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ICEbreakers: Unlocking Mexico

Hot topics

- **Amendments to industrial property law**: Changes to the industrial property (IP) law that apply as from April 25, 2018 include the protection of "geographical indicators" (GIs are a name or sign used on products that have a specific geographical origin and possess qualities or a reputation that are mostly attributable to that origin), criminal penalties for unauthorized users of GIs that do not comply with the relevant official standards and the introduction of an extended period of protection for industrial designs.

- **Electronic invoice version 3.3:** Mexican taxpayers are required to issue all invoices electronically through a format (CFDI) established by the SAT. A new version 3.3 of the CFDI, which must be used as from January 1, 2018, provides the tax authorities with uniform data that it can process for analysis. More information now is required on invoices, such as payroll, foreign transactions, and the method and receipt of payments. The tax authorities recently extended the date for the receipt of payments information to September 1, 2018.

- **Special Economic Zones:** Two tax decrees (published in the federal official gazette on September 29, 2017 and December 19, 2017) officially launched the five special economic zones (SEZs) in Coatzacoalcos, Lázaro Cárdenas-La Unión, Progreso, Puerto Chiapas and Salina Cruz. SEZs are available to Mexican companies or state-owned entities that obtain permission to become "integral administrators" and Mexican or nonresident entities and individuals that receive authorization from the Ministry of Finance to be qualified SEZ "investors" and that carry out qualifying "economic productive activities" in an SEZ. Some tax benefits available for SEZs are described below.

SEZ benefits:

The tax benefits available in SEZs for qualifying integral administrators and investors include the following:

- A 100% reduction of the normal corporate income tax rate for the first 10 fiscal years, and a 50% reduction for the following five fiscal years, subject to certain requirements (except for the Progreso SEZ, which offers accelerated depreciation);
- A tax credit equal to 50% of the employer's contribution for illness and maternity insurance for the first 10 fiscal years, reducing to 25% for the following five fiscal years;
- A 0% VAT rate (instead of the standard 16%) on the sale of goods, the provision of services and the granting of the temporary use of tangible assets by taxpayers located outside an SEZ to integral administrators or investors for use or consumption within an SEZ (with certain limitations); and
- A special customs regime, under which integral administrators and investors that introduce goods into an SEZ will be granted reduced federal customs processing fees and be allowed to pay the lowest import duty rate between the rate applicable to the raw materials and the rate applicable to the goods after they are processed, transformed or repaired within the zone.

OECD multilateral instrument (MLI)

Mexico was one of the signatories of the MLI on June 7, 2017.

- Mexico did not make any reservations relating to the hybrid mismatch provisions in the MLI, so it has opted to adopt them.
- Mexico has opted to apply the principal purpose test, along with a simplified limitation on benefits provision in its tax treaties.
- Mexico has opted to apply the changes to the permanent establishment (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, Mexico 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.

Tax treaties

The tax treaties with Jamaica and Saudi Arabia entered into force on February 24, 2018 and March 1, 2018, respectively, and will apply as from January 1, 2019.

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