

Sociedades por acciones simplificadas: una estrategia para combatir la pobreza, el desempleo y la migración en la región mixteca

Society by Actions Simplified: a strategy to combat poverty, unemployment and migration in the Mixteca Region

Sociedades para ações simplificadas: uma estratégia para combater a pobreza, o desemprego e a migração na região do Mixteca

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Resumen

En marzo del 2016, mediante Decreto publicado en el Diario Oficial de la Federación (DOF, 2016a), se adicionó a la Ley General de Sociedades Mercantiles (LGSM, 2016) una nueva especie de sociedad mercantil denominada *Sociedad por Acciones Simplificada* (SAS). Esta sociedad tiene por objetivo facilitar el proceso de constitución de micro y pequeñas empresas minimizando los costos de su tramitación y simplificando los requisitos para su formalización a través del uso de herramientas electrónicas.

Con la incorporación de las SAS a la LGSM se pretende combatir el comercio informal existente en el país; fenómeno debido, entre otros factores, a que los procedimientos de constitución de sociedades son complejos (tienen una reglamentación excesiva), así como costosos.



Como parte de esta adición, la Secretaría de Economía implementó un sistema informático para constituir las SAS en septiembre del 2016 (DOF, 2016b); dicho sistema, a diferencia de lo que se venía suscitando, es fácil de utilizar y gratuito.

Este artículo está dividido para su análisis en tres apartados: introducción, desarrollo y conclusiones. La introducción alude a la problemática que se observa en la región mixteca: la pobreza, el desempleo y la migración de los jóvenes en busca de trabajo y de mejores condiciones de vida.

El desarrollo, por su parte, está dividido en cuatro aspectos: 1) las especies de sociedades mercantiles; 2) las ventajas y desventajas de la SAS; 3) el método para constituir una SAS, y 4) el funcionamiento y operación del sistema electrónico de las SAS.

Finalmente, se exponen las conclusiones extraídas del análisis anterior.

Palabras clave: desempleo, migración, pobreza, sociedad por acciones simplificada.

Abstract

In March 2016, by means of a Decree published in the Official Gazette of the Federation (DOF, 2016a), a new corporate regime was added to the General Law of Commercial Companies (LGSM, 2016) called: Simplified Shares Company, better known for its acronym as SAS. The aim of this partnership is to facilitate the process of setting up micro and small companies by minimizing the costs of processing them and simplifying the requirements for their formalization using electronic tools.

With the incorporation of the SAS to the LGSM, the aim is to combat the informal commerce existing in the country, due, among other factors, to the fact that the procedures for the incorporation of companies are complex (they have excessive regulation) as well as costly.

To deal with this problem, the Ministry of Economy implemented the computer system to set up the SAS, in September 2016 (DOF, 2016b); This system is easy to use, as well as free.

The article is divided for analysis in three sections: Introduction, Development and Conclusions. The introduction refers to the problems that are observed in the Mixteca Region: poverty, unemployment and the migration of young people in search of work and better living conditions.



The development is divided in four aspects: I. Species of mercantile societies, II. Advantages and disadvantages of SAS, III. How to set up a SAS? IV. Operation and operation of the economic system of the SAS; at the end there are the conclusions derived from the analysis of the aforementioned sections.

Finally, the conclusions resulting from the previous analysis are presented.

Keywords: unemployment, migration, poverty, Society by Actions Simplified.

Resumo

Em março de 2016, por meio de um decreto publicado no Diário Oficial da União (DOF, 2016a), um novo regime corporativo denominado simplified stock corporation (SAS) foi adicionado à Lei Geral das Empresas Comerciais (LGSM, 2016). O objetivo desta empresa é facilitar o processo de criação de micro e pequenas empresas, minimizando os custos de processamento e simplificando os requisitos para sua formalização através do uso de ferramentas eletrônicas.

Com a incorporação do SAS ao LGSM, o objetivo é combater o comércio informal existente no país; fenômeno devido, entre outros fatores, ao fato de que os procedimentos para a incorporação de empresas são complexos (possuem regulação excessiva), além de onerosos.

Como parte deste acréscimo, o Ministério da Economia implementou um sistema de computador para configurar o SAS em setembro de 2016 (DOF, 2016b); Esse sistema, diferentemente do que vem despertando, é fácil de usar e gratuito.

Este artigo está dividido para análise em três seções: introdução, desenvolvimento e conclusões. A introdução alude à problemática observada na região Mixtec: pobreza, desemprego e migração de jovens em busca de trabalho e melhores condições de vida.

O desenvolvimento, por outro lado, é dividido em quatro aspectos: 1) as espécies de sociedades mercantis; 2) as vantagens e desvantagens do SAS; 3) o método para constituir um SAS, e 4) a operação e operação do sistema econômico do SAS.

