

# RITCH

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### COVID-19 Tax Considerations (in the absence of tax incentives)

It is a reality the negative economic impact that companies and individuals around the world are facing as a consequence of the COVID-19 pandemic. Nevertheless, the Mexican Government has decided not to grant any fiscal or tax incentives in connection with federal taxes, such as income tax, VAT or excise taxes. The purpose of this document is to point out some alternatives that could be explored by the taxpayers, which could provide additional cash flow in the short and midterm.

#### Legal Entities

- Request for authorization to decrease the amount of advance payments, which unfortunately would be available until July.
- Review and analysis of the calculation of FX effects arising from accounts kept in foreign currency, for purposes of both the annual tax return and the advance payments.
- Review and analysis of the various items that are being included or excluded for purposes of computing the annual inflationary effect.
- Calculation of the cost of goods sold, including the analysis of its possible update due to inflationary effects, as well as of the deduction of inventories that could be considered obsolete because of the pandemic.
- Deduction of the amount pending deduction in the case of investments that are no longer useful for obtaining income.
- Adjustments to the maximum percentages established in the Mexican Income Tax Law that are being considered for the deduction of investments.
- Sale and reacquisition of positions held in financial assets.
- Review of tax effects resulting from the collection of insurance premiums.
- Calculation of losses related with goods due to fortuitous event or force majeure, as well as the deduction of conventional penalties that are caused by the pandemic.
- Request for refund of the favorable income tax balance that may have been generated in the 2019 annual tax return.
- Regarding value added tax, review of favorable balances that have been generated, as well as the financial projections, to obtain their refund in a reasonable time.

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### Individuals

- The tax authorities have declared that due to the health emergency and in support of the taxpayers' economy, the Tax Administration Service ("SAT") will implement mechanisms to refund within a 3 days period the favorable balances that may be obtained by individuals in their annual tax return for the 2019 fiscal year and whose filing deadline is April 30, 2020. Therefore, we suggest that those individuals that obtain a favorable balance in their 2019 annual tax return, anticipate its filing to the first days of April (as soon as the platform is enabled for such purpose).
- As in the case of legal entities, the sale and reacquisition of positions held in financial assets could be carried out.

### Audits

- Considering the speech of the Mexican Government, we consider that the tax authorities will continue, and even increase, their collection intent through the use of their verification powers (audits). Therefore, now more than ever it will be necessary to have solid records and to duly attend these procedures, to avoid major consequences that could significantly impact the tax burden of taxpayers in these difficult times.

### Effects of not complying

- In the event that a taxpayer is in a position of non-payment of their tax obligations, the economic consequences, in general terms, would be the following:
  - i) Advance income tax payments: in the event of being detected by the tax authorities, inflationary effects and surcharges would be triggered on the amounts due, from the date these payments should have been made and until the date of filing of the annual tax return (without proceeding the collection of the principal amount due, since it would be considered as paid through the annual tax return itself).
  - ii) Monthly VAT and excise tax payments: in case of being detected by the tax authorities, in addition to owing the principal amount due, inflationary effects and surcharges would be triggered on the amounts due, from the date these payments should have been made and until the date in which they are paid (surcharges triggered would be limited in accordance with provisions of the Federal Tax Code).
  - iii) Penalties: these would be determined by the tax authorities considering the obligations and the amount of the taxes due; such penalties would only be determined in the event that an omission is detected by the tax authorities during the exercise of their verification powers.

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Please be advised that even when taxpayers may face problems at this time to duly comply with the payment of their tax obligations, our recommendation is that they continue to do so, being relevant to carefully analyze each decision or policy that is taken and that could have a direct impact on the fulfillment of said obligations, in order to avoid being in fraudulent situations that could put the taxpayer or its own shareholders, partners, administrators and/or directors at risk.

If you require additional information, please contact Oscar López Velarde ([olopezvelarde@ritch.com.mx](mailto:olopezvelarde@ritch.com.mx)) or Santiago Llano Zapatero ([sllano@ritch.com.mx](mailto:sllano@ritch.com.mx)), partners in the tax area of Ritch Mueller.

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