TAX

REFORM 2011

HIGHLIGHTS

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English Version

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asesores fiscales

Due to the global economic crisis that took place in 2009, the federal government decided to adopt a public finance strategy for the period 2010-2012, designed to promote economic recovery.

Based on estimates prepared by the Executive Branch, during 2011 real growth in GNP is expected to be 3.8%, while annual inflation will be around 3%.

It is estimated that federal revenue will increase by 8.27% in nominal terms for the year 2011, compared to that budgeted for the year 2010.

One of the most important changes that took effect in 2011 involves the obligation to issue digital tax receipts through the Internet, either using proprietary means or through third parties, a change which clearly shows the intention of the authorities to conduct audits, without considering the increase in administrative costs which taxpayers will have to absorb to comply with this obligation.

In terms of income tax, two new tax incentives are included to promote job creation and theater production in Mexico.

The first incentive grants employers an additional deduction for hiring first-time workers who take newly created jobs. By the same token, a tax incentive is established for those who support investment projects in domestic theater production, which consists on applying a tax credit equivalent to the amount provided for such projects, against income tax and the related estimated payments for the year.

In relation to tax consolidation, the year 2010 was the first in which consolidating groups had to begin paying income tax that was deferred up to the year 2004.

The enactment of the aforementioned reform resulted in the filing of a significant number of *Amparo* lawsuits to challenge these provisions (seeking court relief on constitutional grounds).

The Secondary District Court, which is responsible for hearing the aforementioned lawsuits at the trial level, has issued several judgments in which it rules that such provisions violate the constitutional rights of non-retroactivity of the law; nevertheless, in accordance with the procedure followed in such matters, the Mexican Supreme Court will be responsible for issuing the final judgment.

One of the tax reforms that were supposed to take in effect January 1, 2011 established a new mechanism to determine the accruable revenues of individuals for purposes of interest, and the way in which financial system institutions had to calculate the tax withholding on these kinds of revenues.

However, based on the proposal issued by the President, it was deemed necessary to establish a period of one additional calendar year for such amendments to take effect, which would give financial institutions enough time to adjust their computer systems to the new calculation process, and thus enable them to properly and timely apply the new tax scheme for interests.

Given the above, the enactment of the new regime applicable to interests is delayed until January 1, 2012.

Another of the significant amendment for 2011 is the increase in excise tax on the sale of cigarettes, as well as the new tax levied on the sale of energy drinks.

Also notable is the introduction for 2011 of the scheme that forgives surcharges and fines to regularize tax debts owed by some taxpayers to the IMSS, provided that the amount of such debts is settled in a single payment and other requirements are also fulfilled.

In this analysis of the relevant aspects of the tax reform, we discuss the most important changes for its general application, using few technical concepts so that the reforms will be easier to understand for executives who are not tax specialists.

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FEDERAL TAX CODE

Tax Invoices

As a result of the reform to the Federal Tax Code in December 2009, the obligation was established to issue digital tax invoices based on a new procedure, which went into effect on January 1, 2011.

Up to the year 2010, taxpayers were obligated to issue printed tax invoices through authorized print shops, and the option also existed to issue tax invoices in digital form.

Taxpayers who elected to issue their own digital tax invoices were required to have a current certificate of advanced electronic signature (Spanish acronym FIEL), keep their accounting records in an electronic system, obtain a certificate of digital stamps from the tax authorities (hereinafter SAT), and request the allocation of folio numbers for such invoices.

Those who elected to issue their digital tax invoices during fiscal year 2010, were required each month to file the information related to such invoices with the SAT.

As of the year 2011, those who wish to deduct or credit amounts contained in digital tax invoices, even when such amounts are contained in printed documents, must confirm their authenticity.

For such purposes, it must be confirmed that each folio number of the digital tax invoices was authorized for the issuer and if the digital stamp is registered with the SAT.

Excessively, the use of digital tax invoices that do not meet the applicable tax requirements is considered as tax fraud.

With the enactment of this new obligation in the year 2011, the intention is to obtain immediate and accurate information for the tax authorities on each of the tax invoices issued, thus ensuring efficient tax inspection tools for all the transactions performed.

It is criticizable that once again the costs inherent to the tax inspection activity must be absorbed by taxpayers, who have to invest in equipment, systems and suppliers required to fulfill this new obligation.

Digital tax invoices 2011

The reform to the Federal Tax Code went into effect in fiscal year 2011, establishing that taxpayers must issue their tax invoices digitally through the Internet, with certain exceptions, thus eliminating the scheme for issuance of printed tax invoices through authorized print shops.

Please note that the reform to the Federal Tax Code was made for the year 2010; however, through a transitory provision it actually went into effect on January 1, 2011.

In order for taxpayers to issue their digital tax invoices through the Internet as of fiscal year 2011, they must have a current certificate of advanced electronic signature and obtain a digital stamp certificate with the SAT.

Taxpayers will be able to issue their digital tax invoices over the Internet using their own software and equipment, or by using the services of a third party (issuance provider); such invoices must fulfil the formal requirements established in the Federal Tax Code and contain the digital stamp of the taxpayers.

