January 2018

ICEbreakers: Unlocking Mexico

Hot topics

- **2018 tax reform**: The 2018 tax package, which applies as from January 1, 2018, does not include any changes to the income tax law, VAT law or federal fiscal code. The 2018 package provides for a new interest rate of 1.47% per month (increased from 1.13%) that will apply to any omitted tax payment discovered by the Mexican tax authorities (SAT) during a tax audit.

- **New 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 has been released, which Mexican taxpayers must start using as from January 1, 2018. The main purpose of the update is to provide the SAT with uniform data that it can process for analysis. The update includes 17 new catalogs, 46 new validation rules and new "complements" (allowing the reporting of additional information) for topics including payroll and foreign trade.

- **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.

Contacts

Josemaria Cabanillas
Director
Tel: +1 718 508 6804
Email:
jmcabanillas@deloitte.com

Enrique Ugidos
Manager
Tel: +1 212 436 3206
Email: eugidosaranda@deloitte.com

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