

For the election of these mechanisms, the person in charge must choose those that are easily accessible to the holders and with the greatest possible coverage, considering their profile and the way in which they maintain contact with the person in charge; free; that they are duly enabled and available at all times, and that they make access to information simple.

When the simplified privacy notice is made known to the owners by remote or local means of electronic communication, optics or other technology, by that same means should be made available the comprehensive privacy notice.

The short privacy notice must contain, at least, the following information elements, in accordance with the provisions of the guidelines of this Section:

1. The identity and address of the person responsible;
2. The purposes of the treatment, and
3. The mechanisms that the responsible person offers so that the owner knows the integral privacy notice.

The immediate disclosure of the aforementioned information does not exempt the person responsible for the obligation of provide mechanisms so that the owner knows the content of the comprehensive privacy notice.

Conclusions

Regardless of the fact that it is about complying with a series of legal provisions to avoid possible sanctions to the Responsible, the most important thing is to consider that both the physical and moral persons who handle personal data, compliance with this Law provides them with a competitive advantage over the others, and as today some companies emphasize the importance of being socially responsible, or in their case ecological organizations; it is propitious that they can indicate as added value that they adequately protect the personal data of their clients, workers, suppliers and the general public.

The importance that responsible treatment of personal data has gained, even more so in this era in which the technological revolution has meant that they have a pecuniary value for certain companies, which use them for marketing or commercial purposes.

The Federal Law on Protection of Personal Data in Possession of Private Parties, published in the Official Gazette of the Federation on July 5, 2010, obliges all those responsible for the processing of personal data to comply with various obligations, in order to achieve a transparent, responsible and informed management of them.

It is important for companies to be updated and comply with the requirements of the Law, as this provides benefits that have been exposed in this guide.

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Personal data protection

Protección de datos personales

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DOI: 10.35429/JLE.2020.7.4.14.19

Received July 31, 2020; Accepted December 19, 2020

Abstract

Historically, information has played a very significant role in human life, but nowadays with the adoption of Information Technology as an essential part of our daily life, the properties of reliability, integrity and availability become indispensable in our daily activities, can be said to be obligatory for its proper use, and making the best decisions. Being an important asset, the information becomes a very desired object for other individuals or organizations, either for their use that allows them to have legal gains, to have illegal profits or even for non-profit organizations. Therefore, the importance of protecting our personal data takes on a transcendental relevance in this digital age, and Mexico has already taken a very important step by having a law already established in 2010 in this area. There is still much to be done, since policies and laws by themselves do not serve much, as individuals, we must have a culture of protecting our data and helping to spread and raise awareness among the population in general.

Resumen

Históricamente, la información ha jugado un papel muy importante en la vida humana, pero hoy en día con la adopción de las Tecnologías de la Información como parte esencial de nuestra vida diaria, las propiedades de confiabilidad, integridad y disponibilidad se vuelven indispensables en nuestras actividades diarias, se puede decir que son obligatorio para su correcto uso, y para la toma de las mejores decisiones. Al ser un activo importante, la información se convierte en un objeto muy deseado por otras personas u organizaciones, ya sea por su uso que les permita tener ganancias legales, tener ganancias ilegales o incluso para organizaciones sin fines de lucro. Por tanto, la importancia de proteger nuestros datos personales adquiere una relevancia trascendental en esta era digital, y México ya ha dado un paso muy importante al contar con una ley ya establecida en 2010 en esta materia. Aún queda mucho por hacer, ya que las políticas y leyes por sí solas no sirven de mucho, como individuos, debemos tener una cultura de protección de nuestros datos y ayudar a difundir y concienciar a la población en general.

Citation: LÓPEZ-JARQUÍN, Sergio Benigno. Personal data protection. Journal-Law and Economy. 2020. 4-7: 14-19

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General Concepts

The emergence of the right led to constitutional reforms in 3 articles:

Article 6, article 16 and article 73.

On July 20, 2007, article 6 of our Mexican constitution was amended, citing: "... The right to information will be guaranteed by the State. To exercise the right of access to information, [...] within the scope of their respective competences, they will be governed by the following principles and bases ... II. The information that refers to private life and personal data will be protected in terms and with the exceptions established by law ...

