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2021 Economic Plan – tax reforms

On September 8th, the Mexican Secretary of Finance submitted the 2021 economic plan before the House of Representatives. Among other documents, the economic plan includes the 2021 Federal Revenue Act project and a project of decree that reforms, enacts and repeals several provisions of the Mexican Income Tax Law (“MITL”), the Value Added Tax Law (“VATL”), the Excise Tax Law (“LIEPS”) and the Federal Fiscal Code (“FFC”).

The economic plan neither includes several amendments of tax provisions nor the creation of new taxes. Most of the proposed changes aim to enhance the tax authorities’ audit powers. Below please find a summary of the relevant amendments to the tax provisions:

- With respect to the MITL, it includes amendments to the applicable framework for non-profit organizations. Specifically, the proposal includes provisions in order to limit certain aggressive schemes carried out on a recurring basis by such organizations.
- With respect to the VATL, the amendments pursue the imposition of penalties to the digital services providers with no permanent establishment in Mexico. As consequence, the Mexican Tax Administration (“SAT”) has the attribution to block – through instructions to the concessionaires of the public telecommunications network– the digital services provided by foreign residents with no permanent establishment.
- With respect to the LIEPS, it includes amendments to add a mechanism of complementary fees applicable to the importation and sale of gasoline and diesel, pursuant article 2, section I, paragraph D) of the referred to Law.
- The most relevant amendments of the project are included in the FFC. Most of the proposals seek to enhance the tax authorities’ audit powers and to eliminate aggressive tax schemes implemented by taxpayers. Among others, the proposal includes: (i) new assumptions regarding joint and several liability regarding spin-offs and related parties of foreign residents with a permanent establishment in Mexico; (ii) amendments on the Mexican general anti-avoidance rule (GAAR) to broaden the scope of criminal consequences in sham transactions; (iii) increases the period for the conservation of accounting books; (iv) additional requirements for non-taxed spin-offs; (v) adjustments in favorable balances refund procedures; (vi) adjustments to procedures and attributions of the authorities in matters of verification and controversy, as well as in the procedures for requesting conclusive agreements; and, (vii) increasing the fines related to transfer pricing matters.

It is important to emphasize that there are still pending issues related to the 2020 tax reform. Among others, payments made to foreign related parties, transparent entities, Mexican CFC rules, the limitation for the deduction of interest payments that is calculated based on the taxpayers’ annual profit and reportable schemes. It is expected that before the end of 2020, the Mexican tax authorities issue the corresponding rules.

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Finally, please bear in mind that no new inheritance tax was included in the 2021 economic plan.

Should you require additional information do not hesitate to contact Oscar A. López Velarde (olopezvelarde@ritch.com.mx) or Santiago Llano (sllano@ritch.com.mx), partners of the Tax practice at Ritch Mueller.

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