



Mexico Tax Reform 2020

November 14, 2019



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Joining you today



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Agenda



Welcome and introductions



Economic Indicators



2020 Tax Reform



Changes in International Taxation matters



Closing and Q&A





Economic Indicators

Three Key Trends in Global Tax Reform Policy

Economic growth Oil Price

- It is estimated that economic growth by 2020 will be between 1.5% and 2.5%, using 2% for budgetary purposes with 3% inflation
- The oil price is estimated at USD 49 per barrel

CETES

- Average rate of the 28-day Mexican Federal Treasury Certificates (“CETES” per its acronym in Spanish) of 7.4%

Dollar Exchange Rate

- Regarding the dollar exchange rate, it is estimated an annual average of MXN \$19.90

Surcharges rate

Surcharges	Monthly Rate
Extension	0.98%
Bias up to 12 months	1.26%
Bias from 12 a 24 months	1.53%
Bias greater than 24 months and deferred payment	1.82%



Mexican Revenue Law 2020

2020

- It is proposed that financial institutions determine the tax to be withheld to individuals, considering a 1.45% rate over the amount subject to the interest payments applicable over the capital that rises the interests (1.04% in 2019 and 0.46% in 2018).



Tax Incentives

Mexican Revenue Law 2020

- The tax incentives that have been granted remain the same

Private REIT's benefit is removed

- Income derived of the contributed Real Estate must be considered when certificates are sold, or
- The Real Estate is sold, or
- December 31st, 2021
- Updated by inflation



Tax Reform

Taxation on Technological Platforms

➤ Foreign Platforms

—Digital services provided by foreign residents without PE are included as acts subject to the VAT Law. For these purposes, it is considered that the service is provided in national territory when the client is in Mexico.

- Registered before MTA
- VAT collection
- Provide information
- Issue digital invoices
- Withhold of 50% of VAT when they process payments

Taxation on Technological Platforms

- **CIT to individuals with income through digital platforms, withholding that will be done by such platforms (Mexican residents or foreign residents with or without PE)**
 - Transportation 8%
 - Hospitality services 10%
 - Sales and services 15.4%
- **Income up to USD 15,000* withholding definitive payment, complying the requirements**
- **In force from June 2020**

* Exchange Rate 1 USD = 19.1996 MXN



Advance monthly tax payments

- **Employee Profit Sharing (PTU) decrease – Proportionally**
- **Non-recalculation of the Profit Factor**



Deductions

- **Withholding VAT is included as a requirement for deduction**
- **Outsourcing: the obligation to obtain a copy of salary payments, tax returns and Social Security payments is removed**

New limits for interest deduction

➤ Project BEPS Action 4

- 30% Adjusted Tax profit
- USD 1,000,000* – Group – Income previous year
- Tax profit + Interest + Fixed Asset deductions
- Tax Loss
- No restriction applies to net interests /accrued interests equal or greater than accrued interest

* Exchange Rate 1 USD = 19.1996 MXN

New limits for interest deduction

➤ Project BEPS Action 4 (cont'n)

- 10 FY's
- Exchange Differences – only securities that generate interests
- Exception to public infrastructure works, real estate constructions, land acquisitions, extractive industry, State manufacturing companies and the financial system for their own activities
- Consolidated deduction

Business Purpose

- **Legal acts without business purposes may be re-characterized or considered non-existent**
- **There is no business purpose when the economic benefit is lower than the tax benefit**
- **The Tax Authority may presume that legal acts lack a business purpose based on information obtained through internal registries**

Business Purpose

- **To re-characterize an operation, the Tax Authority is obliged to inform to the taxpayer of the facts in the last partial act or in the case of observations**

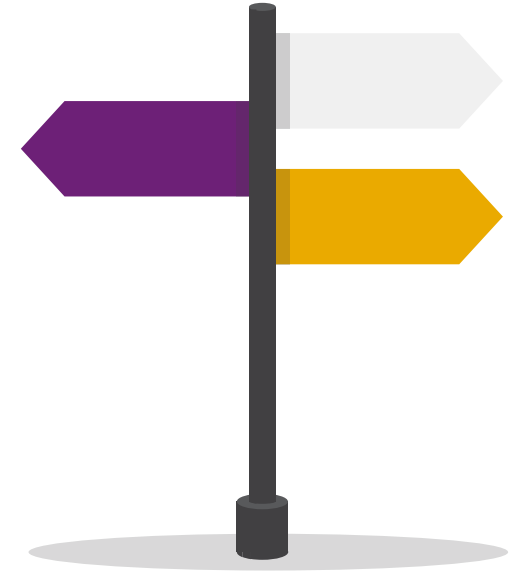
- **It is considered a tax benefit:**
 - Any reduction, elimination or temporary deferral of a tax contribution



Disclosure of reportable operations

Reportable Operations

- The information exchange is avoided (FATCA CRS)
- Avoid transparent income or any private wealth tax planning
- Legal acts that allow tax losses to be transferred
- Treaty shopping – Invoke the benefits of a Double Tax Treaty
- *Migration of restructuring assets that reduce 20% operating profit*
- Step-up of assets between related parties
- Planning with tax losses between related parties
- Avoid applying 10% withholding tax on dividends
- Deferred taxes 20%
- Any mechanism that avoid this reportable operations



Implications

Information Return

- February of each year
- Names
- Tax ID
- Name and Tax ID of individuals and tax advisors
- Legal representative
- Detailed description of the operations

