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VON WOBESER
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Editorial

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VON WOBESER Y SIERRA

The first quarter of 2014 has just ended and the initial effects of the recent tax reform, in force as of this past January 1st, can now be seen.

The year has started up slowly and has been characterized by, among other things, an increase in prices, weak consumer spending, and a reduction in job creation. In fact, the International Monetary Fund and several other analysts have lowered growth expectations for the Mexican economy from 3.9 to 2.7 percent.

Under these circumstances, some specialists have raised their voices to argue that the tax reform was a mistake or, at best, insufficient. They presume that an effective reform that favored greater economic growth would have necessarily involved the lowering of tax rates and the combating of tax evasion.

We think it is still too early to evaluate the economic reach of the changes. Undoubtedly, the effects of this reform will be seen in the long term. They involve, as was expected, an immediate contraction of internal consumption and a rise in prices as a result of the changes in the Income Tax and the Special Tax on Production and Services.

In time, the performance of this reform will have to be evaluated together with the financial, antitrust, and energy reforms that were approved at the end of 2013 but whose benefits will not be felt until 2015. The approval of the secondary energy reform legislation in the coming days is of special importance.

The international markets are watching the development of all the above reforms very closely. Their mood is optimistic, especially regarding the energy reform.

We trust that these transformations, together with an increase in the economic activity in the United States, will produce the levels of economic growth that we all so desire.

Claus von Wobeser

TAX REFORM

Income Tax

The following changes have been made to Mexican Income Tax Law (*Ley del Impuesto sobre la Renta*, LISR).

A. Business

1. Double Taxation

A procedural rule is added concerning the benefits of treaties to avoid double taxation. In the case of a transaction between business associates, the tax authorities can request residents abroad to inform them of the foreign law whose application could generate double taxation for them.

2. Deductions Eliminated

The following deductions are eliminated:

- a. The immediate deduction of fixed assets.
- b. The line deduction of 100 percent of investments, except those related to (i) machinery and equipment for the generation of energy from renewable sources or from efficient cogeneration of electricity and (ii) adaptations of facilities to improve access to them by disabled people.
- c. The donation of goods that have lost their value, except in the case of basic goods for human subsistence including food, clothing, housing, and health,¹ provided those goods are used for these purposes and their sale, supply, or use are not expressly prohibited.

¹ The "Decree that compiles various tax benefits and establishes administrative simplification measures," published in the *Official Federal Gazette (Diario Oficial de la Federación, DOF)* on December 26, 2013 (the "Decree of December 2013"), in order to continue promoting the donation to food or medicine banks of basic goods for human subsistence in matters of food or health, maintains the benefit of the additional deduction in the income tax on the value of a sale that would have corresponded to that merchandise.

- d. The deduction of payments that are also deductible by business associates residing in Mexico or abroad.
- e. Social security contributions made for the worker by the employer.

3. Deductions Reduced

The value of deductions permitted in the following situations is decreased:

- a. Deductions for donations made to the federal government, states, municipalities, or their decentralized bodies is limited to four percent of the taxable profit obtained by entities or four percent of the taxable income obtained by individuals.
- b. Only up to 53 percent of the exempt remunerations paid to the worker by the employer (e.g., social security, funds placed in employee savings and loans, severance payments, annual bonuses, overtime, vacation and Sunday premiums, and worker profit sharing [*participación de los trabajadores en las utilidades de las empresas*, PTU]) can be deducted from taxes. The percentage of the deduction will be 47 percent when those remunerations are decreased.
- c. The cap on deductions for the purchase of automobiles is reduced from 175,000 to 130,000 pesos (not including the Value Added Tax, VAT).
- d. The cap on the deduction of the cost of leasing an automobile is reduced from 250 to 200 pesos daily.
- e. The cap on the deduction of the cost of restaurant meals is reduced from 12.5 to 8.5 percent of the cost of the meal.

4. New Requirements for Deductions

A new requirement has been established for deducting consumer vouchers. These vouchers must be "deposited" in the employee's electronic wallet, as

authorized by the Tax Administration Service (*Servicio de Administración Tributaria, SAT*).

5. Cash Deposits

Financial institutions now have the obligation to inform the tax authority once a year of the cash deposits taxpayers receive in accounts opened in their names when they accrue more than 15,000 pesos monthly, including acquisitions in cash from cashier's checks. This obligation was previously included in the Tax on Cash Deposits Law, which has been repealed.

6. Special Regimes

- a. The regime for Cooperative Production Companies is eliminated.
- b. The regime for Real Estate Companies (*Sociedades Inmobiliarias de Bienes Raíces, Sibras*) is eliminated.
- c. In the case of the deduction of exploration expenses in the mine sector, the possibility of deducting expenses that accrue during pre-operating periods for the fiscal year in which they were accrued is eliminated. They can now be deducted at a rate of 10 percent annually.
- d. Accumulation at the time of collection for sales on credit installments is eliminated.²
- e. The Tax Consolidation Regime is eliminated.

7. Preferred Tax Regimes

- a. The concept of *passive income* is revised to include (i) income from the transfer of real estate; (ii) income obtained for allowing temporary use and/or enjoyment of goods; (iii) income received in the form of a gift.
- b. When the taxes paid under a preferred tax regime cannot be totally or partially claimed as tax credit, they can be claimed in the ten following fiscal years until they are exhausted.

² The Decree of December 2013 establishes that the tax corresponding to sales made up to December 31, 2013, can be paid in three parts: 33.4 percent in the fiscal year in which it is accrued, 33.3 percent in the immediately following fiscal year, and the remaining 33.3 percent in the next fiscal year.

8. Real Estate Investment Trusts (*Fideicomisos de Inversión en Bienes Raíces, Fibras*)

The following are conditions that must be met before the corresponding tax incentive can be applied: (i) if a lease agreement contemplates compensations determined in variable amounts or percentages, the latter may not exceed five percent of the total amount of the income of the trust, and (ii) trusts must be registered with the registry issued by the SAT for trusts that are used for the acquisition or construction of buildings.

9. The Simplified Regime

The simplified regime is eliminated, as well as the benefits of exemption, reduced rates, and administrative incentives. Nevertheless, similar benefits are introduced for the primary and transportation sectors.³

10. Tax on Distribution of Dividends

Natural persons and residents abroad will be subject to an additional tax of 10 percent on dividends received from Mexican companies. The tax will be paid through withholdings made by the companies that distribute the dividends.

11. Taxable Base for the Calculation of PTU

It is established that taxable income used to calculate PTU⁴ must be calculated according to the same procedure used to determine Income Tax (*Impuesto sobre la Renta, ISR*) without reducing the PTU paid in the fiscal year or the tax losses

³ By virtue of the "Resolution of administrative incentives," published in the *DOF* on December 30, 2013, different forms are established for compliance with tax obligations by taxpayers of the primary and federal land cargo transport, foreign passage, and tourism sectors.

