

18 April 2018

Mexico - Special Economic Zones

In 2015, given the adverse global economic conditions, during his annual governmental report, President Enrique Peña Nieto proposed a series of measures to incentivize an oil-dependent slow-growing economy. One of these measures included the creation of special economic zones in the Mexican southeast.

A special economic zone (or “SEZ”) is a geographically limited area located in a place with logistic and natural advantages to be transformed into a highly productive zone. A SEZ works by granting different types of incentives to investors such as: (i) tax and labor incentives; (ii) a special customs regime; (iii) a less bureaucratic regulatory environment; (iv) top-level infrastructure; (v) incentive programs; and (vi) other incentives and preferential conditions.

In a press release issued by the Ministry of Finance on 10 February 2017, they outlined some of the tax incentives that a SEZ would have in general, including: income tax discounts of 100% during the first 10 years and 50% in the following 5 years; tax credits on social security contributions to the Mexican Social Security Institute for up to 50% during the first 10 years and of 25% during the following 5 years; and special treatment on value added tax. However, these would be established in the decrees of creation of a SEZ.

The SEZ would be located primarily in the southeast of the country. These zones of the country are generally underdeveloped from an industrial perspective compared to the rest of Mexico. Some of the States that would be benefited from these incentives would be Veracruz, Yucatán, Quintana Roo, Guerrero, Oaxaca and Campeche. Specifically, it has been established that the zones that will benefit from this regime would be the ports of Chiapas and Lázaro Cárdenas and the Istmo de Tehuantepec Interoceanic Corridor (which goes from Salina Cruz, Oaxaca to Coatzacoalcos, Veracruz), among others.

SEZ are regulated by the Special Economic Zones Law (“SEZ Law”) which establishes the main principles and guidelines for the creation of these zones.

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However, a SEZ must be created through a decree issued by the Executive branch. A Presidential decree does not require the approval by Congress.

The SEZ Law was published on the Official Gazette on 1 June 2016 and became effective on 2 June 2016. The regulations to the SEZ Law were published on the Official Gazette on 30 June 2016 and entered into force on 1 July 2016.

It may take some time for a SEZ to be ready considering that the appropriate infrastructure has to be developed. According to the government at least by 2018 an “anchor” company should be established in each of the zones, along with its suppliers.

As of this date, seven presidential decrees have been issued, establishing the following SEZ and their beginning of operations:

- A) No later than 30 November 2018: (i) Lázaro Cárdenas – La Unión (Michoacán and Guerrero); (ii) Puerto Chiapas (Chiapas); (iii) Coatzacoalcos (Veracruz); (iv) Progreso (Yucatán); and (v) Salina Cruz (Oaxaca).
- B) No later than 30 June 2019: (i) Campeche, and (ii) Tabasco.

Attached, as Annex I, we include a table summarizing the tax incentives granted to the existing SEZ, some of which are subject to compliance of formal and substantive requirements, which are not described herein.

Taxand’s Take

This measure to incentivize specific regions of the country should improve their economic condition substantially. The benefits granted to taxpayers that operate in the proposed SEZ seem attractive in a jurisdiction that has always characterized for its strict tax regime and overzealous supervision of taxpayers. Even though the SEZ shall be developed in the following years, prospective investors should consider these locations as potential targets for the establishment of their operations.

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ANNEX 1

MEXICO - SPECIAL ECONOMIC ZONES SUMMARY OF MAIN TAX INCENTIVES FOR EXISTING SEZ APRIL 18, 2018

	LAZARO CARDENAS - LA UNIÓN	PUERTO CHIAPAS	COATZACOALCOS	SALINA CRUZ	PROGRESO	TABASCO	CAMPECHE
100% discount of Income Tax during first 10 years.	√	√	√	√		√	√
50% discount of Income Tax during 11th through 15th year.	√	√	√	√		√	√
Additional deduction of 25% of training expense for employees located in SEZ.	√	√	√	√		√	√
Additional deduction of 50% of training expense for employees located in SEZ, during first 8 years.					√		
During first 10 years, income tax credit of 50% of certain social security contributions paid to the Mexican Social Security Institute. This credit may give rise to recoverable income tax balance in favor.	√	√	√	√		√	√
During 11th through 15th year, income tax credit of 25% of certain social security contributions paid to the Mexican Social Security Institute. This credit may give rise to recoverable income tax balance in favor.	√	√	√	√		√	√
During first 8 years, income tax credit of 30% of R&D expenses and investments within the SEZ. This credit may be carried forward against income tax of the following 10 years.					√		
0% VAT rate applicable to certain suppliers of goods, services and leases, sold, rendered or leased, respectively, to SEZ residents.	√	√	√	√	√	√	√
Certain imports of goods, intangibles and leases will not be treated as imports for VAT purposes, when acquired by SEZ residents.	√	√	√	√	√	√	√
VAT exemption for activities carried out within a SEZ and among other SEZ.	√	√	√	√	√	√	√
Exemption of import duties on certain temporary imports.	√	√	√	√	√	√	√
Immediate deduction of fixed assets acquired during the first 8 years (accelerated depreciation).					√		