

2023 – 9 Tax Consulting

Guidelines for tax benefits for taxpayers engaging in productive economic activities within the Development Poles for the Welfare of the Isthmus of Tehuantepec

On September 1, 2023, the "Guidelines for granting tax benefits to taxpayers engaging in productive economic activities within the Development Poles for the Welfare of the Isthmus of Tehuantepec" (hereinafter the "Guidelines") were published in the Official Gazette of the Federation. The Guidelines entered into force on September 2, 2023.

This issuance is an addition to our News Flash No. 5 dated June 13, 2023, issued in connection with the publication of the "Decree promoting investment by taxpayers engaging in productive economic activities within the Development Poles for the Welfare of the Isthmus of Tehuantepec" (hereinafter the "Decree").

Herein we describe the provisions that we consider most relevant from the Guidelines; however, we suggest that its content be reviewed individually to opportunistically identify any other matters that may be of interest and that are not discussed in this News Flash.

The Guidelines contain the criteria, requirements, and procedures necessary to obtain a document issued by the Ministry of Finance and Public Credit (hereinafter "SHCP" per its acronym in Spanish) that will serve as proof of compliance with the conditions provided by the Decree (hereinafter the "Certificate").

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For the initial issuance of the Certificate, applicants are required to provide, among others, information regarding the employment creation within the Isthmus of Tehuantepec, including an estimation of the number of jobs the applicant intends to create for new investments.

Once the Certificate is obtained, taxpayers are required to annually submit before the SHCP, during February of the following tax year the documentation regarding the previous tax year's permanent jobs creation and the progress of the new investment project.

In a manner consistent with the decree, the Guidelines enlist the requirements that taxpayers need to comply with to apply the Decree benefits, among others, to hold a valid concession title or title deed that proves ownership of land within the Isthmus of Tehuantepec, and several documents regarding the new investment project and the acquisition of new fixed assets for their use within the project in Mexico.

Exceptions for the application of Decree benefits are provided for taxpayers involved in certain misconducts punishable under the Federal Tax Code related to the issuance of tax invoices for non-existent transactions.

The Guidelines detail the procedure to obtain the Certificate, including the terms and conditions for any information requirement that the SHCP might issue during such process, provided that, if all requirements are met, the SHCP must issue the Certificate to the taxpayer within the next three months following the initial submission.

It is clarified that the tax benefits conferred by the Decree are exclusive to the taxpayer and non-transferable under any circumstance. Likewise, the Certificate will be revoked if the taxpayer falls within any of the revoking assumptions, which will result in the termination of the Decree benefits.

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Mexico City
September 2023

This News Flash contains information of a general nature, and thus it does not address any particular case or facts. The information contained herein is accurate as of the date of issuance; however, we make no representation as to the fact that such information be accurate in the future. Accordingly, we recommend that specific advice addressing your particular circumstances be requested.

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