For the fiscal year 2014, these incentives are primarily administrative and for verification. It is also established in this resolution that during the fiscal year brochures will continue to be published and workshops will be offered so that taxpayers in these sectors can learn about their tax obligations and how to comply with them.

pending application. The amounts that have not been deducted as exempt remuneration for workers are established as a reducible concept.

12. Profits from a Transfer of Shares

No matter how long a taxpayer has held certain shares, there is only one formula available for calculating the profit realized on the transfer of those shares. This calculation considers the adjusted original amount, the proven cost of acquisition, the difference in the balances of the net tax profit accounts (Cufin), the tax loss carryforwards, the paid reimbursements, the differences between the balance of the net tax profits (Ufin), and the tax losses generated before the shares were acquired but which were redeemed while they were held.

Nevertheless, taxpayers with shares they have held for up to 12 months may choose a calculation method that, in obtaining the original adjusted amount, only considers the proven cost of acquisition updated, reimbursements, and dividends or profits paid updated.

13. Non-profit Organizations

The catalog of activities that charity institutions and non-profit organizations or associations may engage in is broadened.

Regarding non-profits engaged in education, it is established that to be considered exempt from income tax and receive deductible donations, they must obtain and maintain authorization from SAT.

It is also provided that non-profit organizations, authorized to receive deductible donations, may carry out lobbying activities if they comply with certain rules.

Athletic organizations, as of the date of the reform, will pay taxes according to the general regime for legal entities, except for those organizations recognized by the National Sports Commission.

⁴ Through the Decree of 2013, entities in the general regime are permitted to subtract from their tax profit the amount determined for purposes of provisional payments the amount of the PTU paid in the same fiscal year.

14. The Tax Consolidation Regime

The tax consolidation regime is eliminated.

An exit scheme is established for companies previously falling under this regime. There are two alternative methods for calculating their deferred tax as of December 31, 2013, as well as a payment scheme divided into five fiscal years for the total of the deferred tax.

Additionally, the companies still falling under this mandatory five-year taxation period may continue applying the provisions of the Tax Consolidation Regime and, once this period concludes, they must calculate and deliver the deferred tax they owe at that date through the divided payments scheme.

15. The Maquila Regime⁵

The new LISR establishes the definition of a maquila operation for the purpose of allowing taxes to be paid under the maquiladora regime; this definition includes the requirement that all income received come entirely from maquila activities.

Under the new LISR, the tax authorities can (i) determine who can make use of this regime, (ii) verify and audit the operation according to the terms of the tax provisions, and (iii) establish sanctions to be used against taxpayers who abuse the regime or apply its benefits without being entitled to them.

⁵ According to the Decree of 2013, this incentive is offered to the maquiladoras: they may take an additional deduction equivalent to the amount resulting from dividing by two the salaries paid to employees involved in maquila operations (which in turn are tax exempt for them) and subtracting three percent of those exempt payments.

Likewise, those who have paid taxes in accordance with Article 216-bis of the repealed Income Tax Law are granted a term of two years before this Decree enters into force, by which time at least 30 percent of the machinery and equipment used in the maquila operation must be owned by the owner residing abroad with whom the maquila contract has been signed and has not been owned by the company located in Mexico that carries out the maquila operation or by a related party.

16. Shelter Maquiladora Operations

In order to consolidate this regime as an authentic transition scheme in accordance with the statement of legislative intent included in the new LISR, the companies of foreign residents that operate through a shelter maquiladora arrangement may remain under the protection of this regime for up to a maximum of four fiscal years, considered from when they began to operate in Mexico.

17. Claiming a Tax Credit for Income Tax Paid Abroad

- a. The credit can only be claimed on a country-by-country basis. The amount corresponding to the difference between the tax rate in Mexico and a higher tax rate in another country may not be used to compensate the difference between the tax rate in Mexico and a lower tax rate in a third country.
- b. Claiming a credit on first and second levels (crediting on corporate income tax) is still permitted, but with the following variables:
 - According to the new formula, the gross dividend is divided by the profit that served as a basis for distribution (and for which taxes were already paid), regardless of the amount that will be distributed as dividends. The coefficient resulting will be multiplied by the foreign income tax for which the tax credit is intended, thus determining their respective proportional amounts (which maintain two functions: accrual and crediting).
 - In order to calculate the proportional amounts of tax that can be credited, entities have an additional obligation of identifying to which fiscal year the distributed dividends or profits correspond.

In general, these modification will give foreign companies a clearer idea of the proportional tax they will have to pay.

18. Foreign Taxes Covered by Double Taxation Treaties

When a foreign tax is covered by a double taxation treaty, said tax will be considered to be income tax

and thus can be deducted from Mexican income taxes. This assumes that the company complies with all other general taxation rules.

19. Optional Tax Regime for Groups of Companies (Integration Regime)

Groups of companies that meet certain requirements can choose to be taxed under an integration regime. This regime allows individual companies to defer income tax payments for up to three fiscal years. For this purpose, the integrating company will determine a factor of tax results of the group of companies by adding the taxable income and by adding the tax losses of each fiscal year of the integrated companies, as well as its own. It will also determine a factor of integration in order to calculate the income tax to pay and the tax that can be deferred.

The factor of the integrated taxable earnings will be obtained from the sum of the taxable earnings and losses of the companies making up the group (integrated tax earnings) divided by the sum of the taxable earnings obtained in the fiscal year.

In each fiscal year, both the integrating company and the integrated companies shall calculate the corresponding income tax multiplying their individual tax by the factor of the integrated tax earnings. Under this regime, companies are not allowed to consider the tax loss carryforwards of prior fiscal years.

To choose this regime, it is necessary to have a minimum shareholding percentage of 80 percent in the integrated companies.

Among the companies that cannot participate in this regime are banks and other financial institutions, non-profit organizations, cooperatives, legal entities not subject to taxation, and companies that are authorized to operate as maquiladoras.

Companies that have been paying taxes under the Consolidation Regime up to December 31, 2013, and who meet the requirements of this Regime may apply it without considering any tax losses from prior fiscal years.

B. Income Tax for Individuals

1. Rate

The rate applicable to individuals with income greater than 750,000 pesos annually is modified. A rate of 32–35 percent is applied to individuals in this bracket. The highest rate will apply to incomes exceeding 3,000,000 pesos annually.

2. Personal Deductions

- a. Personal deductions are limited to an amount that is either ten percent of the taxpayer's total annual income, including exempt income, or an amount equivalent to four times the annual minimum wage in the taxpayer's geographic area, whichever is the lowest.
- b. In order to take personal deductions, a taxpayer must submit receipts for the deductions and must pay his or her taxes through banks.

3. Sale of a Residential Home

The limit on the exemption of 1,500,000 Investment Units (*Unidades de Inversión*, UDI) is reduced to 700,000 UDI (approximately 3.5 million pesos). Any profit on the sale of a home over this amount is taxable.

4. Transfer of Agricultural Lands and *Ejidos*

In order for this transfer to be exempt, the transferor must show that this is the first transfer he or she has made and must provide documentation, proving he or she is the original *ejido* owner or the representative of the collective rights, to a notary public who will formalize the transaction.

