



Tax and Legal

Tax and Legal Flash 08/2024

October 10th, 2024

Second Resolution amending the General Rules of Foreign Trade for 2024 (RGCE) and its Annexes 1, 2, 5 and 24

On October 14, 2024, the reference Resolution was published in the Official Gazette of the Federation. Below, we will mention the modifications that we consider most relevant:

Annex 24 Guidelines for companies with Registration in the Business Certification Scheme (RECE).

Annex 24 of the RGCE is amended to add section C “Minimum information that must be contained in the automated inventory control system for companies that have the Registration in the Business Certification Scheme (RECE)”.

For the new section C of Annex 24, the following is established

- The inventory control system must receive electronically, within a period not exceeding 48 hours, the minimum information established in Section A of Annex 24, which must be obtained from the company’s corporate system, and the remaining information must be received no later than the time of payment of the corresponding customs declaration.
- The system must allow full compliance with the provisions of the Law, its Regulations and the

RGCE, and must be able to verify the return of temporarily imported goods, as well as generate reports to comply with the requirements made by the authority.

Online access to the authority must be allowed, granting a username and password by means of a formal letter presented to the AGACE party office.

The foregoing must be complied with within a period of one month from the entry into force of this Resolution.

It is worth mentioning that this new measure could imply violations of fundamental rights, which once it enters into force, could be fought through a Contentious Administrative Trial before the Federal Court of Administrative Justice, being able to seek precautionary measures that would prevent compliance with such measures until the trial is finally resolved.

Requirements and obligations of the RECE

In relation to the requirements for obtaining the RECE in accordance with rule 7.1.1. of the RGCE, the following modifications are made:

- In the case of section III (requirement to have personnel registered with the IMSS), it is specified that personnel must be available to carry out the production process, that the payment of worker-employer contributions must be made, and that for those companies that subcontract specialized services or the execution of specialized works, they must comply with the provisions of article 27,

section V, third paragraph, of the Income Tax Law (a requirement similar to what previously existed for outsourcing companies).

- As for section IV (requirement related to not being on the list of companies published by the SAT), it is added as a requirement not to be on the list of companies published by the SAT in terms of article 69-B Bis, ninth paragraph of the Federal Tax Code (CFF).

- Section XIV is amended to indicate that inventory control must be carried out in accordance with Article 59, Section I of the Customs Law, in terms of Annex 24, Section C.

- For the purposes of section XVII, it is added that the legal representatives with the power to act of ownership must not be linked to any company that has cancelled its RECE.

In the case of companies that import or intend to import sensitive goods, it is added as a

requirement to have temporarily imported goods under their IMMEX Program and return them, during the last 12 months prior to the date of submission of the application, in at least 80% of the total value of the temporary imports made in the indicated period.

On the other hand, it is added as a cause for direct rejection of the request for the RECE, without any requirement, when the applicant company does not allow access to AGACE personnel to the initial inspection visit.

The obligation to present notice within the first 5 days in which any change of name or corporate name, tax domicile, or domicile where the production process is carried out is eliminated; as well as the registration of new facilities where economic or foreign trade activities are carried out.

It is established as a new obligation that when it is necessary to import additional goods to

those indicated in the document describing activities related to the production processes or provision of services exhibited in the application for registration, the notice referred to in the procedure sheet 154/LA "Notices Related to Registration in the Company Certification Scheme" contained in Annex 2 must be submitted. at least 30 days prior to the date on which the first importation of said merchandise is intended, and that such notice may in no case be presented for activities related to production processes or provision of services other than those stated in the registration application.

In relation to the RECE under the AEO modality, it is indicated that when the opening, closure or modification of establishments and in general of any place that is used for the performance of activities is carried out, notice must be given to AGACE through procedure form 154/LA, within the month following the opening of said activity, closure or modification. In addition, the wording

that established the facility of submitting the corresponding safety profile during the 3 months following the presentation of the amending notice is eliminated, so that, for the presentation of said profile, the period of 1 month after the act of opening or modifying establishments will also apply.

