



F/A/S



Tax Reform 2014

November 26, 2014



1. [Introduction](#)

On October 31st, the economic package for the 2014 fiscal year was approved by the Federal Congress. In this occasion, the economic package was accompanied by a number of tax reform proposals, notably including that a new Income Tax Law (ISR) was proposed. Surprisingly no Value Added Tax (VAT) was proposed for food and medicine, as expected, but that instead an excise tax of 8% was imposed to the so-called junk food.

After a series of protests by several taxpayer groups, there were a lot of proposals that were finally rejected by the Federal Congress, such as levying VAT on education services, home sale and taxes on mortgages.

A proposal to amend the Federal Tax Code so that the tax authorities may be entitled to assess taxes, when in its opinion, the operation lacked an economic purpose, was also rejected.

As a positive step, we can mention the repeal of the Business Flat Tax (IETU), as well as the derogation of some of the exceptional tax regimes with regards to the income tax.

With the purpose of increasing collection, the tax to individuals was increased, a new tax burden was imposed on dividends and profits distributed, and deductions for both companies and individuals were limited.

Attention is drawn to the fact that the Tax on Cash Deposits (IDE) has been eliminated, given that notwithstanding the low level of collection obtained therefrom, it was meant to be a control and attack mechanism against informality.

We hereby provide our comments on the most relevant reforms made to the tax laws, which shall become effective next year.

2. [Federal Revenue Law \(Ley de Ingresos de la Federación, LIF\)](#)

The LIF's initiative considers that the proposals to reform different tax ordinances would result in an increase in collection of around MX\$240 billion, which is equal to 1.4% of the Gross Domestic Product estimated for 2014; however, after the amendments made by the Federal Congress, the additional percentage to be collected shall be of 1% only.

Without taking any oil revenues into consideration, the collection in Mexico represents only 10% of the GDP, while in OECD member countries it is around 19 and 25%. This situation justifies the search for a greater collection but the question is whether the reforms made were actually the best option, by focusing on the current base of taxpayers instead of making efforts to expand it by attacking the informality.



The initiative establishes that the tax reforms are based on a number of main lines of action, namely:

Promoting growth and stability

This line of action proposes to expand the base of the main taxes limiting deductions and repealing exemptions; meanwhile, some special excise taxes are levied on carbon-content fuels, pesticides, and on sweetened beverages and non-staple food, also known as junk food. Likewise, the fees collected by the State are increased, highlighting those applicable to the mining sector, the use of national waters and by the radio spectrum.

Improving the equity of the tax system

Regarding this matter, several special regimes are eliminated; likewise, personal income focused on the most favored sectors of the population is taxed; the majority of these measures are focused in the middle class of the country.

Under the argument of not affecting the most vulnerable areas of the population, it was not proposed to apply any value-added tax (VAT) to food and medicines. For this reason, the amendments made to the VAT focus specifically on eliminating some preferential treatments, such as the standardization of the border rate with the rate applicable to the rest of the country and the elimination of exemptions to the temporary imports.

Facilitating compliance with tax obligations

In the greed for a greater simplicity and a reduction of administrative costs regarding tax payments, the reform proposes the following measures:

- To eliminate the Business Flat Tax (IETU), and the Tax on Cash Deposits (IDE).
- To issue a new Income Tax Law, which may simplify the payment of taxes for taxpayers
- To eliminate the preferential tax regimes and special treatments

Formality promotion, by reducing access barriers and expanding social security services

Formality is sought by accelerating productivity growth. In order to achieve the foregoing, an Integration-into-the-Formal-Economy Tax Regime for individuals is included, seeking to create a point of entry into formality for small-scale businesses.

At the same time, it is proposed to create an Integration-into-the-Social-Security-System Tax Regime through which any persons registered in said regime shall receive social security services with discounts on the obligations for payment of contributions. Moreover, the social security services offer shall be expanded by introducing an Unemployment Insurance for formal employees and the creation of a universal pension for elderly.



Strengthening federalism

The Reform seeks to strengthen federalism, by increasing collection measures for local governments and proposals to improve expenditure.

This shall be performed by introducing an incentive scheme to make the municipal and State governments to collaborate in strengthening the local collection system. Additionally, it is proposed to grant more flexibility in the use of the funds of the States and municipalities, ensuring thereby an efficient expenditure, and to increase the building of infrastructure designed for the education, health and public security sectors.

Strengthening PEMEX

A new tax regime is also proposed for PEMEX, whereby the company's tax burden may be reduced through a regime similar to that of other companies. This would allow the resource allocation decisions to seek maximizing the social welfare.

Economic indicators

The economic growth for 2014 is calculated to reach 3.9% with a 3% inflation.

The oil price is estimated at US\$85 dollars per barrel, the average dollar exchange rate at MX\$12.90 and the average of the 28-days CETES rate at 4.0%.

Interest on unpaid taxes

The interest rate on unpaid taxes applicable in case of extensions of time to pay tax credits remains unchanged, as follows in the next chart:

Interest on unpaid taxes for:	Monthly rate
Extension of time	0.75%
Up to 12 months' installments	1.00%
12-24 months' installments	1.25%
Installments over 24 months	1.50%

Tax revenue

The taxes sought to be collected in tax year 2014, amount Billion MX\$ 1,773,187 including the reforms proposed, against the year 2013 (Billion MX\$ 1,605,163).

Tax incentives

The tax incentives that have been annually provided are maintained, notably including the following:



The incentive consisting in the crediting against the Income Tax and its withholdings, of the special excise tax on production and services paid for the purchase of diesel for its final consumption in the following cases:

- For the purchase of diesel for general machinery used in business activities, except for mining operations, as well as for maritime vehicles
- For the purchase of diesel used for the performance of agricultural and forestry activities; a refund scheme is provided optionally limited to those taxpayers
- For the purchase of diesel for automotive use in vehicles exclusively used as a public and private transportation means for persons or cargo; this incentive shall not be applicable for taxpayers performing services predominantly to related parties

A new incentive is included for those taxpayers who purchase fossil fuels, but who use them as raw materials without subjecting them to a combustion process, consisting in the crediting of the special excise tax paid against the income tax for the year.

Another innovation regarding tax benefits is the one related to the incentive to be received by the holders of mining concessions the revenues of which are less than MX\$50 million, which consists in being able to credit an amount equal to the special fees on mining paid against the income tax for the year.

The crediting of 50% of the payments made along the national toll highway network is allowed for taxpayers who are exclusively engaged in the public or private freight and passenger ground transportation industry.

The exemption of the tax on new automobiles (ISAN) continues on the sale and import of electric or hybrid automobiles.

On the other hand, the payment of any customs processing fees (DTA) for the import of natural gas is exempted.