5. The Tax Incorporation Regime

The Tax Incorporation Regime replaces all the special regimes of the USR for individuals (the Intermediate Regime and the Small Taxpayers Regime).

It applies only to individuals who engage in business activities that involve selling goods or providing services and that do not require a professional degree. The Regime is limited to persons who receive an annual income of less than two million pesos.

This regime is scheduled and of temporary application during a period of up to ten years, without the possibility of paying taxes under it again. By the eleventh fiscal year, these taxpayers will fall under the general regime for individuals with business activities.

The taxpayers under this regime will make payments every two months and the income tax to be paid will be determined by subtracting from their total income their authorized deductions and the PTU they have paid. A maximum income tax rate of 35 percent will be applied.

6. Gains Obtained by Individuals through the Stock Market

A rate of 10 percent will be applied to gains obtained by individuals for the sale of (i) shares issued by Mexican companies when they are sold through stock markets concessioned under the Securities Market Law and (ii) shares issued by foreign companies on these stock markets, including sales made through capital derivative financial transactions involving shares listed on stock markets concessioned under the Securities Market Law, or to market indexes that represent those shares.

The financial broker acting for residents abroad who are involved in the sale of these shares must calculate their annual gain or loss, then withhold and deliver to the tax authorities the corresponding tax. In the case of persons living in Mexico, the broker must calculate the gain or loss and deliver to the taxpayer the corresponding information so that he/she can make the tax payment. If a tax loss is generated, a record of loss for the fiscal year must be issued. This tax applies in a scheduled manner and, based on this principle, the losses may only be offset against income of the same kind.

C. Income Tax of Residents Abroad

1. Foreign Pension Funds Invested in Real Estate in Mexico

Regarding the exemption enjoyed under the USR by foreign pension and retirement funds for income derived from interest, capital gains, or granting of temporary use or enjoyment of lands or construc-

tions attached to Mexican land, the time that the temporary use or enjoyment of the lands and constructions attached to the land must be granted, for purposes of applying this exemption, is increased from one to four years.

2. Disbursements That Benefit the Resident Abroad

The treatment provided in the first and third paragraphs of Article 179 of the repealed LISR is changed. In the cases in which payments are made that benefit the resident abroad, including when they allow that resident to avoid a disbursement, and when the person that makes one of the payments referred to in Title V of this Law pays the corresponding tax for the resident abroad, it will be considered that there is income in favor of the resident, and therefore the provisions that apply will be the same as those that apply to the income that originated them.

3. Lease of Trailers and Semi-trailers

The withholding rate of five percent is confirmed for income from the lease of trailers or semi-trailers that have been temporarily imported (for less than one month) and that are being used directly by the lessee to transport goods. This provision was previously applied by decree.

4. Interest Paid to Foreign Banks at the Rate of 4.9 Percent

In order to give continuity to the tax treatment applicable to interest paid to foreign banks as set forth in Article 21, Section I, Number 2 of the Federal Revenue Law for the fiscal year 2013, and to thereby avoid an increase in their tax burden, a one-year provision is included in the new LISR that extends this tax treatment for fiscal year 2014.

This provision establishes that the interest is subject to a rate of 4.9 percent, applicable when the actual beneficiary of this interest is a resident of a country that has signed a treaty to avoid double taxation with Mexico, and the requirements set forth in that treaty for applying the rates contemplated therein for these types of interest are met.

5. Exemption of Debt Derivative Financial Transactions

It is expressly established that all derivative financial transactions in which one part of the transaction is linked to the Interbank Equilibrium Interest Rate (*Tasa de Interés Interbancaria de Equilibrio*) or to negotiable instruments issued by the Federal Government or the Bank of Mexico or to any other instrument that the SAT allows under its general rules and that is listed on the stock exchange in Mexico, are exempt from income tax, provided they are carried out on recognized stock exchanges or markets and that the actual beneficiaries are residents abroad.

6. Withholding of Royalties from Residents Abroad

The withholding of the Income Tax as royalties for selling the goods or rights referred to in Article 15-B of the Federal Tax Code is limited to those cases in which the sale is conditioned on the productivity, use, or ultimate disposal of those goods or rights, and therefore the simple sale of these goods or rights is not considered a concession of the temporary use or enjoyment and, therefore, is not subject to the withholding established in the LISR.

D. Other Incentives and Benefits

The "Decree compiling various tax benefits and establishing administrative simplification measures", published in the *Official Federal Gazette (Diario Oficial de la Federación, DOF)* on December 26, 2013, includes the following incentives and benefits:

1. The tax incentive granted to authorized donees by the decree published on May 26, 2010 is extended until December 31, 2015. This incentive consists of a tax credit equivalent to the amount of the income tax that is imposed, if any, for receiving income from activities different from those that the donee is authorized to perform. This provision was put in place initially until December 31, 2013.
2. The incentive of a tax credit equivalent to 80 percent of the income tax incurred is maintained for the use of certain airplanes. The credit can be claimed only for that tax, by taxpayers residing in

Mexico who use airplanes that have a concession or permit from the Federal Government to be used commercially, that are used in the transportation of passengers and goods, and whose temporary use or enjoyment is granted by residents abroad who are not permanently settled in Mexico.

3. An additional deduction of 25 percent in taxable income is maintained as a tax incentive for persons with any motor disability that requires them to use a permanent prosthesis, crutches, or a wheel chair; or any mental, hearing, or language disability by which their capabilities are 20 percent of normal, or in the case of blindness.
4. Deductions will be maintained for investments in film production and distribution of films made in Mexico. This deduction must be applied against provisional income tax payments.
5. The incentive is preserved for taxpayers who carry out long-term projects of productive infrastructure consisting of financed public works agreed on by contract before December 31, 2004. This incentive consists of considering as accruable income the estimates on the work's advancements, even when these estimates are not authorized for collection. The cost of what has been sold corresponding to that income can be deducted.
6. The deduction of expenses made in basic and secondary education is maintained. As before, this deduction will not be taken into account in applying the global limit of personal deductions set forth in the new LISR.
7. The same benefit to facilitate verification included in the new LISR will apply for the land cargo or passenger transport sector, the land transport of materials sector, and the land transport of urban and suburban passengers sector. This benefit consist of the deduction of up to the equivalent of eight percent of the income from the sectors' own activity, even if they do not have documentation that meets the tax requirements, provided they comply with other requirements. •

TAX REFORM

Value Added Tax

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VON WOBESER Y SIERRA

1. Elimination of the 11 Percent Rate

In order to increase revenue, facilitate tax collection, and prevent evasion or avoidance of taxes, the regime governing tax collections in border regions will be the same as that governing collections in the rest of the country. Therefore, transactions carried out by residents of the border regions will be taxed at the general rate of 16 percent.

