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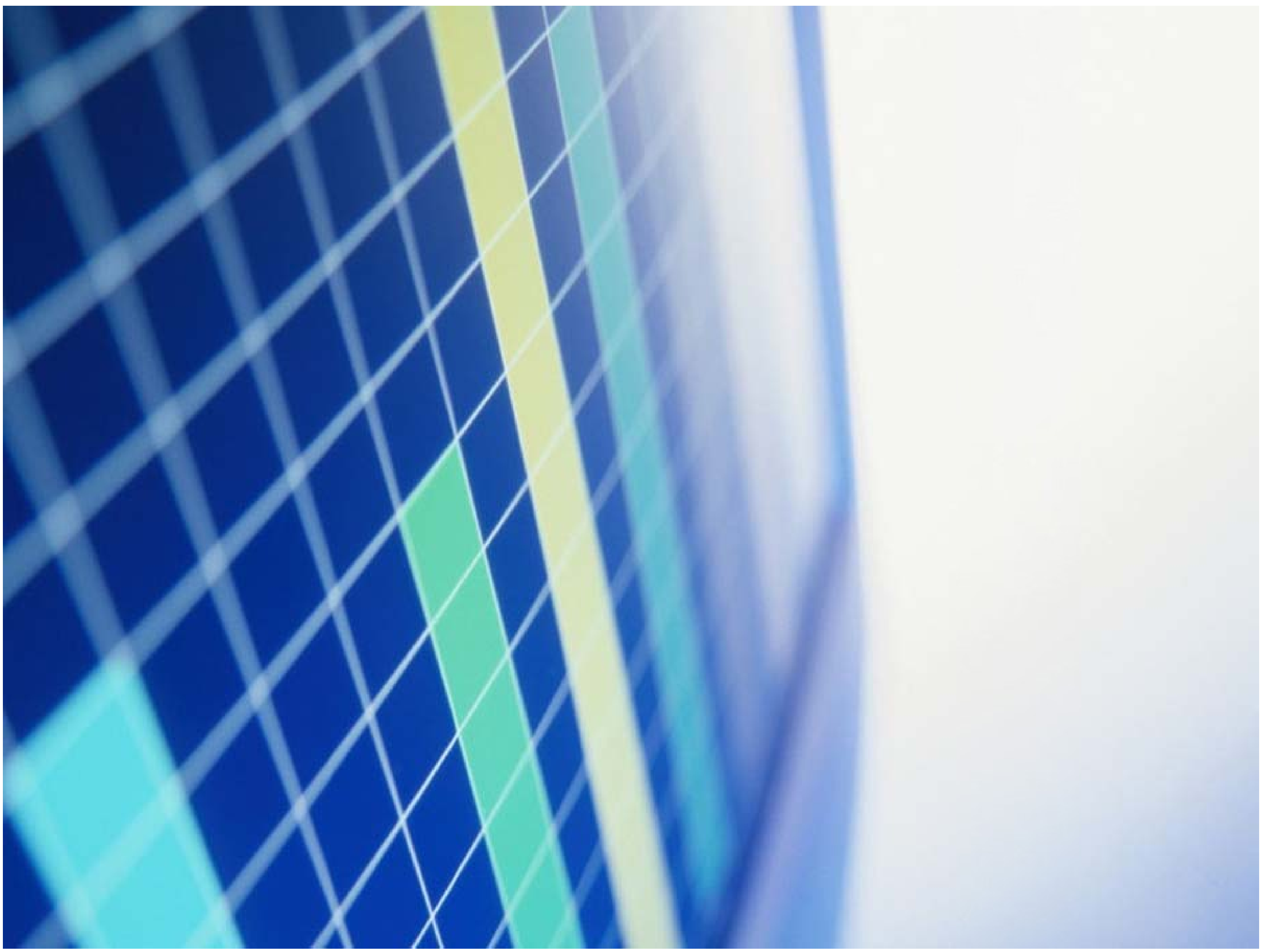
International tax

México Highlights 2014



Investment basics:

Currency – Mexican Peso (MXN)

Foreign exchange control – None, and no restrictions are imposed on the import or export of capital. Repatriation payments can be made in any currency. Both residents and nonresidents can hold bank accounts in any currency in any part of the world; however, for some accounts located in Mexico but kept in a foreign currency, the currency must be the US dollar.

