

ENRIQUE CALVO NICOLAU  
MEMOIR OF A LIFE'S TRAJECTORY

PROFESSIONAL BACKGROUND

Born on October 6th, 1941 at Veracruz, Mexico, in 1960 he started studying to obtain his first degree, at the Faculty of Trade and Management at the National University of México (Universidad Nacional Autónoma de México), where in 1965 he received the Degree in Accounting. He affectionately remembers the institution, for his economic hardship was not an obstacle for him to study there. In that condition—he recalls—he couldn't have done it at any other university. Thanks to the National University he was able to achieve social mobility.

After beginning his university studies, for four years he collaborated in accounting and auditing activities at the firm of an eminent Public Accountant, Carlos Pérez del Toro, of whom he preserves unforgettable memories on the help and support received from this man, who would later hold the position of Director of the Faculty of Trade and Management at the National University of México.

From that firm, he moved to PricewaterhouseCoopers (formerly Price Waterhouse) where in that time—against his will—the circumstances led him to professionally perform in the tax area, in tasks related to tax complying obligations and designing economic optimization strategies along the complex path of tax laws. Although he oriented his career towards auditing, this breakdown in his professional performance—of which he never stood aside—allowed him to relate to outstanding lawyers. He remembers with affection and admiration Juan Mijares, Rafael Caraza, Jorge Sainz Alarcón, and many others, such as Carlos Döring, Ignacio Orendain and Paulino Olavarrieta. It is at that time, and with them, when he discovered his vocation for the legal profession and particularly for litigation. He recognizes this stage of his life as his own choice to pass through this chapter of his sojourn in the Universe.

Years later—ten years after having graduated from the Accounting School—he decides to undertake the study of a new degree, the Degree in Law. He starts in 1975 at Universidad Iberoamericana, where he finished in 1980. During that time, he set public accounting aside and devoted himself to a new profession: the legal practice. During that period—he states with pride and satisfaction—his learning as Public Accountant allowed him to acquire financial and legal-estate knowledge that prepared his mind for a deeper understanding of subjects he would later resort to as candidate attorney to defend his clients' interests. He describes the professional training that prepared him for the legal practice as a melting pot of related knowledge obtained from the study of both professions. They are learnings that meld together into a mass, with each component becoming inseparable from the whole.

He keeps wonderful memories of the professors who, with disinterest and great passion, shared their legal knowledge with him and other students. He owes them an important part of his education and training for the legal practice. The most distinguished are Mariano Azuela Güitrón, Efraín González Morfín, Jaime Ruiz de Santiago and Miguel Villoro Toranzo. Enrique admires them in their full brilliance; his admiration and loyalty have no limits.

In particular, Enrique preserves special affection and acknowledgment for Ulises Schmill Ordóñez, in addition to his most sincere gratitude. The book by Schmill Ordóñez, entitled *El Sistema de la Constitución Mexicana*, ("The System in the Mexican Constitution") was the first book he possessed before starting Law studies. Enrique was so impressed by the knowledge shared by Schmill Ordóñez through this book that, without knowing him, he approached him—at the time in charge of the Deputy Direction of Income Tax in the Department of Treasury and Public Credit. The reason why he approached him was to invite him to preface the first book authored by Enrique, in 1971, entitled *Estudio del Impuesto sobre la Renta de las Empresas* ("Study of Corporate Income Tax"). Schmill Ordóñez took the draft in his hands, leafed through the index, chose a topic, turned to the corresponding page and devoted some minutes to reading it. When finished, he raised his sight and made one single question: "Are you a lawyer?" "No" —Enrique answered—, I am an Accountant. "Well" —he said—; "leave me the book for three weeks, I'll read it carefully and contact you to let you know my answer to your request." Weeks later he received an invitation from Schmill Ordóñez to meet to discuss the matter. There, Schmill Ordóñez expressed his delight for having read the book "written by an Accountant —he said—, who thinks and expresses himself as an Attorney". Immediately after, Schmill Ordóñez offered his generous intervention to obtain the exordium authored by the Secretary of Treasury and Public Credit and not by himself; "this book is worth it" —he stated. Enrique's rejection to Schmill Ordóñez's offer was instantaneous; he didn't want highly renowned personalities linked to his book; he wanted him, Ulises Schmill Ordóñez, author of *El Sistema de la Constitución Mexicana*, the man who impressed him with the legal knowledge clearly and masterly transmitted, to draft the preliminaries that would become a prior warning or explanatory prologue of a book. Schmill Ordóñez accepted the offer and, ever since, they have remained linked by an unbreakable friendship and he has become an object of his most profound admiration.

