MEXICO'S TOP LAW FIRMS 2015

NEW RULES NEW OPPORTUNITIES

MEXICO IS READY FOR NEW INVESTORS

GRUPO REFORMA

RISKS AND OPPORTUNITIES
FROM A MEXICAN TAX PERSPECTIVE

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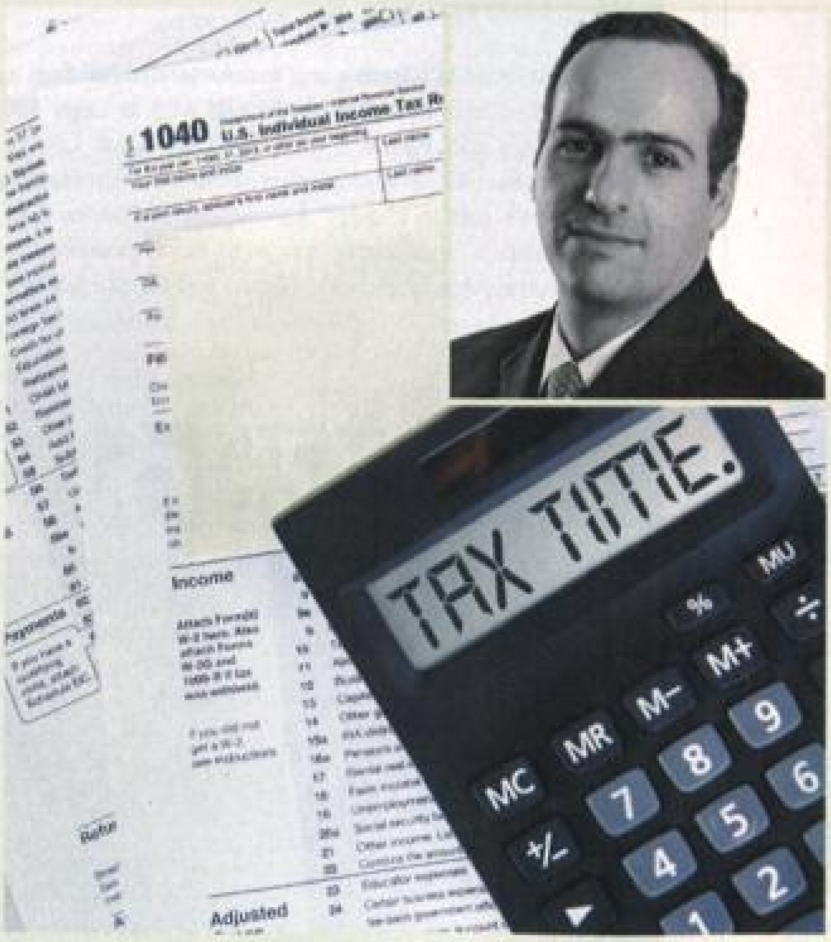
INVESTMENTS DERIVED FROM STRUCTURAL REFORMS

The approved structural Reforms are an unprecedented opportunity for transformational economic growth in Mexico, being the most relevant from an investment point of view the reforms related to Energy, Telecommunications and Antitrust, which have put Mexico in the radar of Multinational companies seeking to deploy their investments and that will require interaction and compliance with Mexican legislation.

Since a relevant component is the Tax legislation due to the economic and financial impact on each of the ventures, below we briefly highlight the relevant and trending tax topics for any Multinational company analyzing its inbound investment into Mexico, in which case the optimization of periodical distributions and of a potential exit strategy are of utmost importance.



A THIN-CAPITALIZATION

Mexico has thin-capitalization provisions that limit the deductibility of interest payments to foreign related parties, when the debt to equity ratio exceeds 3:1. Mexican companies can request a transfer pricing authorization to increase the referred 3:1 ratio in the case it proves that its business activity necessarily requires higher debt leverage.

Debt contracted by members of the financial system or for the construction, operation and maintenance of productive infrastructure related to strategic areas, should not be subject to the thin-capitalization limits. One of these strategic areas which is relevant in the context of the Energy Reform is the upstream activity.

B BASE EROSION AND PROFIT SHIFTING (BEPS)

Mexico was proactive regarding the BEPS Initiative of the OECD and in 2014 enacted several provisions which intend, among other things, to limit the deductibility of: i) interest, royalties and technical assistance payments if the recipient is a fiscally transparent vehicle or if the payments are deemed non-existent or non-taxable in their country of residence, and ii) payments that are also deductible for another related party (unless is also obliged to consider as taxable the income generated by the Mexican payer). Tax regulations have been published, which mitigate the effects of some of these statutory provisions.

C TAX AUDITS TO MULTINATIONAL COMPANIES

The Mexican authorities have been very active in audit procedures to intercompany transactions of some of the biggest Multinational companies that operate in Mexico, being the most sensitive topics: i) supply chain structures; ii) advertising and promotion payments / royalties; and iii) transfer pricing in general.

D ENERGY SECTOR - CONSORTIUM

In the context of the Energy Reform, a new vehicle was included in the legislation which has specific and attractive characteristics from a Mexican tax perspective. This vehicle is a "Consortium", which is formed by 2 or more companies and that has no separate legal personality for tax purposes; therefore, it is awarded full tax transparency and does not imply an additional level of taxation. This Consortium vehicle will provide flexibility for the participants that will be bidding for Contracts in the Energy sector.

E WITHHOLDING TAX ON DIVIDENDS

A 10% withholding tax applies on dividends paid to foreign residents (corporate or individuals) and to Mexican individuals. This new dividend tax could increase the overall Mexican effective tax rate. It is important to bear in mind that Mexico has an extensive Tax Treaty network with more than 50 countries, which provide a regulatory framework to promote investments and avoid double taxation.

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