The reforms carried out were:

- General principle of information publicity.
- The right of access to public information.
- The protection of personal data held by the authorities.

The constitutional article 16 modified on July 1, 2009 and which appointment: "Everyone has the right to the protection of their personal data, access, rectification and cancellation of them, as well as to express their opposition, in terms of the set of laws, which will establish the exceptions to the principles governing the processing of data, for reasons of national security, provisions of public order or to protect the rights of third.

The amendment was that the right to the protection of personal data was raised to "constitutional guarantee", as well as the ARCO (Access, Rectification, Cancellation and Opposition) rights.

Article 73, section XXIX, Section "O" was amended on April 30, 2009 and reads: The congress has the power: [...] XXIX to legislate on the protection of personal data held by private individuals.

The paragraph does not exist and is included: "It granted the faculty of the Union to legislate in the matter of protection of personal data in the possession of individuals".

The regulation applicable to the Private Sector is:

- Federal Law for the Protection of Personal Data in Possession of Individuals: LFPDPPP (DOF 5/07/2010)
- Regulation: LFPDPPP (DOF 21/12/2011)
- General Criteria for the Instrumentation of Compensatory Measures: (DOF 17/01/2013)
- Guidelines for the Privacy Notice (DOF 17/01/2013)
- Parameters for the development of schemes self-regulation binding. (DOF 16/07/2013)
- Recommendations on Personal Data Security (DOF 10/09/2013)
- Obligatory Subjects (newly published in 2017)
- Authorities and control bodies:



Figure 1 Authority & control bodies

Source: INAI. (2018). *Marco Normativo. Mexico*. Available in: <http://inicio.inai.org.mx/SitePages/marcoNormativo.aspx?a=proteccion>

The obliged subjects are private individuals or corporations that carry out the processing of personal data.

The law provides exceptions for:

- Credit information societies.
- Persons who carry out the collection and storage of personal data, which is exclusively for personal use, and for purposes of disclosure or commercial use.
- Relating to moral persons.
- The one that refers to physical persons in their capacity as merchants and professionals.
- Individuals who provide their services for any legal entity or individual with business activities, provided that the information is processed for the purposes of representing the employer or contractor.

Personal Data: It is the information belonging to an identified or identifiable natural person. The data alone have no value, only when they relate to someone is when they acquire value. The sensitivity of the data depends on the impact it might have on the most intimate sphere of its owner or failing that the misuse of it may have a risk for it or lead to discrimination.

For example:

- **Standard Data (Normal):** Name, age, address, sex, RFC, CURP
- **Sensitive Data (Special):** Patrimonial, legal, academic, physical location, authentication, financial (bank accounts, balances), physical and mental health status, racial or ethnic origin, genetic information, religious or political beliefs, union affiliation, sexual preference etc.
- **Special Data (Critical):** Bank card keys, fingerprints, iris, voice, handwritten signature, high risk holders etc. ...

Rights:

It is the power of disposition and control that empowers its owner to decide on which of its data it provides to a third party, as well as who owns that data and for what, being able to oppose that possession or use (Informative self-determination). It is the legality that everyone has to know and decide, who, how and in what way they collect and use their personal data.

Figures involved:

- **Owner:** The individual to whom the personal data belongs.
- **Responsible:** Private or moral, national or foreign person who decides on the processing of personal data. Decide the purpose, content and use of the treatment.
- **Person in charge:** Individual or legal entity that alone or jointly with others treats personal data on behalf of the person in charge, this one does not have the capacity of decision on the treatment, only treats the data following the mandate of the person in charge. For a healthy relationship between the responsible and the person in charge, contractual clauses or a legal instrument decided by the responsible must be established.

- **Third:** Anyone to whom data is communicated, either responsible (transfer) or charged (referral).

Information processing:

The treatment of the information whatever the means of its obtaining, storage, use, disclosure must be legitimate, controlled and informed, manually or automatically and must have a temporary or permanent accommodation.

Obtaining: It is the moment in which the data of the owner is obtained, either directly or indirectly.

Treatment: refers to the Obtaining, use, disclosure, access, storage, exploitation, transfer and disposal of information.

Third parties: Transfer and Remission.

