SECOND RESOLUTION OF AMENDMENTS TO THE GENERAL FOREIGN TRADE RULES FOR 2024 AND ANNEXES 1, 2, 5 AND 24

In brief

On October 14, 2024, the Second Resolution of Amendments to the General Foreign Trade Rules (GFTR) for the year 2024 and its Annexes 1, 2, 5 and 24 was published in the Official Gazette (DOF per its acronym in Spanish). Through this publication, requirements and obligations were added for Companies that hold or request a Certification Registry Scheme, among other relevant changes.

In detail

Among the modifications that were published, the following items are relevant:

COMPANIES WITH CUSTOMS BOND ACCOUNTS

- The renewal procedure for operating customs bond accounts is incorporated. In this regard, in accordance with the second transitional provision, credit institutions or brokerage firms must request the renewal process in accordance with the “24/LA” application form no later than November 15th, 2024.

- The provisions regarding bonds of fiscal interest equivalent to deposits in a customs bond account were modified to indicate that authorized credit institutions or brokerage firms must follow the “Instructions for the operation of customs accounts and customs bond accounts” published by the authority.

COURIER AND PARCEL COMPANIES

- The possibility for Courier and Parcel Companies to declare a generic Federal Taxpayer Registry (RFC per its acronym in Spanish) in their import and export operations is eliminated; instead, the specific RFC of the Courier and Parcel company must be declared.

- The rule related to the customs clearance process through the simplified procedure for courier Companies was modified to make several clarifications and to detail specific data in the "observations" field. Among these changes, it is established that when the importer's RFC or tax identification number are not used, the RFC that corresponds to the Courier and Parcel Company must be the one stated. If such simplified procedure is carried out, the value and specific description of the goods must be indicated.

- The General Legal Directorate of Customs (DCJA per its acronym in Spanish) of the National Customs Agency of Mexico (ANAM per its acronym in Spanish) will be the party responsible for publishing on the ANAM Portal the list of Courier and Parcel Companies that have obtained the corresponding registration to carry out the simplified procedure.

- The simplified procedure can only be used by Courier and Parcel Companies in air or land traffic operations.

- The obligation for courier Companies that carry out operations under the simplified procedure

was modified to precise that the submission of the list of customs declarations for the previous month is applicable for any means of transportation, instead of only being applicable to air transportation.

- New reasons for the cancellation in the Parcel and Courier Companies Registry have been included: a) scenarios where Companies have failed to fulfill some of their obligations by carrying out non-existent operations, b) Companies that have allegedly transferred the right to reduce tax losses improperly in accordance to the Federal Tax Code (CFF per its acronym in Spanish), c) n having valid digital certificates, d) when certificates for issuing CFDIs (electronic invoices) are restricted, and e) the taxpayer cannot be located at the tax domicile, or the status of its domicile is "non-existent".

- The sanction period for Courier and Parcel Companies whose registration has been cancelled will be 3 years before they are able to apply for new a new registry.

CERTIFICATION REGISTRY SCHEME

- It is specified that, Companies may also employ personnel who provide specialized services through the corresponding registration known as the Registry of Specialized Services Providers (REPSE per its acronym in Spanish).

- Companies must not be included in the list of those improperly transferring tax losses in accordance with the CFF (for all modalities).

- A new requirement was added to maintain an Inventory Control System in accordance with Annex 24. The new "section C" applies to taxpayers operating under the Certification Registry Scheme. These Companies must receive electronic information from their corporate system including all catalogs, entries, exits, material used, and fixed assets information within 48 hours, and all of the remaining information no later than at the time of the payment of the customs declarations. Companies must submit a writ before the authority indicating the username and password for the authority to have online access to the new section C of Annex 24 of the Company. These changes must be implemented by all Companies with a Certification within one month after the effective date of this resolution.

- The definitive suspension of the General Importer's Registry was added as a reason for cancellation of a Certification to those Companies that share partners and shareholders, legal representatives with a power attorney of ownership, or members of the administration.

- The percentage of returns of temporary importations was modified from 60% to 80% for Companies with a VAT and Excise Tax certification modality, that have a Manufacturing, Maquila and Export Services Industry Program (IMMEX per its acronym in Spanish) and import sensitive goods, in accordance with Annex II of the IMMEX Decree and Annex 28 of the GFTR.

- The obligation to give notice of changes in name or corporate name, tax domicile, or domiciles where the manufacturing process is carried out, as well as the registration of new facilities where economic activities are carried out is eliminated from rule 7.2.1. However, the taxpayer must continue to comply with the obligation to give notices to the authority when the circumstances under which said registration was granted changes.

- Companies must present a notice when importing goods that differ from the original request in the VAT and Excise Tax Certification. This notice must be submitted 30 days prior to the importation of said goods.

- The "valid" status of Annex 30 will be reflected if the codes of the customs declarations included in the transmitted reports match with the codes of said customs declarations for purposes of the backflush reports and initial inventory.

- Requirements were added for Companies that wish to obtain the Certification under the Business Partner modality, as well as the possibility of increasing the number of Industrial Parks in such Registry, provided that the corresponding requirements are met.

- The General Administration of Foreign Trade Audit (AGACE, per its acronym in Spanish) may issue a negative resolution without any requirement, when a company deny access to AGACE's personnel during an initial inspection visit.

