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Corporate Tax

Mexico

Law and Practice

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MEXICO

Law and Practice

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1. Types of Business Entities, Their Residence and Basic Tax Treatment

1.1 Corporate Structures and Tax Treatment

Businesses generally adopt a corporate form.

Commercial businesses are most commonly incorporated as a *sociedad anónima* (equivalent to a public limited company) or a *sociedad de responsabilidad limitada* (equivalent to a limited liability company).

Groups of individuals that perform independent activities, such as professional services, may opt to form a non-stock civil entity, which has a separate legal existence, called a *sociedad civil*. These entities are highly common between lawyers, architects, doctors, accountants, etc. There are no substantial differences in the tax regime applicable to this type of commercial corporation, although it has a different legal existence from its members, partners or shareholders. The unique relevant difference is that the revenue of *sociedades civiles* is taxed on a cash flow basis, while commercial corporations have to recognise their income for tax purposes on an accrual basis.

1.2 Transparent Entities

As a rule, there are no transparent entities in Mexico. Any entity incorporated as a *sociedad anónima*, *sociedad de responsabilidad limitada* or *sociedad civil* is an independent entity from its members, partners or shareholders, and is a taxable person for tax purposes.

The only figure that could be understood as a transparent entity is a trust or *fideicomiso*, as the revenue generated through such entities is taxable for their beneficiaries.

In the specific case of trusts that perform commercial activities, the trustee has the obligation to comply with several obligations applicable to corporations, such as filing monthly returns on behalf of the beneficiaries.

The trustee will also have to calculate the annual taxable profit generated by the trust's commercial activities.

Said taxable profit will be accumulated by the beneficiaries as taxable revenue to determine their personal income tax.

If there is a loss, the trustee will be entitled to offset it against the following year's profit.

Commercial trusts are regularly used for real estate activities.

1.3 Determining Residence of Incorporated Businesses

A corporation will be deemed a Mexican resident for tax purposes if its principal administration or its effective management is located in Mexico.

The principal administration or the effective management is considered to be in Mexican territory if the day-to-day decisions regarding the control, direction, management or operation of the incorporated business and its activities are taken or executed in Mexico.

As mentioned before, the general rule is that Mexican legislation does not recognise tax transparency for any kind of entities, except for trusts for commercial purposes.

If a transparent entity constituted abroad becomes Mexican resident, by statute of the law, it will no longer be transparent.

1.4 Tax Rates

Mexican resident companies are taxed at a 30% income tax rate on their annual taxable profit.

Individuals are taxed at progressive rates, depending on their gross revenue, with the highest rate being 35% of their annual taxable profit.

2. Key General Features of the Tax Regime Applicable to Incorporated Businesses

2.1 Calculation for Taxable Profits

Corporate taxable profit is calculated by subtracting deductible expenses and paid employees' profit sharing from the gross revenue of the relevant fiscal year.

If the result is positive, the net operating losses (NOLs) of previous years can be offset. If the result is still positive after this deduction, a 30% rate is applied to calculate the liquid amount to be paid.

For business corporations, revenue is taxed and deductions are authorised on an accrual basis, while the taxable profit of non-stock entities, such as *sociedades civiles* that render professional services, is calculated on a cash flow basis.

Taxable profits are calculated by applying the specific legal provisions that explain the procedure to do so, such as those which provide the concepts deemed as revenue, deductible expenses and rules for the offsetting of NOLs.

Therefore, taxable profits are not based on accounting profits. In fact, there is a specific section on the annual tax return in which taxpayers have to reconcile their tax and accounting profit or loss, by disclosing taxable but not accounting revenue/deductions and accounting but not taxable revenue/deductions.

2.2 Special Incentives for Technology Investments

Mexican law provides an incentive for technology investments, equivalent to 30% of the investment made for R&D purposes in a relevant tax year.

This amount can be credited against the income tax of the same relevant tax year. If the incentive is higher than the tax payable, the taxpayer may carry forward the difference for ten years.

The incentive for technology investments is limited to a global amount of MXN1.5 billion collectively for all taxpayers willing to obtain the benefit, and MXN50 million per individual taxpayer, on an annual basis.

There are no particular incentives for patent box investments.