The digital tax invoice issued over the Internet will be an electronic file that must be sent to the SAT or to an authorized provider of digital tax invoice certification (hereinafter certification provider), so that it can be validated and returned to the taxpayer with the digital stamp of the SAT and its folio number.

Once this process has been completed, the taxpayer will be able to electronically send the invoice to the respective beneficiary. The obligation also exists to provide a printed representation of the digital tax invoice, if it is requested by the customer.

The SAT will keep a copy of all the certified digital tax invoices issued through the Internet which are certified, whether by the SAT itself or by the certification provider.

The most relevant change as of the year 2011 is that taxpayers must send each of the invoices that they issue to the SAT or to a certification provider, in order for such invoices to be validated, as well as to be assigned with the respective folio number and to have a digital stamp.

During fiscal year 2010, digital tax invoices could be issued through proprietary software and equipment, or through an issuance provider, and in such cases, the SAT or a certification provider did not have to validate, allocate the folio number and include the digital stamp of the SAT in them.

With the system for the issuance of digital tax invoices through the Internet in effect as of the year 2011, the tax authorities will immediately obtain accurate information related to such invoices.

Given the above, the tax authorities will no longer have to wait until taxpayers file the monthly information return, which they were required to file in the year 2010, to ascertain the transactions that such taxpayers performed with the digital tax invoices; consequently, as of 2011 the obligation to file such information return is eliminated.

Digital tax invoices 2010

The rules contained in the current Administrative Tax Resolutions establish the option for taxpayers who issued their digital tax invoices during the year 2010 or during previous years, to continue issuing such invoices without the need to have them validated by the SAT or by a certification provider.

Until 2010, tax invoices could be issued through printed documents prepared by authorized print shops, or in digital form using proprietary means or issuance providers.

Since taxpayers will be able to use their own systems for the issuance of tax invoices in effect up to 2010, they will be able to either partially or totally recover the investment that they made in the year 2010 or in previous years, in the development of the software and equipment for the issuance of digital tax receipts.

Nevertheless, it is criticizable that such an option should be contained in the administrative tax resolution, since there is no legal assurance regarding how long such software and equipment can continue to be used for the issuance of digital tax invoices.

Those taxpayers who elect to exercise this option must continue to filing monthly information return, all regarding digital tax invoices that were issued in the immediately previous month. Such information return is an obligation that was already established in the Federal Tax Code, in which the filing date is the last day of the month after that to which it refers.

Those taxpayers will be able to issue their tax invoices in printed form, because the intention of these provisions is to extend the deadline to use the system for issuance of tax receipts in effect up to 2010, based on the requirements in effect for this type of documents, such as that they must be printed by authorized print shops and must have been obtained at the latest by December 31, 2010.

The information return to be filed monthly must include certain additional information related to these invoices.

- *Effective duration for receipts with issuance providers*

For those who issued digital tax receipts up to December 31, 2010, through issuance providers, the aforementioned rules establish that they may continue to issue them through such providers, but only for the first half of the year 2011.

After such period, they must issue digital tax receipts through the Internet, using the new provisions in effect as of the year 2011; however, they will also be able to use the tax receipts printed by authorized printer that were obtained up to December 31, 2010.

Printed tax receipts

- *Fiscal year 2010*

Through a transitory provision of the Federal Tax Code for the year 2010 it was established that taxpayers who as of January 1, 2011 have in their possession tax receipts printed by authorized SAT printers may continue to use them until the end of their effective term, which, in accordance with the current provisions, is two years from the date on which they were printed.

Given the above, the aforementioned printed tax receipts may be used to support the appropriate deduction or crediting in accordance with the applicable tax provisions.

- *Fiscal year 2011*

The current Federal Tax Code establishes that taxpayers will be able to issue printed tax receipts for operations that involves amounts up to Mx $2,000.

For such purposes, taxpayers must request from the SAT the allocation of folio numbers for the use of the printed tax receipts; and such authority will provide a security device that consists in a two-dimensional barcode, which must be attached to each of the printed tax receipts.

Both the folio numbers allocated and the two-dimensional barcode will have an effective duration of two years computed as of the date on which the folio numbers were allocated; if the aforementioned codes are not used, they must be destroyed, and taxpayers must duly notify the SAT, in accordance with the general rules issued for such purpose.

Taxpayers must inform to the SAT each quarter the numbers of folio which they have used, if it is applicable; if this information is not filed, the tax authorities will not allocate new folio numbers to such taxpayers.

The current Miscellaneous Tax Omnibus Tax Ruling allows for the issuance of tax receipts in printed form, regardless the amount of the transactions to which they refer, provides that the taxpayer who received accruable revenues equal to or lower than Mx $4,000,000 for income tax purposes, during the last fiscal year or that which he was required to declare.

This option may also be used by those who begin activities in the year 2011, including those taxed in accordance with the regime for not-profit entities, which is regulated by Title III of the Income Tax Law, and who estimate that their revenues will be equal to or lower than Mx $4,000,000 in that fiscal year.

