

## Tax incentives in force beginning on January 1, 2021

On December 30 and 31, 2020 the (i) [Decree amending the tax incentives of the northern border region](#); (ii) [Decree of tax incentives for the southern border region](#); and (iii) [Decree of the free zone of Chetumal](#) (“**Decrees**”) were published in the Official Federal Gazette (“**DOF**”). These Decrees entered into force in general on January 1, 2021.

Below you will find the aspects of each of these Decrees we consider most relevant:

### A. Decree amending the tax incentives of the northern border region

As a preliminary matter, it is important to mention that on December 31, 2018 the “Decree of tax incentives of the northern border region” was published in the DOF, through which tax incentives were granted to the taxpayers that had a tax domicile, branch, agency or establishment inside the northern border region for at least 18 months prior thereto.

Those incentives consisted of a reduction of the tax burden of the Value Added Tax (“**VAT**”) and of the Income Tax (“**IT**”) of the entities and individuals with business activity whose income obtained from the transactions carried out inside that region represent at least 90% of the total of the income of the taxpayer in the immediately prior fiscal year. This decree was in force during fiscal years 2019 and 2020.

Then, through the amending Decree, the application of the tax incentives referred to in the preceding paragraph was extended until December 31, 2024.

Additionally, some articles of the Decree of tax incentives for the northern border region were reformed, primarily to substitute the authorization to apply them with a notice of registration in the respective registry, and to change the frequency of the participation of the taxpayers in the verification program of the Tax Administration Service (“**SAT**”) contemplated in that Decree.

### B. Decree of tax incentives for the southern border region

#### I. In relation to the IT.

By virtue of this Decree a tax incentive is granted consisting of applying a tax credit equivalent to one-third of the IT caused in the fiscal year or in the provisional payments, against the tax caused in the same fiscal year or in the provisional payments of the same fiscal year, as applicable, in the proportion that the income obtained in the southern border region represents, with respect to the total income obtained in the fiscal year or in the period corresponding to the provisional payments.

The tax credit will be determined applying the percentage obtained according to the above paragraph to one third of the IT caused in the fiscal year or in the provisional payments. It should be specified that the application of the tax incentive will not give rise to any refund or compensation other than what would apply in case of not applying such benefit.

For purposes of this Decree the southern border is considered to be the municipalities of Othón P. Blanco of the state of Quintana Roo; Palenque, Ocosingo, Benemérito de las Américas, Marqués de Comillas, Maravilla Tenejapa, Las Margaritas, La Trinitaria, Frontera Comalapa, Amatenango de la Frontera, Mazapa de Madero, Motozintla, Tapachula, Cacahoatán, Unión Juárez, Tuxtla Chico, Metapa, Frontera Hidalgo and Suchiate, of the state of Chiapas; Calakmul and Candelaria, of the state of Campeche, and Balancán and Tenosique, of the state of Tabasco (“**Southern Border Region**”).

In general terms, the taxpayers that can apply this incentive (provided they do not fall under the premises excluded by the Decree itself) are the individuals and entities residing in Mexico, as well as the residents abroad with a permanent establishment in Mexico, that receive income exclusively in the Southern Border Region<sup>1</sup>.

Those taxpayers must have their tax domicile in the Southern Border Region or have branches, agencies or any other establishment within the Southern Border Region.

It is also established that the taxpayers that attempt to apply it must comply with certain requirements, including filing a notice before the SAT no later than March 31st of the fiscal year in question to be registered in the beneficiaries’ registry, in accordance with the terms of the general rules that SAT issues for that purpose.

## **II. In relation to the VAT.**

A tax incentive is granted to the taxpayers, individuals or entities, that sell goods, provide independent services or grant the temporary use of goods, in the premises or establishments located in the Southern Border Region (provided they do not fall under the premises excluded by the Decree itself) consisting of a tax credit equivalent to 50% of the rate of the 16% VAT.