2. Application of Taxes on Temporary Imports and Depositing of Goods in Automotive Customs Houses, Bonded Warehouses, or Strategic Bonded Warehouses

- a. The importation of goods is taxed at the rate of 16 percent under the customs regimes for (i) temporary import for preparation, transformation, or repair in the programs designed for the Manufacturing, Maquila, and Export Services Industry (*Industria Manufacturera, Maquiladora y de Servicios de Exportación*, Immex); (ii) the deposit of goods to be used in the vehicle assembly and manufacturing process in customs houses; (iii) the deposit of goods to be used in the preparation, transformation, or repair of goods in bonded warehouses, and (iv) the deposit of goods in strategic bonded warehouses. When temporary imports are returned, their value can be credited to the taxpayer and/or a refund of the amount paid for them can be requested.
- b. The Value Added Tax (*Impuesto al Valor Agregado*, VAT) will be levied on merchandise at the time of its introduction into the country. It will be paid no later than when the declaration is presented for its processing before customs, even in the case of consolidated operations.
- c. The permanent import of goods will be exempt when tax has already been paid on them as temporary imports.

- d. The tax need not be paid if a certification is obtained from the SAT that grants the taxpayer a tax credit equivalent to 100 percent of the tax that would have been paid under subsection (a) above. The application of this credit will not give rise to a claim for a tax credit and, if the merchandise is subsequently imported permanently, the tax will be charged at the rate of 16 percent.
- e. In addition, the tax does not have to be paid when the tax interest is guaranteed with a bond granted by an authorized institution. The tax will be charged at the rate of 16 percent if the merchandise is subsequently imported permanently.
- f. The above provisions will enter into force one year after the date on which the general rules regulating the certification explained under subsection (d) has been published in the *Official Federal Gazette (Diario Oficial de la Federación, DOF)*.
- g. When importing permanently merchandise made with supplies that were imported temporarily and for which the VAT has not yet been paid, and supplies for which the VAT has been paid to temporarily import them, taxpayers will have to apply the provisions applicable before the entrance into force of the provisions indicated in subsection (f) of this section.

3. Elimination of the Exemption of Taxes Levied on Sales of Goods by Residents Abroad to Residents in the Country

- a. The following sales of goods will be taxed at the rate of 16 percent: (i) by a resident abroad to entities having an Immex program; (ii) to companies having a foreign trade program; (iii) to companies of the final automotive industry or manufacturers of auto transportation vehicles or of auto parts intended to be deposited in customs houses.

The 16 percent rate shall be applied when the goods have been exported out of or introduced into Mexican territory under one of the above programs, or when, in the case of any of the auto sectors mentioned in subsection (iii) right above, the goods remain under the temporary import regime, under a foreign trade program, or under the rules of customs house deposit.

- b. The VAT transferred by the resident abroad will be subject to withholding by the resident in the country, who may apply the tax in the terms of the law. This, in accordance to the general withholding scheme.

4. Elimination of the Withholding Obligation for National Providers

Entities having an Immex program, a foreign trade program, or companies in the final automotive industry or manufacturers of auto transportation vehicles or of auto parts to be deposited in a customs house are no longer obligated to withhold the tax that their domestic providers transfer to them for acquisition of goods authorized by their programs. This is done to protect the cash flow of the domestic providers.

5. New Taxes

- a. The sale of any type of goods that are subject to the customs regime for strategic bonded warehouses is taxed as the rate of 16 percent.
- b. All services provided by hotels to foreign tourists that enter Mexico exclusively to participate in conferences, conventions, shows, or fairs are taxed at the rate of 16 percent. If the services were contracted before September 8, 2013 and are paid within the first six months of fiscal year 2014, they will still be taxed at a 0 percent rate.
- c. The sale of gum and chewing gum is taxed at the rate of 16 percent, since these are not food products. This rule affects the import of those products as well.
- d. The sale of dogs, cats, and other domesticated animals and the sale of processed food for these pets is taxed at the rate of 16 percent.
- e. Public transportation of foreign nationals.

6. Homologation

- a. The laws governing financial companies that provide all classes of credit (*Sociedades Financieras de Objeto Múltiple*, Sofomes) are merged with the laws governing other entities in the financial system regarding the calculation of the prorating proportion of tax credit under the VAT.
- b. Interest payments received or paid by the savings and loan cooperatives referred to in the Law Regulating the Activities of the Savings and Loan Cooperatives, micro-financing companies, community financing companies, rural financing organizations (referred to in the Micro-Financing Law), the decentralized bodies of the Federal Public Administration, and the economic development trusts of the Federal Government are exempt from the tax.
- c. The tax treatment of international cargo air transport companies is merged with the tax treatment of international passenger air transport in order to allow the service providers to claim a tax credit for 100 percent of the VAT that is transferred to them by their domestic providers for this service. It is explained that 25 percent of the cost of the international transport of goods will be considered as a service provided in the country that is subject to the general rate, and the remaining 75 percent will be considered an export subject to the 0 percent rate.

7. Clarification of the Timing of Collection of the VAT

The timing of the collection of the VAT is clarified as follows:

- a. In the case of goods missing from inventories, the sale is considered to be made when the taxpayer or the authorities detect that the goods are missing, whoever does it first.
- b. In the case of donated goods, the tax will be levied when the corresponding tax receipt is delivered.
- c. In the case of free services, the tax will be levied when the service is provided.
- d. In the case of the sale of food prepared for consumption in the place or establishment of sale, it will be taxed, even when there are no facilities in which to consume it, whether it is sold as take-out or delivery.

8. Transitory Provisions

To determine which provision will be applied to calculate and pay the VAT, the date of collection will be considered, with the above-mentioned exceptions. In addition, when the goods, services, or activities were delivered, provided, or carried out in 2013, and the payment was made within the first 10 calendar days of 2014, the taxpayers may apply the rate or the exemption that was valid in 2013. The same rule will apply to the payments received —within the same time period— for the granting of the use or enjoyment of goods during fiscal year 2013.

This way to determine the VAT is not applicable for taxpayers who are business associates under the Income Tax Law, regardless of whether or not they are residents of Mexico. •

TAX REFORM

Special Tax on Production and Services

1. Alcoholic beverages and tobacco

- a. Notwithstanding the decrease in rates stipulated in the Federal Revenue Law of 2013, the rate of 26.5 percent will be applied to the sale and import of alcoholic beverages of up to 14 percent alcoholic volume, while the rate of 53 percent will be applied to the sale and import of the same products with an alcoholic volume greater than 20 percent.
- b. The application of an additional tax on the sale of cigars and other cut tobacco products made entirely by hand is eliminated. This is intended to support cottage industries.

2. Regimes of temporary imports, automotive customs house deposit, bonded warehouses, and strategic bonded facilities

The application of this tax is coordinated with the application of the Value Added Tax (*Impuesto al Valor Agregado*, VAT) to goods and services introduced under the following customs regimes: (i) temporary imports used in preparing, transforming, or repairing goods in maquila or export programs; (ii) customs house deposit of imports subject to the process of assembly and manufacture of vehicles; (iii) preparation, transformation, and repair in bonded warehouses, and (iv) strategic bonded facility.