Finalmente, as conclusões tiradas da análise anterior são apresentadas.

Palavras-chave: desemprego, migração, pobreza, parceria simplificada.

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Introduction

The Mixtec region is integrated by the states of Guerrero, Oaxaca and Puebla. It is an area that has high rates of poverty, unemployment and migration. The countryside, which until a few years ago had been the main livelihood of the inhabitants of the region, is no longer producing enough to provide the population with basic needs, since the increasing desertification, impoverishment and soil erosion make every time you harvest less. Because of this situation, migratory flows are being generated in search of employment in the conditions of extreme or very high poverty in which the majority of the inhabitants of the region live (Maya, 2018).

It should be noted that the Mixteca region is made up of the territory of the old Mixtecapan, which extended from the mountains to the Pacific coast. Over time, the region has been frequently separated and distinguished for the benefit of current state and regional political-administrative boundaries. However, it continues to be a relatively homogeneous area that has a historical past and common characteristics, namely language, traditions and economic activities, all of which pay for the preservation of identity in the region.

The basis of the Mixtec economy is self-consumption agriculture, the raising of small livestock (goats and sheep) and small-scale trade. However, as already anticipated above, these activities are currently insufficient to feed the entire population of the region.

In Mexico, 46.2% of the population lives in conditions of poverty and 10.4% live in extreme poverty. This represents an important barrier to the country's productivity and economic growth; that is why fighting poverty is one of the main axes of the National Development Plan (PND) 2013-2018.

According to the PND (2013) another barrier to economic growth is informal trade, since there is a large sector of the population that for various reasons remains outside the formal economy. Average productivity in the informal sector is 45% lower than productivity in the formal sector, which becomes a sign to promote activity in the latter sector.



This article promotes formal trade through simplified stock companies (SAS), a strategy integrated two years ago by the federal government into the General Law of Commercial Companies (LGSM, 2016). The SAS allow companies to be created without the presence of excessive constitution requirements, as well as without the high costs of bureaucratic procedures.

The PND points out that equality of opportunities is fundamental for a prosperous Mexico, since there are geographical and historical factors that limit the development of some regions, as is the case of the Mixteca region, whose geographic location separates it from the big cities, which represents one more of the barriers for the diffusion of productivity, as well as for the flow of goods and services. Thus, in this as in other cases, it is essential to generate formal employment for the development of the country, especially in those regions that have had limited growth.

Lastly, the PND points out that the migratory phenomenon represents a challenge of increasing importance for the Mexican State, so it is urgent to design and implement policies, actions and programs that allow the migration phenomenon to be addressed in a comprehensive manner. The present article intends to promote the constitution of the SAS through its diffusion in the Mixtec region and with this, in turn, promote the creation of employment and self-employment, as well as fight poverty and the migration of young people in search of work and better life conditions.

Development

For greater clarity, the development of this research was divided into four aspects: 1) the species of mercantile societies, 2) advantages and disadvantages of the SAS, 3) the way in which a SAS can be constituted and 4) the functioning and operation of the SAS economic system.

Species of commercial companies

The LGSM (2016), in its first article, establishes seven species of mercantile companies: a) society in collective name, b) limited partnership, c) limited liability company, d) limited company, e) limited partnership by actions, f) cooperative society, and g) SAS. Next, each of them is explored.



Society in collective name

The company in the collective name is one that exists under a corporate name and in which all the partners respond, in a subsidiary, unlimited and jointly and severally with the social obligations (LGSM, 2017, article 25).

The reason or denomination of the company in collective name is formed with the name or names of the partners, and when the names of all the partners are not included, the words and company will be added. If a new member enters or one of the partners separates, the same reason will continue; however, if the name of the partner that separates appears in the company name, the word successors must be added to it. Therefore, if the name of the partner that is separated does not appear in the company name, the words and company will continue to be used.

In accordance with the above, this type of company does not require the addition of acronyms to its name.

The way in which members of social obligations will respond has three characteristics:

1. **Subsidiary:** subsidiary liability rests with a partner for the failure to pay a debt by another partner. As it is impossible to charge the holder, the collection is transferred to those who have amounts pending payment with him. The subsidiary liability only exists in case the principal debtor does not pay.
2. **Unlimited:** the partners are responsible for all the debts and obligations of the company, and pay up to their assets.
3. **Solidarity:** the joint and several liability, unlike the subsidiary, is a joint obligation of the shareholders on the same debt. The enforceability extends to shareholders other than the principal debtor by virtue of a social statute voluntarily accepted by all of them.

The subsidiary liability is exercised in the event that the holder of the debt does not have the necessary resources to pay; in joint and several liability, if the holder of the debt refuses to pay, even having the resources, the joint and several shareholders will make the payment of the debt. It is important to think carefully before joining as a partner to a company with respect to the obligations that will be incurred.

