

# Aspects to take under consideration regarding the reduction of income tax advance payments

Tax – July 10, 2020

## CURRENT OVERVIEW

The Mexican Income Tax Law ("MITL") provides that taxpayer may request the reduction of the amounts of monthly income tax ("IT") advance payments due, payable as of the second semester of the relevant fiscal year, when they foresee that the profit ratio used in the determination of the advance payments corresponding to the first semester does not reflect the annual IT that will be due finalizing said fiscal year.

The due date for taxpayers to opt for the tax benefit of reducing the IT advance payments corresponding to the period of July to December 2020 is this coming 17 July, 2020.

Should taxpayers obtain a favorable resolution from the tax authorities, such measure will represent an alternative to improve the cash flow position of companies to confront the uncertainty that characterizes the economic environment in Mexico and abroad, by avoiding the remittance of excessive advance payments corresponding to fiscal year 2020, which undoubtedly will be affected by the pandemic we are living.

## **COMPANIES WILL NEED TO OBTAIN AN AUTHORIZATION TO APPLY THE REDUCTION OF THE MONTHLY ADVANCE PAYMENTS OF THE CURRENT FISCAL YEAR**

The reduction of the profit coefficient will not only achieve the reduction of IT cash disbursements from July to December, but will also avoid having to request the refund, or offsetting a balance in favor resulting in fiscal year 2020, in which it is likely that lower profits, or even losses, will be reported with respect to 2019.

Derived from the pandemic triggered by virus SARS-CoV-2 (COVID-19) that is currently affecting the country, it is clear that a large number of companies will require the authorization to reduce the monthly IT advance payments of the current fiscal year derived from the reduction of their operations, and consequently, their revenue.

The increase of operational costs and expenses resulting from the suspension of activities declared by the sanitary emergency, the extraordinary expenses and investments that will be required to operate in the conditions of the "new normality" brought forward by the new sanitary measures, and the evident decrease in operations and revenue resulting from the global economic crisis, are factors which have affected companies.

In this regard, it is feasible that the tax authorities will receive a large number of requests for these purposes, however, as a consequence of the economic environment and the likely decrease in federal tax collection, the possibility exists that the tax authorities will largely disallow the requests filed by taxpayers, in which case it will be possible to contest the decisions through the corresponding legal means.

In order to obtain a favorable resolution either throughout the request for the previously mentioned authorization, or as a consequence of interposing the corresponding means of defense, it will be critical that sufficient legal arguments supporting the claim are asserted in the documentation submitted to request the authorization, and that the estimated profit ratio determined by the company for the current fiscal year is duly justified in order to attest for the financial and tax position of the company.

In the event that the tax authorities reject the authorization or fail to issue a resolution within the term of 3 months, and if the request for the reduction has been duly documented, there are viable strategies available for taxpayers to apply the reduced profit ratio prior to having received a final ruling, through which the financial impact would be minimized by solely covering inflation adjustments and surcharges resulting from the date of remittance of the advance payment and the date of filing of the annual tax return, and, extraordinarily, the disbursement of a penalty for not having remitted the advance payment in accordance with the mechanism set forth in law.

It is important to point out that should the authorities deny the taxpayer's request or fail to issue a resolution, it will be possible to challenge the decision through the appropriate legal means, in which case it will become crucial to have properly documented the request for the authorization and its legitimacy.

**For more information, do not hesitate to contact our expert professionals in this matter at the following e-mail address: [fiscal@macf.com.mx](mailto:fiscal@macf.com.mx)**

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