[3. Income Tax \(Impuesto sobre la Renta, ISR\)](#)

A new Income Tax Law has been enacted, which contains most of the text presently in force, but amends its ordinances with the purpose of expanding the tax payment base, arguing that by eliminating IETU and IDE, collection must be strengthened through this tax.

A principle of the new law is to seek tax symmetry; i.e. when an item is allowed to be deducted, this shall be considered as taxable income by other taxpayer, in the same amount and time, or otherwise to limit its deduction. However, in some cases there may be some inequities.

Considering that it is a new Income Tax Law, the legal injunctions that have been obtained regarding any ordinances of the repealed Law must be applied for once again, notwithstanding that the content of the provision is the same.

Following, we provide our comments on the most significant changes contained in the new Income Tax Law against the one that is presently in force.



The corporate tax rate shall remain at 30% and shall not be decreased, as expected.

Taxable profit

It is clarified that the taxpayer taxable profit results once the employee profit sharing (PTU) paid during the year is decreased. This amendment removes any doubts regarding the mechanism used to calculate the profit coefficient.

Surtax on dividend payment

It is set forth that individuals residing in Mexico and persons nonresidents who receive any dividends or profits, which were generated as from 2014, must pay a 10% additional tax. In these cases, the legal entities that distribute or pay the dividends to individuals residing in Mexico or nonresidents must withhold such 10%.

For permanent establishments of nonresidents who distribute or pay dividends or profits to their parent company must pay an additional 10%.

The new provision may violate the terms set forth in the treaties to avoid double taxation signed by Mexico with several countries, where lower withholding rates or different assumptions are provided so that the establishments may pay taxes in Mexico.

This reform seeks to be based on the fact that the corporate income tax rate in Mexico is lower than that applicable in most of the OECD member countries.

It is worth mentioning that the global trend is to reduce the direct taxes, such as the Income Tax, and increase collection through the indirect taxes such as VAT. Nevertheless, it seems that by not reducing the rate as expected and increasing the tax for companies paying dividends, the country would go against said trend.

The provision re-characterizing certain interest payments as dividends is now located within the general provisions and not in the chapter regarding individuals, presumably in order to be able to include an obligation for legal entities in said provision.

Basis for calculating the employees' profit sharing

Based on the resolutions issued by the Supreme Court of Justice in the sense that the basis for the payment of the employees' profit sharing must be the taxpayer taxable profit, the specific procedure for its calculation currently existing in the law is eliminated. Likewise, it is set forth that for such purposes, 100% of the benefits paid to the employees without limitation may be considered as deductible. It is worth mentioning that in the case of contributions to pension and retirement funds, the deduction shall be limited to 47%.



Benefits from treaties to avoid double taxation

It is provided that the benefits from the treaties to avoid double taxation shall only be applicable when, besides evidencing residence for tax purposes in the corresponding country and complying with the terms of the treaty, the nonresident fulfills all other rules of procedure set forth by the law, submits the new informative return regarding its fiscal status and appoints a legal representative.

The fact that a nonresident is required to submit a new informative return in order to apply an international treaty is noteworthy, given that this new obligation applies only to Mexican residents and nonresidents with a permanent establishment in Mexico.

On the other hand, in case of operations with related parties, now the authority is authorized to require a formal document from the nonresident evidencing that there is a double taxation for the income for which a treaty benefit is being applied, specifying the applicable provisions of foreign law and any other documentation it may deem necessary to attach.

According to the declaration of purpose, the purpose of this provision is that the benefits from treaties are not applied by those persons who are not the target beneficiaries; however, the fact that it is only applicable to operations between related parties is questionable. This rule may also lead to the benefits set forth in international treaties -and that are hierarchically at a level higher than the Income Tax Law- be denied.

Credit for foreign taxes

It is provided that assessment of the tax to be credited in Mexico shall be made by the relevant country or jurisdiction, so as to avoid that a tax that may derive from a country with a tax rate higher than the Mexican one be credited in Mexico.

Regarding income from dividends, the intention is to clarify the procedure to be followed in order to assess the proportional tax creditable in Mexico that has been paid abroad by the company paying the dividends, both at a first and second corporate levels through formulas.

Taking into consideration that the dividends received in Mexico may result from different tax years, of which possibly the tax was paid at different rates, as from 2014, taxpayers who receive this kind of payments must keep a record of the years to which such profits being received as dividends correspond as well as the applicable tax rates.

If said control may not be implemented, it shall be considered that the profits generated shall be the ones to be distributed in the first place.

Installment sales

In the case of installment sales, the income may no longer be recognized on the date on which they are collected. Therefore, as from 2014, this type of taxpayers must recognize the income upon the sale, establishing a transition mechanism for the operations effective as of December 31, 2013.



Tax receipts

When activities are performed through a trust, the trustee must deliver a digital tax receipt via Internet (CFDI) to the beneficiaries or trustors, as the case may be, evidencing the income and withholdings derived from the activities carried out through a trust.

Likewise, a CFDI must be issued for any prepayments and tax withholdings made by the cooperative associations of production and civil partnerships and associations. This will be also applicable to payments and withholdings made to employees, it being, in these cases, a requirement in order to deduct such expenses.

When referring to a tax receipt, this must be in digital form and issued through the Web page of the Tax Administration Service. It is worth mentioning that the Federal Tax Code is also amended to set forth this modality, there not being a procedure thereto as of this date. Therefore, it is expected that the terms and procedures for the issuance of these receipts shall be made known via general tax rules.

Tax cost of shares

In case of shares that have been held for less than 12-month periods, the current procedure used to determine its tax cost shall be optional and not mandatory. The foregoing by virtue of the resolutions issued by the Supreme Court of Justice, which consider that the compulsory nature of this procedure is unconstitutional as it violates the horizontal equity principle.

Employer's fees

Employer's fees shall be considered a deductible item from the fees paid under the new Unemployment Insurance Law but not from the employees' fees paid by the employers, notwithstanding that said limitation has already been determined as unconstitutional by the Supreme Court of Justice, taking into consideration that it being an exempt income of the employee, a fiscal asymmetry is thus eliminated.

Pension funds

After the President of the Republic had proposed to eliminate the deduction of the contributions to the pension and retirement funds of the personnel in addition to those established under the Social Security Law, and of seniority premiums, the lower house of the Federal Congress reinstated the deduction. However, it shall be limited to 47% of the contributions made to pension and retirement funds and seniority premiums when the requirements set forth by the Law are fulfilled.

Donations

In the case of donations made to the Federation, the States and the Federal District, municipalities or its decentralized government agencies, said donations may not exceed 4% of the taxpayer's taxable profit for the previous year, continuing thus the 7% limitation for all donations made in the year.



In case of donations made to schools, it is set forth that they shall be deductible only if the institution is authorized to receive deductible donations.

No property that may not be disposed under other legal provisions or that a specific use is provided therefor, may be offered as donations.