Likewise, the company in collective name has the following characteristics:



1. All partners are responsible for social obligations.
2. The law does not establish a number of partners necessary to form the company.
3. A reserve fund is established that will be integrated to separate 5% (as a minimum) from the annual net profits until one fifth of the share capital is paid.
4. The company can increase or decrease its capital, that is, it is variable capital.
5. Registered or not in the Public Registry of Commerce (PRC), with or without public deed, the company will have legal personality.
6. There is no limit to your Annual Total Income (ITA).

None of the partners may engage in businesses of the same kind as those that are the object of the company (neither on their own account nor by others) or form part of companies that carry them out, except with the consent of the other partners. In case of contravention, the company may exclude the offender, depriving him of the benefits that correspond to him and demanding the amount of damages. These rights shall be extinguished within three months from the date on which the company becomes aware of the infringement, after which time said right shall lapse (LGSM, 2016, Article 35).

Limited partnership simple

The limited partnership is that which exists under a corporate name and consists of two types of partners: the limited (one or several) that respond, subsidiary, unlimited and jointly, social obligations; and the limited partners, who are only obliged to pay their contributions (LGSM, 2016, Article 51).

The company name will be formed with the names of one or more partners, followed by the words and company or other equivalent when it does not include all of them (LGSM, 2016, art. 52).

This company has the following characteristics:

1. To the company name are added the words Sociedad en Comandita or its abbreviation S. en C.
2. The limited partners respond for all social obligations as opposed to the limited partners, who only pay their contributions.
3. The law does not establish a maximum or minimum number of members for its integration.
4. You must have a reserve fund.



5. Your capital may increase or decrease, and this situation must be recorded in a record book.
6. Has legal personality and obligations against third parties whether or not registered in the RPC and whether or not it has a public deed.
7. It may be constituted and transformed into a variable capital company, and there is no ITA limit.

Limited liability company

The limited liability company is constituted by partners whose only obligation is the payment of their contributions, without the social parties being represented by negotiable instruments, by order or by bearer, since they will only be assignable in the cases and with the requirements that establishes the LGSM (2016, Article 58).

The company name of the limited liability company will be formed with the name of one or more partners. The name will be immediately followed by the words Limited Liability Company or its abbreviation S. de RL The omission of this requirement will subject the partners to the responsibility that is established for the companies in collective name, forcing everyone to respond, in a way subsidiary, unlimited and severally, of social obligations.

The limited liability company has the following characteristics:

1. It can not be integrated by more than 50 partners.
2. You must integrate a reserve fund.
3. Your capital can increase or decrease.
4. Has legal personality and obligations vis-à-vis third parties whether or not it is registered in the RPC and whether or not it has a public deed.
5. It may be constituted and transformed into a variable capital company, and there is no ITA limit.

Anonymous society

The corporation exists under a corporate name and consists of partners whose only obligation is the payment of their shares (LGSM, 2016, Article 87).

The name of this company will always be followed by the words Sociedad Anónima or the abbreviations S.A.



Its characteristics are the following:

1. That at least have two partners, and that each of them subscribe to at least one share.
2. You must integrate a reserve fund.
3. Your capital can increase or decrease.
4. Has legal personality and obligations vis-à-vis third parties whether or not it is registered in the RPC and whether or not it has a public deed.
5. It may be constituted and transformed into a variable capital company, and there is no ITA limit.

Limited partnership for shares

The partnership limited by shares is composed of two types of partners: comanditados (one or several) that respond in a subsidiary, unlimited and solidary way of social obligations; and limited partners (one or more), who are only required to pay their shares (LGSM, 2016, article 207).

This company will form its name with the names of one or more partners followed by the words and company or other equivalent when they do not include the names of all. To the company name the words Limited Partnership for Shares or its abbreviation S. in C. for A. will be added.

Its particularities are those listed below:

1. The limited partners respond to their obligations in a subsidiary, limited and solidary way, unlike limited partners, who only pay their shares.
2. The law does not specify a number of partners for its integration.
3. You must have a reserve fund.
4. Your capital can increase or decrease.
5. Has legal personality and obligations against third parties whether or not it is registered in the RPC and whether or not it has a public deed.
6. It may be constituted and transformed into a variable capital company, and there is no ITA limit.



Cooperative Society

Cooperative societies are governed by the provisions of the General Law of Cooperative Societies (LGSC, 2009) and additionally, the General Law of Commercial Companies applies (LGSM, 2016).

The cooperative society is a form of social organization composed of natural persons with common interests based on the principles of solidarity, self-help and mutual assistance, always with the purpose of satisfying individual and collective needs. These people are grouped to carry out economic activities of production, distribution and consumption of goods and services (LGSC, 2009, Article 2).

The principle of solidarity refers to the assistance that must exist between members of the same group.

