

TAX REFORM 2010

EXECUTIVE SUMMARY

Amendments to various Mexican tax laws were released in November and December 2009, aimed at increasing collections to offset the decline in tax revenues derived by Mexico due to falling oil prices and production, in addition to the worldwide financial and economic crisis.

The key tax amendments for 2010 include the following:

1. The income tax rate sees a temporary increase from 28% to 30% for entities and individuals alike, particularly individuals deriving income greater than six times to the monthly minimum salary. The rate will return to 28% in 2014.
2. There were major changes to tax consolidation, as the deferred income tax is payable in the sixth year. Corporate groups that were already in consolidation will have to pay 25% of the tax in 2010, with the rest payable in the four following tax years.
3. The income tax exemption continues to apply for the total income derived from the sale of an individual's home, when the taxpayer evidences that he or she has lived in the home in the preceding five years. However, the exemption is not allowed if it was already applied during the five years preceding the respective sale.
4. No income tax is assessed on an individual's withdrawals from the retirement and old-age subaccount under the individual account opened pursuant to the Social Security Law, due to unemployment.
5. The general rate of the value added tax increases a point, from 15% to 16%. The rate for the border region likewise increases from 10% to 11%. Transactions carried on in 2009 and paid in the first 10 days of 2010 are subject to the 2009 rates, except in the case of related-party transactions.
6. A 3% excise tax is levied on communication services (telephone service, cable television, etc.), while Internet access is excluded. The special production and services tax on beer, alcoholic beverages, cigarettes, gaming and lotteries is also increased.

These tax amendments are detailed below:

FEDERAL REVENUE LAW

Surcharge rate

The following rates are established in payment extensions:

- 0.75% per month on outstanding balances in the case of payment extensions.
- The following surcharge rates apply to installment plans for the applicable periods:
 - 1.0% per month for periods of up to 12 months
 - 1.25% per month for periods of more than 12 and up to 24 months
 - 1.50% per month for periods of more than 24 months, and deferred terms

Therefore the surcharge by arrears payment will continue in 1.3% by month.

Interest withholding rate

The annual withholding rate is decreased from 0.85% to 0.60% on the amount of capital, when interest is paid by institutions in the financial system.

Tax incentives:

The following incentives remain in effect:

- Diesel excise tax credit for persons engaged in business activities other than mining, when used for final consumption in general machinery other than vehicles.
- Diesel excise tax credit for persons engaged in business activities for final consumption in automotive vehicles intended for the public and private transportation of freight or persons.
- Fifty percent credit of expenses for the use of toll highway infrastructure, for persons engaged exclusively in the public and private transportation of freight or passengers using the National Toll Highway Network.
- The public sale or definitive importation of rechargeable battery-powered automobiles and vehicles with electrically-powered internal combustion engines or hydrogen-powered engines is exempt from the new automobile tax.

FEDERAL FISCAL CODE

Tax receipts

Starting January 1, 2011, transactions may be supported with only three kinds of evidentiary documents:

- Digital documents (digital invoices)
- Printed documents
- Account statements

Digital documents may be issued using the taxpayer's own means, using certified suppliers, or through the Tax Administration Service (SAT), provided that the general rules issued by the SAT for such purpose are met.

Digital documents must contain the digital stamp of the issuer and of the SAT. The receipts must be forwarded to the SAT or to certified suppliers to validate compliance with the applicable requirements, have a folio number assigned and the respective digital stamp added.

To deduct or credit the receipt, taxpayers must authenticate the receipt's folio number and digital stamp at the SAT website.

Taxpayers that issue digital documents through the SAT website may obtain tax refunds in a maximum period of 20 business days.

Printed documents may be used in transactions not exceeding \$2,000, and may be issued using the taxpayer's own means or through certified suppliers. The receipts must have a security device and the SAT will assign the folio numbers for quarterly reporting. The security device will have a two-year effective term, after which period the receipts must be destroyed. To deduct or credit printed receipts, the recipient must ascertain that the data are correct (name, taxpayer identification number, etc.) and verify the security device and issuer data on the SAT website.

Account statements may be used to support transactions starting in 2011, when payments are made to nominative check for deposit, credit card, service card, transfer or electronic purses. It will no longer be necessary to collect the corresponding receipt from the supplier, although the account statement must indicate the supplier's taxpayer identification number, a description of the good or service, the price and any taxes shifted.

Enforcement measures

The authorities' power to enforce tax deficiency claims are extended with respect to the securing of taxpayer information. In addition to working with the National Banking and Securities Commission, the authorities may now directly contact financial entities and savings and loan cooperatives, the National Retirement Savings Commission and the National Insurance and Bonding Commission. As a precautionary measure, the authorities may order financial institutions or savings and loan societies to freeze bank deposits and other investment and security accounts held by the taxpayer, who must be notified of such situation.

REGULATIONS TO THE FEDERAL FISCAL CODE

New Regulations to the Federal Fiscal Code have been issued, with the following changes among others:

- The effective period of appraisals for tax purposes is increased from six months to one year.
- The Regulations provides that taxpayers that audit their financial statements for tax purposes and have favorable VAT balances must accompany their refund requests with a report issued by a registered public accountant.
- The provisions further indicate the information to be included in the public accountant's statement.
- All notices to be filed with the Federal Taxpayer Registry by individuals and entities, including those previously provided in the miscellaneous tax rules, are addressed in the new Regulations.
- The requirements for public accountants to be licensed to audit financial statements for tax purposes are increased.
- Taxpayers that elect to have their financial statements audited may waive the filing thereof if they file notice with the competent tax authority no later than the statutory filing deadline.
- The concept of establishment is broadened for taxpayers engaged in farm, stockbreeding, forestry and fishing activities.
- New articles are added to provide on the duties and powers of receivers.
- The provisions on tax register machines are eliminated.