Transfer: it is the communication of data between two responsible, which will decide the treatment of the data and requires the consent of the owner. When a data transfer is made, third parties must be notified of the privacy notice and the purposes to which the owner gave consent to the processing of their data, the owner must give their consent to the transfer of their data in a clause within the privacy notice so that the recipient acquires the quality of responsible, assuming the same obligations.

In some cases, the law considers that the holder's consent in a transfer is not needed, such as:

- Law or treaty in which Mexico is part
- Necessary for medical benefit
- Society of the same responsible group
- Under a contract in the interest of the owner
- Legally required to safeguard a public interest
- Necessary for a judicial process
- Legal relationship between the owner and the responsible

Remission: It is the communication of data between the responsible and the manager, where the receiver is limited to the provision of services and the consent of the owner is not required.

ARCO Rights

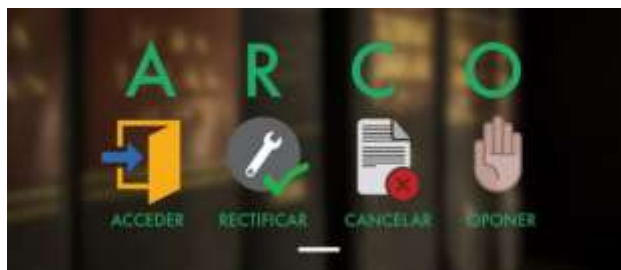


Figure 2 ARCO Rights

Fuente: INAI. (2018). *Derechos ARCO. Mexico*. Available in: <http://inicio.ifai.org.mx/Publicaciones/02GuiaAtencionSolicitudesARCO.pdf>

It refers to the right of a holder of personal data, to request access, rectification, cancellation or opposition on the processing of their data, before the Obligatory Subject who is in possession of them, are exercised by the owner or representative, prior accreditation of own identity and / or representation.

Access: Refers to the personal data being in place or through the issuance of simple copies or any means and that is provided in the privacy notice, and access to them must be in readable and / or understandable formats for the owner.

Rectification: Right to be able to modify data that may be inaccurate or incomplete.

Cancellation: It implies to finish the treatment on the part of the responsible and the suppression of the data. (When it is no longer necessary for the purpose for which the information was granted), being exceptions when:

- Contractual obligations
- Legal Provisions
- Judicial actions
- Legal interest of the owner
- Public interest
- Health issues

Opposition: It is the prerogative that consists in opposing the use of personal data for a certain purpose, this will not proceed when the treatment is necessary for the fulfillment of a legal obligation imposed on the person responsible.

In the case of individuals who are minors or in a state of disability, the policies considered in the Federal Civil Code must be reviewed.

To make a request for ARCO right, the owner or the representative must make the request through the means indicated in the privacy notice and with the following elements:

- Name, mail or address of the owner, where you want to be notified or contacted.
- Documents proving your identity or representation
- Description of personal data regarding which seeks to exercise any of the rights, written clearly and accurately.
- Any other element that facilitates the location of personal data

The responsible part is obliged to respond, regardless of the meaning of their response or if the personal data are in their databases and must refer only to the personal data specified in the application, they must be submitted in a common, understandable language and in an easy to access and readable format.



Figure 3 Values

Fuente: INAI. (2018). *Valores. Mexico*. Available in: <http://inicio.ifai.org.mx/Publicaciones/02GuiaAtencionSolicitudesARCO.pdf>

1. **Lawfulness and Loyalty (Legality):** Refers to the processing of personal data in compliance with Mexican laws and international law. Lawfulness indicates that the person in charge can only do with the personal data only what is allowed and Loyalty states that the obtaining of data cannot be done through deceptive or fraudulent means.

