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International Tax

Mexico Tax Alert

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Contacts

Ricardo Gonzalez Orta
rgonzalezorta@deloittemx.com

Eduardo Barron
edbarron@deloittemx.com

Josemaria Cabanillas
jmcabanillas@deloitte.com

Eduardo Rueda
eruedaherrera@deloitte.com

Measures proposed to implement CbC reporting and OECD standard for information exchange

On 8 September 2015, Mexico's executive branch presented several bills to congress that would amend various laws. No changes are proposed to the corporate tax rate, but there are proposals to implement the OECD base erosion and profit shifting (BEPS) initiative on country-by-country (CbC) reporting and the transfer pricing master file/local file documentation, as well as the OECD standard for the automatic exchange of information.

Some of the most important proposed measures are as follows:

- The Income Tax Law would be amended to implement Action 13 of the BEPS initiative on CbC reporting, as well as the transfer pricing (master file/local file) documentation requirement. Mexican companies would have to submit the required documents by the end of the year (i.e. 31 December) following the fiscal year (i.e. for the 2016 fiscal year, the deadline would be 31 December 2017).
- The 4.9% withholding rate on interest paid to a foreign bank or foreign financial institution would be extended. To benefit from the preferential rate, it would be necessary to prove that the beneficial owner of the interest is resident in a country that has concluded a tax treaty with Mexico and that the treaty requirements are met.
- To implement the OECD standard for the automatic exchange of information, the Federal Tax Code would be amended to require that, as from 2017, financial institutions would have to provide information on accounts existing as from 31 December 2015.
- A temporary procedure would be introduced that would allow companies and individuals to repatriate investments made abroad, including investments in countries with preferential tax regimes. The taxpayer would not be entitled to a reduction of the tax due on the repatriated income (although interest and penalties would be reduced), but the taxpayer would be deemed to be in compliance with its tax obligations.
- The process to exit from the tax consolidation regime would be streamlined and simplified.

- To promote investment in power generation, the thin capitalization rules would be amended to exclude from the thin cap calculation debt incurred on infrastructure projects in this sector.
- Taxpayers engaged exclusively in the generation of power from renewable sources or cogeneration systems would be permitted to maintain an account for investments in renewable energy instead of a net tax profit account (CUFIN). As a result, the additional tax on dividends paid to nonresidents would not apply to dividends distributed from an account for investments in renewable energy.
- Changes would be made to the rules governing the deductibility of social welfare benefits and an immediate deduction would be allowed for fiscal years 2016 and 2017 (and for the last quarter of 2015) for taxpayers engaged in certain construction projects and in activities regulated by the Hydrocarbon Law.
- A tax incentive would be included in the Federal Revenue Law that would exclude profit sharing paid to the employees in a year from the tax basis used for income tax prepayments.

The congress must discuss the proposals and they may be further amended before receiving final approval, which is likely to take place by December 2015.

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