

Newsalert

International Tax Services – Latin American Tax

Mexico

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This Newsalert does not provide a comprehensive or complete statement of the taxation law of the countries concerned. It is intended only to highlight general issues which may be of interest to our clients.

For issues relating to this news alert please contact your local international tax services advisor or the specialists listed at the end of this article.

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2010 Mexican Tax Reform Bill Issued

On September 8, 2009, the Mexican Executive Branch presented its proposed revenue package to Congress with significant tax law changes. If passed, the proposals would become effective for 2010. These proposals will be subject to Congressional approval and will probably be subject to changes prior to final approval.

Under the proposed legislation, Mexico's primary taxes would still remain in effect, including the income tax, the Flat tax ("IETU"), the Value-Added tax ("VAT"), and the excise tax. However, the proposed changes below may have significant impacts on certain taxpayers which should be evaluated to determine possible remedies before year end.

The following is a summary of the principal elements of the 2010 tax reform proposals:

Regular Income Tax Rates

The highest marginal regular income tax rate (for corporations and individuals) would temporarily increase from 28% to 30% for three years (2010, 2011 and 2012), and would be reduced to 29% in the fourth year (2013), finally scaling back to 28% in 2014.

Tax Consolidation Regime

All tax consolidation deferrals would be eliminated after a five-year period, including unamortized separate company losses used in consolidation. Sixty percent (60%) of any consolidation deferral would need to be recognized in year six, and 10% each year thereafter, until it is fully recaptured in the tenth year. This rule would also apply for separate company tax losses generated before 2010. Thus, if this amendment is passed, 60% of unamortized

separate company tax losses generated in 2004 and in prior years would be triggered as taxable income in 2010. These new recapture rules would also apply to deferred taxes on intercompany dividends within the consolidated group and other similar consolidation benefits.

Capital Gain on Sale of Principal Residence, Deductibility of Home Mortgage Interest, and Charitable Contributions

The current rules which provide a partial exemption for gains realized on the sale of a personal tax residence would be modified to ensure that the benefit is only received for property used as a primary residence. Tax deductions claimed by individuals for home mortgage interest would be subject to additional limitations.

New tax rules would be provided for charitable organizations authorized to receive tax-deductible charitable donations.

Tax Research Credits

The research and development credit would be repealed.

Tax on Cash Deposits

The tax on cash deposits ("IDE") would be increased from the current rate of 2% to 3%, and the monthly limit on the aggregate tax-free cash deposits would be reduced from a current floor of Mx\$25,000 to Mx\$15,000. The IDE would still be creditable against other Mexican taxes.

Flat Tax

Under current law, the flat tax credit for excess deductions may be offset against regular income tax in the year the credit was originated. The balance is carried forward and is only creditable against future flat tax liabilities. The proposed law would not permit the reduction of regular income tax in the year of excess Flat tax deductions in 2010, and would only allow a credit carryforward against future flat tax. This provision would only apply for 2010 unless extended in future years.

Excise Tax

The Excise tax would now apply or have certain increases with respect to alcoholic beverages, cigarettes, telecommunications charges, and gambling/lottery activities.

New Consumption Tax

A new 2% tax on sales, similar to the existing VAT, would be enacted to help reduce poverty, and would have few exemptions, such as export sales. This tax would be creditable by businesses against other Mexican taxes. The effect would be to increase the total Mexican consumption tax rate to 17%.

We will be monitoring the evolution of these proposed reforms and will issue future Newsalerts as necessary.

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