2. **Assent:** Refers to the processing of personal data will be subject to the consent of the owner, except for the exceptions provided by the same law, there are 2 types of consent: **Tacit:** is when the information is collected directly or personally, when the data is they obtain indirectly from the owner and / or when electronic communication is used. **Expressed:** an evident consent of the owner is required when dealing with sensitive data, such as financial or patrimonial data, when required by law and / or when it is an agreement between the owner and the person responsible.
3. **Purpose:** The reason for which personal data are required and that are the source of the legal relationship, there are primary and secondary, secondary are necessary for the legal relationship and are used for other targets such as marketing or transfer to other companies.
4. **Quality:** Refers to the personal data:
 - a. Be exact (they are true or faithful)
 - b. Complete
 - c. Pertinent (effectively corresponds to the owner and not to a homonym)
 - d. Updated (they refreshed and correspond to the real situation of the owner)
 - e. Correct (comply with the above characteristics)
5. **Information:** Let the owner know the main characteristics of the treatment to which his personal information will be submitted, which is specified in the privacy notice.
6. **Proportionality:** Indicates that only personal data that are necessary and appropriate for the purposes of the treatment are handled, limiting the period of this.
7. **Accountability:** It is to ensure compliance with the principles of those responsible for the owner and, where appropriate, the performance of accounts, considering how the owner authorized the use of personal data in the privacy notice. It is the obligation of those responsible to use the standards, best practices, corporate policies and self-regulation schemes that allow them to guarantee due treatment.

It is the obligation of those responsible for personal data to abide by the best information security practices to comply with the characteristics of an information security system, such as:

- Confidentiality
- Integrity
- Availability

And be able to maintain administrative, technical and physical measures to protect personal data against damage, loss, alteration, destruction, access or unauthorized treatment and ensuring the secrecy and custody to which it is bound by any person who treats, collects or transfers data personal at any stage of your treatment.

Privacy Notice: Its main purpose is to establish and delimit the scope, terms and conditions of the processing of personal data, so that the owner can make informed decisions regarding their personal data and maintain control and provision of information that It corresponds. There are three types of privacy notices:

Integral: which is the complete notice where it is identified and has the address of the person in charge; makes express signals of sensitive personal data; manifests the negative mechanisms for the secondary purposes; specifies the clauses of acceptance or not of the transfer; revocation mechanisms; what data will be subjected to the treatments; what is the purpose, means and procedures to exercise ARCO rights; means to limit the use or disclosure of personal data; and the means of how the changes in the privacy notice will be communicated to the owners.

Notices Simplified and short: is an immediate disclosure notice containing the identity and address of the person responsible; the purposes of the treatment and the mechanisms that the person in charge offers so that the owner knows the integral privacy notice.

Conclusions

As we mentioned at the beginning, data is a very important asset, its accumulation can be a valuable element, but we must also protect it against misuse and in that sense, we need laws that protect us. Although Mexico has taken a great step forward in issuing the Personal Data Protection Law, now it is up to each one of us to realize that the security and responsibility of the data starts with oneself. Almost always the privacy notices are signed without reading them, without knowing what we are authorizing the person in charge and what treatment of the information will be given; who else is going to transfer the data and this is very common in our lives. When we download some application, when we want some quote, information, or when we are stopped in the street to conduct surveys and then we complain that we have many calls offering services and / or products that we do not identify why they have our data, or worse still receive extortion calls.

Let's start with the care of our personal data, we orient the children and adolescents who provide a lot of data in social networks; let's see that a data protection program is implemented in organizations and when it is already implemented we have a comprehensive vision of the analysis and management of the risks of information processing. In this way the sensation of tranquility and security in the use of the Internet and proportion of data will come by itself.

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Data privacy

Privacidad de Datos

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DOI: 10.35429/JLE.2020.7.4.20.23

Received August 28, 2020; Accepted November 30, 2020

Abstract

Data privacy is an issue that has gained great importance worldwide, in such a way that several countries have legislated in favor of legal frameworks that safeguard the personal information of their citizens in the custody of companies and individuals; however, the implementation of these regulations still has several areas of opportunity, both in the implementation of technical and administrative measures by organizations.

Personal, Data, Privacy, Law, Regulation

Resumen

La privacidad de los datos es un tema que ha cobrado gran importancia a nivel mundial, de tal manera que varios países han legislado a favor de marcos legales que resguarden la información personal de sus ciudadanos en custodia de empresas y particulares; Sin embargo, la implementación de esta normativa aún tiene varias áreas de oportunidad, tanto en la implementación de medidas técnicas como administrativas por parte de las organizaciones.

