

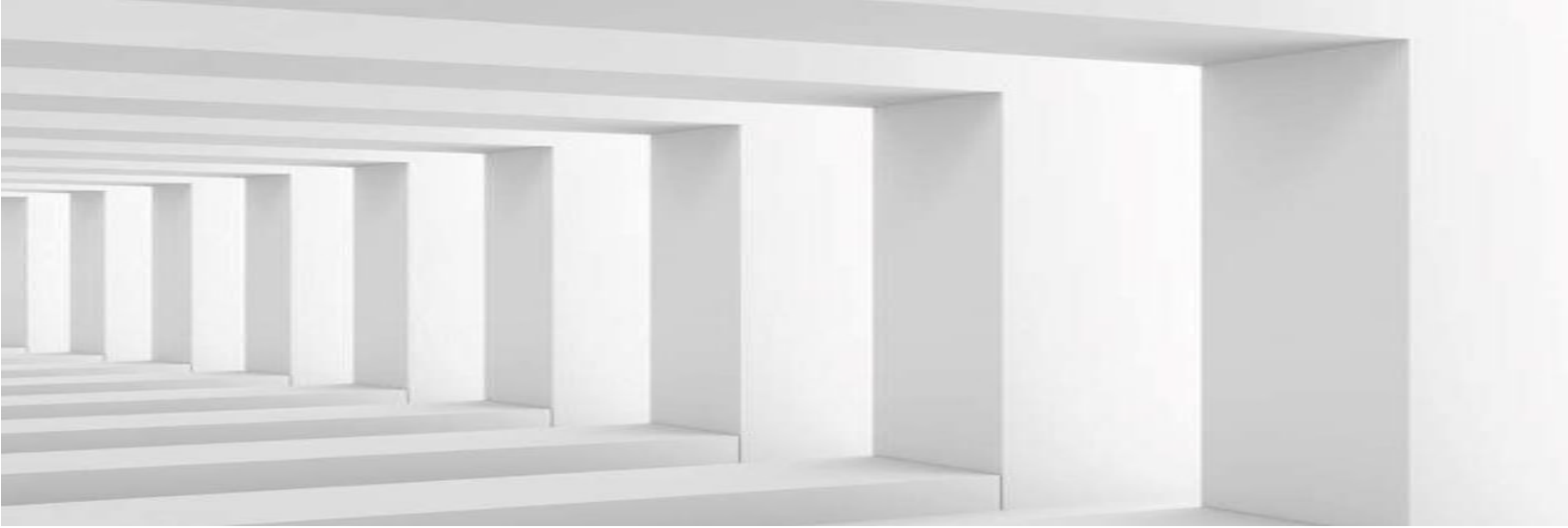


VILA.

Abogados | Attorneys at Law

# ANNUAL CORPORATE COMPLIANCE NEWSLETTER

February 2025



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## ANNUAL CORPORATE COMPLIANCE NEWSLETTER VILA® ATTORNEYS AT LAW

Dear customer:

The objective hereof is to provide comprehensive advice in compliance with the obligations and good corporate practices of your Company, since, from the moment it was incorporated, it acquired obligations in accordance with Mexican legislation, and they are great importance for proper management and updating of it, so we provide you with the following information:

### I. ¿WHAT ARE THE CORPORATE DUTIES?

The corporate duties are those that the Mexican Legislation set as parameters for each legal entities, likewise for partners or shareholders of them that operate and reside in Mexico must carry out to be within and practice in the able parameters by the Act.

In addition, corporate duties have as purpose to organize and keep up-to date the corporate movements of the companies so that when they want to celebrate an operation they have the necessary information for that.

### II. ¿WHY IS IT IMPORTANT TO KEEP THE CORPORATE BOOKS OF THE COMPANY?

Derived from the amendments to the Commercial Code and the General Act of Mercantile Corporations (LGSM by its Spanish initials), there are fewer and fewer acts subject to registration in the Public Registry of Commerce. This implies that the legislator has given greater importance to the internal controls that a company's management should have. This means that now a day there must be greater order in the management of the Company's corporate books.