Enrique says it is Schmill Ordóñez to whom he owes the fortune of having had the motivation to start studying "legal positivism" and obtaining guided orientation to go in depth into that field of this knowledge. Reading books by Hans Kelsen, Alf Ross, Joseph Raz, Carlos Santiago Nino and many more, including Agustín Pérez Carrillo, Gregorio Robles and Rolando Tamayo y Salmorán, were the grounds of the solid learning of the positivist descriptive methodology required to make an analysis of the legal provisions with an academic approach, with no specific preference to induce a possible consequence to the standard. Hence, he learned to distinguish when a lawyer expresses himself as a researcher and when he does so as candidate in defense of a

cause. He learned the important process of observing, discerning and describing something (legal standards, in this case) through language, referring to or explaining its different parts, qualities or circumstances, with no judgment at all.

#### RECOGNITIONS

Among the recognitions obtained, he holds high esteem for that received from Universidad Iberoamericana in 1980 as a result of his final examination to obtain his Law Degree, where he was awarded a certificate *With Honors* "For his academic excellence in completing the B.A. in Law", reads the award received. He keeps in mind as well the moment when he received the unexpected news from Academia Mexicana de Derecho Fiscal ("Mexican Tax Academy"), when its Chairman, Mr. Samuel Ramírez Moreno Aguirre, called him to let him know he had just been appointed by the Executive Board of said Academy to grant him the *2007 National Award* "For his breadth knowledge, exceptional trajectory, exemplary dedication and deep study of Tax Law", read the plaque and diploma received. These are two awards that honor him, for the prestige of the awarding institutions. Nevertheless, Enrique does not believe his work is prodigious research.

For nine years (2009-2018), the English publication Chamber & Partners Legal Publishers, in its annual publication entitled *Best Lawyers in Latin America*, has recognized him "Senior Statesmen" in the *Tax Leading Individuals* ranking. The publication says: *Enrique Calvo Nicolau of Calvo Nicolau y Márquez Cristerna, S.C. is a highly respected litigator with stacks of experience.*

In June 2013 he was invited to a conversation by three Bar members: Eduardo Ramírez Lozano, Guillermo Martagón Magallán and Pablo Cordera Caraza, all of them members of the Tax Law Commission of the Mexican Bar Association, coordinated by the former. Separately, he received expressive communications from two more Bar members, Alejandro Torres Rivero and Manuel Tron Pérez; their undeserved words were received as a sign of friendship and respect. The reason for the meeting and the communications was to inform him about the desire of the Tax Law Commission to propose him as a nominee for the "National Prize of Jurisprudence". This is granted by said institution to whom, in its judgment, has been distinguished for its services to the Mexican society in general, in any of the legal professions or in any of the fields of creation, application, exercise, research, teaching and disclosure of the Law. They requested their consent, aware of his discomfort with acknowledgments. For their amazement, Enrique expressed his approval, for the simple fact of being part of the list of nominees to the Award. He accepted the invitation, knowing that his nomination did not mean, in any way, a reward for his selfless dedication to the Mexican Bar for so many years; there were other values that the Commission attended to and those that the General Meeting would evaluate. In December, he was awarded the "Premio Nacional de Jurisprudencia" (*National Jurisprudence Award*) yearly awarded by the Mexican Bar Association upon decision of the General Board of the National Award, composed of more than 100 members. He was given the Award, because "during his professional life he had stood out for his service to the Mexican society in general, in all the fields of creation, application, exercise, research, education and dissemination of the Law and the science of jurisprudence, particularly in the field of taxes and human rights", as the diploma received reads.

In June 2015, from the "Academia de Estudios Fiscales de la Contaduría Pública" ("Academy of Fiscal Studies of Public Accounting"), he receives the recognition of being considered an Honorary Lifetime Scholar.