Chambers of commerce and industry; agricultural, fishing or forestry groups; colleges of professionals or the organizations that represent them; civil associations; authorized civil partnerships or associations engaged in teaching; civil associations or partnerships established for political purposes; authorized donees and other business entities which are taxed in accordance with the aforementioned Title III, may take the benefits established in this option, if they fulfil the assumption mentioned before.

Said option will no longer have effects when the accruable revenues are in excess of Mx $4,000,000, and taxpayers are not allowed to exercise it again.

The aforementioned option is also applicable to all taxpayers during the months of January through March 2011, regardless of whether or not they obtained accruable revenues in excess of Mx $4,000,000 in the immediately previous fiscal year.

Transactions with the general public

The possibility of issuing simplified receipts for transactions with the general public continues. Furthermore, they must issue a tax receipt with a generic tax identification number (RFC number) that covers all the transactions performed in the month in question, within the following month in which such transactions refer.

The above obligation applies to those who issue tax receipts in accordance with the provisions that were in effect until the 2010, and for those who issue digital tax receipts over the Internet.

Those who elect to issue printed tax receipts because the amount of their accruable revenues is lower than Mx $4,000,000, must issue a monthly tax receipt, but in printed form.

Those who obtained tax receipts printed in authorized printers before January 1, 2011 and issue simplified receipts, will have the obligation to issue one tax receipt each day to cover all of their transactions.

Self-billing

Who acquire goods sold by primary sector taxpayers will be able to obtain the digital tax receipts through the Internet for these transactions, from service suppliers that issue such receipts, provided that such acquirers contract them and have registered with the taxpayers' registry (RFC).

The above is also applicable for those who rent large promotional advertising billboards, and telephone antennas, and for the customers of small-scale miners.

Validation of digital tax receipts

In order to deduct or credit the amounts established in tax receipts, the taxpayers will be obligated to confirm the validity of the digital tax receipts issued through the Internet, of the digital tax receipts generated in accordance with the provisions in effect in 2010, and of the tax receipts printed in 2011, which are issued to them for the respective transactions.

The SAT will provide the necessary validation services through its Internet page.

For such purposes, it must be confirmed that each folio number of the digital tax receipts was authorized for the issuer, and that the digital stamp is registered with the SAT. For those tax receipts printed in 2011, each of the security devices attached to these documents must be duly validated.

We believe that compliance with this obligation will generate a significant administrative burden for taxpayers, who will have to validate each and every one of the tax receipts that they receive.

Tax crimes

As of the year 2011, the provisions go into effect which classify the following actions as crimes equivalent to tax fraud: (i) selling security devices for tax receipts; (ii) considering tax receipts whose security devices do not fulfil applicable requirements as valid documents; (iii) considering digital receipts as valid although they do not fulfil applicable requirements; and (iv) performing acts such as reproducing, selling, obtaining, using, possessing or manipulating the devices without having acquired them under the terms established in the Federal Tax Code.

We consider that the punishment established for some of these acts is excessive, because current tax provisions establish that the amounts contained in tax receipts which do not fulfil applicable requirements are nondeductible or cannot be credited, which may result in the payment of the tax owed, together with its respective additional charges.

In our viewpoint, classifying this as tax fraud would have to focus on a repeat offense, because there might be countless situations in which such non-compliance could arise, without implying any intention on the part of the taxpayer to defraud the federal tax authorities.

INCOME TAX

Tax Incentive Promoting First Time Jobs

With the purpose of promoting the creation of new permanent jobs in the country and encouraging the incorporation of individuals into the formal economy, on December 31, 2010 it was published in the Federal Official Gazette a Decree which includes a tax incentive known as the “Promotion of First Time Jobs” to the Income Tax Law.

In addition to the deductible expense that would be generated as a result of the wages paid in the creation of new jobs, the incentive grants an additional deduction for the same concept, subject to certain requirements and amounts.

- *General matters.*

The incentive consists of granting an additional income tax deduction to employers who hire first-time workers to occupy newly created jobs, which will have a three-year term beginning on January 1, 2011.

The additional deduction may only be applied in relation to the wages paid to first-time workers who occupy newly created jobs, and who earn up to eight times the general minimum wage in effect in the geographical area where the worker renders his services (approximately Mx $460 a day for Mexico City).

The term "first-time worker" is defined as a person who has no prior registration under the obligatory insurance regime in the records of the social security authorities (IMSS), since he has not rendered a personal, dependent service to an employer, on either a permanent or casual basis.

"Newly created job" means all those which increase the number of workers insured under the obligatory regime before the IMSS in each fiscal year, as of the date the incentive was in force.

In order to measure whether there is an increase in the number of such workers; the starting point will be a base number of registrations as of the date the reform was in force. For this purpose the eliminations of the registrations for workers who were pensioned or retired during the fiscal year in question, as well as the eliminations registered in the last two months of 2010, will not be considered.

We believe that the increase in registrations should be determined without considering the eliminations of the pensioned or retired workers is correct, since this would nullify the increase in the registrations of new workers hired to replace them. Also, it is appropriate that the eliminations registered in the last two months of 2010 should not be considered, in order to avoid possible abuses in the application of the incentive.