When a company is incorporated, various obligations arise for the company, its partners or shareholders, its directors, its attorneys, its administrators and its auditors, which is why the compliance with such obligations becomes very important with the company itself and as well with third parties.

Among the various legal obligations, there is the one related to keep the company's corporate books up to date, since, on one hand, the section 38 (thirty-eight) of the Commercial Code establishes the obligation to keep corporate books for at least 10 (ten) years from the issue date of each of their entries, as well with the fact that this is a good commercial practice.

Corporate books allow knowing about a company's movements, both in the legal and economic fields. They help to provide certainty about the organization of the Company in order to leave historical and legal archives on all the movements that have taken place from the Constitutive act up to each of the moments of taking of agreements between the partners or shareholders documented through their Meeting Minutes.

In accordance with the LGSM, the Commercial Code and the Federal Fiscal Code, it is necessary for companies to have their corporate books updated, these being the following:



**Book of Assembly Minutes**



**Commitment to uphold  
an Annual Meeting of  
Members or  
Shareholders**



**Obligation to hold  
an Ordinary Annual  
Meeting**

**a) Book of Meeting Minutes**

This book contains all the resolutions adopted by the Shareholders and all the decisions affecting the company, both financially and socially through ordinary, extraordinary or special meetings of members or shareholders from the moment of its incorporation, as established by section 36 (thirty-six) of the Commercial Code.

*Article 36.- The minute book or books shall record all the agreements relating to the progress of the business made by the shareholders' meetings, and where appropriate, the boards of directors.*

Annual Meetings of Members or Shareholders: It should be noted that it is in this book where all the Annual Meetings of members or shareholders of the Company will be recorded, which are based on section 181 (one hundred and eighty-one) of the LGSM. This section includes the obligation to hold an Ordinary Annual Meeting within the first four months of a new fiscal year. The purpose of these meetings is to approve the financial statements for each fiscal year ended, to approve the reports of the administration and the examiners of the Company, and to ratify, revoke or re-appoint the Board of Directors and other officers of the Company, among others.

*Section 181.- The Ordinary Meeting shall meet at least once a year within the four months following the closure of the fiscal year and shall deal, in addition to the items included on the agenda, with the following:*

*I. - To discuss, approve or modify the managers' report referred to in the general statement of section 172, taking into account the report of the examiners, and take such measures, as it deems appropriate.*

*II. - Where appropriate, appoint the Manager or Board of Directors and the Examiners;*

*III. - Determine the corresponding salary to the Directors and Examiners, when they have not been fixed in the statutes.*

**b) Minutes Book of Council Sessions**

In accordance with section, 36 of the Commercial Code transcribed above, in the case that the company it is managed by a Management Board instead at of a Single General Manager, a book must be kept in which all, the resolutions taken by said entity when it meets must be written down.



**Board of Directors Meeting Minutes Book**



**Essay with all the adopted resolutions and decisions**



**Registry with all the Shareholders and Stockholders that are part of the Company**

**c) Book of Register of Shareholders or Partners**

On this book, every one of the stockholders or shareholders that are part of the Company must be registered. According to the LGSM, the person registered in this book is considered a stockholder or shareholder. As well, the transfers made of the shares or parts of a company that will result in the entry of new members or shareholders or the increase in the share capital of the stockholder or shareholder that acquires or subscribes new shares must also be recorded. This book is regulated by sections 128 (one hundred twenty-eight) and 129 (one hundred twenty-nine) of the LGSM.

*Section 128. - Limited Corporations will have a register of shares that will contain:*

*I.- The name, nationality and domicile of the shareholder, and an indication of the shares belonging to him/her, expressing numbers, series, classes and other particularities;*

*II. - The indication of the exhibitions that are carried out;*

*III. - Transmissions carried out in the terms prescribed in Article 129; IV.- (annulled)*

Article 129.- The corporation shall consider as the owner of the shares whoever appears registered as such in the register referred to in the preceding article. For this purpose, the corporation shall record in said registry, at the request of any owner, any transfers made.

