Investment structuring in Mexico and Central America

Introduction

The integrated region of Mexico and Central America represents a location where manufacturing investors can expand the global reach of their business and leverage on talent, technology, innovation, infrastructure, strategic logistics, high-end production procedures, as well as corporate and international trade certainty.

As a result, the main tax and legal topics to observe to maximize the opportunities of the region would be the following for each of the countries.

Mexico

Most manufacturing, retail, and commercial entities, would incorporate as either “Sociedad Anónima” or “Sociedad de Responsabilidad Limitada”.

The legal registration of entities and the compliance requirements of powers of attorney are key for aviable start of operations. The homologation of objectives, with the tax structuring of entities is key for securing the effectiveness of the intended lines of business and create efficiencies by streamlining fiscal contribution redundancies.

Regulations in Mexico imply monitoring electronic invoicing compliance, including cancellation, issuance of credit notes and invoice complements linked to payment modalities, as well as the nature of the transactions. Financial structures must observe market parameters to sustain the validity of loans agreed among related parties, thin capitalization rules, earnings stripping restrictions and minimums on charged interest rates to secure deductibility.

Mexico holds an extensive network of trade agreements besides customs programs and benefits such as the Programa de la Industria Manufacturera, Maquiladora y de Servicios de Exportación (IMMEX), the value added tax (VAT) Certification, the Authorized Economic Operation arrangement, Eight Rule Benefit, and the Sectorial Promotion Programs (PROSEC), whose pertinence relate to the importation of a preferential on the amout import duty.

Panama

Panama leverages its geographical advantage and robust logistics infrastructure to enhance nearshoring opportunities. Most manufacturing, retail, and commercial entities incorporate as “Sociedad Anónima” or “Sociedad de Responsabilidad Limitada”, crucial for effective operations.

The country’s commitment to attracting international business is evident through significant trade agreements and customs programs, including incentives within the Colon Free Zone and the Panama Pacífico area. The Ministry of Commerce actively promotes to the country as a hub for multinational corporations and the Empresas Multinacionales para la Prestación de Servicios Relacionados con la Manufactura (EMMA) entities, which emphasizes benefits like tax incentives, exemptions, automatic legal stability, and added value to the logistics process through efficient cargo handling while in Panama.

Notable collaborations, such as the one with the United States to expand the semiconductor industry under the International Technology Security and Innovation Fund (ITSI), highlight Panama’s capacity to enhance its nearshoring potential. This initiative aims to develop a resilient semiconductor value chain, crucial for the global market.

Panama’s involvement in the Information Technology Agreement further attracts high-tech industries by removing tariffs on IT products, aligning with its strategy to strengthen its position as a leading nearshoring destination.

Dominican Republic

As the largest economy in the Caribbean, the Dominican Republic’s geographical location, political stability and tax incentive-oriented rules for foreign capital have effectively contributed to the consolidation of a favorable business climate for setting up new investments.

In this sense, there are two main ways for a foreign investor to set up a business in the country: branch or subsidiary. Although corporate and tax procedures vary depending on the type of entity and business line, ordinary set ups can be achieved within two or three weeks. More importantly, structuring the investment from the start is key, as debt service and exit strategies are possible within the purview of the regulation.

Furthermore, Dominican law provisions do not set forth foreign exchange (FOREX) control regulations. Additionally, there are no differences nor discrimination between Dominican and foreign investments; all of which creates a favorable environment for foreign investment, ensuring equal treatment and opportunities for all investors.

Also, the country offers comprehensive tax and legal policies that promote foreign investment in certain industries by providing appealing incentives in industries such as manufacturing, business process outsourcing (BPO), tourism, film industry, renewable energy, logistics hubs, construction and agriculture. For instance, Dominican Republic has encouraged foreign investment by establishing a free trade zone special tax regime that provides ample exemptions ranging from import duties, corporate income tax and VAT. Lastly, the nation has signed several Free Trade Agreements (e.g., DR-CAFTA, the CARIFORO-European Union Agreement, TLCARICOM, etc.) that allow foreign investors to conduct business activities with tariff preferences and significantly fewer entry and exit limitations to and from the markets of important trading partners; such also comes in connection to the more recent logistics centers' development regulations, which have allowed for the expansion of the country's capabilities to serve as a regional hub.

Guatemala

Manufacturing, retail and commercial entities are commonly incorporated as either "Sociedad Anónima" or "Sociedad de Responsabilidad Limitada".

The sequence of legal registration stages of entities and the compliance requirements of powers of attorney are key for a viable start of operations, ready to begin in one month, once completed all the registration process. Also, the designation of a legal representative and an accountant delegate (who should be a Guatemalan resident) is important to consider in this stage.

For these procedures, electronic documents as invoices or credit and debit notes must be used. Two types of income tax regimes are allowed, which can be changed at any time for the following fiscal year. The first applies to gross income at a rate of 7%, and the other to taxable income as gross income less deductible expenses at a rate of 25%. Once set up the activities, would be important to analyze the funding structure between contributions to the equity and loans granted to analyze the deductibility of the interest paid. It is important to note that there are no restrictions about remittance abroad of payment of loans or dividends.

Guatemala holds trade agreements as well as customs programs such as the Authorized Economic Operation arrangement.

Costa Rica

Foreign investors doing business in Costa Rica, usually incorporate as "Sociedad Anónima" or "Sociedad de Responsabilidad Limitada".

Nowadays, the country is considered a destination of multinational corporations to locate or relocate some segments of the business activities as manufacturing, services, tourism, agriculture, as well as research and development.

The Free Trade Zone regime hosts more than 760 export, services and manufacturing companies. In the last years, multinational companies have been expanding their operations in the country benefiting from the tax exemptions that the Free Trade Zone Regime grant. The exemptions include Corporate Income Tax, Value Added Taxes, withholding taxes, import duties, among others. The develop of the Free Trade Zone Regime will increase taking advantage of the fact that the United States included Costa Rica as beneficiary of the law CHIPS and Science Act, boosting the growth of the semiconductor industry and its whole supply chain including education.

In addition, Costa Rica holds Double Tax Treaties with Spain, Mexico, Germany, and Arab Emirates that promotes the investment trough these countries. Costa Rica became a member of the Organisation for Economic Cooperation and Development (OECD) in 2021 and as time passes, is being aligned to international best practices recommended, including taxation. Tax law incorporate already Base Erosion and Profit Shifting (BEPS) actions as in transfer pricing rules, tax planning, interest deductibility and hybrid mismatches, for example. In addition, E-invoicing is implemented, so information is flowing in real time to tax authorities.

Conclusion

The investment opportunities of the Mexico and Central America region tightly linked to the adequate planning of structures and the identification of compliance policies as well as authorities' dynamics and anticipation of industry trends. Implementing technological tools and objective oriented methodologies will secure the maximization of business endeavors and the continuance of ongoing concerns.

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