



## **Tax and Legal**

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# Renewal of Qualified Maquiladora Approach (QMA) for 2020-2024 Maquiladora APA program

During the first half of Fiscal Year 2024, Mexico's *Servicio de Administración Tributaria* ("SAT") and the United States Internal Revenue Service ("IRS"), discussed open items of the transfer pricing framework, Qualified Maquiladora Approach ("QMA") or Fast Track Methodology, for Mexican taxpayers that entered into a unilateral advance pricing agreement ("APA") with the Large Taxpayer Administration of SAT.

The purpose of the meetings between the SAT and IRS were to confirm the position of the competent authorities and renew the QMA -initially signed in 2016 and updated in 2020- for the 2020-2024 APA program.

The renewal agreement maintains the core elements of the QMA framework applicable to Fiscal Year (FY) 2019 and prior, as the competent authorities of Mexico and the U.S. determined that it continues to produce results in accordance with the arm's length principle.

Please consider that, based on the agreement reached between the competent authorities of Mexico and the U.S., maquiladoras will be able to obtain an APA ruling applicable for FYs 2020-2024 if and only if, they have requested, obtained and correctly implemented an APA ruling through FY 2019 in accordance with the QMA or, where applicable, having correctly

applied the provisions of article 182, first paragraph of the Mexican Income Tax Law, MITL (Safe Harbor rules). It is worth mentioning that the 2019 APA ruling must not be subject to a litigation process. In the event that the 2019 APA ruling has been under a litigation process, it must have been withdrawn and said APA ruling must have been correctly implemented or, conversely, the provisions of article 182, first paragraph of the MITL, must have been correctly applied.

Considering that the important features of the QMA for the 2020-2024 APA program may have a direct effect on the financial and tax results of

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the companies through 2023, we recommend updating the QMA estimates for those years in order to assess the next steps to consider in the APA process.

It is noteworthy that the renewed framework does not address any of the economic impacts of the COVID-19 pandemic on Maquiladoras, despite the mandatory closure of several manufacturing plants and other government-mandated measures in order to abate the spread of disease. Also, the framework does not provide any relief due to the production stoppage caused by the shortage of electronic chips and semi-conductors.

In addition, while the SAT has reviewed reasonableness and correlation of the financial information associated to the maquiladora operation, the QMA information must match *Dictamen Fiscal* and/or annual income tax return classification. This represents a conundrum for

the implementation of the QMA itself in the application of the Mexican accounting standard (NIF) D5 related to accounting for leases.

Accordingly, an important talking point to be reviewed with the SAT in the APA ruling process is if the competent authority will accept the application of NIF D-5 for the purposes of the QMA, considering that if the values determined based on this accounting standard are not accepted, it may not be consistent with article 182 of the MITL or with the QMA framework.

Lastly, we kindly ask that you remain attentive to any notification by the SAT through your tax mailbox, since this is the main channel for receiving a notice of required items to fully comply with the APA information. Please consider that notices by the SAT usually have a compliance deadline of 10 business days. If you receive this notification in your tax mailbox, before you open it, please contact your trusted TP advisors to provide instructions and support

in ensuring that the due diligence request includes all the necessary information so as not to delay the process with the SAT.

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