One of the requirements established in order to apply the incentive is that the employer must keep the newly created jobs in existence for a period of at least 36 uninterrupted months, computed as of the time they are created, period in which must be occupied only by first-time workers. Once such period has elapsed, the newly created jobs will no longer receive the benefits of the incentive.

The application of the incentive is subject to the employer keeping the newly created job continuously occupied for a period of no less than 18 months, during the aforementioned 36-month period. In our opinion, this condition might be excessive, considering the different situations which could arise when creating a job with the income levels considered under the incentive.

The employers will not lose the benefit granted under the incentive, if the employment contract of the first-time worker is rescinded without any responsibility attributable to the employer and such worker is replaced by another first-time worker, as long as the employer keeps available the newly created job for the aforementioned 36-month period.

We consider that since this is a rule of exception, the requirement to keep the newly created job continuously occupied for the 18-month period would not be applicable; therefore, the benefits of the incentive would remain in effect for the time in which the position was occupied.

A transitory provision states that those persons who, during the term of the incentive (three years computed as of January 1, 2011), establish newly created jobs to be taken by first-time workers, may apply the benefit granted under the incentive for such jobs for a period of 36 months computed as of the date on which they are created.

In other words, even though the incentive is no longer in effect, provided that the requirements for its application are fulfilled, the additional deduction will continue to be applied on the wages paid for the newly created jobs to workers with these characteristics, during the 36 months following the creation of the job in question.

- *Amount of the incentive*

In general terms, employers who apply the incentive will determine the additional deduction for each first-time worker who occupies a newly created job, in accordance with the following:

	IMSS Quote Base wage
(x)	Number of days worked in the month or year
(=)	Result (A)
(x)	Corporate IT rate in effect in the year
(=)	Result (B)

	Result (A)
(-)	Result (B)
(=)	Net result
(/)	IT rate in effect in the year
(=)	Result
(x)	40%
(=)	Maximum additional deduction to be applied

It is questionable that the legal text refers to two different tax rates, one corporate and another (the income tax rate in effect in the year in question), which causes problems in terms of interpretation. We expect that this situation would be fully clarified by the tax authorities.

In the case of individuals, the above-mentioned formula may result in a distortion, since the additional deduction is determined using the corporate tax rate, it would generate an additional deduction greater than that which would be applicable if the appropriate effective rate was considered.

A transitory provision establishes that the maximum amount of the additional deduction will be decreased by 25% as of the second year of the effective term of the incentive (2012).

As it can be seen in Exhibit I of this document, the additional deduction may represent a maximum amount in each year, whose percentage in relation to the Quote base wage is as follows:

Year	Additional deduction as % of quote base wage
2011	93.33%
2012	70.00%
2013	73.45%
2014, 2015 and 2016	77.14%

The additional deduction determined will be applicable in the annual tax and in the advanced payments of the year on a cumulative basis, and will be limited to the amount of the taxable profit or the tax basis applicable, as the case may be, determined before such additional deduction is taken.

Even though it is not specified in the incentive, we believe that the additional deduction must be considered before the tax losses from previous years are applied, taking into consideration that there is no express order of preference in this regard.

It is questionable that a taxable profit must exist in order to apply this incentive, because there is no direct relationship between the profitability of an individual or entity and the creation of jobs.

It is also questionable that when the additional deduction is greater than such profit, the amount in excess cannot be used in subsequent periods, since the taxpaying capacity of the employers is being disregarded during the effective term of this incentive.

In order to apply the incentive in the advanced payments of entities, the following procedure must be applied:

	Nominal Income for the period
(x)	Profit ratio
(=)	Taxable profit
(-)	**Additional deduction (without exceeding taxable profit)**
(-)	Tax losses from previous years
(=)	Result
(x)	Corporate IT rate in effect in the year
(=)	Advanced payment

In accordance with the new provisions, to determine the profit ratio, the additional deduction applied in the immediately previous year for which such coefficient is calculated must not be taken into account.

The wording of such provisions is confusing for purposes of application; therefore, we consider that in order to determine the profit ratio the additional deduction taken in the base year of such ratio should not be included.

In the event that the employer does not include the additional deduction in the advanced payments or in the annual tax, when he could have done so, he will lose the right to include it in the advanced payments or in the calculation of the annual tax in subsequent years, up to the amount which he could have applied.

It is established that the amount of the additional deduction must not be considered for purposes of calculating the taxable profit that will be used as the basis for the determination of profit-sharing (PTU) of the tax year.

- *Formal requirements*

Employers must file, in the month in which they begin to take the additional deduction, a notice before the SAT in which they declare that they are electing to apply the aforementioned benefits.

In addition, the employers must file, at the latest on the 17th day of each month, certain information related to the application of the incentive in the immediately previous month.

A series of requirements is established that the employer must fulfil in order to apply the incentive, which include the following (i) they must not have any debts for confirmed unpaid tax liabilities determined by the SAT and/or with the IMSS, (ii) they must be current with their Social Security obligations, (iii) and they must apply and pay the appropriate income tax withholding from the payments made to their employees.