- The authority will have a 6-month period, from the moment the taxpayer submitted its response, to issue a resolution in the event of an information requirement regarding the Certification Registry Scheme.
- The following reasons of cancellation were added for Companies that have VAT and Excise Tax Certification:

    1. If the temporarily imported goods were not returned according to the return percentages established in rule 7.1.2. of the GFTR.

    2. If a company does not allow access to the authorities to carry out a supervision or inspection visit, and the Company does not request a new visit within 15 days period.

- In the event of cancellation of the Certification Registry Scheme, the 4-month period that the authority has to issue the resolution will begin from the moment the evidence or arguments have been offered to prove the Company's position.

- The period for issuing resolutions by the authority related to Certification Registry Scheme will be computed from the day following the last acknowledgement in which information was submitted.

- In cases where a certification is requested in terms of VAT and Excise Tax in the AA or AAA categories and the authority determines that not all the requirements are met, the certification will be granted in the corresponding category.

- The authority may request information at any time after the renewal of the certification if it detects lack of compliance with any requirement.

UPDATED APPLICATION FORMS

- The formats "F3" and "B15" are revoked, which will be replaced by the application form 153/LA "Application for registration in the Certification Registry Scheme and notice for its renewal", included in Annex 2 of the current GFTR.

- The "B13" form is revoked and will be replaced by the application form 154/LA "Notices related to the Certification Registry Scheme".

- Companies that carry out the renewal in the Certification Registry Scheme, must attach a writ signed by the legal representative stating that the circumstances under which said registration was authorized have not changed and that the Company continues to comply with the obligations related to said registration. The above, in accordance with the instructions of application form 153/LA.

- In the event that it is intended to present any of the notices indicated in Rule 7.2.1 related to the Certification Registry Scheme, a writ signed by the legal representative must be presented, stating the type of notice and the details of the changes that are intended to be made. The

above, in accordance with the instructions of application form 154/LA.

GUARANTEES ON VAT AND EXCISE TAX

- The validity of the bond or letter of credit offered by the taxpayer as a guarantee is increased, including the ones for fixed assets, which will now be 30 months. On the other hand, the amount to be guaranteed is maintained for operations carried out over 12 months.

- Form B12 is revoked and the application form 155/LA "Application for the acceptance, renewal, extension, increase or cancellation of the guarantee in matters of VAT and Excise Tax" is created.
- Multiple requirements are added for the acceptance of guarantees offered by the taxpayer.

- In the event that the Company does not carry out the renewal through the Mexican Foreign Trade Single Window (VUCEM per its acronym in Spanish) in time, the authority will retain the bond or letter of credit until the end of its validity and the guaranteed duties will be payable with respect to the goods that were not returned.

- In the case of mergers and splits, the requirement to provide notice using the "E12" form in VUCEM within 10 days after the registration of merger agreements is revoked.

- The method for submitting the writ for updating the data of the guarantee or letter of credit with respect to the modification of taxpayer data is modified, as well as the procedure for submitting a request for cancellation of the guarantee.

- The way by which the authority will carry out the request to correct irregularities in relation to causes of request when the taxpayer chooses not to pay VAT or Excise Tax is modified.

MERCHANDISE CLEARANCE REGISTRY

- The requirements for obtaining authorization in the Merchandise Clearance Registry of Companies were modified, which is stipulated in form 152/LA "Application for registration in the Registry of Merchandise Clearance of Companies", instead of instruction form "F2".

- It was added as a reason for suspension in the Registry, the fact of being suspended from the Importer's Registry or from the Specific Sectors Importer's Registry or from the Sectoral Exporter's Registry; for a period, equal to or greater than ninety days uninterrupted.

- The obligation to submit a notice was eliminated when a merger or split of authorized Companies is performed in the same Registry and one of them remains.

OTHERS

- The procedure for authorizing exemption from customs duties on the importation of donated goods is modified to indicate that the authorization will be void when the procedure is carried out through VUCEM instead of a writ.

- Regarding the compilation of "non-binding regulatory criteria in customs and foreign trade matters", it is clarified that it is an improper practice to introduce into the country mixtures whose components contain sugar with activated carbon or similar substances and, once in the country, to separate said mixtures in order to avoid paying the corresponding duty on sugar or activated carbon.

MAIN TRANSITIONAL PROVISIONS

The modifications to the GFTR took effect the day after their publication in the DOF, with the following exceptions:

- The obligation to comply with Annex 24, section C, must be met within one month of the effective date of this resolution.

- Companies that, as of the date of this publication in the DOF, have a pending application, or are active in the Certification Registry Scheme or Merchandise Clearance Registry of Companies or bonds of fiscal interest, must comply with the requirements and obligations in effect at the time of their application and until the validity of said registration expires. This is with the exception of the provisions outlined in rule 7.1.1., section XIV, pertaining to Annex 24, section C, for applicable Companies

- The new obligations and requirements will apply to Companies upon the renewal or new submission of their registrations starting the date of this publication under the Certification Registry Scheme, the Merchandise Clearance Registry of Companies, or bonds of fiscal interests.

At PwC we have a team of experts who can assist you in conducting an analysis pertaining to these changes. If you need more information, please do not hesitate to contact our foreign trade specialists.

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