#### **d) Book of Register of Variation in Capital**

This book must record any increase or decrease that occurs in the Company's share capital, regardless of whether it is made in the fixed or variable part of the share capital, as established in section 219 (two hundred and nineteen) of the General Act of Mercantile Corporations. The share capital of the Company, as well as the percentage of participation of each partner or shareholder in the share capital, must be recorded from the moment of incorporation.

*Section 219.- Every increase or decrease of the Company's share capital must be register in a register book that the Company will carry out.*



**Registry of the increase or decrease in the share capital of the Company**

#### **I. ¿WHAT BENEFITS DO YOU HAVE HAVING THE CORPORATE INFORMATION UP-TO-DATE?**

To guarantee the legal certainty of its shareholders or stockholders, directors and managers, is essential have the accurate support to document the Company's operations, decisions and changes. However, in order to achieve this legal certainty, it is necessary to comply with the following aspects:



**Company books must be kept for 10 years minimum**



**The legal powers granted must comply with certain requirements to be legitimate**

#### **a) Compliance with the laws of matter.**

The LGSM, Commercial Code and the Federal Fiscal Code set many applicable requirements to the corporate books that must be fulfilled, in order to avoid penalties and guarantee its legal force. Every Company's corporate books must be kept during at least ten years, even after of had been Company liquidated, because tax authorities may inspect those.

In the same way, the Company's books are document evidence of high probative value in the suits so having those up-to-date and in accordance with the applicable law is of greater importance for well-being of company.

#### **b) Certainty of abilities granted to the Company's attorneys**

The legal powers granted by the Company to its attorneys must comply with some requirements to be considered as legitimate, mainly the requirements in the section 10 (ten) of the LGSM and some dispositions of Commercial Code and Civil Code.

*Section 10. - Every mercantile corporations' representation shall correspond to its manager or managers whom may carry out inherent transactions to Company's object, unless what expressly determinate the law and the articles of association. For the legal powers that the company grant to have legal effects by an assembly agreement or by Collegiate Board of Administration, if any, it will be enough it is notarized before Notary Public (...)*

Likewise, it is important keep strict control of the kind of legal powers granted, as well as the legal validity and the number of the Company's attorneys with the purpose to guarantee the Company's legal certainty.

### c) Compliance with tax duties

Tax authorities in use of its verification abilities may require the inspection and access to the Company's corporate books with the purpose to determine it tax position with more accuracy.

Not have or do not submitting the Company's corporate books may cause the imposition of some sanctions to the Company in the presence of its managers, its shareholders or stockholders, penalties and offenses that will be detail below.

In accordance with the Federal Fiscal Code, keep the social books constitutes a Company's the companies comply its tax duties.



**Tax authorities may require the Inspection and access to the Company's Corporate Books**

### d) Patrimonial Security

Corporate books help to keep an accurate control about Company's share capital decreases and increases, as well as of the transactions carried out about properties and others Company's assets.



**Property Security**



**e) Company's good corporate practices**

Corporate books have become importance recently, until where keep them is internationally considered as a good corporate practice for the companies and business

Furthermore, corporate books are instrumental for merger, split, transformation, dissolution and liquidation acts of the companies.