Noncompliance in a given year with any of the requirements established to apply the incentive will forfeit the right to continue applying the benefits in subsequent years.

Furthermore, if the additional deduction is improperly taken, the tax incurred as of the date that any of the requirements was not fulfilled must be paid, restated and with the corresponding surcharges.

It is questionable that for purposes of IETU, no credit to be offset against the resulting tax is established for the application of the additional deduction derived from this incentive.

Tax Incentive for Domestic Theater Production

A tax incentive is included which consists of applying a credit equivalent to the amount contributed to investment projects in domestic theater production, against annual income tax and the related advanced payments for the year.

The incentive cannot under any circumstances exceed 10% of the annual income tax of the fiscal year immediately prior to that in which it is applied, and it is also established that the credit will not be cumulative for income tax purposes.

In the event that the credit exceeds the income tax of the year in which it is applied, the difference can be credited up to the subsequent 10 fiscal years until fully depleted. It is questionable that no provision is established for purposes of restating this difference.

Investment projects in domestic theater production are defined as investments in Mexico which are intended specifically for staging dramatic works, through a process which combines theatrical creation and realization, as well as the necessary human, material and financial resources for such purpose.

An inter-institutional committee will be created for the purpose of applying the incentive, and it is also established that the total amount of the incentive to be distributed among the candidates for the benefit will not exceed Mx $50,000,000 for each fiscal year neither Mx $2,000,000 for each taxpayer and for each investment project in domestic theater production.

The committee will, at the latest on the last day of February of each year, publish the amount of the incentive distributed during the previous year, as well as the taxpayers and the projects which received the benefit. To obtain the incentive, any general rules published by the committee must also be fulfilled.

It is questionable that for purposes of IETU, no provision is established in order to consider the tax credit applied as income tax effectively paid.

New Regime for Interest as of 2012

In accordance with the transitory provisions of the Income Tax Law for the year 2010, the starting date of the new regime for taxation of interest was January 1, 2011.

The reform included a new mechanism for determining the cumulative income of individuals in terms of interest, as well as the form in which financial institutions should calculate the income tax to be withheld on this type of income.

However, it was considered that the period established is not enough for such institutions to properly implement the new mechanism for the calculation of interest and of the respective withholding in their computer systems and, therefore, may generate adverse effects for their customers, as such the enactment of the new regime is delayed until January 1, 2012.

Due to this extension, it is established in the Federal Incomes Law for 2011 that the institutions engaged in the financial system will apply the annual rate of 0.60% on capital that gives rise to the payment of interest, in order to determine the income tax withholding on any revenues obtained for this concept, as they had been doing up to the year 2010.

We believe that the new regime which is proposed for implementation in fiscal year 2012 should be modified in the subsequent legislative periods prior to its enactment, in order to correct the distortions that it contains, as discussed in our Tax Reform Highlights for 2010.

FEDERAL INCOMES LAW

Withholding on Bank Interest

The 0.60% annual withholding rate which financial system institutions must apply to capital that gives rise to the payment of interest remains in effect. As in previous years, we believe that current interest rates do not justify such a high withholding rate.

4.9% Tax Rate on Interest

For fiscal year 2011, the income tax withholding rate of 4.9% remains in effect for interest paid to foreign banks registered with the Mexican tax authorities, provided that they reside in a country with which Mexico has a current double taxation treaty in effect, and the requirements established in such treaty are fulfilled.

Flat Rate Business Tax

The provision that eliminates the possibility of applying the credit for excess deductions against income tax incurred in the same year in which the credit is determined remains in effect, for which reason the latter may only continue to be credited against any flat rate business tax (hereinafter IETU) determined in the subsequent 10 years.

The obligation is eliminated whereby taxpayers of this tax must file each month the information on the items which are used as the basis to determine IETU for fiscal year 2011, and such information must only be filed once a year by the same filing deadline established for the annual return.

For year 2010, it was already established that such information did not have to be filed monthly, provided that it was filed annually within the month immediately following that in which fiscal year 2010 ends, in accordance with the Decree published on June 30, 2010.

Forgiveness of Surcharges and Fines for Debts Owed to the IMSS

The possibility is included whereby employers and other taxpayers that voluntarily regularize their debts with the IMSS generated up to June 30, 2010, may request the forgiveness of surcharges and fines levied as long as they pay the total amount of such debts in a single payment.

The unpaid tax liabilities to which this benefit may be applied are those derived from social security dues, charges collected by the IMSS from the employer for services rendered to employees who have no coverage due to employer negligence *(capitales constitutivos),* expenses incurred by such Institute for improcedent registrations and those which the IMSS is entitled to demand from persons not eligible for social security benefits.

The benefit of such forgiveness will apply on the following basis:

- When the payment is made between January 1 and March 31, 2011, the forgiveness of the surcharges and fines will be 100%.
- When the payment is made between April 1 and May 31, 2011, the forgiveness of the surcharges will be 80%, and for the fines will be 90%.
- When the payment is made between June 1 and June 30,011, the forgiveness of the surcharges will be 50%, and for the fines will be 90%.