#### TEACHING

Teaching requires love and passion and he obtained that inspiration, that particular and efficient motivation under the wise guidance of his admired professor as he studied the last year in the Faculty of Trade and Management at the National University of Mexico: Ricardo Mora Montes. Driven by that motivation, in 1965, as assistant-professor, he starts delivering lectures at said Faculty. Teaching —he says— entails being willing to open the treasure chest of knowledge where the secrets of the mind are kept; it entails giving without restriction; implies sharing knowledge, depositing it in other talents so as to make progress in universal knowledge. He follows faithfully the prodigious Mexican writer, *Juan José Arreola*, with his quotation "I am here to spread passion", and Enrique cultivates the passion of giving without expecting anything in return; that is his long-awaited reward: having given knowledge, especially to the youth who he expects will excel him.

Used to make decisions driven by his own initiatives, since that time he focused his teaching on tax matters. A year later, in 1967, the National University of Mexico appointed him *Officially-qualified Tenured Professor* of "Accounting Techniques Applicable to Taxation"; this is a procedure for appointing tenured professors. He continued teaching until 1975, when he opened a space to devote it to study a Degree in Law. He has cultivated the art of transforming wisdom into satisfaction through a process of search for knowledge. And it will continue to do so —he states— whilst he keeps enjoying, without diminution, the beautiful capital of strength that triggers and motivates the impulse.

Upon conclusion of his second Degree, he returns to teaching, but this time at Universidad Iberoamericana ("Iberoamerican University"), the institution where he obtained his bachelor's degree in Law. He also explores the lecture rooms of Universidad Panamericana, where he teaches the subject *Income Tax applicable to Corporations*, in the postgraduate division. In 1996, at Instituto Tecnológico Autónomo de México, he concludes his journey through the path of teaching and decides to no longer postpone the time to write. That's when he decides to share his knowledge with a larger audience, by dedicating an important part of his time to writing a new book entitled *Tratado del Impuesto sobre la Renta*, written in three volumes, and still unfinished.

#### PUBLICATIONS

For Enrique, writing involves acquiring new knowledge. He doesn't think about other people when he writes, he writes for himself, to understand and find solutions. He concentrates in searching for a higher and more coherent and harmonic understanding of the objective legal reality. Prior to writing, he reads and reflects thoroughly. Only after having satisfied his concerns, he shares the knowledge with those interested therein through publishing his texts and with no intellectual selfishness. Along the path of critics and comments from his readers, he extracts new knowledge previously unnoticed. Thus, his interest in studying abridges the time available for writing. He preserves unpublished texts for he is not convinced of the validity of the premises supporting his conclusions.

Since his younger days, he shows interest in research. His first books: *Estudio del Impuesto sobre la Renta de las Empresas* ("Study of Corporate Income Tax") and *Estudio del Impuesto sobre la Renta de las Personas Físicas* ("Study of Individual's Income Tax") written in 1972 (the former) and in 1973 (the latter), have witnessed five editions in the publishing market. Later, he produces other works —although of less relevance— until in 1986, when he widens the perspective of his first book (now equipped with legal knowledge) and publishes now with the new title: *Estudio de la Ley del Impuesto sobre la Renta* ("Study of the Income Tax Law") updated in 1987 through a supplementary volume, due to a very important reform to the Law under study.

For Enrique, the book with the greatest value in terms of transcendence and time devoted to its production is entitled *Tratado del Impuesto sobre la Renta* ("Treaty on Income Tax") written in three volumes between 1995 and 1996. Deemed a classic by the experts in the fiscal field, in 2013 it was published again —this time in one single collection volume and as commemorative book—on the occasion of more than 50 years of professional exercise of its author, devoted mainly to the tax field. He intends to finish his work plan, which requires four or five additional volumes.

His interest in analysis and research led him to write more than 20 works, annually published, devoted to commenting tax reforms. The last one, entitled *Posibles Aspectos de Inconstitucionalidad del Impuesto Empresarial a Tasa Única* ("Possible Unconstitutional Aspects of Single Business Tax Rate Law") was published in 2008.

His essay production is also copious, with more than 50 collaborations for: The University of Houston Law Center, Universidad Iberoamericana, Universidad Panamericana, Academia de Estudios Fiscales de la Contaduría Pública, Instituto Mexicano de Contadores Públicos and Barra Mexicana, Colegio de Abogados. Below you will find a list of his essays.

