

Mexico City Tax Code Update

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On December 21, 2020, the "*Decree that amends, adds and repeals various provisions of the Mexico City Tax Code*" (the "Decree") was published in the Official Gazette of Mexico City, which entered into force on January 1, 2021.

One of the most significant amendments established in the Decree was the obligation to submit a notice (the "Notice") by taxpayers (individuals and/or companies) that hire or subcontract services in which the contractor makes payments to subordinate personnel in Mexico City.

The aforementioned obligation must be complied with regardless of the form in which the services provided by the contractor are denominated, and even when the remuneration to the subordinate personal work is made through another person.

The Notice must be submitted to the Ministry of Finance of the Government of Mexico City within 10 days following the date on which the contract is executed or amended, along with:

- (i) The original or certified copy of the agreement; and
- (ii) Information on the number of workers providing such services, as well as the name, Federal Taxpayer Registry and fiscal address of the subcontracted service provider.

Additionally, taxpayers who continue having these types of agreements in force as of January 1, 2021, must file the Notice within 30 calendar days following the entry into force of the Decree, regardless of the date of execution or modification of the contract.

As established in the Statement of Reasons, such obligation is intended to:

- (i) Efficiently collect the Payroll Tax ("ISN") and detect inconsistencies between the ISN tax returns and the notices; and
- (ii) Harmonize the legal framework of subcontracting in accordance with the set of amendments presented by the Federal Executive on November 12 to the Federal Congress, in order to reform, add and repeal various provisions of the Federal Labor Law, the Social Security Law and the Law of the National Workers' Housing Fund Institute.¹

Notwithstanding the foregoing, we believe that both the Statement of Reasons and the provision in question are not clear and generate legal uncertainty, since they give rise to various legal interpretations regarding the scope of the different contractual relations that should be subject to the submission of the notice.

Therefore, we believe that, to be able to determine whether or not such obligation exists, it is important to analyze each specific case and the different agreements that the individual or company may have.

Finally, in case of not presenting the Notice, or doing it in an extemporaneous way, a fine is foreseen, which can vary from MXN\$3,713.00 to MXN\$9,413.00.

To read en español, click [here](#).

¹ Currently, this initiative has not been discussed or approved in the Chamber of Deputies and/or the Chamber of Senators.

Pasante Renata Sanchez Musi contributed to this alert.