Unfortunately, the inequity related to the fact that taxpayers who have suffered a tax loss are unable to deduct any donations, remains.

Food coupons

In case of food coupons, this benefit must be granted exclusively through an "electronic purse", in order to facilitate a better control.

Real estate developers and work contracts

Construction companies, manufacturers with a long manufacturing process, time-share service providers and real estate developers, may continue deducting the expenses calculated for the works they perform.

Real estate developers may continue with the possibility to consider the acquisition cost of land as a deduction in the year in which they were acquired and not until the moment they are sold.

The foregoing notwithstanding that the President of the Republic had proposed to eliminate the tax incentive and the administrative ease enjoyed by those taxpayers.

Payments

In case of transfers made from bank accounts, it is now established that the source account must be in the name of the taxpayer, both regarding expenses exceeding an amount of MX\$2,000 and salary payments.

This reform calls for a mandatory revision of the cash pooling schemes of several taxpayer groups.

Payments to related parties

Payments made to a foreign company that controls or is controlled by the taxpayer will not be deductible when said payments are for interest, royalties or technical assistance, and when the foreign company that receives said payments is considered as transparent and its participants do not pay tax on this income. Payments that are considered as non-existent by the person who receives them or payments not considered as taxable income for the foreign entity will also not be deductible.

"Control" is defined as those cases in which direct or indirect influence may be used to decide when dividends are paid.

The above provision may affect payments that companies considered as transparent abroad make to its shareholder, as the shareholder would consider the payment to be non-existent, as would be the



case with limited liability companies for which this option has been exercised. The taxpayer in Mexico would not be affected by a decision that it is not required to take.

Non-deductible expenses also include payments made by a resident in Mexico that are, in turn, deducted by a related party resident or nonresident in Mexico. This restriction would not apply when the related party that deducts the payment made by the taxpayer accrues income earned by the taxpayer in the same tax year or the next.

These proposals are based, according to the bill, on the OECD project to combat base erosion and profit shifting (BEPS).

The OECD has proposed an action plan that puts forward changes to tax legislation -which will be put to member countries so as to arrive at a consensus-, including anti-abuse laws.

The reform bill specifically states that in the context of BEPS, countries should introduce measures to counteract the effect of hybrid instruments and entities and not allow deduction of payments that are not taxable for the receiver, or deduction of payments that are also deducted by related parties.

One matter that we believe to be of particular importance is that the OECD's action plan with regard to BEPS mentions that recommendations are being prepared for changes to be made to local laws and that particular attention should be made to the effect that such changes would have on the model treaty of the OECD, and that this task would be coordinated by several teams.

Therefore, we believe that these provisions may have a negative economic effects on some taxpayers and place vertical equity at risk, all of which is based on a document that really just proposes (it even includes a future timetable of deliverables) a further analysis. The provisions proposed seem to be precipitated and go beyond what the OECD project is trying to achieve. This may affect taxpayers and transactions that are strictly legitimate, and business partners with which international agreements have been signed, who are OECD member countries and who have not adopted similar measures.

Payments to employees

Regarding remuneration payments made to employees that are partially exempt, only 47% of the payments considered as exempt for the employee -for social welfare items, saving funds, final payment to employees, annual bonuses and overtime- shall be deductible. A form of tax symmetry is being sought so that income for which employees are not taxed may not be deducted by employers, although it is doubtful whether there should be symmetry between those that are not considered as equal under the law, such as legal entities and individual taxpayers.

This restriction would particularly affect companies that are labor intensive. It is not clear as to why only 47% would be deductible, it is just mentioned that this figure is a function of the ratio of the repealed flat-rate business tax vs. the income tax rate; however, it does not take into account that employee benefits are granted based on labor-related issues that vary from company to company.



Consumption in restaurants

It has been established that only 8.5% of consumption in restaurant may be deducted and only if bills are paid by credit, debit or service cards, or the electronic wallets that the Tax Administration Service authorizes.

The new principle of tax symmetry does not apply in this case, as it is evident that the merchant receiving the income must accrue it, irrespective of the amount involved.

Investments

Immediate deduction of investment has been repealed, so as from 2014, investments may only be deducted under the straight-line procedure, which may act as an inhibitor for investments.

It is worth mentioning that this treatment was not really a cost for the national treasury, but rather deferment of payment. It is noteworthy that the bill mentions that taxpayers took advantage of this benefit unjustifiably to reduce their tax burden although the actual purpose of the provision, when it became law, was to encourage investments.

Mining companies may no longer deduct their pre-operating expenses in the year they incur them. Investment in automobiles may only be deducted up to MX\$130,000 instead of the current limit of de MX\$175,000. The deduction for car rental has been adjusted to MX\$200 a day.

Insurance company reserves

Insurance companies may still deduct reserves for unexpired risks, reserves for outstanding claims, expirations and from catastrophe risks, and payment of the so-called dividends or interest that insurance companies pay or set off as part of the insurance rating procedure.

We should bear in mind that the reform bill included eliminating these types of deductions as far as insurance and surety companies are concerned.

Bonding company reserves

Bonding companies may still deduct outstanding bond reserves and contingency reserves, and the so-called dividends or interest that they pay or set off their bonded customers as part of the bond rating procedure.

Tax consolidation

As had been mentioned in various forums, and with the justification that it is a regime that is confusing and difficult to inspect, the current tax consolidation system will be eliminated.

An optional regime has been proposed for corporate groups, although it is in fact similar to the repealed regime.



We consider that the main changes will be as follows:

- a) Deferred tax calculated based on an "average" factor
- b) Determining the "overall tax result factor"
- c) Removing the free flow of dividends and taxes
- d) Tax deferment period reduced from 5 years to 3
- e) Minimum shareholding of 80% instead of 51%
- f) With regard to leaving the current tax consolidation being repealed, transitory articles establish an alternative procedure to that set forth in law in order to establish the effects caused by deconsolidating the group.

In general terms, both procedures include the same items that give rise to deferred income tax, so we believe that choosing the most suitable method will depend on the specific situation of each group, and it is not possible to generalize regarding the benefits for each particular group.

Special regimes

The preferential regime of cooperative associations of production and the simplified regime for the road transport sector have been eliminated, although the regime will continue when taxed through a concessionaire. Administrative ease may also be granted.

The bill acknowledges that there are tax collection losses, although the extra-fiscal purposes for which they were created have not been accomplished. It is also worth mentioning that the bill recognizes that these regimes go against the horizontal equity principle.

The law includes a new chapter that covers the primary sector and that applies to legal entities and individual taxpayers.

Legal entities in the agricultural, farming, fishing or forestry sectors (primary) are still entitled to the exemption, provided that their income does not exceed twenty times the general minimum wage in their area (calculated on an annual basis), per member, provided that the total does not exceed 200 times the minimum wage in effect in Mexico Federal District (calculated on an annual basis).

