

# Mexico Alert: Confirmation of 0% VAT Rate of Exports of Goods and Services

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PRACTICES Mexico, International

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Recently in Mexico, an isolated decision was published (“Thesis”) titled, “VALUE ADDED TAX. THE 0% RATE PROVIDED FOR IN ARTICLE 29, SECTION IV, SUBSECTION D), OF THE RELATIVE LAW, IS APPLICABLE TO THE COMPENSATION OF SERVICES FOR COMMISSION ONLY WHEN THE EXPORT OF GOODS OR SERVICES IS VERIFIED ABROAD.” The Thesis has given rise to the thought that it generates a new approach to the 0% rate, considering that the 0% rate applies only when the exportation of services is verified or materialized abroad.

The resolution of the Collegiate Circuit Court (“CCC”) that gives rise to the Thesis addresses the tax authority’s rejection to a value added tax (“VAT”) refund request from a foreign shipping company’s commission agent, and determines that the 0% rate is applicable as long as the compensations charged to foreign residents without a permanent establishment in Mexico come from exported services, i.e., that the use, enjoyment or benefit (advantage) take place abroad and not within Mexico.

The CCC relies on a prior thesis of the Second Chamber of Mexico’s Supreme Court of Justice, which provides in the relevant part that: “(...) *in order for the service to be understood as exported for VAT purposes, it is necessary that its advantage takes place abroad, (...) and the scope of the concept “advantage” (...) is in the sense that the use, enjoyment or benefit is materialized outside Mexico, that is to say, it is effective in another country.*”

Although the unfortunate wording of the title of the Thesis may create confusion, the position stated in the resolution does not modify the criteria previously decided by the Supreme Court, and, therefore, the application of the 0% rate remains in effect as long as the *advantage* occurs abroad, otherwise the general VAT rate will apply.

Accordingly, the Thesis does not modify the concept that the exportation must adhere to the requirement that the “advantage” takes place abroad and not that the actual rendering of the service occur outside of Mexico.

## Miscellaneous rule for shipping agents

The CCC resolution confirmed the constitutionality of rule 4.4.3 of the Miscellaneous Tax Resolution, which provides for the treatment of services rendered by shipping agents. It does not, however, include any new interpretation on the application of the referenced rule.

To read en español, [click here](#).

For more information, please contact any of the attorneys listed below.