Personal, Datos, Privacidad, Ley, Regulación

Citation: FLORES-ROMÁN, Luis Hugo. Data privacy. Journal-Law and Economy. 2020. 4-7: 20-23

† Researcher contributing as first author.

Introduction

Data privacy refers to the way in which the data or information should be treated according to its importance or criticality. This concept is traditionally applied to the personal data of individuals, which makes them identifiable, and can cover a wide range of information, from the name to detailed medical records.

In the digital age we live in today, this type of information is not only valuable for companies, but on multiple occasions is essential for its operation, in the same way that proprietary information or financial statements could be.

Considering the above, various regulations have been developed and strengthened in different countries in order to regulate the processing of personal data by companies, being notable examples the General Data Protection Regulation (GDPR) of the European Union and the local privacy law in Mexico (LFPDPPP.)

European Union General Data Protection

Regulation (GDPR)

This regulation, adopted in April 2016, aims to standardize data protection laws throughout Europe, protect the personal data of all citizens of the European Union and regulate the way in which companies treat such information¹.

Its principles remain faithful to the directive 95/46/EC, which it replaces, and to the guidelines of the Organization for Economic Cooperation and Development (OECD), which include:

1. Limitation of the collection. The data collection must be the minimum necessary to achieve the purpose for which they are collected.
2. Data quality. The data must be accurate, complete and current.
3. Specification of purpose. The purpose of the collection must be specified no later than at the time they are collected.
4. Limitation of use. The data should not be treated for any purpose other than the one specified.
5. Safeguarding of security. Security measures must be established to prevent loss, unauthorized access, destruction, use, modification or disclosure of data.
6. Transparency. There should be a general policy on transparency in terms of evolution, practices and policies related to data.
7. Individual participation. Individuals have the right to know what data the companies have about them, express doubts about the data related to their person and get their data deleted, rectified or completed².

In general, this regulation guarantees the following rights of the owner of the data:

- Notification of non-compliance. Notification of non-compliance will be mandatory when a data breach is likely to "create a risk to the rights and freedoms of the owners".
- Access. Right to obtain from the organization the confirmation of whether his data is being processed, where and for what purpose.
- Right to be forgotten. Right for the organization to delete his personal data, stop disseminating it and potentially cause third parties to stop processing the data.
- Data portability. Right to request the personal data that concerns him and transmit it to another organization.
- Privacy by design. It requires the inclusion of data protection from the beginning of the design of the systems, instead of as an addition.
- Data protection officers (DPO.) It will be mandatory only for those organizations whose central activities consist of processing operations that require regular monitoring of large-scale data or related to convictions and criminal offenses.

¹ EUGDPR.org. (2018). GDPR Portal: Site Overview. [Online]. Available at <https://www.eugdpr.org>

² Institute of Legal Investigations. (2018). OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal

Data. [Online]. Available at <https://archivos.juridicas.unam.mx/www/bjv/libros/7/3249/28.pdf>

The GDPR enters into force in May 2018 and is applicable to organizations that process and maintain personal data of citizens of the European Union, regardless of their headquarters. Organizations can receive fines of up to 4% of their annual global turnover or 20 million euros, whichever is greater.

Mexico privacy law (LFPDPPP)

This Mexican law was published in July 2010, its regulations in December 2011 and its recommendations in October 2012. Its purpose is to protect personal data held by individuals, regulate their treatment and ensure the privacy of individuals³.

Like the GDPR, this regulation establishes several guiding principles:

1. Lawfulness. Personal data must be collected and treated in a lawful manner in accordance with Mexican and international law.
2. Consent. The data processing is subject to the consent of the owner.
3. Purpose. The data can only be processed for the fulfillment of the purpose established in the privacy notice.
4. Information. The organization must make known the existence and main characteristics of the treatment to which the personal data will be submitted through the privacy notice.
5. Quality. The data processed must be accurate, complete, relevant, correct and up-to-date.
6. Loyalty. It establishes the obligation to treat data privileging the protection of the owner's interests and the reasonable expectation of privacy.
7. Proportionality. Only the data that is necessary, adequate and relevant in relation to the purposes for which it was obtained can be processed.
8. Responsibility. The organization has the obligation to watch over and answer for the treatment of the data that is in his custody⁴.

