



New accounting provisions and infringements applicable to the Hydrocarbons Sector in Mexico

On 1 June 2018, a Decree that amends, adds and repeals several provisions of the Federal Fiscal Code, the Customs Law, the Federal Criminal Code, and the Federal Law to Prevent and Sanction Crimes in the Hydrocarbon Sector was published in the Official Gazette.

The aforementioned Decree provides, among others, the following amendments to articles 28, 81 and 82 of the Federal Fiscal Code, with regards to the Hydrocarbons Sector.

For tax purposes, accounting records are composed of ledgers; accounting systems and entries; working papers; account statements; special accounts; corporate books and ledgers; inventory control and valuation method; disks, tapes or any other means of data storage that may be processed; tax-registration electronic systems and equipment and the records produced by such equipment; the documentation used to support the respective journal entries, as well as all the documentation and information associated to the compliance of tax provisions that evidences income and deductions, and any other documentation required by other laws.

In the case of persons who manufacture, produce, process, transport, store (including storage for individual uses), distribute or dispose of any type of hydrocarbon or petroleum, in addition to what is indicated in the previous paragraph, they must have the equipment and software to carry out volumetric controls, as well as the expert opinions issued by testing laboratories, that determine the type of oil or petroleum in question and the octane rating in the case of gasoline. Volumetric controls of the products referred to in this paragraph are understood as volume records, related to their operations, including their inventory, which shall be part of the taxpayer's accounting records.

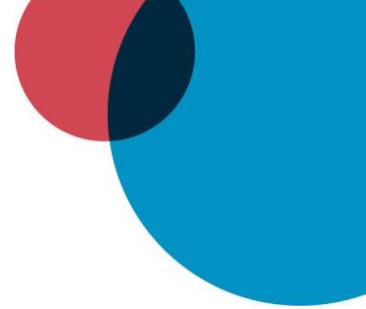
Equipment and software to keep volumetric controls, shall be those authorized by the Tax Administration Service, which shall be kept in operation at all times.

The taxpayers referred hereto are obliged to ensure that the equipment and software to keep volumetric controls operate correctly always. For this purpose, they must acquire said equipment and programs, obtain the certificates that approve their correct operation, as well as obtain the expert opinions previously mentioned, from the persons authorized for such purposes by the Tax Administration Service.

The suppliers of the equipment and software to keep volumetric controls, of the provision of verification services for the correct operation of said equipment, as well as the testing laboratories that provide services for the issuance of expert opinions must have the Tax Administration Service's authorization.

The Tax Administration Service will revoke the authorizations referred to in the preceding paragraphs, when a supplier fails to comply with any of its corresponding obligations.

Failure to comply with the general provisions of article 28 mentioned in the previous paragraphs is cause for a fine ranging between \$35,000.00 Mexican pesos and \$61,000.00 Mexican pesos.



In this regard, the infraction might be considered as aggravating on any of the following cases:

- a) If the taxpayer does not have the expert opinion as mentioned in the previous paragraphs.
- b) If the taxpayer does not operate the volumetric controls that have been previously mentioned.

If the infraction is considered as aggravating, the fine will range between \$1,000,000 Mexican pesos and \$3,000,000 Mexican pesos. In the event of a repeat offense, the sanction will consist of closing the taxpayer's establishment for a term ranging between 3 and 15 days.

Recently added article 111 Bis of the Federal Fiscal Code states that a sanction ranging between 3 and 8 years in prison will be imposed on persons who:

- I. Do not keep volumetric controls, or keeping them, fail to comply with the provisions of article 28 mentioned beforehand.
- II. Lack, alter, disable or destroy the equipment and software intended to carry out the volumetric controls.
- III. Perform, permit or deliver to the authorities, false, error-inducing, incomplete or inaccurate records in the volumetric controls.

Taxand's Take

These measures will allow the information derived from operations carried out by any person that manufactures, produces, processes, transports, stores, distributes or disposes of any type of hydrocarbon or petroleum, to be reliable and verifiable for tax purposes. The latter will be used as a tool that will allow the Ministry of Finance and Public Credit, the Energy Regulatory Commission and the Ministry of Energy, to recognize the origin and destination of the oil industry's value chain, and with it the government can implement measures to fight the illicit fuel market.