Regarding the principle of self-effort, this refers to the fact that all partners will contribute their work to society so that it will prosper and achieve the purposes for which it was created, such as the satisfaction of personal and collective interests, that is, the pertinent to the partner itself and those of the cooperative as a collective entity.

Mutual aid implies the need to lend each other assistance in the pursuit of common goals, putting the means to achieve something (TCC, 2012).

Cooperative societies may adopt any of the two types of regimes contemplated by the LGSC (2009):

- Limited liability regime, when the partners are only obliged to pay the contribution certificates they have subscribed.
- Supplementary liability regime, when the partners respond pro rata for social operations, up to the amount determined in the articles of incorporation.

The term prorata comes from the Latin pro rat part, which means, literally, 'according to the calculated part, in proportion'. In the broadest sense, the pro rata is a measure of the benefit. When the sum insured is less than the insured value, the insurer will only compensate the damage in the proportion that results between both values. Applying this term to the liability regime supplemented in a cooperative society, it is inferred that the partners will be liable for the debts in proportion to the amount determined in the articles of incorporation.

Independently of the regime of responsibility of the partners that is adopted, this will take effect from the registration of the constitutive act in the RPC. In the meantime,



all the partners will respond in a subsidiary manner for the social obligations that may have been generated in front of third parties prior to said registration.

If the cooperative society does not register with the RPC, the representatives or representatives of the cooperative who perform legal acts will be responsible for the fulfillment of the social obligations towards third parties, in a subsidiary, joint and unlimited manner, without prejudice to the criminal liability in which they may have incurred (LGSC, 2009).

The particularities of this type of society are:

1. All partners are governed by the principles of solidarity, self-help and mutual assistance.
2. It will be integrated with a minimum of five partners, with the exception of the Cooperative Savings and Loan Societies, which will be constituted with a minimum of 25 members.
3. Cooperative societies will always be constituted as variable capital.
4. Your reserve fund will be constituted with a percentage of between 10% and 20% of the income obtained by the cooperative company in each fiscal year.

It should be noted that the cooperative societies, in addition to the savings fund, may set up the following funds:

- Social welfare fund: will be established with the annual contribution of the percentage, which, on net income, will be determined by the general meeting and will be applied to reserves to cover occupational risks and diseases, form pension funds and retirement assets. partners, seniority premiums and for various purposes that will cover medical and funeral expenses, disability subsidies, educational scholarships for members or their children, day care centers, cultural and sports activities and other social security benefits. These benefits shall be independent of the benefits to which the members are entitled due to their affiliation to the social security systems.
- Cooperative education fund: it is constituted with the percentage agreed upon by the general assembly, although this percentage must not be less than 1% of the net surpluses of the month. The other features of this fund are the following:



- Their capital can increase or decrease, and they can receive from individuals and morales, public or private, national or international: donations, subsidies, inheritances and legacies to increase their assets.
- Has legal personality and obligations against third parties whether or not it is registered in the RPC and whether or not it has a public deed.
- There is no ITA limit.

In addition to all of the above, the following types of companies are part of the cooperative system:

- Cooperative societies of consumers of goods and / or services: those whose members associate in order to obtain in common articles, goods or services for them, their homes or their production activities. These companies may engage in activities of supply and distribution, as well as the provision of education services or obtaining housing.
- Cooperative societies of producers of goods and / or services: these are those whose members are associated to work together in the production of goods and / or services, contributing their personal, physical or intellectual work. Regardless of the type of production to which they are dedicated, these companies will be able to store, conserve, transport and market their products.
- Savings and loan cooperative societies: they are those that carry out activities to raise funds through savings deposits from their members (savings), as well as the placement and delivery of the resources obtained from their members (loan). This type of company is governed by the LGSC, as well as by the Law to Regulate the Activities of the Cooperative Savings and Loan Societies (LRASCAP, 2014).

It is important to note that production cooperatives and consumers are prohibited from establishing savings and loan sections.

Finally, there are two categories of cooperative societies:

- Ordinary: are those that only require their legal constitution to function.
- State participation: those that are associated with federal, state, or municipal authorities or with the political-administrative bodies of Mexico City for the exploitation of production units or public services, given in administration, or to finance development projects economic at local, regional or national levels.



Simplified joint stock company

The SAS is constituted with one or more individuals who are only obliged to pay their contributions represented in shares (LGSM, 2016, article 260).

Your denomination will be freely formed, but it will always be followed by the words Simplified Stock Company or its abbreviation S.A.S.