3. New Tax on Flavored Beverages

- a. The import and sale of flavored beverages is taxed with a specific fee of one peso per liter. This tax also affects flavor concentrates, powders, syrups, essences, and extracts that, when diluted, result in flavored beverages that contain any type of added sugar.
- b. The import and sale of flavored beverages that the health authority has registered as medicinal

are excluded. Also excluded is milk in any form, including milk that is mixed with vegetable oil, and oral serums.

4. New Tax on Food Products with a High Caloric Density¹

- a. The sale and import of foods that equal or exceed certain caloric densities (measured in kilocalories per 100 grams) is taxed at the rate of five percent.
- b. The food products to be taxed are listed in the law. They are considered to have high caloric density if their energy content is 275 kilocalories or more per 100 grams.
- c. The tax that is transferred to the buyer will be creditable so that only the increase in the value of the good at each stage in the commercial chain will be taxed.
- d. If the Official Mexican Standard (*Norma Oficial Mexicana*, NOM) regarding general labeling specifications is complied with, the kilocalories listed on the label can be taken into account for these purposes. Otherwise, it will be presumed, unless proven otherwise, that the kilocaloric density is equal to or greater than 275 kilocalories per 100 grams.
- e. The services of commission agency, brokerage agency, representation, commercial notary, consignment, and distribution that are carried out for the sale of the mentioned goods will also be subject to the five percent tax rate. In these cases, the agents that receive the services named above must withhold the appropriate tax, unless it is included in the value of the sale.

5. New Tax on Pesticides

- a. The sale and import of pesticides is taxed according to their classification based on their level of

¹ A decree published in the *Official Federal Gazette* on December 26, 2013 compiled the various benefits under the IEPS and established tax simplification procedures. It also granted a tax stimulus to importers or sellers of gum and chewing gum. The stimulus consists of an amount equivalent to 100 percent of the tax that should be paid on the import or sale of these products. It is applicable provided no amount for this tax is transferred to the buyer in the sale.

acute toxic hazard as established in the NOM 232-SSA1-2009.

- b. The applicable rate will depend on the category of acute toxic hazard used based on the following: Categories 1 and 2 at 9 percent; Category 3 at 7 percent, and Category 4 at 6 percent. For fiscal year 2014 the applicable rates will be 4.5 percent, 3.5 percent, and 3 percent.

6. Tax on Gasoline and Diesel

- a. The procedure established in the law for determining the rates applicable to gasoline and diesel is updated to reflect current processes of crude oil refining as well as internationally accepted definitions.
- b. The formula for determining the net sale price of gasoline and diesel in the Storage and Distribution Terminal is amended in order to establish mechanisms for excluding the tax on fossil fuels applicable to gasoline and diesel from the price.
- c. The concept of *leakage* is incorporated as part of the sale price to the public. Similarly, the amount that is recognized as leakage of gasoline during the sale process is incorporated into the mechanism for calculating the tax, which shall be reviewed in the following fiscal years. During the fiscal year 2014, a leakage factor of 0.005 will be applied in order. This will permit stations authorized by Pemex to sell gasoline to the final consumer to make adjustments to their distribution systems in order to reduce their leakage.

7. Mechanisms of the Tax on Gasoline and Diesel Destined for the States, Municipalities, and Territorial Demarcations

So that the states, as well as the municipalities and territorial demarcations, receive the revenue intended for them under this tax, the following changes were made to improve the mechanisms for collecting the tax:

- a. The fees established since fiscal year 2008 are maintained. Therefore, the planned decrease in gasoline and diesel fees in a proportion of 9/11 scheduled to begin January 1, 2015, is repealed.
- b. Only the sales made by manufacturers, producers, or importers of the mentioned fuels will be

taxed. They should recover the corresponding tax in the sale price to the authorized stations and to the authorized distributors.

8. Missing Goods in Inventories and Donations

When goods are missing in inventories and in donations, the moment at which IEPS applies will be determined by following the rules applicable for purposes of the VAT.

9. Security Codes on Cigarette Boxes and Other Cut Tobacco Products

- a. The producers, manufacturers, and importers of cigarettes and other processed tobacco products will be obligated to print the security code on each cigarette box for their sale in Mexico. This code must comply with the technical characteristics that the Tax Administration Service (*Servicio de Administración Tributaria*, SAT) establishes through its general rules.
- b. Taxpayers will be obligated to register, store, and provide to the SAT the information that is generated by the corresponding printing mechanisms and systems.
- c. The SAT is authorized to inspect any premises or establishment where cigarettes and other tobacco products are sold in order to verify that they have the security code printed on them. If they do not, the SAT will be authorized to seize the cigarette boxes, which will become federal property, and destroy them.

10. Transitory Provisions

Goods sold before January 1, 2014, for which payment was collected subsequently will be assessed the IEPS at the rate in force at the time of collection. With regard to the sale of goods or provision of serv-

ices not taxed before January 1, 2014, the IEPS should not be paid, provided the delivery or provision of goods or services was done before that date and that they were paid for within the following ten calendar days, except when business associates are involved.

11. Other Provisions

Other incentives are contained in the decree that compile various benefits and establish tax simplification measures. These incentives were published in the *Official Federal Gazette* on December 26, 2013. They include:

- a. Stimulus measures establishing that taxpayers who sell or import propane and butane can use the factors of conversion of weight units (kilograms) to volume units (liters) by multiplying the number of kilograms by the factor of (i) 1.9763 for propane and (ii) 1.7153 for butane.
- b. Tax stimulus measures are granted to importers or exporters of turbosene and other kerosenes in an amount equal to 100 percent of the tax that should be paid, which will be applicable provided no amount is transferred to the buyer for the tax. •

Customs Law

In this section, we review and comment on the implications of the new tax reform for customs matters.

1. Importers may regularize retained merchandise

Under the reform, private parties who have imported merchandise into Mexico that has been kept in Mexico beyond the legal time limit can regularize it. Prior to its inclusion in the Customs Law, this right was specified only in the Commerce Rules, and the Tax Administration Services (*Servicio de Administración Tributaria*, SAT) were authorized to suppress it at any time.

2. It will be possible to correct declarations

Under the new reform, customs declarations will be able to be corrected by the person or entity making them, except when prior authorization by the SAT is required. The circumstances under which the SAT must authorize corrections will be identified in future provisions yet to be published. If the person or entity making the customs declaration provides a correction voluntarily, they will not be fined.

3. There will be Authorized Economic Operators (previously named “certified companies”)

The concept of *authorized economic operators* is established. In addition to verifying compliance with tax obligations, these operators are to verify the existence of minimum-security standards. This concept, which was already in the regulations, is now included in the law. Its goal is to give greater security to private parties.

4. It will no longer be necessary to engage the services of a customs agent to import merchandise into Mexico, and registered customs representatives will no longer exist

Merchandise will no longer have to be cleared through customs by a customs agent or representative. Importers and exporters may use the services of any legal representative having foreign trade experience. In order to use a non-customs agent to handle the legal procedures of importing merchandise, the following must apply:

- Evidence you are up to date on your tax obligations;
- Evidence that there is an employment relationship between you and your legal representative;
- Evidence that the legal representative is Mexican;
- Evidence you have an authorization code from the SAT for the processing of the declarations;
- Evidence that you have technological capacities sufficient to carry out your customs operations.