#### PARTICIPATION IN ORGANIZATIONS

He participated in several professional organizations. As member of the Colegio de Contadores Públicos de México, he joined its Tax Commission. During the two-year period 1970-1971, he performed as Commissioner of the Instituto Mexicano de Contadores Públicos ("Mexican Institute of Public Accountants"), a federated organization gathering State accounting associations. Upon conclusion of the B.A. in Law, he withdrew from both organizations, for since that moment his knowledge has been focused on the legal field, activity to which he devotes his professional life. His clear and exclusive dedication to the legal practice prevent him from staying updated in both professions, and as a result he withdrew from the exercise of the first one: accounting.

While working as a lawyer, in 1985 he became member of the Barra Mexicana, Colegio de Abogados (the Mexican Bar Association), where he participated between 1989 and 2005 as member of its Executive Board, which in 2007 appointed him member of the Board of Honor of the Mexican Bar. He held this position until 2009. This professional college appointed him coordinator of the Constitutional Law and Amparo Actions Commission; position he held between 2009 and 2011.

As holder of a prestigious position since a young age, in 1973 he was invited by the Department of Treasury and Public Credit to become part of the *Drafting Committee of*

*the Income Tax Law Regulations*. In 1991, he was invited by the Legal Office of the Department of Foreign Affairs to become a member of the *Advisory Commission of the Secretary of Foreign Affairs in Private International Law Matter*. In that time, the Department anticipated its participation on behalf of Mexico in the negotiation and approval of international treaties to avoid double taxation in Income Tax matter. He was invited on the basis of that assumption. Nevertheless, said participation was not required by the Department of Treasury and Public Credit and in 1992 he decided to withdraw from the *Advisory Commission*. However, his learning on the complex matters of International Law was outstanding. Being every week —for two years— next to great internationalists such as Luis Miguel Díaz (Legal Adviser), Fernando Vázquez Pando, Julio Treviño Azcué and José Luis Siqueiros Prieto, among others, forced him to study International Law in depth, in order to embrace and understand the major topics of this field of study.

As member of the Constitutional Law and Amparo Actions Commission of the Mexican Bar, he participated along with other barristers in the defense against a constitutional reform —promoted by the Presidency of the Republic and fostered by its Legal Office and the Federal Tax Attorney General’s Office—; the purpose was to modify the Constitution in order to regulate the Amparo action in tax matter in a new section of fraction VII, article 107. This meant, practically, eliminating the Amparo action in this matter, for with the attempt of making an unconstitutionality statement of a tax provision general, the effect wouldn’t be retroactive upon occurrence of the act claimed, but upon the general declaration of unconstitutionality. Moreover, the decision on the constitutionality was left in the hands of a minority: four out of the eleven justices integrating the Full Court of the Supreme Court. Therefore, contributions paid, established in a law declared unconstitutional —for which the vote of at least eight judges is required—, wouldn’t be reimbursed to citizens. Jorge Antonio Galindo Monroy, Carl Koller Lucio, Luis Madrigal Pereyra, Cuauhtémoc Reséndiz Núñez and Enrique, among others, participated in this group of defense, coordinated by Eduardo Méndez Vital. Without prior invitation, they attended a meeting of the Constitutional Affairs Commission of the House of Representatives, where after having set out their arguments they were literally crushed by the PAN Representative Juan José Rodríguez Prats, with the collaboration of the Tax Attorney General, Javier Laynez Potisek. After having passed the Commission’s Resolution by the entire House of Representatives, and having sent the Minutes with the Decree project to the Senate, the group of representatives from the Mexican Bar issued an endless number of documents and participated in several interviews with Senators. However, the attempt to amend the Constitution was finally unsuccessful. From that battle in favor of the citizens, Enrique preserves precious memories of the following paragraphs of the Decree by the Joint Commissions of Constitutional Affairs, from Treasury and Public Credit, and from Legislative Studies of the Senate:

The purpose statement prepared by the co-legislator regarding the reform proposal under analysis states that currently “tax constitutional justice does not benefit majorities, overloads tribunals, jeopardizes the public budget in the three

levels of government and is not appropriate to serve the massive imposition of trials.”