2.3 Other Special Incentives

There are other special incentives, with the most relevant being as follows:

- For investment in the following activities:
  - (a) the production or distribution of Mexican films;
  - (b) the production of domestic stage plays, visual arts, dance, music in orchestra conducting, instrumental and vocal performance in concert, and jazz; or
  - (c) infrastructure and facilities for high performance and highly specialised athletes.
- The benefit will consist of a tax credit in an amount equal to the contribution to be offset against the income tax of a relevant fiscal year, which can be carried forward for ten years.

In order to obtain these tax incentives, taxpayers have to comply with certain special rules.

- Employers who hire handicapped or senior employees (above the age of 65) may deduct an additional 25% of the wages paid to these employees.
- In order to promote real estate projects, public trusts focused on real estate may adopt the infrastructure and real estate trusts regime (FIBRA, for its acronym in Spanish) and obtain several tax reliefs, such as an income tax payment deferral.
- Taxpayers located in the northern and southern borders may obtain tax relief equivalent to a third of the income tax for a relevant fiscal year.

A reduced VAT rate is also applicable for the activities carried out on both borders.

2.4 Basic Rules on Loss Relief

Taxpayers that incur losses in a specific year are entitled to offset them against taxable profits for the next ten years (carry forward).

Carry back of losses is not permitted.

2.5 Imposed Limits on Deduction of Interest

There are several limits on the deduction of interest by Mexican resident corporations, including the following.

- Under a thin capitalisation rule, taxpayers will not be allowed to deduct interest paid to related parties resident abroad. If the debt-equity ratio exceeds a proportion of 3:1, interest accrued by the proportion of debt that surpasses that threshold will not be deductible.

This thin capitalisation rule does not apply to interest derived from loans contracted by financial institutions or from debt contracted for construction activities, the operation or maintenance of productive infrastructure related to strategic activities, or the production of electricity.

- As of 2020, the net interest of the fiscal year exceeding the amount resulting from multiplying the adjusted net tax profits by 30% shall not be deductible.

Net interest will be the amount of the total interest due from the taxpayer's debts, minus the total income for accrued interest, which is considered as taxable revenue.

The adjusted net tax profits shall be equal to the taxable profits plus the total interest due from the taxpayer's debts and the depreciated amount for investments in the fiscal year (ie, an amount equal to the taxpayer's EBITDA).

This limitation does not distinguish if the beneficiary of the interest is a related or an independent third party, or if it is a Mexican resident or not.

This limitation shall only be applicable if the taxpayer's accrued interest expense during the fiscal year exceeds MXN20 million. If the taxpayer is part of a group or related parties, this amount shall be divided between the members of the group, in proportion to the prior fiscal year's income.

Non-deductible net interest for the fiscal year may be deductible during the following ten fiscal years, to the extent it is added to the net interest expense of the following fiscal years.

This limitation does not apply to financial institutions or to interest derived from debt to finance public works, construction, hydrocarbon-related projects, extractive industry-related projects, electricity and water-related projects, or yields of public works.

- According to a special anti-avoidance rule, interest is deemed as dividends, and therefore is not deductible when Mexican residents take loans from related parties resident abroad, and it is set forth by the parties that:
  - (a) the debtor makes a written promise to unconditionally pay all or part of the credit at a date determined at any time by the creditor;
  - (b) interest is not considered an arm's-length transaction;
  - (c) in case of default, the creditor has the right to intervene in the administration or management of the debtor;
  - (d) interest is fixed to or contingent on earning profits; or
  - (e) the loans are back-to-back loans, according to Mexican tax law.

2.6 Basic Rules on Consolidated Tax Grouping

Subject to specific legal requirements, groups of corporations may request an authorisation from the tax authority, in order to pay income tax as a consolidated group.

The relevant benefits of this regime are mainly that taxable profits generated by one member may be offset by the tax losses of another, in order to determine the group's taxable profit.

The group may defer the income tax for up to three years.

2.7 Capital Gains Taxation

The transfer of real estate, land, fixed assets, securities, shares, ownership of interests or governmental certificates, among others, may result in a capital gain for the seller.

Corporations are taxed on the profit obtained from such transactions, calculated by subtracting the acquisition price, adjusted by inflation, from the price for which the good was sold.

In the specific case of the sale of shares, the profit will be calculated by subtracting the current cost of the shares for tax purposes from the price for which they were sold.