INCOME TAX LAW

Tax rate

The corporate income tax rate will be 30% from 2010 to 2012, decreasing to 29% in 2013 and returning to 28% as from 2014.

For individuals, the upper tiers of the tax tables are adjusted to bring the marginal rates into line with the corporate rate mentioned above.

The rate for the primary sector increases permanently to 21%.

Tax consolidation regime

In each tax year starting in 2010, the holding company must pay the tax deferred in the sixth preceding year by reason of consolidation, if not paid as of December 31 of the preceding year. This provision includes taxes deferred prior to 2010.

The deferred tax is revalued and should be paid in installments in the following five tax years: 25% in the first and second years, 20% in the third year, and 15% in the fourth and fifth years.

For these purposes, the public accountant who audits the holding company's financial statements for tax purposes must issue an opinion on the deferred tax items, and the accountant's report must contain the information to determine such tax. Otherwise, the group will have to cease to consolidate for tax purposes.

Authorized donees

Donee institutions must determine a constructive distributable residual in the cases provided in the Law, such as in the case of nondeductible expenses. They may also derive income from the sale of goods or the performance of services other than those authorized, when such income does not exceed 10% of the income from such authorized endeavors. The corporate tax is payable on the excess pursuant to the Income Tax Law. For these purposes, income received as a donation, support or stimulus from the federal, state or municipal governments, the sale of fixed or intangible assets, interest, member dues, and other items provided in the Law are not regarded as being from other endeavors.

Individuals

Home sale exemption

Income from the sale of a home is exempt from the income tax when the seller has not taken the exemption in the five years preceding the sale. Otherwise, the exemption is limited to 1.5 million investment units (UDIS).

Retirement subaccounts

Withdrawals made by individuals from retirement, old age and old-age severance subaccounts by reason of employment are not taxed.

Mortgage interest

The real interest on mortgage loans contracted with members of the financial system (providing a new calculation for determining such interest) may be taken as a personal deduction only when used for the home of the person securing the loan, for a total of up to 1.5 million investment units (UDIS).

Nonresidents

Due to the changes to the income tax rate, the withholding rates on foreign payments, such as from the sale of real property, shares in certain cases, interest on certain intercompany financing, and certain royalties are modified accordingly.

Interest paid to foreign banks

The possibility of applying the 4.9% to interest paid to foreign banks is extended to 2010, provided that such banks are the beneficial owners of the interest and reside in a country having a double tax agreement with Mexico, and the treaty requirements are met.

Tax incentives

- The incentive for spending and investment in technological research and development is repealed.
- Provisions clarify that the tax incentive for investment projects in motion picture production is not includible for income tax purposes.

Interest regime

The interest regime undergoes the following changes:

- Interest received by individuals, including from abroad, is not included with other income, but rather is treated separately.
- The tax is computed and paid monthly, determined by multiplying the maximum rate under the Law by the real interest earned.
- The real interest earned each month is calculated on the difference of balances.
- The financial system withholds the corresponding income tax. The withholding is final for individuals and an estimated payment for entities.
- Individuals may take a credit in the case of negative real interest, to be applied against the income tax on positive real interest.

FLAT RATE BUSINESS TAX (IETU)

Tax Rate

According to law of matter, the tax rate as from 2010, is 17.5%

Credit by excess deductions

In 2010 the credit for higher deductions that income can not be credited against the income tax for that year, so it may be used only against IETU the next ten years. It is noteworthy that this provision is considered in the Federal Revenue Law.

CASH DEPOSITS TAX

The exemption limit is reduced from \$25,000 to \$ 15,000 for tax-free deposits made in taxpayers' accounts. In addition, the rate is increased from 2% to 3%.

VALUE ADDED TAX

The general rate is increased from 15% to 16%, while the rate for the border zone is 11% rather than the prior 10%.

Transitional provisions allow the application of the rates in effect in 2009 for those transactions carried on in that year, whose collection or payment is made within the first ten calendar days of 2010.

SPECIAL PRODUCTION AND SERVICES TAX

The sale and importation of alcoholic beverages with more than 20% alcohol by volume is subject to a 53% excise tax during 2010 to 2012 and a 52% tax in 2013.

The rate applicable to the sale and importation of beer will be temporarily increased to 26.5%, declining to 26% in 2013 and returning to 25% as from the 2014 tax year.

A tax increase of 10 centavos (0.10 pesos) is proposed on each cigarette sold or imported.

The excise tax rate applicable to gaming and lotteries is increased from 20% to 30%.

Lastly, a 3% tax is levied on services provided through public telecommunication networks, excluding public telephone services, rural landline telephone services, interconnection services between public telecommunication networks, and Internet access.

Transitional provisions establish that, in the case of the sale of alcoholic beverages and beer containing more than 20% alcohol by volume and cigarettes, carried on prior to January 1, 2010 but whose consideration is paid after such date, the special production and services tax will be assessed in accordance with the provisions in effect at the time of collection. However, taxpayers may calculate the corresponding tax by applying the rate under the provisions in effect during 2009, provided that the products are delivered before such date and the respective consideration is paid within the first 10 calendar days of 2010.