For individual taxpayers participating in the same sectors, the limit will be 40 times the minimum wage in their area (calculated on an annual basis). The tax will be reduced by 40% for individual taxpayers and 30% for legal entities if their income exceeds the above limit and does not exceed 423 times the minimum wage in their geographical area (calculated on an annual basis).

Real Estate Investment Trusts (FIBRA's)

If considerations are for variable amounts or are referred to percentages, they may not exceed 5% of annual income, except for those set on sales from the lessee.

The reform is justified by the fact that FIBRA benefits should not apply to income for services.



Real estate investment entities (SIBRA's)

The tax incentive for SIBRA's has been eliminated, the argument being that it erodes the tax base, and it has been established that those who have been eligible to receive this incentive must accrue income that has not accrued to 2016, a situation that is not only dubious, but also possibly unconstitutional.

Taxpayers' obligations

It is no longer necessary to keep hard copy of receipts issued as they shall be digital.

As from 2017 it will no longer be necessary to submit informative returns for withholdings to individuals with entrepreneurial and professional activities, customers, suppliers, payments made to nonresidents, donations and dividends paid.

The reform is flawed with regard to the transition period of two years.

Net taxable profit

In order to calculate net taxable profit for the year, not only is it necessary to deduct income tax, employees' profit sharing and non-deductible expenses from taxable profit, but also tax paid for dividends received from abroad that would not be credited.

Several transitory provisions establish that the balance of the net after-tax profit account for 2001 to 2013 may be calculated as established in the law in effect for each particular year, also taking into account the negative net after-tax profit for these years. It is interesting to note that this period begins in 2001, not 1975, the year farthest back in which the current calculation is recognized.

In order to calculate withholding of tax on dividends, two net after-tax profit accounts must be kept as from 2014: the first for profits earned up to December 2013, and the second for profits earned from 2014 onwards. When these accounts are not kept or when it is not possible to identify such profits, it will be understood that profits are earned as from 2014.

Tax-exempt groups

It has been established that in order for education institutions to be considered as tax-exempt, they must be authorized to receive deductible donations. This will allow the tax authorities to have a better control on the income they receive.

Civil partnerships and associations devoted to sport activities will no longer be considered as tax-exempt and must now pay tax under the general regime, as their purpose is mainly to make a profit, except for sports associations recognized by the National Sports Commission (CONADE).

Tax-exempt companies may carry out activities the purpose of which is to influence legislation, provided that said activities are not remunerated and do not benefit any person that has granted them a donation.



The list of activities that welfare and charity groups may carry out have been expanded.

[Incentive for the domestic motion picture industry](#)

Motion picture distributors are now eligible for this incentive. The annual incentive available is MX\$50 million, with a maximum incentive for each taxpayer of MX\$2 million. The total annual incentive for motion picture production increases to MX\$600 million, with a maximum of MX\$20 million per taxpayer and project.

[Individual taxpayers](#)

The regime for individual taxpayers has been amended in order to extend the tax base via restricting deductions and increasing the rate. Three new bands have been added: 32% as from MX\$750,000.01; 34% as from MX\$1,000,000.01; and 35% as from MX\$3,000,000.01.

[Sales on the stock exchange](#)

Gains that individual taxpayers earn for the sale of shares listed, including derivative financial transactions referred to said shares, will be taxed at a rate of 10%.

Therefore, any sale of shares listed on the stock exchange will be taxed as from 2014, irrespective of the percentage sold.

A transition procedure has been established to take into account the surplus accrued as of December 31, 2013, as an alternative to calculating the cost of shares. Consequently, in order to calculate the gain, the original cost of the shares may be considered or, at the choice of the taxpayer, the average of the last 22 quotations of the shares. If the shares have behaved unusually, the average over the last six months will be taken into account.

[Personal allowances](#)

Personal allowances will be limited to four times the annual minimum wage (around MX\$94,550), or 10% of income, whichever is less. This measure is somewhat dubious, as deducting personal allowances promotes the formal economy and has extra-fiscal purposes, which will no longer exist with the reform. This limit includes contributions made to personal retirement schemes.

On the other hand, to be considered as deductible, medical expenses must be paid over the financial system.

[Exemption for home sales](#)

The exempt amount for home sales has been reduced from around MX\$7.4 million to MX\$3.5 million, equivalent to 700,000 investment units. These types of sales will be taxed in all cases, irrespective of the amount of time houses have been inhabited.



Communal land

When selling community land, many real estate agents have abused the law and acted as if they were community land owners, so sellers must now prove to notaries public that they are actually community land owners.

Tax Integration Regime

As is the case of legal entities, special regimes for individual taxpayers -such as the intermediate regime and the small taxpayer system (REPECOS) are repealed, as the tax inspection chain was broken.

In order to promote payment of tax and to encourage individual taxpayers to become part of the general regime, a new regime has been introduced for those persons who sell products or render services, for which a professional qualification is not needed and whose annual income is less than MX\$2 million.

Taxpayers that use this regime will make estimated tax payments every two months on a cash base and may make deductions during the same period applying the tax rate to the difference.

Taxpayers may use this regime for a maximum of ten years and will be entitled to a 100% subsidy in the first year that will decrease gradually year by year, so that they pay tax at the full rate by the eleventh year.

Dividends received

Dividends received from Mexican companies shall be accrued and the tax credit will be up to 30%. An additional 10% must be paid as tax, which will be withheld by the company paying such dividends and will apply to profits earned as from 2014.

This tax shall be final and must be paid no later than the 17th day of the month after that in which dividends are paid.

4. ISR Nonresidents

This tax shall be final and must be paid no later than the 17th day of the month after that in which dividends are paid.

Interest

It has been established in a transitory provision that the interest rate paid to banks residing in a country with which a treaty to avoid double taxation has been signed will be 4.9%. The requirement of foreign banks to register has been repealed.

This provision is renewed every year and has never become law.



A provision of the Federal Revenue Law that establishes that derivative financial transactions part of which is referred to the equilibrium inter-bank interest rate (TIIE) will not be liable to tax, has become law.

Taxes paid on behalf of foreigners

When a person resident in Mexico avoids an expense or pays tax on behalf of a person residing abroad, it is considered that the person residing abroad is earning income, so the same provisions of the income on which the tax is paid will apply.

Pension funds

It is no longer necessary to be a registered fund in order to be eligible for exemption from tax on interest and capital gains.

To be able to eligible for tax exemption, the time in which properties must be leased has been increased from one to four years, so that the treatment given is similar to that given to Real Estate Investment Trusts.

The provision of the Federal Revenue Law regarding legal entities that own exempt pension funds as shareholders, to establish if they meet the requirement of 90% of their income originating from the leasing or sale of properties, may not consider the annual adjustment for inflation or the exchange difference on their debts incurred for purchasing properties, has become law.