Accounting principles/financial statements – Mexican GAAP (with increasing conformity to international standards) applies. Financial statements must be prepared annually.

Principal business entities – These are the per se corporation (SA), limited liability company (SRL) and branch of a foreign corporation.

Corporate taxation:

Residence – An entity is resident if it is managed and controlled in Mexico.

Basis – Residents are taxed on worldwide income; nonresidents are taxed only on Mexican-source income. Foreign-source income derived by residents is subject to tax in the same way as Mexican-source income. Branches are taxed the same as subsidiaries.

Taxable income – Corporate tax is imposed on a company's profits, which consist of business/trading income, passive income and capital gains. Normal business expenses may be deducted in computing taxable income. Inflationary accounting for tax purposes is applicable to certain concepts of revenue and expenses.

Taxation of dividends – Dividends received by a Mexican resident company from another Mexican resident company are exempt from corporate tax. Dividends received from a foreign company are subject to corporate tax in the period the dividends are payable, but a credit for underlying corporate and withholding tax generally is available for foreign tax paid. If dividends are not paid from the "CUFIN account" (i.e. already taxed profits), the payer is required to pay tax (30% on a gross-up amount).

Capital gains – Mexican entities are not subject to special tax treatment on capital gains and the use of capital losses is restricted in some cases.

Losses – Losses may be carried forward for 10 years, subject to applicable inflation adjustments. The carryback of losses is not permitted.

Rate – 30%

Surtax – No

Alternative minimum tax – The flat tax is abolished as from 1 January 2014.

Foreign tax credit – Foreign tax paid may be credited against Mexican tax on the same profits, but the credit is limited to the amount of Mexican tax payable on the foreign income.

Participation exemption – No

Holding company regime – No

Incentives – Special rules apply to maquiladoras. Incentives are granted for national cinematographic and theatrical production.
A number of tax incentives, including accelerated depreciation of fixed assets and deductions for real estate developers and the special Real Estate Investment Company (SIBRAS) regime are abolished as from 1 January 2014. However, the Real Estate Investment Trust (FIBRAS) regime is maintained with some adjustments.

Withholding tax:

Dividends – As from 1 January 2014, a company that distributes dividends to a nonresident or a resident individual must withhold a 10% tax, which is considered a final tax. For nonresidents, the 10% rate may be reduced under an applicable tax treaty. A grandfather rule applies so that CUFIN balances as of 31 December 2013 are not subject to withholding tax when distributed in the future.

Interest – Interest paid to a nonresident is subject to withholding tax at rates ranging from 4.9% (interest paid to a bank) to 30%. A 40% rate applies where interest payments are made to a related party located in a low- tax-country.

Royalties – Royalties paid to a nonresident are subject to a withholding tax of 30% (patents and trademarks) or 25% (applicable to other kind of royalties), unless the rate is reduced under a tax treaty. The leasing of machinery and equipment generally is considered a royalty.

Technical service fees – Fees paid for technical assistance are subject to a 25% withholding tax unless the rate is reduced under a tax treaty.

Branch remittance tax – Rules similar to the CUFIN rules for dividends apply. Permanent establishments distributing dividends or gains to their head office are subject to an additional tax of 10% on such dividends or gains.

Other – No

Other taxes on corporations:

Capital duty – No

Payroll tax – Payroll taxes apply at the state level.

Real property tax – The municipal authorities levy "rates" on the ownership of real property. Rates are deductible in calculating the corporation tax liability.

Social security – Employer contributions for social security and other related contributions (e.g. housing and retirement) are mandatory, with rates ranging from 15% to 25%, depending on the salary structure of the group of employees.

Stamp duty – No

Transfer tax – A rate between 2% and 5% applies to the transfer of real estate.

Other – While not a tax, mandatory profit sharing rules imply that an entity is obliged to actually distribute 10% of taxed profits to its employees no later than May of the year following the year in which the profits were generated. A special excise tax on production and services is levied on the alienation of certain goods and the provision of certain services.

Anti-avoidance rules:

Transfer pricing – Rules following the OECD guidelines apply to cross-border and domestic transactions. Acceptable transfer pricing methods are as follows: the comparable uncontrolled price (CUP) method is considered the preferred method, followed by the cost plus and resale price methods. Profit-based methods are to be applied if the CUP, cost plus and resale price methods are not applicable. The profit split and residual profit split methods, and TOPMM are not applicable in specific circumstances. Documentation rules apply. APAs are available.

