



## **Tax and Legal Services**

Tax Flash 17/2019

May 9th, 2019

# New tax rules for providers of ground transportation and food delivery services

The 2019 Omnibus Tax Bill was published in Mexico's official gazette on 29 April 2019; it entered into force on 30 April and will be valid until 31 December 2019.

The bill modifies and expands the income tax and value added tax (VAT) regimes for providers of ground transportation and food delivery services that use online platforms to offer their services. Previously, Mexican and nonresident online platform operators were required to withhold income tax and VAT related to these services.

The modified rules establish the following obligations:

- Resident and nonresident online platform operators must withhold income tax and VAT monthly from the payments made by the service recipients. The income tax withholding rate will vary depending on the service provider's monthly revenue, ranging between 3% and 5%, whereas the VAT withholding rate is fixed at 8%. The taxes must be paid by the platform operator to the tax authorities no later than the 17th day of the month following the month of the withholding.
- Withholding agents must provide to each service provider an electronic invoice (CFDI) related to the withholding payments made, including a breakdown of income by trip and a "Online Platforms Services" form detailing

the service provider's trips and cash revenue collected. Withholding agents also must send to each service provider a CFDI detailing the amount of their consideration so that they may deduct the expense and credit the corresponding VAT, as applicable.

- Mexican service providers must register with the tax authorities or file a notice to update their economic activities and obligations in order to file their income tax and VAT returns and pay the taxes due on their service income. Nonresident online platform operators also must register with the federal tax authorities but solely in their capacity as withholding agents.

- Mexican online platform operators may elect to apply this regime as long as they report their election to the tax authorities.
- Payments received by nonresident withholding agents, whether the agents have a PE in Mexico or not, will not be treated as taxable income provided that receipts show that withholding tax was paid to the tax authorities. Consequently, such nonresidents will not have to pay taxes in Mexico on the income that they receive indirectly from the platform users.

The bill also introduces two new, related rules:

- Mexican and nonresident entities must file a notice to withhold income tax and VAT; and
- Mexican individuals providing ground transportation and food delivery services must indicate to Mexican and nonresident entities operating the online platforms

that they elect to apply the new, lower-rate withholding regime instead of the previous, general withholding scheme.

### Transition rule

Under a transition rule, Mexican and nonresident entities providing the use of online platforms to individuals offering ground transportation and food delivery services may issue an electronic invoice (withholding CFDI) including the withholding code “25 – Other types of withholding” without the “Online Platforms Services” form until the latter comes into effect, which will be 30 days after the tax authorities publish it on their website.

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