Additionally, it establishes the so-called ARCO rights:

- Access. Right to ask organizations for a list of the data they have about the owner in their databases.
- Rectification. Right to update the data of the owner in the databases of the organizations.
- Cancellation. Right to request that the data of the owner cease to be treated by the organization.
- Opposition. Right to request the data of the owner not be treated for secondary purposes (for example, marketing.)

Organizations that violate this regulation and its provisions may be subject to fines of up to 76 million pesos and even imprisonment of up to 10 years for people who fraudulently disclose information.

Compliance with privacy law and privacy study in Mexico 2016

Six years after the entry into force of the local privacy law in Mexico, the consulting firm PriceWaterhouseCoopers (PwC) conducted a study⁵ to know the status of implementation and compliance with this regulation in different companies in the country, which outputted worrying data.

Although 88% of the participating companies declared having initiated actions to safeguard the personal data of their customers and to have a privacy notice, the number of fines imposed by the National Institute of Transparency, Access to Information and Protection of Personal Data (INAI), regulatory entity in Mexico, have increased from 1 in 2012 to 53 in 2016, being the main reasons not having a privacy notice aligned with the requirements of the law and to treat or transfer personal data to a third party without the owner's consent.

³ Chamber of Deputies of the H. Congress of the Union. (2010). Ley Federal de Protección de Datos Personales en Posesión de los Particulares. [Online]. Available at <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPDPPP.pdf>

⁴ Official Journal of the Federation. (2011). Reglamento de la Ley Federal de Protección de Datos Personales en Posesión de los Particulares. [Online]. Available at http://dof.gob.mx/nota_detalle.php?codigo=5226005&fecha=21/12/2011

⁵ PriceWaterhouseCoopers. (2017). Estudio de la Privacidad en México 2016: más allá de los compromisos. Mexico City: PwC.

Another important problem identified is not having an adequate governance framework regarding the privacy of the data. According to PwC, 34% of organizations do not have a privacy policy and only 49% have published and disseminated it to their staff. Similarly, 31% of companies do not have a process for the attention of ARCO rights and only 54% have a process published and disseminated.

Despite of the above, the organizations have run with luck, since 60% of them have never received an application to enforce ARCO rights, while 31% have received between 1 and 25 applications. Perhaps this makes us understand why only 55% of participating companies are willing to make a greater investment in their ability to protect the privacy of their data, while only 27% contemplate obtaining a certification in terms of privacy.

Conclusions

While efforts to create the necessary legal frameworks to protect the privacy of personal data have been tangible in various countries and entities, their implementation does not end up being very effective.

In the Mexican case, studies show that organizations still have deficiencies in their approach to data protection, either due to ignorance or because they consider it an unnecessary expense that does not give them any competitiveness.

A comprehensive vision of the treatment of personal data (classification, life cycle) is necessary in order to identify risks and the security measures that must be implemented, whether administrative (governance structure), physical and technical (controls and monitoring).

The success of a privacy program in organizations depends largely on the awareness of their employees, for which training programs can be implemented that promote and strengthen the culture of privacy within.

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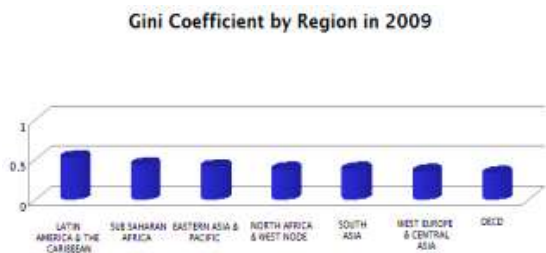
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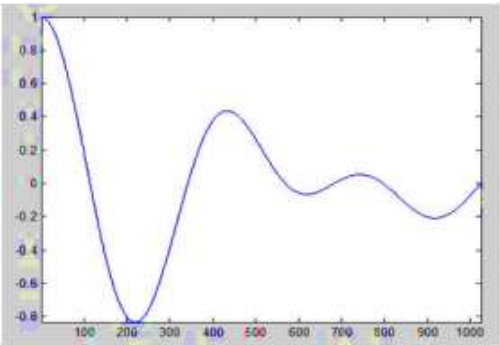


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