**Corporate books have acquired a lot of importance**

**II. ¿WHAT HAPPENS IF YOU DO NOT CARRY OUT WITH CORPORATE DUTIES?**

Federal Fiscal Code provide for some penalties that are apply to both companies as their shareholders or stockholders and managers for the failure with corporate duties mentioned above. Such penalties are the following:

**a) Joint liability before tax authorities**

Federal Fiscal Code set that the managers of legal entities will be bound to respond for the Company's tax liabilities if their corporate books have not included. So states the Federal Fiscal Code in its section 26 (twenty-six):

*Section 26. – (...) The person or people whatever name they are designated by, which are conferred the general management or sole administration of the legal entities shall be joint liable for the contributions caused or not withhold for such legal entities during their management, as well as for those ones that had been paid during the same, in the part of the tax interest that is not covered by the assets of the legal entity that they direct, when said legal entity incurs any of the following cases: (...)*



**The managers of legal entities will be bound to respond for the company's tax authorities**

### b) Do not keep an accounting, hide it or destroy it

To clarify that the term “accounting” used the Federal Fiscal Code it is broad and it’s used to make reference to the corporate books among others documents and duties for the Company, as set out in its section 28 (twenty-eight).

*Section 28. – People who, in accordance with tax provisions, are required to maintain accounting records, shall comply with the following:*

*For tax purposes, accounting shall consist of:*

- A. *Books, systems, and accounting records, working papers, account statements, special accounts, and social books and records (...).*

Joint liability mentioned above extends to the tax contributions caused, which includes both the taxes payable as the updates and late surcharge. Also extends to cover the fines described below.



**Do not keep an accounting, hide it or destroy it**

### c) Tax offences

Federal Fiscal Code on its section 83 (eighty-three) considered as offences that a company do not keep its corporate books or manage them wrong or in contravention to the regulatory Acts.

*Section 83. – Are offences related with the liability to carry out an accounting always that are discovered in use of the verification abilities or prescribed in section 22 (twenty-two) of this Code, the following:*

- i. *Do not keep an accounting.*
- ii. *Do not have some book or special register that require the tax laws; do not comply with the duties about inventories valuation or do not keep the procedure of control of them prescribed in the tax dispositions.*
- iii. *Keep the accounting in different way as it is mentioned in the dispositions of this Code or others laws; keep it in different places that are mentioned in such dispositions.*
- iv. *Do not elaborate the corresponding entry to the carried transactions; make it incompletes, inaccurate or not within the prescribed time limit.*
- v. *(annulled).*

*Do not keep the accounting at the disposal of the authorities for the period laid down in the tax dispositions.*

Fines arise from the offenses before mentioned may upgrade as a whole until a maximum amount of **\$59,980.00 (Fifty-nine Thousand Nine Hundred Eighty Pesos 00/100 M.N.)** plus the updates and surcharges caused and additional fines.

Likewise, tax authorities may impose fines in use of their verification abilities related with the duties of carry out the Company's corporate books. These fines are de

*Section 85. – The offenses related with the use of verification ability are the following:*

*I.- Object to the practice of visiting the tax domicile. Do not provide the data and reports that are legally required by tax authorities; do not provide the accounting or part of it, the contents of the boxes of value and in general, the elements that are required to verify the compliance of own or third party duties, or do not provide the documents required by the authority according to the section 53-B (Fifty-three, letter B) of this Code.*

*II. - Not to keep the accounting or part of it, as well as the correspondence left in deposit by the visitors.*



**Offences for not keeping Company books or for wrong management**

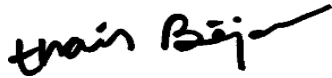
Fines arise from the offenses mentioned above may rise as a whole until an amount of **\$148,090.00 (One Hundred and Forty Eight Thousand and Ninety Pesos 00/100 M.N.)** per year, plus the updates and surcharges caused, just like the additional fines.

Please bear in mind that not complying with the obligations mentioned above, might causes fines up to **\$208,070.00 (Two Hundred Eight Thousand Seventy Pesos 00/100 M.N.)**, per year, plus surcharges, and some additional fines.

At VILA®, we have a lawyer's team specialize in corporate matter, which along their career have participated in many corporate updates of varying complexity, so in case that you have any question or unrest, please do not hesitate to contact us, we are at your disposal.

On behalf of **VILA®**, we reiterate our commitment to you and remain at your services.

Best regards,

A handwritten signature in black ink that reads "Thais Béjar" with a stylized flourish at the end.

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