Disclosure

- 30 days after contact has been made
- SAT will grant an operations identification number
- Inform the customer the identification number
- Operations as of 2020 reportable in 2021

Penalty *

- | | |
|---|------------------------|
| — Do not disclosure a operations or do it wrong | USD 2,600 to 1,040,000 |
| — Do not report a generalized operations | USD 800 to 1,040 |
| — Do not give the taxpayer operations number | USD 1,040 to 1,300 |
| — Do not report changes in the operations | USD 5,200 to 26,000 |

* Exchange Rate 1 USD = 19.1996 MXN

Transitional Provisions

2020

- Regarding transactions carry out in previous years, the obligation is for the taxpayers, starting in 2020

2021

- For tax advisors the tracking starts in 2020 with filing obligation in 2021



Amendments regarding International Taxation

Amendments regarding International Taxation

➤ Permanent Establishment

- Commissionaire arrangements plays the principal role leading to the conclusion of contracts
- Alienation, lease and services performed by different persons to independent agents on behalf of a foreign resident.
- Independent agent – acts exclusively or almost exclusively
- Fragmentation of preparatory or ancillary activities.

Amendments regarding International Taxation

➤ Transparent entities and figures

- Will be considered as legal entities (opaque entities)
- Subject to taxation under their corresponding title of the Mexican Income Tax Law
- May be considered as Mexican tax residents if are managed from Mexico
- Meaning of transparency: income is attributable to their members
- This provision is not applicable for 19 treaties (US among others)
- Enter into force January 2021

Amendments regarding International Taxation

➤ Transparent entities and figures

- Tax transparency is recognized over Private Capital Funds investing in Mexican resident legal entities
- The partners will be taxed accordingly
- Applicable only for interests, dividends, capital gains, and immovable property leasing
- Manager needs to keep a residence member record of the members and notify to Tax Authorities any modifications on February of the following year

Amendments regarding International Taxation

➤ Transparent entities and figures

- Figure shall be constituted in a country with a wide broad tax information exchange agreement and members and managers shall be residents in a country with tax information exchange of information agreement
- Residents in Mexico and Permanent Establishments are taxed under article 4B or 177 even, if they are exempt

Amendments regarding International Taxation

➤ **Income obtained through transparent entities or figures**

- Residents in Mexico and Permanent Establishments - The partners will be taxed accordingly
- In all cases, the income shall be recognized proportionally in Mexico
- Direct or indirect participation through transparent entities
- Regulated under Individuals Title or Legal Entities Title
- Deductions – rules
- Foreign resident – Tax profit as of December 31st

Amendments regarding International Taxation

➤ **Income obtained through transparent entities or figures**

- Tax Haven (REFIPRES) application – Participation through an opaque entity
- Tax Credit for taxes paid abroad and in Mexico
- Control accounts
- Income report (Second Paragraph Art. 178)
- Functional Currency?

Amendments regarding International Taxation

➤ Tax Credit

- Direct credit- If the tax was credited in two countries and it was not by virtue of an indirect tax credit, would not be applicable
- Applicable when the income was taxed in the other country
- When the dividend is considered as a deduction or reduction for the foreign resident, it is not considered as indirect credit
- Rule applicable until 2021

Amendments regarding International Taxation

➤ Payments to Tax Haven Countries (REFIPRES) and hybrids

- Payments made to related parties subject to Tax Haven Countries (22.5%)
- Structured payments
- Anticipated payments – 20%
- Rules
- Business activity – personnel and fixed assets – broad tax information exchange agreement – does not apply to hybrid mechanisms
- It does not apply if the payment is taxed in Mexico either subject to the withholding of 40%

Amendments regarding International Taxation

- **Non deductible payments performed to foreign residents**
 - Payments which are also deductible in the other jurisdiction
 - It will not apply if the income is taxed abroad
 - If the payment generates a deductible amount greater than the taxable income, the difference will not be deductible
 - Time rule

Amendments regarding International Taxation

➤ Payments to foreign jurisdictions

- Payments for granting the temporary use or enjoyment of goods for commercial, industrial and scientific activities, will be taxed in terms of "royalties" provisions
- Rail cars, container trailers and boats - 5%
- Airplanes - 1%

Amendments regarding International Taxation

- **Investments through a foreign controlling entities subject to Tax Haven Countries (REFIPRE)**
 - Transparent entities and legal figures are removed from the Title
 - Income will be determined by FY, not by transaction, consolidation alternative is provided
 - Rates may be compared when tax benefits or tax credits are not enjoyed - presumption against
 - Participation over transparent entities and legal figures through an opaque entity

Amendments regarding International Taxation

➤ Investments through a foreign controlling entities subject to Tax Haven Countries (REFIPRE) - Cont'n

—New Control Rules:

- More than 50% with the right to vote or confers the right of veto, or if the vote is decisive
- Security have more than 50% of right over assets or profits
- The sum of the two previous points give them rights described in such points
- When taxpayer and REFIPRE consolidate financial statements
- Under any title have an unilateral form (direct or indirect) the ability to determine assembly agreements
- Intermediate rules

Amendments regarding International Taxation

➤ Investments through a foreign controlling entities subject to Tax Haven Countries (REFIPRE) - Cont'n

- Exception on active activities does not apply if the 50% of the transactions are with Mexico
- Foreign CIT credit till the second level
- Exemption for intangibles generated abroad is eliminated
- In corporate restructures, it cannot be applied in case of shares with a source of wealth in Mexico
- Tax result according to Title II and in proportion to the kind of control



Questions?



Thank you



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