If the result is positive, there is a profit to the taxpayer that should be added to its other revenue to determine income tax.

Foreign residents who sell shares issued by Mexican companies are subject to a 25% tax on the gross revenue, without any deductions. Nevertheless, foreign residents with a local representative in Mexico have the option to be taxed at a 35% rate on the net gain.

There are no relevant reliefs or exemptions for Mexican residents; foreign residents are entitled to take the benefits of a double taxation treaty, if applicable.

2.8 Other Taxes Payable by an Incorporated Business

At a federal level, incorporated businesses are obliged to pay Value Added Tax (VAT) and the Special Tax on Production and Services (IEPS, for its acronym in Spanish).

VAT is triggered by the sale of goods, the rendering of independent services, the leasing of property, and the importation of goods and services.

The general rate is 16% on the price of the transaction and VAT is transferred at every step of the productive chain to the purchaser of goods and services, so that the final consumer absorbs the cost of the tax.

There are several special rates: for example, sales of groceries and prescription drugs, among others, are taxable at 0%. In the northern and southern border areas, transactions are taxed at an 8% rate.

Input VAT is creditable against the triggered tax, with taxpayers paying the positive difference between the latter and the former.

If the difference is negative, there is a favourable balance for the taxpayer, which is refundable.

IEPS is triggered by the sale of specific goods and the rendering of specific services, mainly those that may cause harm to personal and collective health and wellbeing, and thereby may trigger additional costs to the State, such as tobacco, alcohol, junk food, etc.

At a local level, real estate owners are subject to property tax at progressive rates, depending on the value of the property.

2.9 Incorporated Businesses and Notable Taxes

Incorporated businesses are not subject to any other notable taxes.

3. Division of Tax Base Between Corporations and Non-corporate Businesses

3.1 Closely Held Local Businesses

Closely held local businesses are publicly held companies with a small number of shareholders, and commonly operate in a corporate form.

According to Mexican legislation, any company or entity with a legal existence different to its partners or shareholders must adopt any of the corporate forms described in **1.1 Corporate Structures and Tax Treatment**.

It is important to bear in mind that the tax regime for closely held companies, as they adopt a corporate form, is essentially the same as for public companies or large multinational groups.

The only alternative would be for individuals to perform business activities in their own name, in which case they would be directly responsible before the tax authorities and the specific rules for individuals would be applied (progressive rates, revenue taxed on cash flow, among others).

3.2 Individual Rates and Corporate Rates

Corporate tax rate is 30%, while individuals are subject to a progressive rate, with the highest rate being 35%.

There are no particular provisions that prevent individual professionals (eg, architects, engineers, consultants, accountants, etc) from earning income at corporate rates through corporations, in such cases that they constitute a *sociedad civil* (a non-stock entity), which is a common practice among professionals.

Nonetheless, revenue gained directly by individuals in the form of dividends or salary assimilated income will be taxed according to the rates provided for individuals.

3.3 Accumulating Earnings for Investment Purposes

There are no rules that prevent closely held corporations from accumulating earnings for investment purposes.

3.4 Sales of Shares by Individuals in Closely Held Corporations

As a rule, dividends paid by closely held corporations to individuals are taxed at the corporate level. This means that the tax triggered by the distribution of dividends must be paid by the company that makes the distribution, not by the shareholder. This tax will not be triggered if the dividend comes from the "net after-tax profit account" (CUFIN, for its acronym in Spanish).

Individuals must include the dividends in their yearly revenue, but they are entitled to credit the tax paid by the corporation for the distribution of the dividend against the tax due in their annual tax return.

Additionally, individuals will be subject to a withholding tax of 10% for the distribution of dividends.

It is important to note that these rules are applicable for any kind of corporation, even if it is a closely held business or a public corporation, whether it is domestic or part of a multinational group.

Individuals are taxed on the sale of shares in closely held companies, or in any other company, on the net gain on the transaction for tax purposes – ie, the sale price minus the current cost of the shares.

3.5 Sales of Shares by Individuals in Publicly Traded Corporations

Individuals are taxed on the dividends from publicly traded corporations in the same way as they would be if the dividend comes from a closely held corporation, as explained in **3.4 Sales of Shares by Individuals in Closely Held Corporations**.

Regarding the sale of shares of publicly traded corporations, individuals are subject to a 10% rate tax on the net gain – ie, the sales price minus the acquisition cost.