The SAS have the following characteristics:

1. It can be constituted with one or more shareholders.
2. It has no reserve fund.
3. You must register with the RPC to have legal personality.
4. In no case shall the requirement of public deed, policy or any other additional formality for the incorporation of the company be required.
5. It may be constituted as a Variable Capital Company (S. de C.V.).
6. Your ITA can not exceed five million pesos; if this happens, it must be transformed into another corporate species, and in the event that the shareholders do not carry out the transformation of the company, they will respond to third parties, subsidiarily, jointly and severally and unlimitedly.

This kind of society has been questioned in that it "goes against the nature of society, since, by definition, a society must be constituted by two or more people" (Trujillo, 2016); opinion that is shared. However, everything is a matter of analyzing the change of name of the SAS to eliminate the word society and endow it with another name, but, for the moment, such analysis is not a matter of the present text.

Tabla 1. Comparativo de sociedades mercantiles

Especies de sociedades mercantiles	S	FRO	QRO	NS	FR	A D C	IRPC	EP	SCV	ITA
Sociedad en nombre colectivo	No (a)	Subsidiaria, ilimitada y solidariamente.	Todos los socios (b)	N/E	5 %	Sí	Inscrita o no tendrán personalidad jurídica.	Con o sin escritura tendrá personalidad jurídica.	Sí*+	S/L
Sociedad en comandita simple	S. en C. (c)	Subsidiaria, ilimitada y solidariamente.	Comanditados (todo); comanditarios (solo pagan aportaciones)	N/E	5 %	Sí	Inscrita o no tendrán personalidad jurídica.	Con o sin escritura tendrá personalidad jurídica.	Sí*+	S/L
Sociedad de responsabilidad limitada	S. de R. L. (d)	El pago de sus aportaciones.	Todos los socios.	50 (e)	5 %	Sí	Inscrita o no tendrán personalidad jurídica.	Con o sin escritura tendrá personalidad jurídica.	Sí*+	S/L
Sociedad anónima	S.A. (m)	El pago de sus acciones.	Todos los socios.	2 (f)	5 %	Sí	Inscrita o no tendrán personalidad jurídica.	Con o sin escritura tendrá personalidad jurídica.	Sí*+	S/L
Sociedad en comandita por acciones	S.C.A. (g)	Subsidiaria, ilimitada y solidariamente.	Comanditados (todo); comanditarios (solo pagan	N/E	5 %	Sí	Inscrita o no tendrán personalidad jurídica.	Con o sin escritura tendrá personalidad jurídica.	Sí*+	S/L

			acciones)							
Sociedad cooperativa	S. de R. L o S (l)	Solidaridad, esfuerzo propio y ayuda mutua.	Todos los socios.	5 (k)	10-20 %	Sí	Inscrita o no tendrán personalidad jurídica.	Con o sin escritura tendrá personalidad jurídica.	Sí, siempre	S/L
SAS	S.A .S. (j)	Solo están obligados al pago de sus aportaciones.	Todos los accionistas.	1 (h)	No	Sí	Deberá inscribirse para que tenga personalidad jurídica.	Para su constitución no es exigible.	Sí*	\$ 5 000 000 (i)

Notas: N/E: la LGSM (2016) no lo especifica. S: siglas. FRO: Forma de responder de las obligaciones.

QRO: Quienes responden de las obligaciones. NS: Número de socios. FR: Fondo de reserva. ADC: Aumento o disminución de su capital. IRPC: Inscripción en el RPC. EP: Escritura pública. SCV: *Podrá constituirse como Sociedad de Capital Variable (S. de C.V.), +podrá transformarse en SCV. ITA: Ingresos Totales Anuales. SL: Sin Límite. (a) En los casos mencionados, se agregan las palabras *y compañía o sucesores*. (b) Las cláusulas del contrato de sociedad que supriman la responsabilidad ilimitada y solidaria de los socios, no producirán efecto alguno legal con relación a terceros; pero los socios pueden estipular que la responsabilidad de alguno o algunos de ellos se limite a una porción o cuota determinada. (c) Sociedad en comandita. d) Sociedad de responsabilidad limitada. (e) Hasta 50 socios. (f) Dos socios como mínimo. (g) Sociedad en comandita por acciones. (h) Una o más personas físicas. (i) No podrá rebasar de 5 millones de pesos. (j) SAS. (k) Cinco socios como mínimo, con excepción de las sociedades cooperativas de ahorro y préstamo que se constituirán con un mínimo de 25 Socios. (l) Las sociedades cooperativas pueden adoptar el régimen de responsabilidad limitada o suplementada de los socios. (m) Sociedad anónima.