It is established that neither pension funds nor the companies in which they have an interest as shareholders will be eligible for tax exemption when they earn income from the sale of land and buildings built on land that are considered as inventory.

Leasing of trailers

The provision of the Executive Order regarding containers, trailers and semi-trailers imported temporarily up to one month, in accordance with the Customs Law, being liable to a withholding rate of 5%, has become law.

Sale of shares

As is the case with individuals, sale of shares on the stock exchange will no longer be exempt from tax. Gains will be liable to tax at a rate of 10%, which must be assessed, withheld and paid by the stockbroker.

With regard to restructurings between companies that belong to the same group, authorization to defer tax may be subject to meeting the requirements established in the regulations to the law. It is no longer necessary to submit a special auditor's report on tax compliance for the sale of shares to be eligible to pay tax on gains or be authorized to defer payment of tax. Instead, it will only be necessary to submit the information established in the regulations to the law.



Royalties

The law currently incorporates the sale of rights on which royalties are paid to temporary use or enjoyment. The provision regarding this matter has been reformed so that royalties are only considered when the consideration for the sale of rights is subject to their subsequent use.

Bearing in mind that the maximum rate for individuals is referred to in order to calculate tax to be paid by nonresidents, in many cases the applicable rate as from 2014 will be 35%.

Preferential tax regimes

Passive income will now include that earned from the sale of properties, granting the temporary use or enjoyment of properties and that earned for no valuable consideration.

5. Value-added Tax (Impuesto al Valor Agregado, VAT)

The first part of the declaration of purpose of President of the Republic's reform bill seems to have accepted the thesis of the OECD report that states that VAT collection is very low, much lower than in other member countries of the OECD and other Latin American countries. Nevertheless, it is surprising that no major changes have been proposed regarding the VAT rate for food and medicines.

The main changes in the reform with regard to VAT are as follows at next page:

Border region

The preferential VAT rate of 11% for transactions conducted in the border region has been repealed, as the circumstances under which it was introduced no longer exist and because the income of the inhabitants of this region is 27% above the national average.

Companies part of the IMMEX (Promotion of the Manufacturing, in-bond processing companies and Export Service Industry) Program, in-bond processing companies and other tax regimes

Tax withholding

Companies part of the IMMEX Program, companies of the terminal automotive industry and companies that manufacture road vehicles and vehicle parts are no longer required to withhold the value-added tax they shift to local suppliers for the sale of goods, which will have a negative financial effect on these companies.

Sale by foreigners

Another important change is that the sale of goods in national territory will no longer be exempt when the sale is made by nonresidents to companies part of the IMMEX Program, companies of the



terminal automotive industry and companies that manufacture road vehicles and vehicle parts, if the goods are delivered within the national territory.

Companies part of the IMMEX Program must withhold and pay value-added tax when they purchase from a nonresident, under current legislation, although they may credit any such payments the month after that in which they make the relevant tax payment. This will create a financial cost that does currently not exist.

Temporary imports

The industry will probably be most affected by the fact that the temporary import of goods will no longer be exempt. The reform includes eliminating the exemption to which Companies part of the IMMEX Program are entitled for the temporary import of goods, imported goods to be warehoused in automotive in-bond warehouses and goods imported under the strategic in-bonded warehousing system.

Both companies part of the IMMEX Program and companies of the automotive industry, as well as companies that manufacture vehicle parts and those that operate in strategic in-bond warehouses are major importers of goods and fixed assets. Such import used to be considered as exempt to the extent the goods were handled under the respective customs regimes.

As this exemption will no longer exist, companies will have to pay value-added tax when goods are imported and credit it, and then recover it later by refund or by setting off it against other federal taxes.

The reform includes two options for companies not to pay value-added tax on temporarily imported goods:

- The importer may obtain a certificate from the Tax Administration Service that proves that it meets the requirements for properly controlling its operations. In this case, the importer would be entitled to a credit of 100% of value-added tax.
- The importer may guarantee the tax liability with regard to value-added tax assessed by providing a bond granted by an authorized institution.

As the rules for obtaining the certificate referred to above have not yet been published, there is a transitory provision that establishes that these changes to the Value-added Tax Law will come into effect one year after the rules are published in the Official Gazette of the Federation.

Although the amount of tax collected under this scheme is not that much, companies would incur major financial costs for recovering value-added tax, which means that they would have to increase their working capital for their in-bond processing companies and manufacturing business. In view of the magnitude of this reform, in many cases companies would have to apply for external financing in order to cover the cost, assuming that they are unable to obtain the certificate or guarantee the tax liability for the tax assessed.



The combination of these reforms will have a major effect on the business of maquiladoras and export manufacturers in Mexico and reduce the industry's competitiveness internationally, as most countries in which there are similar regimes have introduced schemes to reduce corporate tax, and value-added tax is not liable on temporarily imported.

0% rate

It has been established that chewing gum will no longer be liable to value-added tax at the 0% rate, as it is not considered as food product.

Pets and pet food will also not be liable to value-added tax at the 0% rate, this being justified by the fact that people who own pets are able to pay taxes.

Hotel services

Hotel services and similar services -with regard to foreign tourists taking part in certain events- cease to be treated as export of service, this being justified by the fact that not only foreigners take part in these events.

Despite this, it has been established that agreements signed before September 8, 2013, will be subject to the 0% rate for considerations paid in the first six months of 2014, provided that said agreements are not entered into with related parties.

International air freight

It has been proposed that VAT on international air freight is brought into line with VAT on passenger transportation, so as from 2014, 25% of the service will be taxed at the general rate.

International air freight is currently liable to the 0% rate, so all tax shifted to these types of taxpayers is recoverable. Nevertheless, the tax authorities have adopted a different criterion because, in practice, they have refused the tax refunds, violating a ruling of the Supreme Court of Justice to the effect that all tax shifted to these types of taxpayers may be credited.

Integration Regime

As a consequence of the proposal to set up the so-called "Integration Regime" for income tax purposes, VAT payment returns may be submitted every two months and it will no longer be necessary to submit informative returns, provided that details of transactions conducted with suppliers in previous two months, in accordance with the Income Tax Law, are submitted.

Inventory shortages

As there is no consideration involved, it is established the time at which inventory shortages, donations and free services are subject to tax.



Financial entities

The proposed amendments with regard to VAT applicable to certain financial entities are as follows:

When calculating the crediting factor, multi-purpose financial institutions (SOFOMES) must include certain exempt income that is not currently included. This change will lead to a decrease in the amount of VAT that may be credited and an increase in expenses for the period in the proportion in which exempt interest is collected or earned.

The inclusion of companies that render financial services as part of the financial system -as already proposed in an executive order- is confirmed.

Transition

Regarding the acts or activities for which the VAT shall commence to be due, as well as those for which a change in the tax rate shall be made, and that have been executed before 2014, the relevant considerations to be collected as from said year shall be subject to the payment of VAT taking the new rates into consideration.