4. Key Features of Taxation of Inbound Investments

4.1 Withholding Taxes

Interest, dividends and royalties paid by Mexican residents to foreign residents are taxed at different rates in the absence of income tax treaties.

It is important to bear in mind that the withholding is triggered when the payment is effectively made or even when it is due, whichever happens first.

The different tax rates are as follows:

- interest is subject to different withholdings of 4.9%, 10%, 15%, 21%, 35% and 40%, depending on the beneficiary and the type of credit that triggers the interest;
- dividends are taxed at a 10% withholding rate; and

- royalties, in general, are taxed at a 25% withholding rate, with the following additional special rates:
  - (a) royalties for the leasing of railroad cars, containers, trailers and ships for commercial use are subject to a rate of 5%;
  - (b) royalties for the use of patents, inventions, improvement certificates, trade marks, trade names and advertising are taxed at 35%; and
  - (c) royalties for the use of aircrafts for commercial activities are taxed at a 1% rate.

However, Mexico has signed a large numbers of tax treaties, so withholding rates provided in domestic legislation may be subject to treaty relief, depending on the residence of the beneficiary.

4.2 Primary Tax Treaty Countries

Mexico has an extensive tax treaty network that gives investors the opportunity to obtain tax reliefs for equity and/or debt investments conducted in Mexico.

The relevant countries with a tax treaty with Mexico are the US, the UK, the Netherlands, Luxembourg, Switzerland, Spain and Canada.

4.3 Use of Treaty Country Entities by Non-treaty Country Residents

Mexican legislation requires the residence of the beneficiary of the revenue to be demonstrated as a condition to obtaining a tax relief as per the tax treaty.

Additionally, during their audits, tax authorities request a demonstration that the recipient of the revenue is the beneficial owner, in order to determine whether it is entitled to treaty reliefs or is merely treaty shopping.

4.4 Transfer Pricing Issues

Mexican transfer pricing rules follow OECD standards as the OECD's Transfer Pricing Guidelines are mandatory for the interpretation of the law.

The main issues and concerns for Mexican resident parties of multinational groups are mainly related to the compliance of the global and country-by-country reports that must be submitted to the Mexican authorities.

When an audit is carried out by Mexican authorities regarding transfer pricing issues, a major concern for taxpayers is the threshold of documentary evidence that must be submitted to support that intercompany transactions follow the arm's-length principle.

Authorities regularly state that the evidence provided by the company is not sufficient or suitable.

This issue transcends to litigation processes, as the burden of proof lies with the taxpayer who challenges an assessment issued by the tax authorities.

Nevertheless, it has become common practice for transfer pricing controversies to be resolved by an alternative dispute resolution procedure before the Mexican tax ombudsperson.

It is important to point out that there are cases in which it is possible to settle a potential controversy with the authorities at the audit stage, as they accept the validity of the documentation and evidence provided by the taxpayer.

4.5 Related-Party Limited Risk Distribution Arrangements

In recent years, the tax authorities have challenged several low-risk distributor structures, mainly through transfer pricing audits. However, there have been cases where the authorities have assessed the creation of a permanent establishment derived from such arrangements. Most low-risk distributor structures currently in place may require re-evaluation given the positions taken by the Mexican Government in respect of the Multilateral BEPS Convention (which has not been approved by the Senate and, therefore, is not yet in force), especially concerning the introduction of the concept of "closely related" agent.

4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards

Local transfer pricing rules and their enforcement follow OECD standards.

4.7 International Transfer Pricing Disputes

It is not common for transfer pricing disputes to be resolved through mutual agreement procedures (MAPs) provided in double tax treaties.

Mexican tax authorities are not eager to use MAPs in transfer pricing issues.

5. Key Features of Taxation of Non-local Corporations

5.1 Compensating Adjustments When Transfer Pricing Claims Are Settled

When a transfer pricing claim is settled and a Mexican resident company did not follow the arm's-length principle, the corresponding adjustments must be made in the company's relevant tax returns.

If a foreign resident related party of a Mexican company suffers from an adjustment in its taxable profit involving transactions with the Mexican resident, the Mexican tax authorities may allow the latter to make the corresponding adjustments in its relevant tax return.