Fuente: Elaboración propia con base en la LGSM (2016) y la LGSC (2009)

Advantages and disadvantages of SAS

The constitution of the SAS has its advantages and disadvantages. However, the former largely surpass the latter. To demonstrate this, the strengths of the SAS are listed:

1. Free Constitution (Ministry of Economy, 2018). Before the implementation of the SAS in the LGSM, a company had an average cost of 20,000 pesos (twenty



- thousand pesos 00/100 national currency); currently, under this type of society, its constitution is free.
2. Fast processing. Filling the data in the electronic system is done on average in one hour and eleven minutes (IDC, 2018); before, it took six days, on average, to complete the process.
 3. Formality. Its constitution allows companies to enter the formality, fighting the informality that affects the income of companies.
 4. Simplification of procedures. The SAS allow companies to be created by eliminating excessive constitution requirements, as well as bureaucratic procedures, since everything is done through the electronic system.
 5. Simplified administration. In the same portal, procedures are carried out with various agencies such as: the Tax Administration Service (SAT), the Mexican Social Security Institute (IMSS) and the Ministry of Economy (SE), among others.
 6. Without expenses of public notary. To establish the SAS is not mandatory to go before a notary or public broker, which contributes to their free and rapid processing.
 7. Supports. It facilitates access to have support to establish micro and small businesses.
 8. Credits. It helps to have access to credits; contrary to what happens in the informal sector, where this is not possible.
 9. Employment The SAS generate jobs and self-employment: hence its importance to promote its constitution.
 10. Unipersonal. With a partner you can set up; It is the only society that can be integrated with only one person.
 11. Without minimum capital (Secretaría de Economía, 2018). The LGSM (2016) does not establish a minimum amount for its constitution.
 12. Reserve fund. The law states that this type of company does not require the formation of a reserve fund (LGSM, 2016).
 13. Automatic registration to the RPC. When the SAS is constituted, the Ministry of Economy registers it to the RPC automatically.



14. Deduction of taxes. SAS allows deducting taxes with respect to the procurement of goods, as well as raw materials, semi-finished or finished products that they use to provide services, manufacture goods or dispose of them.
15. Taxation under the cash flow scheme. If the taxpayer was registered in the Federal Taxpayers Registry (RFC) as a SAS as of May 4, 2017, the taxation scheme will be subject to cash flow. This method allows paying the annual Income Tax (ISR), accumulating only the income (profits) and decreasing the deductions (expenses and costs) made for the period in question.
16. Release the user from submitting the Declaration of Information on Operations with Third Parties (DIOT). The DIOT consists in providing the SAT with information on operations with suppliers on a monthly basis; however, the SAS do not have to perform it (The taxpayer, 2017).
17. Protected personal property. The personal patrimony of the shareholder is protected, since it only responds for the capital contributed to the SAS (SE, 2018).
While the disadvantages (weaknesses) that have the SAS are:
 1. Non-existent companies. Creation of nonexistent companies known as "ghost company" (Taxes, 2018).
 2. Illegality. Creation of companies with a lawful purpose, but with illicit activities.
 3. In strict sense it is not a society. The concept of society is lost because, since it is possible to set up a SAS with only one person, there are no partners: only one shareholder.
 4. Shareholders can only be individuals. There is no participation of moral persons.
It is necessary to make some clarifications regarding the SAS:
 - a) Social contract against constitutive act. When there is only one shareholder there is no social contract, since a contract is an agreement of wills and, in this case, having only one member there is no such agreement, so it is not in the presence of a contract if not a constitutive act.
 - b) Pluripersonal against unipersonal. Of the nearly eight thousand companies created, between October 2016 and November 2017, 73% are single-member and only 27% are multi-personal, so the formation of companies with only one shareholder predominates.



- c) SAS against public limited company. From September 2016 to January 2018, 9737 SAS have been created, an average of 24 per day; unlike private companies, which register an average of 300 constitutions per day. This reflects that even with the multiple advantages that the SAS have, their daily average of incorporation is far below that of public limited companies. It would be necessary to analyze what factors are influencing this situation: the lack of knowledge of the SAS combined with the little diffusion; the recommendation of accountants, lawyers, notaries and brokers to establish themselves under a corporate nature that demands their services; among others, are some of the reasons that are probably affecting the problem.
- d) Urban areas against rural areas. The states where the urban population predominates are where more SAS have been constituted. Mexico City, State of Mexico, Nuevo León and Puebla are the main states where more companies are created (IDC, 2017); so it is necessary to promote its creation in the states where the rural population predominates: Oaxaca and Guerrero, among others, to encourage the creation of employment and reduce migration from the countryside to the city.

According to the above: a) the creation of constitutive acts against social contracts predominates because most of the companies created under the SAS figure are unipersonal, b) corporations are still the preferred figure at the time of to constitute a company despite the multiple advantages of the constitution of a SAS, c) in the states with predominance of urban population is where more SAS have been constituted. Therefore, it is necessary to implement strategies to publicize the advantages of these across the country compared to other types of societies, with special emphasis on the states with the majority of the rural population, which is where least SAS have been created.

On the other hand, Table 2 presents the multiple advantages that presupposes entering formality vis-à-vis the informal sector.