Since importers and exporters can now do their customs clearance work through their own legal representatives, registered customs representatives are no longer needed. However, customs representatives may retain their registration as long as it is not cancelled.

5. Customs inspections can now be done using technology to scan items; inspections can be done by private parties

- Customs inspections can now be done by using non-obtrusive technology.
- The importer may collect samples of sterile, radioactive, or hazardous products before these products reach customs. The inspection will be done of the samples collected by the importer. This procedure will also be followed when special equipment or installations are required to collect samples.

6. The second customs inspection is eliminated

The second customs inspection of merchandise is eliminated.

7. The operation of strategic bonded warehouses may be authorized throughout the country

Under the reform, authorization can be requested to operate a strategic bonded warehouse in any part of the country, even if it is not on property adjacent to a customs or a port zone.

8. Private parties are authorized to provide services to pre-validate information

Previously only customs agent confederations and national business associations that operate with registered customs representatives could provide services to pre-validate information. With the reform, this service can be provided by other private parties, as long as they obtain permission to do so and they are not the importers, exporters, or customs agents.

9. The cases when the customs license may be cancelled are determined; the transfer of licenses is prohibited

The following is established:

- a. Cancellation will occur only when the customs agent allows a third party to use his/her license and he/she profits from this use.
- b. Customs agents are no longer permitted to transfer their licenses to someone else, as had been allowed in the past.

10. Clearing customs somewhere other than at a previously approved location is authorized when necessary for efficiency and speed

Given the growing number of foreign trade transactions, the clearance of merchandise somewhere other than at a previous authorized location will be permitted as long as the change is authorized.

11. Rail transport is authorized

Rail transportation as a means of transit for bringing in or taking out merchandise is authorized.

12. An electronic customs system is implemented

The implementation has begun of an electronic customs system through which petitions related to foreign trade transactions and other matters can be filed. This is part of the *paperless* policy that has been pursued in this area over the last several years.

The general framework has been established for filing petitions, notifying parties of rulings, and authorizing up to five persons to receive notices through the system.

13. Other matters

- a. The number of days that maritime transported merchandise can be stored free of charge in bonded warehouses is expanded to seven. The reform clarifies that this period is measured in calendar days, not business days.
- b. A tariff classification board has been established that will respond to tariff classification consultations by importers, exporters, or customs agents. The opinions issued by this board will be public and will guide private contractors in better classifying tariffs on their merchandise.
- c. Those who import or export merchandise through pipes or cables must process their declarations during the first six days of each month.
- d. Finally, the names given to different types of visas for foreigners are updated to match the latest changes in the Immigration Law. •

TAX REFORM

Federal Tax Code

The changes to the Federal Tax Code (*Código Fiscal de la Federación*, CFF), according to the statement of legislative intent in the decree amending certain provisions, have the following objectives: (i) to facilitate and simplify monitoring procedures, (ii) to give taxpayers legal certainty, (iii) to use technological advances to improve communication between the taxpayer and the tax authority, and (iv) to provide tools and mechanisms that offer efficiency in control and monitoring.

The most relevant aspects of the amendments to the CFF, published in the *Official Federal Gazette (Diario Oficial de la Federación, DOF)* on December 9, 2013, are the following:

1. Tax Domicile

Article 10 is amended to state that the tax domicile of individuals is the one they gave when they opened an account with a financial system entity or a savings and loan cooperative in which they receive deposits or carry out operations subject to taxes.

The article further states that this domicile is considered the taxpayer's tax domicile only if the taxpayer has not indicated any other domicile among those contemplated in the article.

2. Enhanced Electronic Signature

Article 17-D of the CFF is amended so that the tax authority can determine those circumstances in which an individual may obtain an enhanced electronic signature through an attorney-in-fact or a legal representative when it is materially impossible for the individual to obtain it personally.

3. Measures against Tax Fraud

Article 17-H of the CFF is amended in order to add situations under which authentications of digital

identities or digital seals and digital signatures cease to be valid.

These new circumstances are:

- a. During one fiscal year, the taxpayer fails to present three or more consecutive or six nonconsecutive periodic tax declarations;
- b. The taxpayer cannot be found at his legal domicile during the application of an administrative enforcement procedure or cannot be found elsewhere;
- c. The taxpayer cannot be located during an investigation;
- d. The taxpayer repeatedly submits tax receipts that refer to nonexistent, simulated, or illicit transactions, and
- e. The authority suspects infractions related to the Federal Taxpayer Registry (*Registro Federal de Contribuyentes*, RFC), the payment of taxes, the presentation of declarations, or the obligation to keep accounting records.

In addition, through regulations of a general scope, a procedure will be established by which the taxpayer can submit a clarification to the tax authority in which he/she demonstrates that the bases upon which he/she was penalized no longer apply, and immediately a new certificate will be generated.

4. Tax Mailbox

With the addition of Article 17-K and the reform of Article 18, second paragraph, an electronic communication system has been created called Tax Mailbox, which can be accessed by an electronic signature. Through this system, the taxpayer will be notified of various administrative documents and acts. The taxpayer will also be allowed to file submissions, petitions, and notices or comply with requirements of the tax authority with electronic or digital-

ized documents. The taxpayer can also conduct consultations on his tax situation or appeal acts of the authorities.

It is put forward in the temporary articles governing its establishment that the Tax Mailbox will be available for use by entities June 30, 2014, and by individuals January 1, 2015.

In addition, Section IV has been added to Article 110 of the CFF. This article establishes as a tax crime the act of modifying, destroying, or provoking the loss of information that the Mailbox contains in order to obtain an illicit benefit for oneself or for another person and thus harming the tax authority. The article also establishes as a crime entering the system without authorization in order to obtain information on third parties for unlawful use.

5. Payment of Taxes by Credit or Debit Card

Article 20 of the CFF is reformed so that credit and debit cards are now accepted as additional means for paying taxes.

A last paragraph has been added to the article indicating that the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público, SHCP*) will withhold the Value Added Tax (*Impuesto al Valor Agregado, VAT*) that is transferred to it for providing the services of collection, which will form part of the collection expenses.

6. Requirements for Electronic Refunds

Article 22 has been amended to establish that the requirements for obtaining a refund can be met through a digital document, a copy of which will be sent to the taxpayer through the Tax Mailbox, pursuant to the implementation of the system explained above.

The law now establishes a single term of 40 days from the date a request is filed for a refund to be issued. This eliminates the previous terms of 25 and 20 days, which applied when the taxpayers qualified themselves or when they submitted their digital tax receipts via the Internet to the Tax Administration Service (*Servicio de Administración Tributaria, SAT*) page.

7. Joint and Several Liability

Article 26 of the CFF is amended to clarify that the liability of each partner or shareholder will not exceed his or her participation in the company's capital fund during a given period or at the moment at which a given tax becomes applicable. How the tax is to be calculated is outlined.