However, in the case of considerations the payment of which is made within the first 10 days of year 2014, the VAT may be calculated according to the provisions in force before the reform becomes effective, provided they are not operations performed between related parties and that, regarding sales, temporary use and enjoyment of goods and rendering of services, the assets or services have been delivered or provided before the reform becomes effective.

6. [Special Excise Tax on Production and Services \(Impuesto Especial sobre Producción y Servicios, IESPYS\)](#)

The rates applicable to the sale and import of alcoholic beverages and beer will not decrease in 2014, as foreseen. The rate applicable to the sale or import of these products shall be maintained at 26.5% (if their alcoholic content does not exceed 14 G.L.) and at 53% (if their alcoholic content exceeds 20 G.L.).

Sugar-flavored beverages and caloric food

Justified on health protection grounds, a tax on all sugar-flavored beverages shall be taxed. Said tax shall be calculated by applying a fee of MX\$1.00 per liter, and with regard to all concentrates, powders, syrups, essences or flavor extracts, said tax shall be calculated taking into account the amount of liters of flavored beverages that may be obtained, in accordance with the manufacturer's specifications. Said fee shall be adjusted for inflation under the provisions of the Federal Tax Code. It is worth mentioning that this tax shall also be applicable to sugar-sweetened energy beverages.

Likewise, for health protection purposes, a new 8% tax shall be imposed on some foods having a caloric density of 275 kcal or higher per each 100 grams. The food to which this tax applies are: snacks,



confectionery products, chocolates and other cocoa-derived products, flans, puddings, fruit and vegetable candies, peanut butter and hazelnut cream, milk sweets, cereal-based food, ice-creams, sherbets and popsicles.

Should the provisions relating to packaging be fulfilled, the kcals shown on the label may be taken into consideration; otherwise, the food shall be presumed to contain more than 275 kcal per each 100 grams.

Tobacco products

Without any apparent justification other than protecting the domestic manufacturing of these products, an exemption to cigars and other tobacco products manufactured entirely by hand has been made from the rate applicable to other tobacco products.

Environmentally-related taxes

The following fuels shall be subject to an import and sale tax, among others: propane, butane, gasolines and jet fuel, turbosene and other kerosene, diesel, fuel oil, coal, petroleum coke and coke of coal. The tax shall be assessed according to the carbon contents of the respective fuel taking into account certain fees per measure unit. Said fees shall be adjusted for inflation under the provisions of the Federal Tax Code.

The fossil fuels taxpayers must identify in their accounting the transactions related to this type of products. They shall also quarterly provide the Tax Administration Service with the necessary information regarding its 50 main customers and providers of said fuels, as well as the sale price of each product, its value and volume thereof.

Additionally, with the non-tax purpose of discouraging the use of these products, a tax burden on the sale and import of pesticides is proposed, based on the acute toxicity category, with rates ranging from 6% to 9%. These taxpayers would also have reporting obligations to tax authorities regarding their operations details. Notwithstanding the foregoing, transitionally during year 2014, reduced fees ranging from 3% to 4.5% shall be in force.

Custom duties exemption

The existing custom duties exemption is eliminated by virtue of the fact that, given the broadness of the term, this concept is applicable not only to the imports made by passengers, but also to goods that are exempt from general import taxes.

Safety code in packs of cigarettes

With the purpose of combating the sale of cigarettes of illegal origin, the cigarette manufacturers and importers shall have the obligation to print a safety code on each pack.

Regarding the foregoing, the Tax Administration Service shall have the authority to confiscate any pack missing said code.



Transition

Regarding the acts or activities for which the IEPS shall commence to be due, as well as those for which a change in the tax rate shall be made, and that have been executed before 2014, the relevant considerations to be collected as from said year shall be subject to the payment of IEPS taking the new rates into consideration.

However, in the case of considerations the payment of which is made within the first 10 days of year 2014, the tax may be calculated according to the provisions in force before the reform becomes effective, provided they are not operations performed between related parties and that, regarding sales and rendering of services, the assets or services have been delivered or provided before the reform becomes effective.

7. Federal Tax Code (Código Fiscal de la Federación, CFF)

Since the complex procedures existing in Mexico and the fact that 59% of the employed population earns its income from the informal economy discourages taxpayers to meet their tax obligations, a number of additions and reforms have been introduced, the aim of which is the bureaucratic streamlining and to simplify compliance of taxpayers as well as to afford taxpayers legal certainty.

Tax domicile

As a proposal to deal with the problem of informality, it has been established that such information taxpayers provide to financial institutions shall have tax effects, e.g. assumption of taxpayers' tax domicile.

This has been established to compensate for the repealing of the Cash Deposits Law and its aim is to encourage those participating in the informal economy to become part of the formal one.

Even, from the criminal point of view, it has been proposed to consider the disappearance of tax domiciles as an offense, and this offense would be committed if the tax authorities visited a tax domicile on three consecutive occasions within a period of 12 months without being able to conduct a proceeding.

Advanced Electronic Signature

Individuals may now apply for their advanced electronic signature through an attorney-in-fact or legal representative when they are unable to go to the offices of the tax authorities.

Rendering tax receipts null and void

The tax authorities reserve the right to render as null and void those tax receipts raised by taxpayers that do not observe tax laws.

In this case, a notice will be sent to the taxpayer's mailbox and be published on the web site of the Tax Administration Service. A list of taxpayers that have committed certain irregularities will be



published in the Official Gazette of the Federation and they will be given the right to a legal hearing to explain their situation, so that their tax receipts are not rendered null and void.

Obviously, one of the consequences of rendering tax receipts null and void is that those individuals or legal entities that have used them may be liable to a tax liability for the tax effect of any credit or deduction made.

Taxpayer's mailbox

One of the proposals for bureaucratic streamlining is to create a "taxpayer's mailbox", whose purpose is to have an electronic communication system between taxpayers and tax authorities whereby taxpayers may file motions, requests, notices or meet tax obligations and even to submit enquiries about real and specific situations and file appeals for reversal, among other issues. Taxpayers must have their advanced electronic signature to be able to use such mailbox.

The reform proposal establishes that individuals and legal entities registered with the Federal Taxpayers' Registry shall have a mailbox allocated to them and must open it within three days of the Tax Administration Service notifying them by e-mail. Therefore, it is important that suitable systems and policies are introduced to efficiently administer this facility, in particular to make sure that companies are not affected by any contingency.

One of the regulations regarding use of such mailbox is raising an acknowledgment of receipt, to afford taxpayers legal certainty.

It is important to note that altering or deleting any information contained in a taxpayer's mailbox, to the benefit of such taxpayer or a third party, shall be considered as an offense.

Certain sections regarding notices have also been reformed, so that they may be sent to a taxpayer's mailbox, to avoid the problem of taxpayers not being located, disappearing or refusing to receive notices.