5.2 Taxation Differences between Local Branches and Local Subsidiaries of Non-local Corporations

As a rule, branches are not incorporated as Mexican companies, but are deemed permanent establishments and are therefore subject to the same tax obligations as Mexican residents. These obligations include submitting reports and returns, and keeping records for tax attributes and assets in the same manner (CUCA, CUFIN, NOLs, etc).

On the contrary, if a subsidiary is incorporated as a Mexican company and complies with the corresponding legal requirements, it will be deemed resident in Mexico for tax purposes and will therefore be obliged to comply with all the provisions stated in domestic law.

5.3 Capital Gains of Non-residents

Non-residents are taxed on the gains from the sale of shares, as the source of the revenue is deemed to be in Mexico in the following two specific cases:

- when the shares are issued by a Mexican resident company; or
- if the shares are not issued by a Mexican resident, and their value is represented, directly or indirectly, in a proportion equal or higher than 50% by real property located in Mexican territory.

In any case, capital gains from the sale of stocks are taxed at a 25% withholding rate over the gross revenue obtained from the transaction, without any deductions.

If the non-resident appoints a legal representative in Mexico and complies with certain requirements, the transaction may be taxed at a 35% rate on the net gain.

5.4 Change of Control Provisions

If the transfer of shares is part of a multinational group's restructure, the shares may be assigned without triggering any tax, as long as certain conditions provided by statute are met and the shares remain within the control of the group.

5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

There are no formulas to determine the income of foreign-owned local affiliates selling goods or providing services. However, the compensation for such transactions must comply with the arm's-length principle.

5.6 Deductions for Payments by Local Affiliates

The following general standards must be complied with in order to deduct payments by local affiliates:

- taxpayers must demonstrate that the transaction was materially executed (services were in fact rendered, goods sold were in fact delivered, etc), which routinely gives rise to significant documentation problems for taxpayers to satisfy the burden of proof;
- the expense must be strictly necessary for the business activity of the Mexican resident taxpayer; and
- transactions must be carried out according to the arm's-length principle.

If a foreign affiliate incurs administrative expenses on behalf of a Mexican resident, the tax authorities will expect the latter to demonstrate that the previously mentioned conditions are met.

It should be noted that prorated expenses are disallowed by statute.

Additionally, in 2020 a new standard for the deduction of payments by a Mexican resident company to a foreign resident affiliate was introduced into Mexican legislation. These payments will not be deductible if the beneficiary's revenue is subject to a preferential tax regime in its place of residence.

This limitation is not applicable if the revenue derives from business activities and the foreign affiliate is able to demonstrate that it has the human resources and the assets to conduct such activities.

The foregoing is true unless the revenue is subject to a preferential tax regime due to a hybrid mechanism, in which case the payment will not be deductible.

5.7 Constraints on Related-Party Borrowing

There are no legal provisions that prevent or impose any constraint, from a civil or commercial perspective, on borrowing by foreign-owned local affiliates paid to non-local affiliates.

However, the deduction of interest is subject to several limitations, such as thin capitalisation, back to back rules, and the 30% of the net profit threshold, as explained in **2.5 Imposed Rules on Deduction of Interest**.

6. Key Features of Taxation of Foreign Income of Local Corporations

6.1 Foreign Income of Local Corporations

Local corporations are taxed on their worldwide revenue, regardless of its source. Therefore, such revenue will be added to the Mexican-sourced income to determine the taxable profit, to which a 30% tax rate will be applied.

However, if such revenue triggered income tax in the source country, this amount may be credited against the Mexican income tax for the relevant tax year.

In the specific case that the revenue is sourced at a preferential tax regime or derives from transparent foreign entities, CFC rules are applied, primarily regarding the moment at which the revenue must be recognised for Mexican tax purposes.

6.2 Non-deductible Local Expenses

As mentioned in **6.1 Foreign Income of Local Corporations**, foreign income is taxable for Mexican resident companies.

6.3 Taxation on Dividends from Foreign Subsidiaries

Dividends received by Mexican corporations from foreign subsidiaries are taxed as any other revenue, as the worldwide income principle is applicable.

However, the income tax triggered and paid in the country of residence of the subsidiary may be credited against the Mexican income tax.

Additionally, the Mexican entity is entitled to credit the corporate tax paid by the foreign subsidiary abroad.

