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September 2017

ICEbreakers: Unlocking Mexico

Hot topics

OECD multilateral instrument (MLI): Mexico was one of the signatories of the MLI on June 7, 2017. Mexico did not make any reservations on the hybrid mismatch provisions in the MLI, so has opted to adopt them. Mexico has opted to apply the PPT, along with a simplified LOB in its treaties. Mexico has opted to apply the changes to the PE article regarding the list of activities that are excluded from the definition of a PE, the “anti-fragmentation” rule and the expanded definition of a dependent agent to target commissionaire arrangements and similar structures that are used to circumvent the existing definition of a PE. However, the country has made a full reservation to the splitting up of contracts provision. Mexico did not accept the arbitration provision in the MLI but it did accept the rules relating to the mutual agreement procedure.

2018 economic package: On September 8, 2017, the executive branch of the federal government submitted to congress the economic package for the 2018 fiscal year, which contains the general criteria for economic policy, federal revenue law and the expense budget. The proposed economic package does not include changes to the income tax law, the VAT law or the federal fiscal code and, therefore, no changes will be made to existing tax rates (e.g. 30% corporate income tax rate, 10% dividend withholding tax rate, 16% standard VAT rate). The package does contain a new interest rate of 1.47% per month (instead of the current 1.13% rate) to be applied to any omitted tax payment discovered by the Mexican tax authorities (SAT) during a tax audit.

Tax decrees

Two tax decrees were published in the federal gazette on January 18, 2017: one offers a tax amnesty relating to deposits or investments repatriated to Mexico by October 19, 2017 and the other provides a two-year tax incentive for the immediate depreciation on a specified percentage of new fixed assets by micro and small companies. Both decrees apply as from January 19, 2017:

- **Repatriation:** Qualifying taxpayers have an opportunity to repatriate investments held abroad through December 31, 2016, pay a specified tax (i.e. 8% of the amount to be repatriated) and be deemed to have complied with their tax obligations in Mexico for the fiscal year in which the payment is made and for the previous fiscal years in which the investment was held, provided certain other requirements are met.
- **Immediate depreciation:** The decree on the immediate depreciation of new fixed assets for micro and small business is available for the 2017 and 2018 tax years. It applies to taxpayers whose taxable income in the previous fiscal year was MXN 100 million or less (a special rule applies for taxpayers that commenced activities in 2017, which may apply for the benefit based on their estimated income).

Tax measures under 2017 tax reform

The 2017 tax package, which generally applies as from January 1, 2017, contains several measures that are relevant to nonresidents, including:

- The documentation requirements are increased for a taxpayer to be able to deduct payments made for the subcontracting of services for income tax purposes and to be able to credit input VAT paid on the services for VAT purposes. Additionally, the service provider must inform the SAT of the total amount of output VAT charged to its customers, as well as the amount of output VAT paid in the corresponding monthly return.
- Input VAT on expenses incurred in the preoperational period is recoverable either at the time the taxpayer files its first monthly VAT return for a period in which it carries out taxable activities (i.e. activities subject to VAT at the 16% standard rate or a 0% rate) or during the preoperational period (provided certain requirements are met).

Tax treaties

The protocol to the tax treaty with Belgium entered into force on August 19, 2017 (and will apply as from January 1, 2018), and the protocol to the treaty with Spain enters into force on September 27, 2017 (and will apply as from that date).

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For more information on the Mexican tax system, please visit Deloitte International Tax Source (www.dits.deloitte.com) and/or Deloitte tax@hand (www.taxathand.com).