

TAX FLASH

2011-03

Tax Bill for 2012 approved by the Mexican Congress

As mentioned in our Tax Flash 2011-02, on September 8, 2011 the Executive Branch sent a tax Bill to the Mexican Congress for year 2012, which included, among others, the project of Federal Government Revenue Law for tax year 2012 and certain minor amendments to the Federal Fiscal Code.

The aforementioned laws were approved on October 20, 2011 by the Lower Chamber of the Mexican Congress and on October 26 and 27 by the Upper Chamber, without any amendments further to those made by the Lower Chamber.

On November 16, 2011 the new Federal Government Revenue Law was published in the Official Gazette, which will become effective on January 1, 2012.

This Tax Flash does not express our Firm's opinion on the tax Bill, but it only provides a general description of the changes introduced by the Mexican Congress to the tax Bill originally submitted by the Executive Branch, which was described in our Tax Flash 2011-02.

Federal Government Revenue Law for 2012

Faculty for local "sales tax"

The tax Bill originally submitted by the Executive Branch empowered the Mexican States to impose a local "sales tax" on the sale of goods, rendering of independent services and granting of the temporary use or enjoyment of movable property, applying the maximum tax rate of 5% on the consideration agreed, excluding from the basis both the value added tax and local taxes; however, this faculty was eliminated in the bill approved by the Mexican Congress.

Maquila companies

As mentioned in our Tax Flash 2011-02, the Executive Branch proposed that for 2012 non-Mexican residents would not be deemed to have a permanent establishment in Mexico as a consequence of their relationship with Mexican companies operating under the Maquila program approved by the Mexican Ministry of Economy, to the extent such companies are not considered related parties and certain formal requirements contained in the Federal Government Revenue Law are fulfilled, including the filing of certain information no later than June 2013. The Mexican Congress considered convenient to limit the application of this provision only to non-residents that directly or indirectly furnish raw materials, machinery and equipment to perform maquila activities.

Furthermore, the Lower Chamber considered it necessary to specify that when a maquila company does not comply with the requirements set forth in the law, the tax authorities would require such company to clarify the reason for its non-compliance within a 30 day period. Should this not occur within said time frame, the entity will be eliminated from the Import Registry maintained by the authorities. This differs from the Executive Branch's proposal, where any non-compliance implied that the company had to be automatically suspended therefrom.

Federal Tax Code

Statute of limitations for criminal actions

The original proposal included in the tax Bill filed by the Executive Branch was modified to provide a general statute of limitations for the Mexican tax authorities to pursue criminal actions of eight years, indicating that a five year statute of limitations will be applicable as of the date on which the offense occurred, for the declaration of damages that the Ministry of Finance may submit.

Additionally, it is indicated that said term will be uninterrupted and criminal actions on tax crimes will prescribe in a term equal to the arithmetic average of the punishment to criminal offense provided for by the Federal Tax Code, but in no event said punishment will be lower than five years.

Through a transitory provision it is established that this amendment will become effective commencing on August 31, 2012.

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Mexico City
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This Tax 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.