The forgiveness of surcharges and fines will be valid even when the latter derive from unpaid tax liabilities which are being paid in instalments, and the forgiveness will apply to the unpaid balance of the surcharges and fines which are still owed. The IMSS will under no circumstances be obligated to refund any amount for surcharges and fines that are already paid.

Furthermore, the Technical Council of the IMSS will be able to agree with the employers and other taxpayers on the payment of the amounts owed, whether in deferred form or in instalments, in relation to those for which the forgiven surcharges and fines were incurred.

Persons who request such forgiveness must declare in writing to the IMSS their intention of applying the aforementioned benefits, at the latest on March 31, 2011, and they must also indicate the date on which they will make the payment of their debts, and provide security interest to guarantee the tax liability.

The IMSS will be able to request the necessary information and documentation to determine whether it is appropriate to grant forgiveness of the aforementioned surcharges and fines levied.

It is specified that the forgiveness will not be applicable for social security dues which are being challenged, unless such action is waived.

The forgiveness will also not apply if the social security dues refer to acts or omissions which involve aggravating factors in the commission of violations or if there is a final judgment which has already been executed or enforced for the commission of tax crimes.

No forgiveness will be granted for surcharges related to unpaid tax liabilities derived from insurance dues for retirement, early retirement and old age.

There are several doubts regarding the procedure established for the application of the forgiveness, such as (i) whether the security interest established as a guarantee must be paid for the total amount of the debt or only for the principal, (ii) whether an express authorization must be obtained from the IMSS to apply the incentive, among others. We hope that these questions will be clarified by the Technical Committee of the IMSS when they issue the respective guidelines.

Tax Incentives

Most of the tax incentives established for the year 2010 remain in effect. These include the fact that taxpayers engaged exclusively in public and private ground transportation of cargo or passengers who use the National Toll Highway Network may credit against payable annual income tax up to 50% of the total expenses incurred in the payment of services for the use of the toll highway infrastructure.

The tax incentives which allow taxpayers to credit any excise tax which Petróleos Mexicanos and its subsidiary agencies may have incurred for the sale of diesel against income tax, remain in effect, when it is used in automotive vehicles that are intended exclusively for the public and private transportation of persons or cargo, and when involving persons who perform business activities, except mining, when it is used in general machinery and in maritime vessels.

It has to be mentioned that this incentive is eliminated for persons who perform business activities, when the fuel is used in low-speed or low profile vehicles, which due to their characteristics are not authorized to drive on either federal or concessioned highways.

Furthermore, the power which the Secretary of Finance and Public Credit had up to December 2010 to grant tax incentives and subsidies in terms of employees' savings and loan associations and private savings and loans, and in foreign trade matters, related to the import of articles of consumption, machinery and equipment to the border zones, is hereby eliminated.

Reduction of Fines

The reduction of fines that were levied on taxpayers who commit violations for noncompliance with federal tax obligations different from the obligations to pay or for the failure to make estimated payments of any tax remains in effect.

The reduction of fines means that the taxpayer will only pay 50% of the fine, if the payment is made once the official inspection powers of the authorities have begun, or 60% of the fine, once the final tax audit report of the official inspection has been issued, or the audit report is notified, but before the ruling determining the amount of the unpaid taxes is notified.

Cancellation of Unpaid Tax Liabilities for Reasons of Excessive Cost

The power which the tax authorities had to cancel unpaid tax liabilities for reasons of excessive cost is eliminated; in this regard, the tax authorities assessed the amount of the unpaid liability, the cost of recovery actions, the aging of the credit and the probability of its collection. The cancellation of such liabilities did not release the taxpayer from his payment obligation.

Surcharges for Extensions

For extensions granted in the payment of tax liabilities, the rates for the determination of the respective surcharges remain in effect at 0.75% a month on unpaid balances and, if the tax authorities authorize the respective payment in instalments, the following rates will be applied:

- 1% a month for periods of up to 12 months.
- 1.25% a month for periods of more than 12 months and up to 24 months.
- 1.50% a month for periods in excess of 24 months and for deferred payments.

EXCISE TAX

Cigarettes

The additional charge per cigarette sold or imported is increased from $0.10 to $0.35, effective as of January 1, 2011, leaving null and void the transitory provision which allowed for the application of progressive rates of $0.04 in 2010, $0.06 in 2011 and $0.08 in 2012.

It is established that the sales of cigarettes made in the year 2010, but whose consideration is collected after January 1, 2011, will be subject to the payment of the tax based on the charge which will be in effect in 2011.

Notwithstanding the above, a transitory provision establishes that the charge in effect in the year 2010 will be applicable, for the sales of cigarettes that were made in such fiscal year and when the collection is made in the year 2011, provided that (i) the product would have been delivered before January 1, 2011, (ii) the collection is made within the first 10 calendar days of the same year and (iii) the sale is not made between related parties.

Energy Drinks

A new 25% tax is established as of January 1, 2011 on the sales or imports of energy drinks, as well as concentrates, powders and syrups to prepare them.

Energy drinks are defined as nonalcoholic drinks containing a mixture of caffeine in quantities in excess of 20 mg for each 100 ml of product and other substances, such as: taurine, glucoronolactone, thiamine and/or any other which produces similar stimulant effects.