The taxpayers that choose to apply the tax incentive must comply with certain requirements such as (i) materially deliver the goods or provide the services in the Southern Border Region and (ii) file a notice before the Tax Administrative Service within 30 calendar days following the entrance into force of the Decree<sup>2</sup>.

The Decree also indicates where this tax incentive will not be applicable, such as the sale of real estate or the sale or granting of the temporary use of intangible goods or the provision of digital services.

It should be mentioned that the tax incentives established in the Decree will not be considered accruable income for purposes of the IT.

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<sup>1</sup> It is considered that income is received exclusively in the Southern Border Region when the income obtained in it, excluding the income derived from intangible goods, as well as income corresponding to digital commerce, represent at least 90% of all the income obtained by the taxpayer during the immediately prior fiscal year in accordance with the general rules issued by the SAT for that purpose.

<sup>2</sup> Unless they initiate activities or carry out the opening of a branch, agency or establishment, subsequent to the entrance into force. In that case they must file the mentioned notice within the month following the date of registration before the Federal Taxpayer Registry or of the filing of the notice of opening that they must file in accordance with articles 22 and 23 of the Regulation of the Federal Tax Code.

### C. Decree of the free zone of Chetumal

By this Decree the “Border Region of Chetumal” is created in the locality of Chetumal located in the municipality of Othón P. Blanco of the State of Quintana Roo and several tax incentives are granted to promote consumption favoring imports to that region.

In this way, the individuals and entities that locate and sell certain goods and/or services in the Border Region of Chetumal, may make the definitive import of certain merchandise identified under various tariff classifications of the Tariff of the General Import and Export Tax Law, without paying the general import tax.

Only those individuals or entities (called **Companies of the Region**) that have a valid registration issued by the Ministry of Economy and engage in the following activities may enjoy this benefit:

- (i) Sale of food and groceries.
- (ii) Self-service stores.
- (iii) Sale of apparel, costume jewelry and apparel accessories.
- (iv) Sale of pharmaceutical products, eyeglasses and orthopedic articles.
- (v) Sale of machinery and equipment.
- (vi) Sale of construction materials.
- (vii) Restaurants and other establishments for preparation of food and beverages.
- (viii) Hotels, motels and other temporary lodging services.
- (ix) Educational services.
- (x) Medical and hospital services.
- (xi) Cultural and sports entertainment and recreational services.
- (xii) Automobile repair and maintenance services.
- (xiii) Lease of real estate, machinery and equipment.

To obtain the registration as a Company of the Region, the interested parties must file a written request before the Ministry of Economy on the form and with the requirements established for that purpose. The resolution will be issued within a maximum period of 5 business days from the business day following the filing of the request, for which the Ministry of Economy must consult with the SAT to confirm that the petitioner does not fall under any of the premises referred to in the Decree for not granting the registration.

A tax incentive is also granted to the individuals who leave the Border Region of Chetumal and take with them foreign merchandise previously imported definitively to such Region that does not form part of their baggage and whose value does not exceed \$1,000 U.S. dollars or its equivalent in Mexican currency. The incentive consists of a tax credit equivalent to 100% of the general import tax that would have to be paid for its import to the rest of national territory. If the members of a family leave the Border Region of Chetumal simultaneously in the same vehicle, the joint value of all the passengers cannot exceed \$2,500 U.S. dollars or its equivalent in Mexican currency, whose value will be evidenced with the Digital Tax Invoice issued in that Region.

Finally, a tax incentive is also granted to the Companies of the Region consisting of a tax credit equivalent to 100% of the applicable customs processing fee, for the definitive imports of merchandise to the Border Region of Chetumal under the Decree, as well as the fee for the reshipment of the merchandise to the rest of the national territory pursuant to terms of the Customs Law.

In any case, it is important to bear in mind that these tax incentives may not be applied to transactions that, under the customs legislation, are carried out by or through courier and package companies.

This document is valid on the date of its issuance and its purpose is merely informative and not interpretive with respect to the information it contains. It is not an opinion and therefore it should not be considered as advice applicable to specific cases under any circumstance. If you need professional advice with respect to the matters included in the document, please contact us directly.

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