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Mexico: Tax Incentives to Promote Nearshoring in the Isthmus of Tehuantepec

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On June 5, 2023, the “Decree to promote investment by taxpayers engaged in productive economic activities within the Development Hubs for the Well-being of the Isthmus of Tehuantepec” (Decree) was published in the Mexican government’s Official Gazette of the Federation (DOF).

The Decree, which took effect June 6, grants certain tax benefits to taxpayers who carry out productive economic activities in development hubs in Tehuantepec (Development Hubs), subject to compliance with certain requirements. Among other requirements, taxpayers must have:

1. A valid concession title or ownership of a property within the Development Hubs.
2. A business address in the Development Hubs.
3. A Ministry of Finance and Public Credit (SHCP) certificate confirming compliance with the Decree’s requirements (Certificate).

Development Hubs will be chosen in accordance with the declaration issued by the Interoceanic Corridor of the Isthmus of Tehuantepec (Declaration), which will be published in the DOF.

Productive economic activities, for the Decree's purposes, include the following categories: electrical and electronic, semiconductor, automotive, auto parts and transportation equipment, medical devices, pharmaceutical, agro-industry, equipment for generation and distribution of electric power (clean energy), machinery and equipment, information and communication technologies, metals and petrochemicals, and any other activity as determined by the competent authorities.

The Decree grants the following tax benefits:

A. Income Tax

- The Decree grants a tax incentive to individuals and legal entities in Mexico, as well as residents abroad, who have a permanent establishment in Mexico, who earn income from productive economic activities carried out in the Development Hubs.
- Eligible entities will receive a credit against the income tax determined in accordance with the Decree, as follows:
 - 100% for the three fiscal years following the year when the Certificate is obtained, and,
 - 50% for the subsequent three fiscal years. This credit may increase to 90% if the entity exceeds the minimum employment levels as determined by the SHCP, according to the economic activity being carried out.
- To calculate the income tax incurred in a fiscal year, only the income attributable to productive economic activities carried out in the Development Hubs will be considered, as well as the deductions related to such income that meet the requirements established in the applicable tax provisions regarding deductibility. If taxpayers generate income other than those to which the Decree applies, they must separately determine the respective income tax for such income in accordance with the Income Tax Law, without applying this tax credit.
- In the six fiscal years after obtaining the Certificate, taxpayers subject to the Decree's benefits may immediately deduct 100% of the original amount of investment in new fixed assets used in productive economic activities in the Development Hubs. This option cannot be applied to the purchase of office furniture and equipment, automobiles, vehicle armoring equipment, or any non-individually identifiable fixed asset.

The income tax benefits described above will not apply in conjunction with the maquila regime for foreigners, the optional regime for groups of companies under Chapter VI of Title II of the Income Tax Law, the trust regime dedicated to the acquisition or construction of real estate (FIBRA), or the application of tax incentives provided in articles 188 (film incentive), 190 (theatrical production incentive), 202 (research and technology incentive), and 203 (sports incentive) of the Income Tax Law.

B. Value Added Tax

The Decree grants a tax incentive to taxpayers carrying out productive economic activities in the Development Hubs, consisting of a tax credit equivalent to 100% of the Value Added Tax (VAT) payable on the sale of goods, provision of services, or granting of temporary use or enjoyment of goods. This credit can be applied against the VAT payable on such activities, and it can be applied for a period of four years from the effective date of the Decree or from the date of publication of the Declaration in the DOF.

The VAT incentive will apply as long as the respective tax is not passed onto the buyer of the goods or services, and the goods, services, or temporary use of goods are utilized for productive economic activities in the Development Hubs.

** This GT Alert does not apply to matters or laws in the United States or to other jurisdictions outside of Mexico.*

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