In this regard, it has been proposed to nuance that the rule regarding personal notices includes all types of notices, not just those sent as part of an execution procedure, and that it would be possible to serve a summons for this type of notices or the notices themselves through the taxpayer's mailbox.

Tax payment

Credit cards and debit cards may be used to pay taxes and administrative revenues, in view of the fact that cash is generally being used less and less.

Special auditors' report on tax compliance

It has been proposed to eliminate the legal concept of Special auditors' report on tax compliance, on sale of shares and on V.A.T. Instead, an informative return must be submitted on the fiscal status of those taxpayers who reported income of more than MX\$644,599,005.00 the previous tax year, which will also apply to state-owned companies, nonresidents with a permanent establishment in Mexico



and residents in Mexico with regard to transactions they conduct with residents abroad, among others.

In view of the above, it has been proposed to repeal articles regarding the inspection of special auditors' reports on tax compliance or "sequential inspection" and advanced conclusion, which means that the authorities may visit directly to taxpayers to exercise their audit powers.

With regard to amended returns, it has been proposed to eliminate the amendment that arises as a consequence of the results on the special auditors' reports on tax compliance.

Notwithstanding the foregoing, through transitory provisions it is set forth that the authorities may exercise their audit powers consisting in penalizing accountants who do not observe the provisions of the current CFF, despite the fact that the articles concerning penalties for accountants will be deleted.

With regard to "disclosures", general tax rules will be issued to notify taxpayers the forms they may use to disclose the transactions referred to thereupon.

The types of transactions to which the ordinance refers or the information required are not specified; this shall be at the entire discretion of the authorities.

Joint and several liability

A number of circumstances regarding joint and several liability are clarified and others are added: It is established that the liability of partners or shareholders will now be a function of their percentage of interest in capital stock when the transaction liable to tax is conducted. A formula will be provided to calculate such liability. This will create legal uncertainty, because in accordance with current provisions, partners or shareholders are liable up to the value of their contribution, not according to the percentage of their interest, as proposed in the reform, which would mean that liability would be virtually unlimited.

It is also established that executors or legal representatives of estates will be jointly and severally liable for any tax liable or that should have been paid during the time they discharged their duties as such.

Electronic audits, desk audits and domestic searches

A new method of electronic fiscal inspection by means of the taxpayer's mailbox has been proposed, which will last no more than three months. The authorities shall issue a provisional resolution or pre-assessment that will specify the supposed acts and omissions of taxpayers, and give taxpayers the opportunity to either self-correct their situation or contest the observations. The option of arriving at "final settlement agreements" has also been established, which we will discuss further below.

It has also been proposed to add a section that establishes the option of re-auditing taxpayers for the same items and periods when there are circumstances that give rise to the review of other events,



with regard to desk audits, domestic searches and electronic inspections, this exception not including all other audit powers of review, for example, visits to verify that taxpayers are meeting their obligations regarding raising digital tax receipts over the Internet.

On the other hand, when the authorities assess a tax liability when exercising their audit powers, certain additions to contributions should be considered, such as fines. However, the reform proposes condoning fines in their entirety, in view of the guidelines to be issued as part of tax general rules.

With regard to exercising audit powers in years in which tax losses are amortized or loans received, the origin of the same must be proven, which would mean that it would be necessary to retain and submit all relevant supporting documents and information. Likewise, supporting documents regarding credit balances shall be needed when taxpayers apply for set-off.

Final settlement agreements

The Office of the Taxpayer Advocate (PRODECON) has played an important role in defending taxpayers and has established certain mechanisms by which it may intervene directly and oversee the performance of the tax authorities, at the request of taxpayers. The reform proposes to lend greater weight to the performance of PRODECON, and one way of realizing this is by “final settlement agreements.”

These agreements have been proposed as an alternative dispute resolution method when the authorities exercise their audit powers. Taxpayers must request such final settlement agreements to PRODECON in order to: i) assist in the establishment of a position regarding any particular aspect disputed, or ii) find a way to self-correct their tax status with regard to specific points.

In any case, it has been considered that “final settlement agreements” will afford the parties involved legal certainty, whereas if the relevant resolution favors the taxpayer, the authorities may not file an administrative action against the detrimental resolution, and on the contrary, if the resolution issued is in favor of the tax authorities, the taxpayer may also not file any action or appeal against such resolution.

One of the main advantages of this type of agreements is that when the taxpayer agrees to conduct a self-correction, it may have any fines due condoned in their entirety (on the first occasion), or it may be given the option to pay in installments, which also be applicable when the taxpayer wishes to conduct a self-correction -in any of the available forms- while the authorities are exercising their audit powers.

We must point out that it has been established that these agreements shall no apply mutatis-mutandis but may only be made on a case-by-case basis and when taxpayers request them, the period for assess a tax liability will be suspended.

Measures against tax defrauders

Certain measures have been proposed should taxpayers commit fraud, such as cancelling their digital stamps or digital signature, which would mean that they could not raise tax receipts. This would apply to taxpayers that: i) disappear during tax audits; ii) use digital tax receipts for transactions that are



non-existent, simulated or unlawful; iii) fail to submit three periodic returns during a year (consecutively) or six periodic returns (over the entire year); iv) abandon their tax domicile while an executive procedure is taking place.

Enforcement measures

An order of priority has been proposed for conducting enforcement measures when taxpayers fail to meet certain types of tax obligations, reserving the provisional attachment -freezing bank accounts- for cases in which taxpayers may not be located or when it is highly improbable that the whereabouts of their property may be established.

This is because these types of procedures had been conducted abnormally in the past, so this type of action needs to be moderated to bring it more in line with the law. The PRODECON has even referred to the possibility of filing for damages and losses.

With regard to third parties under a collateral audit procedure in order to prove the conducting of transactions, the option of attaching property prior to final ruling up to the value of the transactions to be verified has been proposed. This procedure may be used when said third parties refuse to provide documents or information, which would give rise to demands of payment being satisfied timely, unless the intention is to place the business at risk.

On the other hand, freezing of bank accounts would be restricted to the value of the restated tax liability, plus any additions to contributions, and sub-accounts used to for employee pensions and those used for voluntary complementary retirement contributions may not be attached.

Tax secret

It has been proposed that the Tax Administration Service has the authority to publish on its web site the name or corporate name and the tax number of taxpayers with it is not advisable to conduct business as they have not met their tax obligations. The purpose of this to prevent taxpayers that meet their tax obligations from conducting business with those that the Tax Administration Service publishes on its web site, and to ensure that complying taxpayers do not have any deductions or credits rejected.

In this regard, certain parameters shall be introduced to establish which taxpayers will be included on the list, such as if they do not submit three consecutive returns in a year, or six returns over an entire year, or if it has been established that they have committed a tax offense.