In the case of the Certification Scheme of companies under the AEO modality Aircraft, SECIIT, and Tertiarization and Logistics, it is added as a requirement for obtaining it, that its RECE VAT and IEPS modality is not subject to a suspension or cancellation procedure. In the case of the AEO textile modality, it is added as a requirement to have an IMMEX program.

Grounds for RECE request

It is added as a cause for requirement in the RECE under any modality, being in the lists of companies published by the SAT in terms of article 69-B Bis, ninth paragraph of the CFF.

On the other hand, it is clarified that AGACE has a period of 6 months, counted from the day following the day on which the taxpayer has discharged the requirement, to issue the corresponding resolution. Previously, no deadline was indicated.

It is also incorporated as a cause of requirement for the VAT and IEPS modality, not having personnel to carry out the production process or provide the corresponding service, as well as for those companies that subcontract specialized services or the execution of specialized works, and omit compliance with the provisions of article 27, section V, third paragraph, of the Income Tax Law.

Grounds for cancellation and suspension of the RECE

It is established as a new cause for cancellation of the RECE when the requirement of 60% or 80% of returns of temporary imports during the

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last 12 months is not met, as the case may be. It is worth mentioning that it would be a direct cancellation start, without prior requirement from the authority.

It is specified that, in the event of suspension of the RECE for those companies that prevent AGACE from accessing compliance supervision visits, they have 15 days to request from AGACE, in writing, the date and time of a new supervision visit, which must be carried out within 2 months from the submission of said letter.

Guarantee of VAT and/or IEPS tax interest

The required term of the bond or letter of credit for individual or revolving guarantee is modified, going from 12 or 24 months to 30 months.

New requirements are incorporated for the acceptance of the guarantee of the tax interest of VAT and/or IEPS, as follows:

- Not being in the lists of companies published by the SAT in terms of article 69-B Bis, ninth paragraph of the CFF.
- Have personnel to carry out the production process or provide the corresponding service. Likewise, it is established that for those companies that subcontract specialized services or the execution of specialized works, they must comply with the provisions of article 27, section V, third paragraph, of the Income Tax Law.
- The Company must have registered with the SAT all the addresses in which they carry out activities related to the IMMEX Program or where economic and foreign trade activities are carried out.
- Not be suspended in the Importers Registry or in the Importers Registry of Specific Sectors or Sectoral Exporters Registry.
- Not have filed a complaint or criminal complaint

against the members of the company's administration by the SAT.

- To keep control of Inventories in accordance with Article 59, section I of the Law.
- That the members of the company's administration are up to date in compliance with their tax obligations.
- That the members of the company's administration are not linked to any company whose REE has been cancelled, in accordance with rule 7.2.4., section A, sections V, VI and VII and section B, sections II and III and/or rule 7.2.5., sections VI, VII and XI.

In relation to the renewal of the bond or the extension of the validity of the letter of credit, it is established that those companies that have obtained the acceptance of the Guarantee, must present the renewal of the bond or the extension of the validity of the letter of credit,

during the first ten days following the twelve months in which it has obtained the acceptance. for a period of twelve months in addition to the accepted term.

For fixed assets, the required term of the bond or letter of credit is modified, going from 12 or 24 months to 30 months.

It is established that in the event of a modification of the RFC or corporate name of the entity that guarantees the tax interest, AGACE must be notified by means of a free writing before the official office of the parties, within ten days after the date on which the notice has been made in the RFC.

Register of the Clearance of Goods of Companies (Scheme of review at origin)

Some requirements are added to obtain registration, such as the following:

- Not being in the lists of companies published by the SAT in terms of article 69-Bis, ninth paragraph of the CFF.
- That the customs agents and authorized customs representatives are up to date in compliance with tax obligations, and prove that the license or authorization is valid.
- Having personnel to carry out the production process or provide the service, as well as those companies that subcontract specialized services or the execution of specialized works, must comply with the provisions of article 27, section V, third paragraph, of the Income Tax Law.
- Have registered with the SAT all the addresses in which they carry out activities related to the IMMEX Program and/or use for the development of their economic and foreign trade activities.
- The partners or shareholders, legal representative with power for acts of ownership

and members of the administration, are up to date in compliance with tax obligations.

