

Mexico: Tax Amendments in 2021

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On December 8, 2020, a Decree was published in the *Official Federal Journal*, which amends, adds and repeals various provisions of the *Income Tax Law*, the *Value Added Tax Law*, the *Special Tax on Production and Services Law* and the *Federal Fiscal Code*, which will enter into force on January 1, 2021.

Please find below a summary of the most important aspects of the amendment:

Income Tax Law

- Withholding digital services. The withholding rates for digital services delivery are simplified.
- Penalties related to digital services. Blocking Internet access to the services provided in the Value Added Tax Law ("VAT") will be enforceable as a sanction against legal entities residing abroad without a permanent establishment ("PE") in Mexico, as well as against foreign legal entities.

Value Added Tax Law

- Disposal of used goods through digital platforms. Digital intermediary services aimed at the disposal of used goods become subject to VAT.
- Intermediary digital platforms. Before the amendment, foreign residents without a PE in Mexico who provide digital services to recipients located in the country must comply with the requirements set forth in the Law. However, such requirements are eliminated if the tax withholding is made in accordance with the provisions of the VAT Law.
- Exception to manifest VAT in an express and separate way. Foreign residents who provide digital services through intermediaries between third parties may choose to publish the price at which the goods or services are offered on their platform without expressly stating the VAT separately.
- VAT withholding obligation. The digital intermediary platforms that process the payments will be obliged to withhold 100% VAT charged to foreign residents without a PE in Mexico that provide digital services to persons located in Mexico.
- Penalties related to non-compliance. When foreign residents without a PE in Mexico that provide digital services to users located in national territory incur serious tax omissions, the concessionaires of the public telecommunications network will be obliged to block Internet access to their services.

Federal Tax Code

- Sale in a spin-off. It is considered that there is a sale in a spin-off when, as a consequence of the total or partial transfer of assets, liabilities and capital, an amount arises in the stockholders' equity of a company that was not registered or recognized in any of the accounts of the stockholders' equity of the financial statement prepared, filed and approved in the general meeting that agreed to the spin-off.
- Joint liability. Companies resident in Mexico or foreign residents with PEs that carry out transactions with the related parties' foreign resident, over which there is effective control, or which are controlled by the related parties' foreign resident, will be jointly and severally liable when such residents constitute a PE.
- Suspension / cancellation of digital seal certificates. Digital seal certificates are suspended when a taxpayer does not disprove the presumption of (i) being an issuer of tax receipts considered apocryphal and, (ii) improperly transmitting tax losses.
- Suspension or reduction of tax obligations. The Tax Administration Service ("SAT") will have the power to suspend or reduce obligations that taxpayers have registered with the Federal Taxpayers Registry ("FTR").
- FTR cancellation requirements. Minimum requirements are established that taxpayers must comply with in order to be able to cancel their FTR number.
- Accounting records and supporting documentation. It is established that the obligation to keep, for the time that the company or contract subsists, the documentation to implement the agreements reached by resolution of controversies contained in the treaties to avoid double taxation, and the declarations of provisional payments and of the fiscal year.

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