Another exception case to the tax secret is to publish details of those taxpayers that have had tax liabilities cancelled by the authorities as they were not cost-effective or because the taxpayer in question could not pay them.

This will warn complying taxpayers not to conduct business with companies that the Tax Administration Service considers as being risky and, in particular, ensure that they are not given tax



receipts by these companies that may not be considered as being effective for tax purposes and, in turn, that deductions or credits are rejected.

Tax receipts over the Internet

In order to increase the use of tax receipts sent over the Internet, it has been proposed that they apply to all transactions that taxpayers conduct, including statements of tax withheld, even as a basic presumption or pre-requisite for deductions or credits, so it would be necessary to ensure that these requisites are met to safeguard the tax effects to be attributed to them.

Moreover, in order to be sure that suppliers authorized to certify digital tax receipts meet their tax obligations, the option of cancelling their authorization should they fail to do so has been proposed.

In this regard, taxpayers will have the option of verifying the validity of these receipts on the web site of the Tax Administration Service, so that they may be used for the purpose of deductions or credits.

We would like to point out that, under the announced proposal, as from 2014, all taxpayers will be required to raise digital tax receipts, except for those whose income is less than two hundred and fifty thousand pesos (MX\$250,000 a year).

It has also been proposed to replace the vehicle code on receipts of taxpayers that manufacture, assemble, distribute and sell cars in Mexico with the vehicle identification number, as the vehicle code is no longer of any practical use as information may not be cross-checked.

An obligation is added for digital tax receipts to state the form of payment, whether in a single installment or in several installments, so as to afford certainty and control.

One reform of particular interest is that statements of account issued by financial institutions may no longer be used as tax receipts.

Monthly information

Accounting records and entries must be kept on electronic media, as established in the regulations to the CFF, and said information shall be sent to the web site of the Tax Administration Service every month.

This reform may result in there being too many controls and is obviously contrary to the simplification of procedures announced in the reform, although we should not lose sight of matters concerning legal certainty on account of fiscal inspection that the tax authorities may carry out, without the need of commencing a revision using any of the methods established in the CFF.

Therefore, the power of the tax authorities to have access to monthly accounts may be considered as permanent injurious act, as the authorities will have constant access to the taxpayers' working papers and documents, without exhausting the exercise of their audit powers.



We should also point out that before the reform, the courts had ruled that bank statements are not to be considered as part of accounting records, therefore, it was decided to include bank statements in accounting records.

This is particularly relevant as it was common practice of the tax authorities to ask taxpayers to provide their bank statements when exercising their audit powers, which could result in the unlawfulness of the procedure, as they were not considered as part of accounting records. The intention is to rectify this situation by including bank statements in accounting records.

Compliance with tax obligations

The CFF currently states that taxpayers must have met all their tax obligations to be able to sign contracts with the government; however, it has been proposed to extend this to include taxpayers that have tax debts that are not secured or paid.

Surveillance of donees' activities

In order to afford certainty to the tax treatment of donations made to non-profit organizations, it has been proposed that transgressors will be liable to a fine of between eighty and one hundred thousand pesos, and even have their authorization to receive deductible donations canceled, when they do not meet the regulations regarding the use of donations and conducting activities related to legislative activities, and regarding allocation of their equity in case of liquidation.

Infractions

In order to control the correct use of labels and sealed straps on alcoholic beverages, it has been proposed to establish penalties for not adhering them properly or not using them at all, or if they are false or altered, or if they do not refer to the content of the bottle, or if it is not demonstrated that they have been acquired legally. The penalty for any of these offenses will range between MX\$50 and MX\$600.

With regard to cigarettes and tobacco products, the reform includes measures to prevent them from being introduced and sold illegally, giving the tax authorities audit powers to ensure compliance and due control of the safety codes and even the option of closing down those establishments that fail to observe these requirements on a repeated basis.

Execution procedure

A number of studies have concluded that the Execution Procedure currently takes up too much time, risking collection of tax liabilities. Therefore, a number of reforms have been proposed to establish collection within a period of 4 months when no right of action is filed, and up to 3.6 years when tax liabilities have been contested but not secured.

Tax offenses

The main changes include liability for criminal offenses not only being that of the legal representative of the entity, but also of the sole administrator, chairman of the board of directors, general directors or managers or the person or persons who have powers of administration or ownership, as these persons have the power to prevent tax offenses from being committed.

Another important reform is establishing that accounting or legal advisors and customs agents, and their assistants, may be considered as being liable if any advice given is related to unlawful schemes or failure to meet tax obligations that may lead to a tax offense being committed.

Appeal for reversal

The reform proposes creating a single motion that may be filed to contest any of the aspects established in the CFF, reducing the term for submitting any such motion to 15 days, as a general rule, and that it may only be submitted through the taxpayer's mailbox.

It has also been proposed that the time for paying or providing a guarantee is reduced to 15 days from the current 45 days. Likewise, we consider it right to specify that as long as an appeal for reversal has not been ruled, taxpayers will not be required to guarantee the fiscal interest and they will have a term of 10 days to pay such fiscal interest or provide a guarantee as from a resolution is issued.

On the other hand, the option of surety companies to contest demands for payment for tax liabilities guaranteed by filing a proceeding for annulment is also restricted.
Statute of limitations

As a general rule, the statute of limitations for tax liabilities is 5 years, however, the reform stipulates that under some circumstances, the maximum period for statute of limitations should be 10 years as from when the tax liability may be demanded legally, and that this period may be suspended when the tax domicile is vacated without notice or if it has not been stated correctly.

We consider that the wording of the reform is slightly ambiguous and may lead to various interpretations regarding when the statute of limitations begins. Notwithstanding, this timeframe may benefit taxpayers with regards to the deadlines for claiming refunds of credit balances or erroneous tax payments.

Assessment by presumption

It has been proposed to introduce new provisions to be able to assess by presumption the taxable profit of taxpayers as a function of the nature of their business, and the option of assessing by presumption the price at which taxpayers acquire or dispose of property, and the consideration for any other transaction other than a disposition of property.

In such a situation, the tax authorities must justify and ground their assessment based on objective evidence and, as this would be a rebuttable presumption, evidence to the contrary must be admitted.



Cancellation of tax liabilities

It has been proposed to cease publishing the requirements to apply for cancellation of tax liabilities if they are not cost-effective or if taxpayers are unable to pay them, so that taxpayers may not place themselves in this situation deliberately.

It is worth mentioning that this document only addresses the tax ordinances that have already been approved by the Federal Congress. The reforms related to the Unemployment Insurance and Universal Pension are still pending discussion.

Currently, the amendments made by the Senate are pending approved by the Chamber of Deputies, for later sent to the Executive.

Tax & Legal Practice at [F/A/S](#) in Mexico is at your service to analyze in detail the effects that this reform could have on your business operations.