Tax Reform for 2016 submitted to Congress

On 8 September 2015, President Enrique Peña Nieto submitted to Congress the proposed amendments to Mexican tax laws which would become effective on 1 January 2016. Contrary to the last tax reform which took a severe toll on economic growth, these amendments intend to boost investment in certain sectors of the economy (such as energy and transportation infrastructure) and incentivise growth in an uncertain global economic environment.

These proposals have yet to be approved by Congress, but given its current composition, it is likely that the majority of the proposed amendments will pass unaltered.

Some of the most important amendments from a foreign investor's perspective are:

- The return of accelerated depreciation for investments in fixed assets made during 2016 and 2017 by companies engaged in the construction of transportation infrastructure, energy production and distribution and any other company whose annual income does not exceed MXN $50 million (around US $2.9 million)
- Companies engaged in electricity generation infrastructure would not be subject to thin capitalization rules
- Publicly traded companies that reinvest profits generated from 2014 to 2016 would be able to apply a credit against income tax due on dividend distributions (i.e. credit against tax to be withheld to shareholders). The amount of the credit will depend on the year in which the distribution is carried out (1% on the dividend distribution if paid during 2017, 2% if paid during 2018 and 5% if paid during 2019)
- The 4.9% withholding tax on interest payments to foreign banks that reside in a country that has concluded an income tax treaty with Mexico is maintained

Additionally, BEPS measures which have been promoted by the OECD have caught up with Mexico once again, this time regarding transfer pricing reporting and automatic exchange of information.

Regarding transfer pricing reporting, the Mexican Income Tax Law would be amended to include the obligation for certain Mexican companies to file the following disclosure returns:

- Master Related Parties Disclosure Return of a Multinational Enterprise Group
- Local Related Parties Disclosure Return
- Country-by-Country Disclosure Return of a Multinational Enterprise Group

With respect to automatic exchange of information, the Federal Fiscal Code would be amended to implement the Standard for Automatic Exchange of Financial Account Information in Tax Matters approved by the OECD Council on 15 July 2014.

Considering the global economic situation, the proposals submitted by the Mexican Executive Branch try to incentivise certain sectors of the economy to promote economic growth and development. However, none of the provisions that were enacted in 2014 that affected economic growth during the last and the current year were affected. It seems that the Mexican government is placing all its

Groupement d'intérêt économique - RCS : C 68
1B, Heienhaff - L – 1736 Senningerberg (Luxembourg)
Banque et Caisse d'Epargne de l'Etat, Luxembourg
IBAN LU49 0019 2855 1871 6000, BIC : BCEELULL
VAT identification : LU 220 135 38

bets on the energy sector. Only time will tell if these measures were enough to deal with the challenges ahead, if not it seems that captive taxpayers will have to bear the burden of decreasing oil prices and excessive public debt.

Your Taxand contact for further queries is:

Manuel Tamez
T. +52 (55) 5201 74 03
E. mailto:mtamez@macf.com.mx

Luis Monroy
T: +52 55 5201 7466
E: lmonroy@macf.com.mx

Quality tax advice, globally.

Groupement d'intérêt économique - RCS : C 68
1B, Heienhaff - L – 1736 Senningerberg (Luxembourg)
Banque et Caisse d'Epargne de l'Etat, Luxembourg
IBAN LU49 0019 2855 1871 6000, BIC : BCEELULL
VAT identification : LU 220 135 38