



Panama Tax News

Special Regime for Multinational Companies Providing Manufacturing-Related Services

February 2021

Executive Decree 33 of 2021, regulates Law 159 of 2020, which creates the Special Regime for the Establishment and Operation of Multinational Companies for the Provision of Manufacturing-Related Services

The rules and procedures applicable to the installation, administration, maintenance, operation and closing of those national or foreign companies that wish to establish themselves in Panama under a Multinational Company for the Provision of Manufacturing Related Services to carry out operations aimed at offering the services indicated in Law 159 of 2020 to their business group are established.

- The company wishing to be covered by the special regime must be registered in the Public Registry, either as a foreign company or as a Panamanian entity owned by the multinational company, its subsidiaries or affiliates. The multinational company that is operating in Panama may apply for the regime through the same legal entity through which it has been carrying out its activities.
- Terms such as "substance requirements", "net taxable income of EMMA", "logistics services", among others, are defined
- The application for the License shall be submitted in writing by means of a form and shall contain the main activities or commercial operations developed by the business group, assets of the multinational company, services or activities to be rendered as a Multinational Company, initial investment estimate, projection of qualified full-time employees to be hired, identification of the final beneficiary, among others.
- The application will be evaluated by the Technical Secretariat of the Commission which will then issue a motivated Resolution granting or denying the License.
- Multinational Companies for the Rendering of Manufacturing-Related Services may establish themselves in the Panama-Pacific Area or in a free zone operating on the basis of Law 32 of 2011 or in any primary customs free zone existing in the national territory where the development of such activities or services is allowed.
- A company with a Multinational Enterprise License for the Provision of Manufacturing Related Services that wishes to carry out operations not covered under Act 159 of 2020 will have to do so by creating a separate company and obtaining its respective Notice of Operation. This company will not be covered by Act 159 of 2020 and must have its own employees.



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- The company that has a Multinational Enterprise Headquarters License (SEM) and wishes to provide the manufacturing-related services described in Law 159 of 2020 must obtain a license for the Provision of Manufacturing-Related Services by complying with the requirements established by the Commission. Likewise, the company with a Multinational Company license for the Provision of Manufacturing-Related Services that wishes to provide the services provided by SEM entities (provided for in Law 41 of 2007) must obtain a SEM License and comply with the requirements established by the Commission. In these cases, the Technical Secretariat will grant the respective license through a summary procedure and the provisions set forth in Law 159 of 2020 and Law 41 of 2007 will be applicable.

Substance Requirements: The Multinational Company for the Rendering of Manufacturing Related Services will benefit from a 5% income tax rate, in a fiscal period, provided that in such fiscal period it has complied with the following substance requirements:

- It has executed in Panama the authorized activities covered under Law 159 of 2020;
- It has maintained in Panama an adequate number of qualified full-time employees,

dedicated to the execution of the authorized activities;

- Has incurred an adequate amount of operating expenses in Panama, directly related to the authorized activities;
- Submit once a year, within 6 months after the closing of the fiscal period, through an affidavit, a report regarding its activities and compliance with the requirements of substance. Failure to submit this annual report or submitting it incomplete will incur a fine ranging from USD 5,000.00 - 50,000.00.

In the event of noncompliance with the substance requirements, the company must pay income tax at the general rate established in the Tax Code, with the corresponding fines, surcharges, interest and penalties.

Outsourcing: The authorized activities may be executed in part, through resources provided by suppliers (outsourcing) provided that the outsourced activity is executed in Panama and that the company with a Multinational Company License for the Provision of Manufacturing Related Services has the mechanisms to exercise control and supervision in Panama, under the terms established.

It is established that the outsourcing outside the Republic of Panama of all or part of the authorized

activities entails the non-compliance of the Substance Requirements and implies that the income derived from the activities subject to such requirements are taxable with the income tax as established in the Tax Code.

Tax Regime: Companies with a Multinational Company License for the Provision of Manufacturing Related Services will apply the tax regime established in Law 159 of 2020. The salaries and labor remunerations, including the salary in kind, received by the holders of a Temporary or Permanent Personnel Visa of a Multinational Company for the Provision of Manufacturing Related Services are exempt from Income Tax, social security and educational insurance fees to the extent that they are paid, assumed and recognized as personnel expenses in the company's accounting.

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