If the dividends distributed by a second-level foreign subsidiary of a direct subsidiary reach the Mexican resident entity, they can be credited against the tax paid.

In order for such taxes paid abroad to be credited, the Mexican corporation must hold no less than 10% of the capital stock of the foreign subsidiary, for at least six months prior to the dividend being paid.

6.4 Use of Intangibles by Non-local Subsidiaries

There are no legal restrictions on foreign subsidiaries using intangibles developed and owned by Mexican corporations, as the revenue of the latter will be taxed for Mexican purposes according to the worldwide income principle applicable to local residents.

However, transactions must comply with the arm's-length principle.

According to a non-mandatory interpretation of the law published by the Mexican authorities, if a Mexican resident pays royalties to a foreign related party for the use of an intangible developed or originally owned by the local resident, it must demonstrate that the transfer of the intangible was an arm's-length transaction in order for the expense to be deducted.

6.5 Taxation of Income of Non-local Subsidiaries Under CFC-Type Rules

Under Mexican Law, local corporations are bound to pay income tax on income received from a foreign subsidiary or controlled foreign company whose revenue is subject to a preferential tax regime.

A preferential tax regime is defined as a jurisdiction in which revenue tax is exempted or where the effective income tax to be paid is lower than 75% of the tax rate that would have applied in Mexico for the same income.

In this case, income generated by the foreign entity is deemed to be obtained directly by the Mexican resident and must be recognised, for tax purposes, when it is accrued by the foreign controlled company, not when it is effectively distributed to the Mexican corporation.

The same rule is applicable to income gained through fiscally transparent vehicles (whether they are characterised as an entity or otherwise), regardless of whether or not they are located in a low-tax jurisdiction.

6.6 Rules Related to the Substance of Non-local Affiliates

Under rules applicable to revenue obtained by Mexican residents from non-local affiliates subject to a preferential tax regime, the income of foreign affiliates engaged in an active trade or business may be exempted from CFC treatment.

6.7 Taxation on Gain on the Sale of Shares in Non-local Affiliates

Local corporations are taxed on gains on the sale of shares in their foreign affiliates, according to the rules explained in **2.7 Capital Gains Taxation**.

If the transfer of shares is part of a multinational group's restructure, the shares may be assigned without triggering income tax, as long as certain conditions provided by statute are met, as described in **5.4 Change of Control Provisions**.

7. Anti-avoidance

7.1 Overarching Anti-avoidance Provisions
In 2020, a general anti-avoidance rule was introduced into Mexican legislation, according to which tax authorities will be entitled to deny tax benefits or even reclassify transactions and arrangements when taxpayers are not able to demonstrate their business reason and commercial substance.

A transaction or structure will be deemed to lack a business reason when the reasonably expected quantifiable economic benefit is lower than the tax benefit obtained, or when the reasonably expected economic benefit may be achieved through less legal acts, and the tax effects of such acts would have been more burdensome.

In this regard, a tax benefit is any reduction, elimination or temporary deferral of a contribution, including those arising from deductions, exemptions and non-subjection.

A reasonably expected economic benefit is deemed to exist when, among others, the taxpayer's transaction seeks to generate income, reduce costs, increase the value of goods and assets, or improve the taxpayer's position in the market.

8. Audit Cycles

8.1 Regular Routine Audit Cycle
There is no legal provision that establishes a regular routine audit cycle for taxpayers.

However, in the past two years, tax authorities have focused their efforts on high-income taxpayers to review the compliance of their tax obligations and carry out audits.

A new rule entered into force in 2021, according to which Mexican tax authorities will make public the parameters of what they consider reasonable profit margins, deductions and effective tax rates for each economic sector.

If the tax authorities consider that a taxpayer does not comply with said parameters, they will issue a notice addressed to the managers, directors or legal representatives, informing them of said situation.

Although SAT's parameters are not mandatory and the aforementioned notice is not a formal audit, it is foreseeable that audits will be carried out against the companies that do not comply with the parameters issued by the authorities.

