
The Waybill Obligation

by Emilia Cardona and Mauricio Garza.

The Miscellaneous Tax Resolution for 2021 establishes that those who transport merchandise or goods through a land, air, sea, or rail route, will acquire the obligation to prove and justify the possession or ownership of the goods or merchandise that are being transported through the United Mexican States.

Said ownership or possession can only be proven through the digital file or the printed representation of a transfer-type or income-type, depending on the case, digital tax receipt (*Comprobante Fiscal Digital por Internet* or “CFDI”) to which the supplementary waybill must be incorporated (hereinafter, “Waybill”) Said Waybill is understood as a tax document of a declarative nature used to prove the authenticity of the goods or merchandise that are being transported, as well as the legitimacy of the parties involved in the transportation of said merchandise.

The issuance of a transfer-type or income-type CFDI will depend on the individual or company who executes the transportation of the goods. The transfer-type CFDI with a supplementary Waybill, must be issued by those who own said goods or merchandise, when transporting them by their own means, or by those who act as an intermediary or transport agent when providing a logistics service for the transportation of the merchandise. On the other hand, the income-type CFDI with a supplementary Waybill, must be issued by those who provide transportation services to third parties.

This obligation came into force as of June 1, 2021, however, during the next 120 calendar days, taxpayers will have the option to issue the CFDI without incorporating the Waybill, at the end of this period it will be mandatory. As of the release date of this note, it is speculated that said 120-day period will be extended in some way but said extension (if it does happen) has not been officially confirmed.

In this sense, it is very relevant that companies that transfer their merchandise directly, or those that provide merchandise transportation services to third parties, incorporate the Waybill with the corresponding CFDI, since, otherwise, the taxpayer obliged to present said documentation will be given a fine, and in case of a relapse, they will face the preventive closure of their establishment for a period of three to fifteen days.

Consequently, in the event of hiring a transportation service, and it failing to comply with the obligation to present an income-type CFDI with a supplementary Waybill, the company that hired the service will not be able to justify the deductions made by the transportation services, causing a breach in other tax obligations.

September 2021.

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