

# Latin American Tax Newsalert

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*2013 Mexican tax reform law published:  
Corporate income tax rate reduction  
delayed to 2014*

## *In brief*

The 2013 Mexican tax reform package (Mexican Federal Revenue Law) was published today, and will enter into force on January 1, 2013. This newsalert addresses the tax reform provisions that are most relevant to multinationals with connections to Mexico.

## *In more detail*

### **2013 Federal Revenue Law (FRL)**

#### **1. Projected economic data for 2013**

<b>Item</b>	<b>Estimate</b>
Budget revenue	4.4%*
Gross domestic product	3.5%*
Inflation	3.0%
Average nominal interest rates (28-day Cetes)	4.6%
Average price per barrel of crude oil	\$86 USD
Average exchange rate (Mexican peso to USD)	12.90
Deficit	0%**

\*Growth as compared to 2012 in real terms

\*\*Not considering the investments of Petroleos Mexicanos



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## 2. Income tax

**Income tax rates.** The 30% corporate income tax rate will remain unchanged during 2013, as will the monthly and annual income tax rates for individuals. These top rates were set to be reduced effective January 1, 2013, but the package instead reduces the corporate income tax rate to 29% on January 1, 2014. This last-minute change will require taxpayers to review, and maybe revise, budgets, tax provisions and other tax modeling for 2013 and 2014 to reflect the new rates.

**Interest.** The package postpones the effective date of the new interest regime to January 1, 2014 (instead of January 1, 2013). The provision includes a procedure for determining interest on mortgage loans, among other interest rules.

**Interest paid to banks resident abroad.** There is no change in the 4.9% income tax withholding rate applicable to interest paid to banks that are resident in countries with which Mexico has signed a tax treaty. Tax residency certification (such as US Form 6166) is required by Mexican interest payers in order to apply this special withholding tax rate.

**Permanent establishment (PE) immunity on shelter maquilas.** Parties resident abroad and engaged in maquila operations through shelter maquila companies may mitigate PE risk in Mexico by meeting certain requirements. The package extends this opportunity to December 31, 2013. The maquila regime in general offers various incentives which include reduced tax rates and a suspension of all indirect taxes and duties, to the extent production is exported. The shelter maquila regime provides an opportunity to temporarily produce in Mexico prior to, or without the investment commitment of, a regular maquila operation.

**Pension and retirement funds located abroad.** As in 2012, when determining eligibility for certain exemptions, entities owned by non-Mexican pension and retirement funds may exclude from total revenue the taxable annual inflationary adjustment and the exchange gain arising exclusively from debts incurred for acquiring or securing income from the leasing of land or buildings located in Mexico. This rule provides legal certainty when running the numerical test of exempt income for foreign pension and retirement funds.

**Exemption for financial derivative transactions.** There is no change in the income tax exemption for any financial derivative transactions in which a portion of the swap refers to the interbank interest rate (TIIE).

**Nonprofit entities.** The types of entities qualifying as nonprofit entities in 2013 for Mexican income tax purposes are listed in the new legislative provisions.

## 3. Flat tax

There is no change in the provisions concerning:

**Information return reporting.** Taxpayers that are subject to flat tax must continue filing an annual information return (by March 31 of the following year), reporting the items used as a basis for determining the tax.

**Flat tax credit for excess deductions.** A tax credit, arising from excess amounts deducted from income, may only be credited against flat tax arising during the following ten periods, until the credit is exhausted. This credit may not be applied to any income tax payable for the period as was the case with respect to certain prior years, where the flat tax credit was allowed against the current year's income tax.

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This rule requires a closer monitoring of the interaction between the flat tax and regular income tax throughout the year.

#### **4. Excise tax**

**Rates applicable to beer and alcoholic beverages.** There is no change in the rates in effect in 2012, applicable to beer of up to 14° GL and alcoholic beverages and beer with a GL of 20° (i.e., 26.5% and 53%, respectively). Originally the rates were to be lowered in 2013. Instead, the rates are reduced to 26% and 52%, respectively, beginning in 2014.

#### **5. Duties for discharging residual waters**

The package extends the term of this duty's pardon to December 31, 2013.

#### **6. Tax incentives and exemptions**

The following tax incentives remain:

- The credit for excise tax on diesel, acquired by individuals engaged in business activities for final consumption as fuel in general machinery, or by persons using diesel in farming or forestry activities. This credit also applies to taxpayers for final consumption of diesel in vehicles used exclusively for private and public passenger transportation.
- The credit of 50% of the tolls paid for the use of highways, applicable to taxpayers engaged exclusively in public and private overland transportation.
- The exemption from the payment of the new automobile tax (ISAN) for individuals or entities making sales to the general public or engaged in permanent importation of hybrid automobiles.
- The exemption from customs processing fees on imported natural gas.

#### **7. Tax amnesty program**

The package includes an amnesty program, allowing significant reductions of taxpayers' combined tax liabilities incurred through December 31, 2012. These liabilities must be paid to the Mexican Tax Administration Service (SAT), and must equal the total tax, plus inflationary adjustments, interest and penalties, and any fines for noncompliance with other obligations, attributed to years before 2007.

Generally, the benefits of this program include:

- a) For amounts due for federal taxes, compensatory duties and fines generated prior to 2007, there is an:
  - 80% reduction of the total tax liability
  - 100% reduction of surcharges, including interest on tax payments authorized to be covered on a deferred basis or in installments
- b) For additions to tax amounts on taxes generated from 2007 to 2012, not including the tax itself, there is a 100% reduction of the surcharges and fines. This includes fines for noncompliance with tax obligations that do not involve tax payments (such as tax information reporting).

- c) No reduction applies for additions to tax applicable on taxes withheld, or charged or collected from third parties.

Participants in the amnesty program must meet certain conditions.

## *Actions to consider*

While not as sweeping a tax reform law as in some prior years, the new tax rate provisions in the 2013 tax reform package merit the focus of multinationals from a year-end tax accrual perspective as well as from a tax modeling point of view.

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Solicitation.

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