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Mexican Congress Passes 2010 Final Mexican Tax Reform Bill

The Mexican Congress, in plenary sessions held on October 31 and November 1, 2009, approved the tax reform bill for 2010. The final bill will be remitted to the Executive Branch for final approval and publication in the Official Gazette. The following is a summary of the principal elements of the final version of the 2010 tax reform bill:

Income Tax Rates and Flat Tax Credit

The corporate income tax rate is increased from 28% to 30% for the period from January 1, 2010 through December 31, 2012, and will then be scaled back to 29% in 2013, and finally back to 28% in 2014 and future years.

Similarly, a temporary increase in the highest marginal individual income tax rates, with a new top rate of 30% was approved for 2010 through 2012; scaling back to 29% in 2013 and to 28% as from 2014.

The proposed change in the Revenue Law for 2010 limiting the credit for excess IETU to future IETU liabilities was also approved.

Tax Consolidation Regime

The Executive Branch proposal to modify the Mexican tax consolidation rules, to require the recapture of certain consolidated group items, was also approved.

The reform essentially requires the triggering of deferred tax benefits after five years. The revised bill would trigger the payment of the deferred benefits based on the following schedule:

Schedule of payments relating to deferred consolidation benefits								
Fiscal Year related to deferred income	Percentage of payment							
	2010	2011	2012	2013	2014	2015	2016	2017
2004 and before	25%		25%	20%	15%	15%		
2005		25%	25%	20%	15%	15%		
2006			25%	25%	20%	15%	15%	
2007				25%	25%	20%	15%	15%

Thus, all multinationals with Mexican consolidated tax groups, as well as Mexican groups filing a consolidated tax return, should consider assessing the potential cash, deferred tax and/or P&L impact of the proposed recapture rules immediately as there are certain items which may require recognition in 2009 and certain options might mitigate the effects.

Research and Development Tax Credits

The research and development credit is repealed from 2010.

Tax on Cash Deposits

The tax on cash deposits (IDE) has been increased from the current rate of 2% to 3%, and the monthly limit on the aggregate tax-free cash deposits is reduced from a current floor of Mx$25,000 to Mx$15,000. The IDE would continue to be creditable by the taxpayer as prepaid income tax for the month it is withheld by the financial institution.

Excise Tax

The excise tax would now apply to certain telecommunications charges, and certain increases were passed with respect to alcoholic beverages, cigarettes and gambling/lottery activities.

As an example, a new excise tax of 3% on cable and telephone telecommunications services, excluding public telephone services, rural fixed line services and internet services, is applicable effective January 1, 2010.

A three percentage point increase on the excise tax on liquor and spirits with more than 20o G.L. was approved, so the tax goes from 50% to 53% from 2010 to 2012, reduced to 52% in 2013 and to 50% after 2013. Also, a temporary increase of 1.5 percentage points was approved on beer to apply at 26.5%. This will be eventually reduced to 25% after four years.

Value Added Tax

The Value Added Tax rate will increase from 15% to 16% (from 10% to 11% in the border zone) from January 1, 2010. Certain limited-term transition rules will apply.

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