Tabla 2. Ventajas de las empresas formales y desventajas de las empresas informales

EMPRESA FORMAL VENTAJAS	EMPRESA INFORMAL DESVENTAJAS
Uso eficiente de recursos	Baja productividad y competitividad (empleados y empresa)
Apertura de relaciones comerciales	Perdidas de oportunidades comerciales
Se expande a otros mercados	Dificultad para encontrar nuevos mercados
Crecimiento más rápido	Bajo crecimiento económico
Acceso al crédito y servicios financieros	Dificultad para acceder a créditos
Alianzas estratégicas	Menor posibilidad de alianzas estratégicas
Oferentes de bienes y/o servicios	Dificultad para contratar con el sector privado y público (Estado)
Tranquilidad	Trabaja intranquilo y con temores
Reconocimiento	Es vista como de alto riesgo
Programas de apoyo empresarial	No accede a estos programas
Beneficios tributarios y no tributarios	Se autoexcluye
Protección legal	Genera desconfianza
Evita riesgos de sanciones	Es invisible

Fuente: Rodríguez y Hernández (2014, p. 127)

As a synthesis, on the one hand, it is concluded that there are more advantages (strengths) than the disadvantages (weaknesses) presented by the SAS; Hence, it is advisable for those who intend to set up a company to do it initially under this legal concept, and once this has positioned the company in the market and consequently has grown, it must adopt another corporate type that adjusts to the needs and particularities of the company. the society. On the other hand, it is emphasized that establishing a company in the informal sector is not an option for those who want to grow a company.

How to set up a SAS?

When the decision to establish a SAS has already been made, some of the questions that can be generated are the following: What is the process and the steps to be followed? What requirements are necessary? Here are the answers.

The LGSM (2016) establishes the following requirements to constitute a SAS:

- That there be one or more shareholders; with a single shareholder it is possible to set up a SAS, so it is a good way of self-employment without the need for more partners.
- Create its bylaws (more information is provided on the basic data that must be included).
- Request authorization for the use of denomination before the Ministry of Economy and obtain authorization.
- That the shareholders exercise their consent to constitute a SAS under the bylaws that were previously created.



- That all shareholders have a certificate from E. Firma, previously Advanced Electronic Signature (Fiel), current and recognized by the general rules issued by the Ministry of Economy.

In no case shall the requirement of public deed, policy or any other additional formality for the constitution of the SAS be required.

For its part, the procedure for setting up the SAS is done through the electronic system of the Ministry of Economy and is carried out as follows:

- A folio will open.
- The shareholder (s) will select the clauses of the bylaws that the Ministry of Economy makes available through the system; this in order to create their own statutes.
- A social contract will be generated for the constitution of the SAS signed electronically by all the shareholders, using the current electronic signature certificate, which will be delivered digitally.
- The Ministry of Economy will verify that the social contract of the constitution of the company contains in its bylaws the basic data required. When fulfilling the social contract with all the requirements, it will send it electronically for its registration in the RPC.
- The system will generate, in a digital way, the registration form of the SAS in the RPC.
- The use of public notaries (notaries or public brokers) is optional; As it is not mandatory, it simplifies the requirements and costs of incorporation.
- The existence of the SAS will be proved with the social contract of the incorporation of the company and the registration form in the RPC.

The shareholders that request the constitution of a SAS will be responsible for the existence and veracity of the information provided in the system. Otherwise, they will be liable for any damages that may arise, without prejudice to the administrative or criminal penalties that may apply.

From the above, it follows that the shareholder or shareholders must create their bylaws. At this point is when the question arises how to develop the bylaws and what data should contain.



Hiring specialized professional services for the preparation of the bylaws is an option that large companies use, but in the case of micro and small companies, the lack of initial capital makes it necessary for the shareholder to write their bylaws with support. of the electronic system of the Ministry of Economy.

Here, a list of the data that the bylaws must contain to constitute a SAS (LGSM, 2016, art. 264):

I. Name or business name followed by the acronym SAS or the words Society by Simplified Actions.

II. Name of the shareholder.

III. Domicile of the or shareholders.

IV. RFC or the shareholders.

V. E-mail of the shareholders.

SAW. Domicile of the company.

VII. Duration of the company, which may be indefinite. However, a certain date of beginning and end of operations must be indicated, which may be extended as many times as necessary. It is advisable not to indicate short terms such as one or two years so as not to have to continuously extend the duration of the company, 5, 10 or 20 years is a good period of time to start operations, which can be extended if the company is successful; or terminate its operations before said period (without penalty to the shareholder) if the business does not give the expected results.

VIII. The form and terms in which the shareholders are obliged to subscribe and pay their shares.

IX. The number, nominal value and nature of the shares in which the share capital is divided.

X. The number of votes that each of the shareholders will have by virtue of their shares.

XI. The object of the society.

XII. The form of administration of the company. In the event that there is only one shareholder, he will act as administrator and representative of the SAS.

