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MEXICO

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Mexican flat tax incentive for Maquila operations extended to December 2013

The Mexican government has extended the flat tax incentive for Maquila operations. In an effort to mitigate the adverse impact caused by the introduction of the flat tax (IETU) on the Maquila industry, a presidential decree, issued November 5, 2007, granted various tax benefits to Maquiladoras. The incentive was previously available through December 31, 2011. However, the incentive will now be available until December 31, 2013.

Background – the benefit granted by the decree

The decree provides a flat tax credit to Maquiladoras such that their net combined flat tax and income tax liability equals the flat tax rate applied to their income tax base. Currently this means an estimated effective tax rate of 17.5% for the Maquila operation.



In general terms, the taxpayer (i.e., the Maquiladora) can credit against their flat tax liability an amount determined as follows:

$$\text{flat tax liability} + \text{income tax liability} - (\text{taxable profits}^1 \times .175)$$

A similar credit is calculated to reduce the corresponding provisional advanced tax payments made during each tax period.

In order to apply the decree, taxpayers must comply with the following (summarized) necessary tax, customs and Maquiladora (IMMEX) filings and obligations during 2012 and 2013:

1. File all annual or monthly federal tax returns
2. The taxpayer must not have outstanding definitive tax credits or must not be registered with the tax authorities
3. File the annual tax report, or the simplified information submission where applicable
4. File the informative tax return for operations with third parties
5. File the Informative Return for Manufacturers, Maquiladoras and Export Services Businesses
6. Maintain an active tax registration with the authorities (no suspended activities, liquidation proceedings or cancelation of register)
7. Provide true and current information for tax registration
8. Comply with the IMMEX Program conditions (article 24 of the IMMEX Decree)
9. Maintain the required export and import documentation
10. Comply with all tax and customs filings related to Maquila operations
11. Provide no false names or addresses of foreign suppliers or recipients in invoices or customs declarations

Taxpayers should review the application of the decree in 2013 as changes to flat tax may be introduced with the next elected administration.

Commentary

The key objective of the 2007 decree was to support the Mexican manufacturing industry by promoting Maquila activities and creating new jobs. The Maquila regime has helped Mexico become a strategic destination for investors, and has contributed to Mexico's strong position when compared to other low-cost labor territories.

¹ Calculated on an arm's length basis in accordance with an accepted transfer pricing methodology in the Mexican Income Tax Law and meets the requirements for Mexican permanent establishment protection.

The extension of the decree was influenced partly by the recent creation of thousands of new Maquila industry jobs. This latest government action aims to create legal security and economic and fiscal certainty (as well as deferred tax recognition) for Maquila industry investments during this time of reduced profitability and downturn in the global economic market.

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