These rules on tax liability are only applicable to partners or shareholders who have or have had effective control of the company. The specific circumstances in which these rules apply are specified.

In addition, joint and several liability is established for the executors or representatives of successions for the taxes that were charged or that should have been paid during the period of their appointment.

8. Registration in the Federal Taxpayers Registry

Article 27 of the CFF is amended to establish that both entities and individuals who have opened an account in their own names in financial entities or savings and loan cooperative associations in which they receive deposits or carry out transactions that may be subject to taxes must register themselves with the Federal Taxpayers Registry (RFC).

Similarly, an addition is made to this article to establish that, through regulations of a general scope, the SAT may establish simplified registration mechanisms.

In addition, time allowed for filing the notice of change of domicile changes to 10 days. It is further established that the change of domicile will not be official if the taxpayer does not live at the address given or if it is a fictitious address. In this case, the taxpayer may be informed through the Tax Mailbox so that the tax authorities can exercise their authority at the prior domicile or wherever the taxpayer is now located.

Pursuant to the amendment of Section III of Article 33 of the CFF, the tax authorities may generate an RFC code based on the information contained in the Personal Identification Code (*Clave Única de Registro de Población, CURP*).

9. Accounting Using IT Systems

Article 28 of the CFF is amended to define the elements considered to form part of the accounting

records. In addition, the obligation to keep accounting records in electronic form will be applied in stages in order to have a gradual and successful adaptation that allows taxpayers to comply with these provisions.

10. Obligation to Submit Digital Tax Receipts Via the Internet

The obligation to use digital tax receipts, submitted via the Internet, is extended to all transactions carried out by taxpayers. They must also use digital receipts for any tax withholdings that they make so that all tax information is submitted through these means.

11. Receipts for Tax Purposes

A second to last paragraph was added to Article 29-A stating that the SAT will establish through regulations of general scope the rules governing digital tax receipts submitted by Internet that have been issued for tax withholdings.

12. Disclosure of Information

Because taxpayers are no longer required to have their tax returns prepared by a public accountant, Article 31-A is included. It addresses what information the taxpayer must provide on the forms authorized by the tax authorities. The taxpayer must submit that information within 30 days of the date on which the transactions indicated on those forms have been carried out.

13. Request for Information from Financial Entities and Savings and Loan Cooperative Associations

In order to expand the scope of action of the SAT, it is established through an amendment of Article 32-B that the SAT may request the financial entities and savings and loan cooperative associations to submit the information it requires related to accounts, credits, and loans. This can be done directly or through the National Banking and Securities Commission, the National Retirement Savings System Commission, or the National Insurance and Bonds Commission. The article also specifies that these requests constitute an exception to the reservation provided by Article

117 of the Credit Institutions Law, which establishes limitations on sharing the information of account holders.

In this regard, the corresponding obligation of these entities to provide this information to the SAT and to validate with this authority that their account holders are registered in the RFC is incorporated.

14. Compliance with Tax Obligations

Article 32-D is amended to specify that individuals or entities that want to contract with the State must be up-to-date with their tax obligations. Therefore persons having tax debts cannot contract with the government. Further, purchases, leases, services, or public works will not be contracted with persons who are not registered with the RFC or who have tax liabilities, final or not, that are not paid or guaranteed.

It is also established that in order for those awarded a contract to be able to subcontract, they must request and deliver the subcontractor's records of compliance with its tax obligations, obtained through the SAT Internet portal.

15. Provisional Seizure

A new procedure for the tax authorities is added to the CFF for the provisional seizure of the goods or businesses of taxpayers when the exercise of the powers of its authority is obstructed and all available enforcement measures have been exhausted. This procedure will also be used in cases where a tax liability has not been guaranteed or the guarantee is insufficient.

Among the rules established is one contemplating that the amount of a seizure cannot exceed the provisional amount of the tax liabilities determined presumptively and that the order that this seizure must follow be specified. Real estate will be seized first, then accounts receivable and other titles, copyright, artistic, and scientific works; money, bank deposits, and other assets will be seized next, and finally the enterprise.

16. Electronic Reviews

The tax authority is granted the power to notify, request, and receive documentation and informa-

tion from the taxpayer and to review and notify the taxpayer of the results of its investigation, all through the Tax Mailbox (described above). It is also established that the taxpayer can respond to the requests or requirements of the authority through this same medium in order to facilitate monitoring procedures.

The tax authority will determine the acceptability of a taxpayer's acts or omissions. The authority will issue a provisional resolution statement in which the taxes that will have to be paid (pre-liquidation) will be established. The taxpayer will be informed electronically of the authority's decision, which will permit the taxpayer to self-correct or contribute data or elements that disprove the action taken by the authority through the same route.

17. Tax Certification

The obligation to file a tax report form established by Article 32-A is eliminated; it is made optional for those taxpayers with income greater than 100 million pesos, with assets valued at 79 million pesos, or who have employed more than 300 workers during the fiscal year.

Article 32-H is added to the CFF. It establishes that those taxpayers who have not chosen to submit the tax certification form will be obligated to file an information declaration on their tax situation. This obligation applies only to taxpayers who are under the jurisdiction of the General Administration of Large Taxpayers of the SAT.

The obligation to submit a declaration prepared by a public accountant in order to receive a VAT refund is eliminated.

18. Presumptive Determination of Tax Surplus

Two legal concepts are included in Articles 58 and 58-A relating to presumptive determination. They address the power of the tax authorities to (i) presumptively determine which profits are to be taxed, as described in the Income Tax Law (*Ley del Impuesto sobre la Renta*, LISR) –this involves applying to the gross income declared or determined presumptively a coefficient that is determined based on the nature of certain activities– and (ii) change the taxable profit or losses referred to in this law through the presumptive determination of the price at which

taxpayers purchase or sell goods as well as the amount tendered in various alienation transactions.

These concepts were already contemplated in the LISR and are now included in the CFF.

19. Payment in Installments

In order to facilitate taxpayer self-correction, Article 66 is amended so that, during the exercise of investigative powers, it is possible to access payment in installments of the unpaid taxes and their ancillary charges. The authorization will be applicable when 40 percent of the amount owed as indicated by the authority is greater than the taxable profit of the last fiscal year in which the taxpayer had a taxable profit, in order not to affect the taxpayer's economic activity.

Thus, the tax authority will have the power to accept or reject the schedule of payments. In this last case, the exercise of the investigative powers will be concluded and the tax liability will be issued.

20. Tax Privacy

The new law establishes the tax authority's power to publish on its Internet page the name and the RFC of those who have (i) firm tax liabilities, (ii) unpaid and unsecured determined tax liabilities, (iii) a judgment regarding the commission of any tax crime, or (iv) loans cancelled in public accounts for deficiency or insolvency or those on which any tax liability has been imposed.

21. Improper Use of Receipts for Tax Purposes

Article 69-B provides procedures for penalizing and neutralizing the illegal use of receipts for tax purposes. The tax authority will proceed to post a notice in the Tax Mailbox of the issuer of invoices, on the SAT Internet page, as well as through publication in the DOF.