It should be noted that the shareholder or shareholders will be subsidiarily or jointly and severally liable, as appropriate, with the company, for the commission of conducts sanctioned as crimes.



Once the shareholders constitute their SAS, new questions arise: how does the electronic system of the Ministry of Economy work and operate? What obligations must the administrator of the SAS fulfill? What operations are consulted in the system? Can you make changes to the social contract or the articles of incorporation? These and other questions are answered in the following section.

Operation and operation of the SAS electronic system

The electronic system of the Ministry of Economy allows the capture, storage, custody, consultation, reproduction, verification, administration and transmission of information related to the constitution, modification and operation of the SAS.

The system allows the following operations:

I. Query.

II. Constitution, modification and operation of SAS.

III. Administrative procedures related to the opening and operation of companies.

Those procedures that the agencies and entities of the federal public administration, federal entities or municipalities incorporate into the system (DOF, 2016b)

The following persons may register information in the system, through the use of their E. Signature:

I. Requesting shareholder: is the natural person who, within the system, performs the procedure to set up a SAS and who holds the authorization to use the corporate name.

II. Legal representative of the SAS.

III. Public Notary.

IV. Public servants of the Secretariat whose attributions are related to the operation of the system (DOF, 2016b).

The E. Signature is the set of data and characters that allows the identification of the signatory, which has been created by electronic means under its exclusive control, so that it is linked solely to the same and to the data to which it refers, through valid digital certificates issued by a certifying authority.

The modifications of the social contract, or of the constitutive act, may be carried out in the system, except for those referred to in the second paragraph of article 269 of the LGSM, which states that:



At any time, shareholders may agree on forms of organization and administration different from the one contemplated in this Chapter; provided that the shareholders hold before a notary public the transformation of the simplified stock company to any other type of commercial company, in accordance with the provisions of this Law (LGSM, 2016).

The administrator of the SAS must publish in the electronic system of the Ministry of Economy the annual report on the financial situation of the company; The failure to present the financial situation during two consecutive years will result in the dissolution of the company, without prejudice to the responsibilities incurred by the shareholders individually.

For the purposes of the foregoing, the Ministry of Economy will issue the corresponding declaration of non-compliance in accordance with the procedure established in the General Rules for the operation and operation of the Electronic System of Simplified Shares (DOF, 2016b).

Conclusions

By way of recapitulation, the Mixtec region is integrated by the states of Guerrero, Oaxaca and Puebla. It is an area that has high rates of poverty, unemployment and migration. Currently, the field - which had been the main livelihood of the inhabitants of the region - is no longer producing enough to provide the population with basic needs, so it is necessary to create companies in the region to generate employment and self-employment, decrease migration and fight poverty.

On the other hand, the LGSM establishes seven species of mercantile companies: partnership in collective name, limited partnership, limited liability company, limited company, partnership limited by shares, cooperative society and SAS (2016, Article 1).

The SAS was added to the law in comment on March 14, 2016 and came into force as of September 15 of the same year: it is, therefore, a society of recent creation and, in extension, little known among the population.

Through the SAS, the procedures for setting up micro and small companies are facilitated, since they are set up in the same day through the electronic system. With this,



it seeks to raise the formality indexes of both companies and jobs. Currently, 75% of companies close in the first two years of life and only 10% subsist a lustrum (TCA, 2016).

By being constituted as a SAS, the procedures are carried out more easily before institutions such as the IMSS, the National Workers' Housing Fund Institute (Infonavit), the National Fund Institute for Workers' Consumption (Fonacot)), the Ministry of Finance and Public Credit (SHyCP), among others. Thus, the long and costly processes required by other species of societies are simplified.

The SAS can be created with one or more shareholders, unlike the other companies that require at least two partners or shareholders for its incorporation. For its creation must have two things: the authorization of use of denomination issued by the Ministry of Economy, and the E. Firm, before Faithful, issued by the SAT.

The bylaws, the social contract and the registration form of the company before the RPC are made through the electronic system of the Ministry of Economy. The use of public notaries (notaries or public brokers) is optional to create a SAS; As it is not mandatory, it simplifies the requirements and costs of incorporation.

The electronic system of the Ministry of Economy allows the capture, storage, custody, consultation, reproduction, verification, administration and transmission of information related to the constitution, modification and operation of the SAS. It is fast and free, which helps to simplify long and expensive bureaucratic procedures.

The advantages of SAS are manifold. It is advisable for those who intend to set up a company to do it initially under this legal concept. The SAS are an alternative for those who seek to build a society with little capital and that its processing is simple, fast and low cost. In short, the best option, among other companies, to start a micro or small business.



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