On this regard, these ruling commissions consider that, although tribunals are overloaded as a result of a massive filing of Amparo actions, this is the consequence of those who generate official government actions breaching constitutional rights, more than of citizens who simply exercise their right to legal defense; therefore, it is not deemed right that tax authorities complain because taxpayers defend themselves from actions directly affecting their assets, for tax equity does not mean that everybody has to pay taxes but nobody may have the right to file an Amparo action, or, if filed, nobody may win the case and, all the more, if they win, the amounts unduly paid will not be reimbursed.

[...]

Based on the previous grounds, these joint commissions conclude that the minutes referred to is a proposal that flagrantly affects the fundamental rights of taxpayers and, especially, the nature of the Amparo action; therefore, it is considered not viable and, thus, it is not approved.

As Coordinator of the Constitutional Law and Amparo Action Commission, he was aware of the existence of several initiatives to reform the Political Constitution of the United Mexican States; mainly in terms of human rights. The reform seemed relevant, for it suggested that international treaties with content on human rights —then comprised in constitutional article 133— became part of article 1, sharing relevance with constitutional rights established until then in the Constitution. Enrique immediately noticed the great transcendence of said reform, so with his effort and under his direction he formed a group to analyze it, so that the Mexican Bar would participate in the legislative action. The research group was constituted by Laura Rodríguez (Coordinator of the International Law Commission), Jorge Antonio Galindo Monroy (member of the Constitutional Law and Amparo Action Commission), Carlos MacCadden and Santiago Corcuera (Coordinator and Deputy Coordinator, respectively, of the Human Rights Commission) and Eduardo Magallón Gómez (member of the Civil Law Commission). As a result of the joint effort of this small number of barristers, the Mexican Bar filed a motion to the Senate, grounded on article 61 of the Rules for the Internal Government of the General Congress of the United Mexican States. The purpose was to suggest amendments to the decree of reforms to further adapt the aforementioned Mexican fundamental legal provision to international treaties whenever their specific subject — or the subject of some clauses— were the so-called Human Rights. Several proposals from the Mexican Bar were accepted in the constitutional reform.

As coordinator of the Constitutional Law and Amparo Action Commission, he also formed another group of barristers, this time with Fabián Aguinaco Bravo, Gustavo de Silva Gutiérrez, Jorge Galindo Monroy, Carl Koller Lucio and Cuauhtémoc Reséndiz Núñez, among others, with the written collaboration of some other barristers, including Eduardo Méndez Vital and Alejandro Torres Rivero, as well as several Commissions from the Mexican Bar. With the efforts of this group, the Mexican Bar directly opposed an initiative of constitutional reforms presented by several Senators; they pro-

posed eliminating the direct Amparo action, which had been a bastion in the defense of citizens' rights for more than 150 years. The direct Amparo action was the last legal remedy accessible for citizens to fight flaws of judgments and actions from judicial, administrative or labor courts. Keeping legal means of defense available to citizens will always be —they were told— the only means to avoid riots as means of solution for controversies; men resort to riots when the Government's oppression, through the legal order, eliminates their rights or otherwise restricts them. Fortunately, for the Mexican Bar, the proposal of constitutional reform was not successful; therefore, after 150 years this means of extraordinary control of the lawfulness of actions by judicial, administrative or labor courts is still effective.

Also as Coordinator of the Constitutional Law and Amparo Action Commission, Enrique promoted the organization of a study group to prepare a reform proposal for the Amparo Law, in order to adapt it to the constitutional amendments made in June 2011; the reforms concerned articles 103 and 107, dedicated to the Amparo action. It was a diverse group integrated by six barristers and six judges from collegiate circuit courts. Under Enrique's direction, Fabián Aguinaco Bravo, Gustavo de Silva Gutiérrez, Jorge Antonio Galindo Monroy, Carl Koller Lucio and Cuauhtémoc Reséndiz Núñez participated on behalf of the Mexican Bar; and the judges Adriana Campuzano, Adela Domínguez, Patricio González Loyola, Alberto Pérez Dayán, Humberto Suárez and Jean Claude Tron Petit also joined the group. Upon the Mexican Bar's submission to the Senate of the reform proposal to the then effective Amparo Law, they immediately strove to study the initiative of the New Amparo Law, presented by the President of the Republic. A year of constant work was devoted to preparing a new document to be submitted by the Mexican Bar, again, to the Senate. Unfortunately, very few of their proposals were adopted for the new provision.

What was relevant —Enrique states— was to influence and collaborate so that the Mexican Bar was present in the four most relevant legislative events for provisions creation the Mexican legal order has had in the last decades.