9. BEPS

9.1 Recommended Changes
In recent years, Mexico has included the following BEPS recommendations in its domestic legislation:

- reporting standards for Mexican corporations regarding transactions with foreign related parties. This includes the obligation to submit a local report, a master report and a country-by-country report;
- a general anti-avoidance rule, as described in **7.1 Overarching Anti-avoidance Provisions**;
- limitations on the deduction of interest, as explained in **2.5 Imposed Limits on Deduction of Interest**;
- limitations on the deduction of payments made to related parties resident in low-tax jurisdictions, or hybrid instruments, as described in **5.6 Deductions for Payments by Local Affiliates**; and
- mandatory disclosure rules, regarding potentially aggressive structures, for tax advisers and taxpayers.

9.2 Government Attitudes
The general attitude of the Mexican government is to adopt as many BEPS recommendations as possible.

The specific target of the Mexican Tax Administration Service is to increase the collection of taxes, without making a substantial legal reform, by limiting Mexican taxpayers' ability to implement aggressive tax planning strategies and structures.

As the rules described in **9.1 Recommended Changes** are relatively new in Mexican legislation, there is not yet any specific knowledge or practical experience on how authorities will implement such mechanisms to audit taxpayers.

9.3 Profile of International Tax
In recent years, Mexican authorities have become aware of the need to prevent tax avoidance carried out through cross-border transactions, specifically among related parties and in light of transfer pricing obligations.

Therefore, it is likely to see an intensive implementation of BEPS recommendations in legal amendments but also in audit procedures in the future.

9.4 Competitive Tax Policy Objective
Mexico does not have a comprehensive competitive tax policy. On the contrary, the tendency in recent years has been to increase tax rates for individuals and corporations. As previously explained, the implementation of additional instruments such as BEPS recommendations (but not limited to them) to enforce

tax legislation and increase taxpayers' burden and collection have been brought forward.

9.5 Features of the Competitive Tax System

As mentioned in **9.4 Competitive Tax Policy Objective**, Mexico does not have a competitive tax system.

9.6 Proposals for Dealing with Hybrid Instruments

To date, the only provision in Mexican legislation regarding hybrid instruments is the limitation of the deduction of payments made to related parties resident abroad. In such cases and due to the existence of a hybrid instrument, the revenue is subject to a preferential tax regime.

It is foreseeable that legal reforms will enact provisions to deal with these kinds of mechanisms.

9.7 Territorial Tax Regime

Mexico does not have a territorial tax regime. Mexico has a worldwide income system for its residents.

9.8 CFC Proposals

Mexico does not have a territorial tax regime.

9.9 Anti-avoidance Rules

As the general anti-avoidance rule described in **9.1 Recommended Changes** is relatively new in Mexican legislation, there is not yet any specific knowledge or practical experience on how authorities will implement such mechanisms to audit taxpayers and, in turn, the impact on investors.

9.10 Transfer Pricing Changes

The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations and its amendments have already been adopted in Mexican legislation, so no major change is expected.

The taxation of profits from intellectual property is already covered by Mexican legislation, so no change is expected on that matter either.

9.11 Transparency and Country-by-country Reporting

Country-by-country reporting regarding transactions with related parties has already been included in domestic legislation.

9.12 Taxation of Digital Economy Businesses

As of 2020, digital services such as the download of audio-visual content and the intermediation in the sale of goods and the rendering of services are subject to VAT when such services are rendered to a Mexican resident.

Individuals who sell goods and render services through an intermediation app are taxed on their revenue at variable withholding rates, depending on the goods that are being sold or the services being provided.

Nevertheless, there is no serious discussion among public officers and legislators on how to tax profits generated in Mexico by digital economy businesses resident abroad.

9.13 Digital Taxation

See **9.12 Taxation of Digital Economy Businesses**.

9.14 Taxation of Offshore IP

Please see **4.1 Withholding Taxes** and **6.4 Use of Intangibles by Non-local Subsidiaries** for the relevant provisions regarding the taxation of foreign intellectual property deployed in Mexico.

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Ortiz Abogados Tributarios is a Mexican law firm with more than 30 years of experience in tax law, covering comprehensive advisory, consultancy, litigation and alternative dispute resolution in tax controversies, regarding domestic and cross-border transactions. The firm is composed of four partners, two associates and two law clerks, and its offices are located in Mexico City. As a boutique firm, from the very beginning Ortiz Abogados has provided personalised, strategic and timely attention, regardless of the client's size or the case's complexity. The firm recently handled a complex transfer pricing controversy regarding a multinational company in the technology industry, which was resolved through a mediation mechanism before the Mexican Taxpayers' Rights Defence Agency.

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