Thin capitalization – Interest payments made by a Mexican resident company on a loan from a nonresident related party are nondeductible for income tax purposes if the debt-to-equity ratio of the payer company exceeds 3:1.

Controlled foreign companies – Income is attributed to Mexican tax residents (including resident foreigners) from "controlled" entities where more than 20% of their income is represented by passive income (broadly defined) and taxed locally at a rate less than 75% of Mexico's statutory rate. Reporting rules may apply.

Other – A tax audit report may be filed (optional) for taxpayers with more than 300 employees, gross income exceeding MXN 100 million or assets exceeding MXN 79 million.

Disclosure requirements – External tax auditors are required to disclose on the tax audit report when a taxpayer has entered into a transaction that is not considered viable by the Mexican tax authorities.

Administration and compliance:

Tax year – Calendar year

Consolidated returns – Mexico's tax consolidation system is abolished as from 1 January 2014 and replaced by a new tax integration regime. The new regime will allow a group to defer income tax for up to three years, taking into account only the profits and losses of entities in the group.

Filing requirements – Under the self- assessment regime, advance corporate tax is payable in 12 installments. The annual tax return must be filed within the first three months of the following year (no extensions are available).
An advance electronic signature certificate must be available and electronic accounting records must be maintained.
As from 1 January 2014, all taxpayers are required to issue digital invoices with respect to their transactions.

Penalties – Penalties apply for noncompliance with the tax rules.

Rulings – The tax authorities will issue rulings on the tax consequences of actual transactions.

Personal taxation:

Basis – Mexican nationals are taxed on their worldwide income. Nonresidents are taxed only on Mexico-source income.

Residence – An individual is considered resident if he/she has a permanent home in Mexico. If an individual has a home in two countries, the key factor in determining residence is the location of the individual's center of vital interests. Mexican nationals are, in principle, considered tax residents, subject to the permanent home and/or the center-of-vital-interests test.

Filing status – Tax returns are filed individually, regardless of marital status.

Taxable income – Income is taxed, in part, under a schedular system, although some income can be mixed to determine taxable income. Profits derived from the carrying on by an individual of a trade or profession generally are taxed in the same way as profits derived by companies. A separate regime applies to interest earned by individuals.

Capital gains – Capital gains arising from an individual's sale of publicly traded shares, including financial derivatives, are subject to a 10% tax on the gains.

Deductions and allowances – Subject to certain restrictions and caps (the lower or MXN 100,000 or 10% of taxable income), deductions are granted for medical expenses and medical insurance, retirement annuities, mortgage interest, etc. Personal allowances are available to the taxpayer and his/her spouse, children and dependents.

Rates – Rates are progressive up to 35%.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – The municipal authorities levy "rates" on the ownership of real property. Rates are deductible in calculating the individual's taxable income applicable to leasing of real property.

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – Employed individuals are required to make social security contributions, with the amount based on the individual's salary.

Administration and compliance:

Tax year – Calendar year

Filing and payment – Tax on employment income is withheld by the employer and remitted to the tax authorities. Other types of income, such as income from the provision of services and leasing income, are subject to withholding. Income not subject to withholding is self-assessed; the individual must file a tax return and make prepayments of tax. Final tax is due on 30 April (no extensions are available).
An advance electronic signature certificate must be available and electronic accounting records must be maintained.

Penalties – Penalties apply for noncompliance with the tax rules.

Value added tax:

Taxable transactions – VAT is levied on the sale of goods, leasing and the provision of services, as well as on imports.

Rates – The general VAT rate is 16% and a 0% rate applies to food, medicine and certain other items (with some exceptions).

Registration – All persons must be registered to be able to credit the VAT paid to vendors, suppliers or at the border. Nonresidents supplying goods or services in Mexico must register.

Filing and payment – VAT filing is monthly, within the first 17 days of the following month.

Source of tax law: Income Tax, Value Added Tax, Federal Tax Code

Tax treaties: Mexico has around 50 income tax treaties.

Tax authorities: Servicio de Administración Tributaria (SAT or Tax Administration Service)

International organizations: OECD, WTO

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