

First Resolution of Modifications to the General Foreign Trade Rules for 2020

In Brief

On July 24, the Ministry of Finance issued the First Resolution of Modifications to the General Foreign Trade Rules (GFTR) for 2020, highlighting changes related to the Registry in the System for Certified Companies under the Value Added Tax (VAT) and Excise Tax (ET) system (“VAT and ET Certified System”).

In detail

The most relevant modifications are as follows:

- Exemption from the Customs Processing Fee (CPF) will apply upon presentation of the import declaration for goods to be donated to the Mexican tax authority (“Authority”).
- The requirement of an email for tax purposes now includes the obligation of having updated means of contact.
- The annual fee payment is now a requirement to obtain and renew the VAT and ET Certified System. The payment must be notified by means of a letter in compliance with rule 1.2.2. of the GFTR.
- In the course of an initial inspection or a previous requirement from the Authority in the process of obtaining the VAT and ET Certified System, if the production process facilities are not ready for use, the certification request will be denied. A new request cannot be submitted within the following 6 months.
- The concept of General Warehouse is included as part of the Certified Commercial Partner, as well as its requirements and benefits.
- Presumptions are included that would trigger the direct denial of the VAT and ET Certified System. These include:
 - A company does not have a valid authorization for the specific customs regime required for registration.
 - A company does not have authorization from the Ministry of Communications and Transport to operate transportation services, facilities or routes.
 - A company does not have a favorable opinion of the corresponding association, in the case of companies of the Electronic System for the Control of Inventories of Temporary Imports (SECIT).
- SECIT companies must now allow remote access to their Electronic System in order to request the compliance opinion.
- The ability to request an extension of 10 business days is now added in order to comply with an information requirement from the authority regarding the VAT and ET Certified System.
- The following causes for cancellation and suspension of the Registry in the VAT and ET Certified System and Certified Commercial Partner modalities are added:
 - When goods from Addendum II of the IMMEX Decree (sensitive goods), which do not correspond to the production processes or finished products under the authorized Program, are imported, even if such goods are covered by an import authorization.

- When per initial inspections, compliance supervision or audits from the Authority, the company does not have infrastructure to manufacture or provide service operations, does not comply with the production process or does not have the national territory investment declared before the General Administration of Foreign Trade Audit (AGACE).
- In the event that the Registry in the VAT and ET Certified System has expired or has been cancelled, companies that have imports pending to be returned (exported) will be required to pay the corresponding tax credit and will not be able to request an invitation letter.
- In order to amend irregularities related to the updated causes of suspension of the diverse registries, companies will have the following time frames to submit evidence or arguments to avoid suspension in the VAT and ET Certified System:
 - 20 business days for the Trader and Importer modality.
 - 10 business days for Authorized Economic Operator (OEA) modality.
- The 60-day period, beginning on the date of notification of the Administrative Procedure in Customs Matters (PAMA), for compliance with Non-Tariff Rules and Regulations.
- The 36-month period to maintain goods in national territory for importations on a temporary basis (by means of customs declaration code “IN”), including virtual operations (customs declaration code “V1”) of IMMEX companies.
- The right to omit individual identification data in customs declarations for companies in the electrical and electronic sectors.
- The possibility to prepare a single customs declaration for virtual transfers between IMMEX companies, original equipment manufacturers (OEM) and Strategic Bonded Warehouses.
- The 3-month period to amend customs declarations without requiring authorization of the Central Administration for Customs Legal Support (ACAJA) of the General Customs Administration.
- The possibility to receive an invitation letter prior to a formal audit from the authority.

Elimination of the following benefits for companies with Registry in the System of Certified Companies under VAT and ET modality:

- Possibility to standardize the validation period for companies that are certified and have the OEA modality.
- When a company does not comply with the requirements for its category, such as AAA, within VAT and ET Certified System, there is no longer an ability to move to a lower category, such as AA, instead the company is suspended.
- Preferential timelines for VAT and ET refunds for all 3 categories.
- Immediate enrollment in sectorial importers’ and exporters’ registries.
- The ability to submit a letter to voluntarily amend customs operations irregularities.
- The ability to refrain from submitting the customs value declarations (*manifestaciones de valor*) corresponding to operations performed under IMMEX Program.
- The ability to submit monthly consolidated customs declaration.
- The ability to perform the customs clearance at the exporter’s address.
- The possibility to perform export operations under customs declarations code “V5”.

Transitional Provisions

Below are two of the most important transitional articles:

- For companies that, as of July 24, 2020, are in the Registry in the VAT and ET Certified System and until its renewal, provisions of the GFTR published on June 30, 2020 will apply, with the exception of the following: time period for temporary imported goods under virtual operations (customs declarations code V1), the payment of a tax credit without being able to request an invitation letter, as well as the causes for cancellation and suspension. These latter provisions entered into force on July 27, 2020.
- Application requests for the VAT and ET Certified System which are pending or are being renewed

as of July 27, 2020, will be resolved by applying the procedures, terms and benefits established in the rules that are in force at the date in which the corresponding resolution is issued.

Other related provisions

In relation to the present Resolution and aligned with the Second Resolution of Modifications to the Miscellaneous Tax Resolution for 2020, the preferential terms for VAT and ET refunds are repealed for VAT and ET Certified Companies under all three categories.

It is highly important for companies with a VAT and ET Certified System to conduct an analysis of the impact these new provisions will have on their operation. In this respect, at PwC we have a team of experts who can support in determining the impact or changes that must be made in a company's business model.

If any more information is needed, do not hesitate to reach out to our specialists in Customs and Foreign Trade.

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