This notice will be given to the companies or corporations that do not hold directly or indirectly (or for whom cannot be identified) assets, personnel, or infrastructure or capital material needed to provide the services or produce, commercialize, or deliver the goods that those receipts cover. The company will be guaranteed a hearing and the procedure for it will be stated so that they can exercise their rights. Once the statement of procedure has

been provided, a list will be published, the effect of which will be to make public the presumption that the operations covered by the tax receipts issued by these companies or corporations never existed and, therefore, that the receipts will not be valid for tax purposes.

The taxpayers who have used these tax receipts to their benefit may self-correct or else provide evidence that the provision of the service or the purchase of the goods did actually occur, thereby negating the presumption of non-existence. Nevertheless, if upon exercising its powers the tax authority detects that the provision of services or the purchase of the goods was not proved or it was not corrected, it will proceed to recalculate the payment of taxes, without taking those receipts into account and, if applicable, to liquidate any differences.

The operations covered by these tax receipts will be considered simulated acts or contracts for purposes of tax crimes as set forth in the CFF.

22. Conclusive Agreements

As an alternative means of regularization during an investigation, the concept of “conclusive agreements” is established, which is found in a new Chapter II of Title III of the CFF. In this instance, the Taxpayer Protection Agency intervenes.

One of the benefits of this procedure is that after the first finding, the taxpayer is required to pay 100 percent of all fines. In the following instances the fines will be applied according to the terms and under the presumptions currently established in Article 17 of the Federal Taxpayer Rights Law.

It is established that there will be no means of appeal for conclusive agreements. They will further only apply to the taxpayer who enters into them, and therefore they will not generate precedents and their terms may not be applied to any other case or taxpayer, since they are unique cases, different from any other.

23. Forgiveness

Article 74 of the CFF is amended so that the parameters for granting forgiveness of up to 100 percent of all fines are made public so that it is not only the authority who knows in what cases forgiveness is valid. Rather it is based on regulations of general scope containing these param-

eters, which provides certainty to the taxpayer with respect to their application.

24. Infractions Related to Tax Stamps and Seals

Activities considered infringements are included under the amended law, such as using forged or altered tax stamps or seals or ones that have not been acquired legally, as well as the corresponding penalties for their use.

25. Infractions Related to Cigarettes and Cut Tobacco

New activities are included in the CFF that are considered infractions of the law applicable to cigarettes and other cut tobacco products, as well as the corresponding penalties for these infraction, which range from fines to closure of the establishment and seizure of merchandise.

26. Measures in Relation to Crimes

Article 95 is amended to establish two additional sections specifying that those who committed a crime, apart from those discussed in other sections of the article, will be those who are guarantors under a contract or certain corporate bylaws, in crimes of omission.

Likewise, the article applies to those who are under a contract that involves carrying out independent activities. If they propose, establish, or carry out, themselves or through another, acts whose execution derives directly in the commission of a crime, they will be responsible for any tax liability that results therefrom.

With respect to the simulation of legal acts, Section III of Article 113 is amended so that it is possible to criminally prosecute anyone who issues, acquires, or sells tax receipts for nonexistent or false transactions or for simulated legal acts.

In this regard, Section XII of Article 105 of the CFF is amended so that false information in declarations can be considered comparable to the crime of contraband and be penalized as such.

27. Disappearance from the Tax Domicile

In regards to vacating a tax domicile, Section V of Article 110 of the CFF is amended to substitute the crime

of “vacating the premises” for that of “disappearing from the premises.” Likewise, it is considered that someone has disappeared from the premises when the authority goes three consecutive times to the tax domicile within a period of 12 months and cannot carry out the required legal actions.

28. Tax Collection Action

Chapter III, “Tax Collection Action,” of Title V of the CFF is amended to make current procedures for collecting delinquent taxes more timely and efficient. The time allowed for different stages of collecting these taxes is reduced.

29. Administrative Law Appeal

The length of time allowed for the payment or guarantee of a tax liability and for filing an administrative law appeal is reduced from 45 to 30 days.

Similarly, Article 121, paragraph 1, of the CFF is amended in order to establish the Tax Mailbox as the sole means for filing an administrative law appeal. It is the electronic means that the tax authority establishes in its regulations of general scope.

Article 123 further states that the announcement of additional evidence should be made in the same document through which the appeal is filed or within the next 15 days. Under Article 131 the tax authorities had five months to resolve the appeal. This term is repealed.

30. Notices

Article 134 is amended to specify that notices will be given through the Tax Mailbox, regulating the time at which these notices given electronically take effect.

Article 137 is amended to establish that the personal notification will be made by citation when the notifier does not find the interested party, and that the notification will be made through the Tax Mailbox, in line with the adjustments indicated.

Similarly, it is established that when it is not possible to make the payment request and the seizure personally or through a legal representation, the notification will be made in the Tax Mailbox.

31. Guarantee of Tax Interest

With respect to the matter of the tax interest guarantee, Article 141 is amended to establish the possibility of offering a guarantee in the cases in which the forgiveness of fines is requested in terms of Article 74, and it is established that, in the event that the taxpayers, at the request of the authority, do not expand or substitute the guarantee, the attachment or seizure of other goods will be valid.

Article 143 is amended to eliminate the possibility of the bonding companies —through an administrative law court proceeding before the Federal Tax and Administrative Law Court— challenging the payment requirement made by the executing authority in order to invalidate it, and a special procedure is established to enforce the bonds with greater certainty.

Article 144 of the CFF is amended to eliminate the term of five months for granting a guarantee in the case of administrative law appeals, and it is established that there will be no obligation to guarantee until the appeal is ruled on. In this same regard, a term of ten business days is established to pay or guarantee the tax liabilities once the defenses are ruled on and the term for the payment of liabilities is reduced to five days when in the judicial bankruptcy proceeding an agreement for the payment has been entered into.

32. Freezing of Deposits or Insurance

Article 156-bis of the CFF is amended in order to regulate this provision only in relation to the procedure to freeze deposits or insurance in accounts, as an effective alternative to collection.

It is provided that amounts superior to the amount owned cannot be frozen. When it is proven before the authority that greater amounts were frozen, their release will be ordered.

In this regard, the procedure is specified that the tax authorities will follow for the freezing of deposits and insurance, and the manner in which accounts will be released and transfers notified. The power of the federal or state tax authorities to apply this provision is also specified.

33. Bar on Tax Liabilities

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Article 146 is amended in order to establish a maximum term of ten years for the bar on tax liabilities through the statute of limitations. It is also provided that this term may be interrupted by the stay of the tax collection action and by vacating the domicile.

Due to the issuance of the new *USR*, and since in the *CFF* allusion is made to various provisions of that law, the pertinent references are updated.

Finally, it is important to mention that according to the “Decree compiling various tax benefits and establishing administrative simplification measures,” published in the *DOF* on December 26, 2013, taxpayers that file provisional or definitive tax declarations are given the benefit of being able to file them from one to five business days later, depending on the sixth number of their *RFC* code. •

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