The Universidad Iberoamericana —his alma mater for the Degree in Law—, through the Director of the Law Department, Loreta Ortiz Alf, invited him in 1999 to become part of the *Academic Committee of the Law Department*; he participated in said Committee for four years, until 2003. It lingers in his mind the enduring memory of a firm and obstinate proposal prepared by the Committee: eliminating the thesis and final examination as mandatory requirement to assess the students' academic capacity to receive the Degree in Law. The proposal was risky —maybe bold—, if we consider the time. His proposal was grounded in two bases: should the curriculum not include any subject to teach students the research techniques and methodology required for this activity, it was inconsistent (not to say absurd) to demand proving research skills based on a methodology not taught at the institution. Research required satisfying protocols unknown to students; and said lack of knowledge is only attributable to the university, not to the student. As for the final examination —he stated—, its purpose is



to examine professors that guided students along the study of their degree. If they proved—with the grades given by professors—to have acquired the knowledge taught, then the jury, with the students sitting before it, with the final examination would validate that professors are not at fault when giving them passing grades. He reminisces how his two proposals were unanimously rejected, in a crushing manner; that would imply—he was told—breaking with tradition, which should be maintained. But time goes by, and today, both requirements (thesis and final examination) are no longer mandatory in that University. Students can present a minor thesis, guided by the professor in charge of teaching the complex research methodology.

His interest in research took him to the Academia de Estudios Fiscales de la Contaduría Pública, of which he is a member since 1969. His entry to Universidad Iberoamericana, in 1975, where he studied the Degree in Law, promoted his withdrawal from the Academy; his university studies limited the time necessary to meet the academic demands in that organization. Upon conclusion of the second professional degree, he went back to the Academy, for which he submitted an admission paper again; a statutory requirement to be accepted as professor.

His desire to devote himself to studying, individually, and the written communication of the results of his research raised as an obstacle to continue higher studies, such as a master's or doctorate degree. Unaware of this fact, he received a failed invitation from the Faculty of Law at Universidad Nacional Autónoma de México to join the staff of professors in the Doctorate in Law. The invitation was not successful because Enrique was not willing to hold that academic degree. It turned out paradoxical—he was told—that the author of texts used for teaching at a doctorate level was not a member of the faculty. That reminiscent fact, however, means no regret, for it is the consequence of a conscious decision, which he would repeat if necessary.

In 2013, together with five other lawyers, members of the Mexican Bar Association, he was invited to form a part of the "Drafting Committee of the New Code of Ethics". With satisfaction, he remembers the innumerable sessions held, through four years, by the members of the Committee. This gave Enrique the opportunity to deepen his conviction that the practice of the legal profession does not resemble the sale of merchandise—for more than young lawyers, influenced by modern trends so appreciate it—, because executing this profession requires services to be provided, where its users rely mainly on the knowledge, skills and prestige of the counselor, not on the price of the rendering of his services. For this reason, he sustained his conviction that in the performance of its professional practice the counselor may be assisted by his colleagues or assistant lawyers, but in no way, is he authorized to delegate the indeclinable responsibility assumed when accepting the representation of a client or the rendering of his opinion on the subject brought to his attention. At the conclusion of the draft version of the Code, in November 2016, the members of this Committee presented it in a session before the Consultation Committee of the organization, and later before the full Board of Directors of the Bar. Thus, in February 2017, the new Code of Ethics

for the members of this organization was unanimously approved by the Mexican Bar Association's General Assembly.

#### HIS INFLUENCE IN LEGAL AMENDMENTS

He recalls a case of professional nature that stands out because of the time devoted to its final conclusion... around five years. It was a bankrupt procedure conducted by a team of lawyers integrated by Enrique, Javier Quijano Baz, Javier Cortina Cortina and Raúl González-Salas Campos. Enrique was in charge of discharging the tax debts of debtors before tax authorities. At a timely moment during the negotiation —after agreeing to the basis of the agreement of forgiveness of tax debts—, he discussed with the Secretary of Treasury and Public Credit the paradox of having brought to action, for the first time, the Bankruptcy Law which purpose is to safeguard labor sources; *It is of public interest* —article 1 sets forth— *to preserve the corporations and avoid that the general breach of payment obligations jeopardizes the viability thereof and of others with which there is a business relationship.*