Furthermore, concentrates, powders and syrups to prepare energy drinks are defined as those which when diluted allow energy drinks with the aforementioned characteristics to be obtained.

As a result of this addition, several provisions are modified related to the crediting and payment of this new tax on the sale or import of energy drinks, concentrates, powders and syrups to prepare such drinks.

Several formal obligations are included, which will have to be fulfilled by those who sell or import energy drinks, concentrates, powders and syrups for their preparation, such as: the issuance of tax receipts, filing of information returns, etc.

A transitory provision establishes that those individuals and business entities which up to December 31, 2010 were not considered as taxpayers of the tax and which as of January 1, 2011 are considered as such, must file through a free text, within the five days following the aforementioned date, a report containing the inventory of stocks by type, brand, presentation and size of the container of the goods for which they are considered taxpayers.

It is also established that the payment of the tax will not apply on the sales of energy drinks, concentrates, powders and syrups to prepare them that were made in the year 2010 and whose collection is carried out in the year 2011, provided that (i) such goods would have been delivered before January 1, 2011, (ii) the collection is made within the first 10 calendar days of the same year and (iii) the sale is not made between related parties.

FEDERAL FEES LAW

Oversight Fees Payable by Investment Funds

Up to 2010, investment funds calculated the fee for inspection and oversight performed by the National Banking and Securities Commission (CNBV), by multiplying the total value of the shares representing their common stock by a specific ratio.

As a result of the reform, investment funds must now pay a flat rate of Mx $1,080,000, or they may elect to pay the equivalent of the lower value of the total sales transactions of the assets that were invested and the total purchase transactions involving such assets, multiplied by the ratio of 65 thousandths. Should this option be applied, the resulting fee cannot be less than Mx $20,000.

The intention of the formula established for the calculation of the aforementioned fees is to take into account the level of operations performed by the investment funds.

A transitory provision establishes that those investment funds which paid their respective fee in fiscal year 2010 may elect to cover the inspection and oversight fee for the year, by paying the same fee plus increased by 10% margin.

As a result of the transitory provision, it is established that those investment funds which were created in fiscal year 2010 may elect to pay the inspection and oversight fee that they would have had to pay in that year, plus 10% of such fee, instead of paying the flat-rate for the year 2011.

It is still possible for investment funds not to pay additional fees for inspection and oversight in the year, when they pay fees for the inscription of their shares in the National Registry of Securities.

Fee for Storage of Goods in Bonded Warehouses

The time as of which the fees are incurred for storage of goods that are imported either by sea or by air in bonded warehouses was modified.

Previously, the fee was incurred as of the sixth calendar day, after that in which the consignee received the communication that the goods had entered the bonded warehouse. As a result of the reform, such term begins as of the date following that on which the bonded warehouse receives the goods.

Charge for the Extension of Working Hours in Commercial Airports

In order to standardize the exemption currently established for the fee for the services rendered by Mexican Airspace Navigation Service (SENEAM) outside the official operating hours of airports, the same assumptions are established to exempt the fee for authorization to extend the operating hours in commercial airports.

The exemption assumptions include the flights made by Mexican or foreign aircraft for any of the following purposes:

a) Providing search or rescue services, assistance in disaster zones, fighting epidemics or disease, as well as flights of not-for-profit medical assistance groups, social welfare, fumigation and those involving emergency situations, both Mexican and international.

b) Safeguarding of public institutions, national security and the fight against drug smuggling.

c) Use in diplomatic missions certified by the Department of Foreign Affairs provided that there are reciprocity agreements in place.

d) The verification and certification of radars and radio assistance to air traffic owned by the Department of Communications and Transportation.

e) Participation in air festivals organized by the civil aviation authority.

Final Monthly Payments of Water Charges

With the supposed intention of facilitating and strengthening inspections by the National Water Commission (CONAGUA), and simplifying compliance with the tax obligations of taxpayers who use, exploit or utilize national waters, whether de facto or under titles of assignment, concession, authorization or permit, granted by the Federal Government, it is established that the water charge will be calculated by quarters and its payment will be made through a final quarterly return that will be filed at the latest on the 17th day of January, April, July and October, instead of being generated by fiscal years and being paid by means of quarterly provisional payments, at the latest on the 15th day of each of such months, as was established up to 2010.

Presumptive Determination of Water Charges

Assumptions are included to presumptively determine the volume of water on which the water charge will be calculated for those who use, exploit or utilize national waters, whether de facto or under titles of assignment, concession, authorization or permit, when (i) hydraulic installations or water derivations are prepared without the respective authorization or when modifications or changes are made to distribution water pipes or feeders; and (ii) it is detected that national waters are being used, exploited or utilized without the respective authorization, concession or permit.

For taxpayers who have a title of assignment, concession, permit or authorization, but who do not have a water meter or do not repair, replace or adjust it within three months after it is out of service, the water charge will be determined based on the fourth part of the total volume of water that they have been assigned, concessioned, permitted or authorized, as the case may be, instead of determining it in relation to the total, as established up to 2010.

