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## **Mexico Publishes Decree Granting Tax Benefits for the Export Industry to Promote Nearshoring**

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On Oct. 11, 2023, Mexico published a decree granting tax benefits to key sectors of the export industry (the Decree), consisting of (i) accelerated depreciation of certain investments in fixed assets and (ii) the deduction of training expenses.

The Decree is designed to support companies operating in Mexico that are identified as key for the export industry and that seek to optimize their operations through the “nearshoring” strategy. With this Decree, the Mexican federal government aims to promote competitiveness, innovation, and investment in technology, and ultimately job creation and direct foreign investment.

The Decree also aims to encourage the development of employees’ technical and labor skills by allowing the deduction of training expenses, thus fostering highly qualified industries in the technical and technological sectors.

### **Beneficiaries**

The tax benefits included in the Decree will benefit entities subject to the general income tax regime or the simplified trust regime, as well as individuals with business activities in Mexico, involved in the production, processing, industrial manufacturing, and/or export of the following goods:

- Food products;
- Fertilizers and agrochemicals;
- Raw materials for the pharmaceutical industry;
- Electronic components;
- Metering and electronic medical equipment, for medical use;
- Batteries and accessories for electrical installations;
- Gasoline, hybrid, and alternative fuel engines for cars, vans, and trucks;
- Automotive electrical and electronic equipment;
- Internal combustion engines, turbines, and transmissions for aircraft;
- Medical, dental, and laboratory equipment and devices; and
- Cinematographic or audiovisual works.

The Decree is only applicable for the above entities (the Taxpayers) estimating that during the 2023 and 2024 tax years, their income from the export of such goods will be at least 50% of their total billing for each year. If this estimate is not met, the Taxpayer must cover the applicable tax and related charges.

The Decree will apply to the extent that Taxpayers use the fixed assets subject to the accelerated depreciation benefit for at least two years immediately following the year in which the tax benefit of the accelerated depreciation is applied.

### **Accelerated Depreciation**

The accelerated depreciation tax benefit will apply for income tax purposes and will allow Taxpayers to accelerate the deduction of their investments in new fixed assets acquired from Oct. 12, 2023, to Dec. 31, 2024. This deduction will apply in the corresponding tax year and will be calculated by applying to the investment amount the applicable percentage set forth in the Decree by type of good or activity, which ranges from 56% to 89%.

For purposes of the Decree, the term “new fixed assets” is understood to refer to fixed assets used for the first time in Mexico and acquired exclusively to carry out the key activities described in the Decree.

Additionally, the Taxpayers who apply this incentive must calculate their profit ratio for purposes of their monthly advance income tax payments for the 2023 and 2024 tax years by adding the amount of the accelerated depreciation to the tax profit or reducing it from their tax loss. Likewise, the taxable profit calculated for purposes of the advance income tax payments may be reduced by the amount of the accelerated depreciation in accordance with the mechanics described in the Decree.

### *Requirements*

Taxpayers who apply the accelerated depreciation set forth in this Decree must keep a record of their investments, specifying the type of assets, the relation with their line of business or main activity, the process or activity where they used such assets, the applicable percentage listed in the Decree, the year when the benefit of the Decree was applied and, if applicable, the date when the assets were sold or became unserviceable.

## Training Expenses

The Decree provides that applicable Taxpayers may deduct for their taxable income an amount equivalent to 25% of the increase in training expenses in connection with training received by each employee in 2023, 2024, and 2025. The increase will be determined by subtracting from the training expenses in the applicable year the average training expenses in the years 2020, 2021, and 2022.

The Decree further provides that qualifying training expenses will be those related to providing technical or scientific knowledge directly linked to the Taxpayer's business to employees who are registered with the Mexican Social Security Institute.

The aforementioned benefit will not be deemed taxable income for income tax purposes and, in the event this tax benefit is not applied during the applicable tax year, the Taxpayer will lose their right to apply it.

### *Requirements*

For Taxpayers to be legally entitled to apply the tax benefit, they must keep records and evidence of employee training expenses, describing what the training consisted of and how it relates to the activities listed in the Decree.

## Requirements for Both Incentives

- Register with the Mexican tax authority, have a valid tax ID (Taxpayer's Registry), and enable the electronic receipt of tax notices.
- Have a positive tax opinion issued by the Mexican tax authority stating the Taxpayer is in compliance with all its tax obligations.
- Submit a notice before the Mexican tax authority including the Taxpayer's intention to avail itself of the tax benefits described in the Decree within 30 calendar days following the month when the benefits apply for the first time.

## Limitations

Pursuant to the Decree, tax benefits would *not* apply to Taxpayers who:

- Are subject to Article 69, penultimate paragraph of the Federal Tax Code, and are listed on the Mexican tax authority website;
- Do not contest the presumption by the Mexican tax authority of inclusion in the list referred in Article 69, penultimate paragraph of the Federal Tax Code list, or have partners, shareholders, or conduct business with others included in such list;
- Have tax liabilities;
- Do not comply with the requirements of the Decree;
- Are in liquidation;
- Are restricted in the use of their electronic signature for tax purposes; or
- Are restricted in the use of certificates for issuing tax invoices.

In accordance with the Decree, the Mexican tax authority may issue additional rules for the correct application of the Decree.

### **Additional Considerations**

#### *“Friendshoring” or “Allyshoring”*

In addition to the “Nearshoring” trend, other trends include “friendshoring” and “allyshoring.” These terms refer to situations where the decision to relocate a production plant is influenced by political factors or common interests between the manufacturing location and the final destination for a product (for example, Mexico and the United States).

In August 2022, the U.S. federal government enacted the “Creating Helpful Incentives to Produce Semiconductors and Science Act” or “CHIPS Act” to promote, among other things, the return of semiconductor manufacturing within its borders. As part of the enactment of the CHIPS Act, Mexico was invited to join efforts in promoting semiconductor manufacturing and to integrate products manufactured within its borders to the semiconductor supply chain in the United States. Publication of the Decree in Mexico is an example of two countries sharing common interests and enacting compatible policies, thus creating favorable conditions to boost the effects of “nearshoring” through a “friendshoring” or “allyshoring” strategy between business partners.

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