



January 2017

Mexico Enacts Tax Incentives on Repatriation of Capital and Investment in Fixed Assets

On Jan. 18, 2017, Mexican President Enrique Peña Nieto issued two Decrees or Executive Orders allowing for the following tax incentives:

A. Repatriation of Capital from Abroad

Under the decree published in the Official Journal of the Federation (*Diario Oficial de la Federación*), Mexican tax residents (companies, individuals, or foreigners with a permanent establishment in Mexico) may apply a one-time 8 percent income tax rate, to funds repatriated to Mexico from abroad, so long as the following conditions are met, among others:

1. The funds have to come from earnings generated up until Dec. 31, 2016;
2. The taxpayer making the repatriation cannot be subject to an audit from the Mexican tax authorities for any period covering the repatriation sought;
3. The repatriated funds cannot be linked to an illegal activity under applicable Mexican law;
4. The repatriated funds have to be reinvested in Mexico during calendar year 2017 in one or more of the following categories:
 - a. The acquisition of fixed assets to be used in Mexico within the normal course of business of the taxpayer;
 - b. The acquisition of real property (land and improvements) within Mexico, for use within the normal course of business of the taxpayer, in the understanding that these assets must be held by the taxpayer for at least two years after their purchase;
 - c. The acquisition of assets or the investment in resources geared towards the research and development of new technologies, products or materials used or developed by the taxpayer within its ordinary course of business;

- d. The repayment, to independent third parties, of loans or other liabilities of the taxpayer, including tax and labor liabilities, so long as the same are made through the Mexican financial system and were created or accrued prior to Jan. 1, 2017; and
 - e. Investments in Mexico through banks and brokerages formed under Mexican law.
5. The investments made under section 4 above have to be maintained by the taxpayer for a minimum period of two years, as of the date of the investment.

Any foreign income taxes attached to the repatriated funds may be credited against the 8 percent tax payable on the same; however, such credit is capped at the applicable 8 percent Mexican tax and the net tax payable in Mexico is due within 15 days after the funds are repatriated.

The application of the program is subject to certain compliance and filing requirements which the taxpayer must abide by.

The incentives program outlined above became effective on Jan. 19, 2017, and shall remain in force for six months as of such date.

B. Accelerated Depreciation for New Fixed Assets Purchased by Small and Mid-Sized Businesses

Under this incentives program, Mexican entities or individuals carrying business activities, with gross revenue for the prior calendar year, not exceeding MX\$100M, may accelerate the depreciation of newly acquired fixed assets, in the percentages and amounts provided for in the relevant decree, for the corresponding class of assets, with any remaining balance to be depreciated, being subject to an accelerated depreciation schedule under the program.

For purposes of the above, assets are considered as “new” when they are used in Mexico for the first time.

The incentives outlined above became effective on Jan. 19, 2017, and shall remain in place for tax years 2017 and 2018.

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