It is provided that the water charge may be presumptively determined based on the information in the possession of the CONAGUA or the SAT, when the taxpayers have a title of assignment, concession, authorization or permit, and the volume authorized in the latter is less than that determined by such agencies.

In the case of taxpayers who use, exploit or utilize national waters without any concession, authorization or permit, the presumptive determination will consider the higher of the volumes determined between the CONAGUA and the SAT, if there is more than one.

In the presumptive determination for taxpayers who use, exploit or utilize national waters without any authorization, concession or permit, one of the assumptions was specified to calculate the water charge, by establishing the mechanism that will be used as the basis to determine the amount of water that the taxpayer could have obtained during the quarter.

We believe that such amendment is appropriate to replace a list of items contained in the law without a mechanism that clearly outlined how to apply them, thus generating legal uncertainty for taxpayers.

Exemption in Discharges of Residual Waters

The exemption is eliminated in the payment of the charge for the use or utilization of public property, such as bodies that receive discharges of residual waters, which was established for those taxpayers who emptied residual water back to the source from where it was originally extracted, provided that they had a certificate issued by the CONAGUA, which stated that the quality of the residual water was not suffered degradation on its quality and its temperature was not altered.

Eliminated Fees

In order to facilitate and promote the performance of certain activities to the benefit of private parties, through the reduction of tax burdens and administrative processes, several charges were eliminated, which include the following:

1. In the area of telecommunications, the fee for inspection prior to the commencement of operations, payable by radio and TV stations, and for services that are provided by subcarriers of radio and TV broadcasts, was eliminated on the basis that the operation of such stations and subcarriers is currently subject to several tax burdens.

2. In the area of public registrations, several charges were eliminated, the most important of which were as follows:

a) Charges for the Registry of Foreign Banks, Finance Companies, Pension and Retirement Funds and Investment Funds, related to the charges that were incurred for the study, processing and renewal of the inscription, and for the change in the business or corporate name of the entities subject to such registration.

b) All the fees that were incurred for the services rendered by the National Registry of Foreign Investments.

c) All the fees that were incurred for the study and processing of the application for registration in the Telecommunications Registry.

d) The fees that were incurred for the registrations in the National Railroad Registry, which consisted of the registration of: railroad equipment, encumbrances, the internal regulations of transportation and timetables, insurance policies, changes in the registration, cancellation of the registration, issuance of the registration certifications, the railroad infrastructure and the classification of the railroad transportation services.

e) Fees for the Public Registry of Water Charges, for the study and processing of each application made by the users or beneficiaries for the registration of the transfer of the titles of concession, assignment or permit; as well as the fees for the study and processing of each application for registration of any changes made in the titles of concession, assignment, permit or authorization, as well as for the user registers different from the latter.

FEDERAL ADMINISTRATIVE-LAW COURT PROCEEDINGS

On December 10, 2010, several reforms to the Federal Law on Administrative-Law Court Proceedings were published in the Federal Official Gazette, one of which was the inclusion of a chapter regulating the processing of the federal administrative-law proceeding through summary action.

Given the unfortunate wording of the transitory provision establishing the enactment of this new legal action, we believe that it will be implemented on August 8, 2011.

The procedural deadlines for this lawsuit are considerably shorter than those established for the lawsuit processed in ordinary court proceedings; indeed, the deadline for filing the action for annulment will be 15 business days, instead of the 45 business days applicable for lawsuits dealt with in ordinary court proceedings.

This summary action will be appropriate, among other assumptions, against those final rulings which are rendered in rebuttal of a binding court precedent issued by the Mexican Supreme Court regarding the unconstitutional nature of laws or, as the case may be, in rebuttal of a binding court precedent issued by the Plenary Session of the Superior Chamber of the Federal Tax Court.

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EXHIBIT I

Tax Incentive for Promoting First Job

Year	2011	2012	2013	2014	2015	2016
Base fee wage (A)	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Multiplied by: Corporate IT rate	30%	30%	29%	28%	28%	28%
Equals: Result (B)	3,000.00	3,000.00	2,900.00	2,800.00	2,800.00	2,800.00
Difference (A) - (B)	7,000.00	7,000.00	7,100.00	7,200.00	7,200.00	7,200.00
Divided by: Corporate IT rate	30%	30%	29%	28%	28%	28%
Equals: Result (C)	23,333.33	23,333.33	24,482.76	25,714.29	25,714.29	25,714.29
Multiplied by: Percentage	40%	40%	40%	40%	40%	40%
Equals: Additional deduction (D)	9,333.33	9,333.33	9,793.10	10,285.71	10,285.71	10,285.71
Multiplied by: Percentage reduction	N/A	25%	25%	25%	25%	25%
Equals: Amount to be deducted (E)	-	2,333.33	2,448.28	2,571.43	2,571.43	2,571.43
Additional deduction for year (G) = (D) - (E)	9,333.33	7,000.00	7,344.83	7,714.29	7,714.29	7,714.29
Additional deduction for year as percentage of base fee wage F = (G)/(A)	93.33%	70.00%	73.45%	77.14%	77.14%	77.14%

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