“The great majority of creditors —including the tax authority, says Enrique to the Secretary of Treasury— sacrifices a part of their assets to achieve the existential viability of debtors. But the agency empowered to create the Bankruptcy Law did not notice that, after achieving the bankrupt success with so many efforts, now the tax authority would dismantle the corporation; destroy it. This is the paradox of the lack of foresight —Enrique states—; it was necessary to set forth whatever may have been convenient to deal with the last contingency in every bankruptcy procedure: the debt for Income Tax necessarily generated by the income from debt forgiveness.” The Secretary of Treasury listened to him attentively, and devoted literally a few seconds for reflection to fully agree with Enrique's assessment. “I'm sure you already have a solution”, suggested the Secretary. “Yes —Enrique replied. Some months ago, I discussed the subject with Representative Enrique de la Madrid Cordero, one of the main drivers of—the Bankruptcy Law, to whom I presented a proposal to solve the issue.” “Excellent -the Secretary answered—. Incidentally, I'm meeting him today. I'll express him my approval to your proposal so that the Legislative Power itself may prepare an initiative of reforms and we may save the Bankruptcy Law from becoming a total failure.”

After several weeks of interviews with officers and representatives, finally on December 30, 2002, the *Decree to establish, reform, supplement and abrogate several provisions of the Income Tax Law and the Law on Tax Substituting Wage Credit* was published. In the Decree, among others, two articles were added to the Law: 16-Bis and 121-Bis, to provide that *Taxpayers subject to a bankruptcy procedure may subtract the amount of debts forgiven in accordance with the agreement executed with its acknowledged creditors, as per the Bankruptcy Law, from the losses pending to be subtracted during the fiscal year in which said creditors are forgiven the aforementioned debts. Whenever the amount of the debts forgiven is higher than the tax losses pending to be decreased, the difference will not be deemed cumulative income.* Until today, 2017, both provisions are preserved, although in different articles.

This was a professional success and Enrique still recalls accurately all details around the case. He believes that the spirits of many people gathered to achieve one single purpose: the effectiveness of the Bankruptcy Law.

#### LECTURES

His fluency and early experience in teaching led him to be invited as lecturer in legal topics before several audiences, among which we may find: Instituto Mexicano de Contadores Públicos, Instituto Mexicano de Ejecutivos de Finanzas, the following Professional Colleges of Public Accountants: in Mexico City, Baja California, León, Ciudad Juárez and Guadalajara, Faculty of Accounting and Management at Universidad Nacional Autónoma de México and the Institute of Legal Research in the same University, Escuela Superior de Comercio y Administración of Instituto Politécnico Nacional, Instituto Tecnológico Autónomo de México, Universidad Iberoamericana, Universidad Iberoamericana Instituto Oriente de Puebla, Academia de Estudios Fiscales de la Contaduría Pública, Academia Chihuahuense de Estudios Fiscales, Confederación Patronal de la República Mexicana, Barra Mexicana, Colegio de Abogados, Secretary College of the National Supreme Court of Justice, International Fiscal Association, Centro de Investigación y Docencia Económicas, Fundación Desarrollo Tributario Mexicano, Servicio de Administración Tributaria (the Mexican IRS) and Procuraduría Fiscal de Investigaciones (Deputy Prosecutor for Investigations). Below you will find a list of the subjects covered in his lectures.

#### END POINT

Today, Enrique Calvo Nicolau continues working as a lawyer, partnered with Oscar Márquez Cristerna (Public Accountant and recently graduated from Law School) with whom he constituted the firm *Calvo Nicolau y Márquez Cristerna, S.C.*, to which, in 2015, the Public Accountant, Layda Cárcamo Sabido, joined as partner. He is 77 years old and still vigorously engaged in litigation present at courts, he remains interested in research and the pleasant activity of writing, which is nothing more than succeeding in finding a happy unity between the words, without verbosity. Occasionally, under some circumstances, he accepts invitations to lecture on legal topics of his choice. He wishes to continue all his activities with great energy, so long as he doesn't feel dragged down by weariness. He lives —Enrique states— reminiscing the goods received, for the ills are buried in oblivion, after having extracted from them the experience that enriches wisdom.

#### BOOKS AND ESSAYS PUBLISHED

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