The obligation to submit notice of merger or spin-off of companies that have the authorization in the Register of the Clearance of Goods of the Companies and one of them subsists, within ten days after the merger or spin-off agreements have been registered in the Public Registry of Commerce, is repealed.

It is incorporated as a cause for requirement, being in the lists of companies published by the SAT in terms of article 69-B Bis, ninth paragraph of the CFF.

Likewise, being suspended in the Registry of Importers of Specific Sectors or in the Registry of Sectoral Exporters is added as a cause for suspension of registration.

Customs Accounts

The rule and procedure form that establish the possibility for credit institutions and brokerage firms to request customs accounts and customs guarantee accounts, now also incorporate the possibility of renewing such customs accounts and customs guarantee accounts.

The obligation is established for credit institutions or authorized brokerage firms to follow the instructions for customs account operations and customs guarantee accounts that will be released through the SAT, as well as to ratify the obligation to submit the semi-annual report of users and their RFC's that operate under this scheme before the ACNCE and the DGIA.

Courier and parcel companies

The possibility of declaring a generic RFC for imports made by courier and parcel companies is eliminated.

It is established that in order to register under

the Courier and Parcel Company scheme, with the intention of using the simplified clearance procedure, the dispatched goods must be transported by themselves, likewise, the list of authorized companies will be published on the ANAM portal.

The following are added as causes for cancellation in the registry of Courier and Parcel Company: being in the lists of companies published by the SAT (Art. 69 of the CFF, with the exception of section VI, Art. 69-B fourth paragraph of the CFF, 69-B bis, ninth paragraph of the CFF), not having valid digital seal certificates or being under the assumptions of article 17-H Bis of the CFF or being under the assumptions of article 17-H Bis of the CFF as not located in their tax domicile or with non-existent status).

In the event that it is detected that the company falls into any of the cases of cancellation, the DGJA will require the company to provide evidence to

correct the causes.

Forms and processing forms

Various foreign trade formats contained in Annex 1 of the RGCE are replaced by processing forms now contained in Annex 2. Among the most relevant are the forms F3 "Application for Registration in the Company Certification Scheme", and B15 "Single Notice of Renewal in the Register of the Company Certification Scheme", which are both replaced by the procedure form 153/LA "Application for registration in the Register of the Company Certification Scheme and notice for its renewal".

Likewise, for the submission of notices of modification related to the RECE, the B13 form is replaced by the 154/LA procedure form, and in the case of the VAT and IEPS guarantee scheme, the E12 form is replaced by the 155/LA procedure form.

Form M1.7 is modified. Operation document for customs clearance. (DODA) and its filling instructions.

In addition, various existing processing forms in Annex 2 of the RGCE are modified or eliminated.

Annex 5 of the RGCE

Normative criterion 15/LA/N was published, which reaffirms that the customs agent may be responsible for the infractions referred to in Article 176 of the Customs Law. Likewise, a non-binding criterion 3/LA/NV is published regarding the introduction of sugar mixtures separating components to avoid the payment of import taxes as an improper practice.

Entry into force

The aforementioned additions and modifications will enter into force as of the day following their publication in the DOF, with some exceptions.

It is established that companies that already have, or have requested their registration in, the RECE, Registry of the Clearance of Goods of Companies, or have a Guarantee of Tax Interest for VAT and IEPS, will apply the requirements and obligations in force at the time of obtaining their registration, or, in the case of those that are in the process of resolution, the requirements and obligations in force at the time of the application will apply.

Finally, in the case of those companies that have RECE, or that have made their application, they must comply with the requirement related to section C) of Annex 24, within a period of one month from the entry into force of this resolution, or from the authorization of the registry, as applicable.

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