



**BDO**  
*informs*

**2008 TAX REFORM  
SUMMARY**

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BDO Hernández Marrón y Cía., S.C.  
Contadores Públicos y  
Consultores de Empresas.



As we informed in our informative document N° 17, the Executive branch submitted for the consideration of the Mexican Congress, the initiative of tax reforms.

Recently the Mexican Congress amended and approved the reforms. Until now they have not been published.

It is necessary to clarify that once it is published by the President, they will be in force on January 1st, 2008 except for the tax reforms related to the exemption to individuals selling shares established in Income Tax Law, this last will be mandatory the day after its publication. The tax over the cash deposits will be in force on July 1st, 2008.

During next week we will offer to our clients, a detailed analysis of the content and reaches of the approved tax reforms, meanwhile, we present a summary of the tax reforms:

### **Flat Rate Business Tax (IETU)**

IETU, is a minimum tax and will be paid when it exceeds the Income Tax (IT). According to the legislator, the objective of this contribution is to tax the "generation of economic flows destined to the production factors"

IETU its a direct tax that replaces the tax on assets, which will be revoked when the IETU is in force.

All individual and legal entities residents in Mexican territory are obligated to pay this tax, for the alienation of assets, rendering of independent services or



leasing of goods, independently of which these activities are performed or not in national territory.

The Law establishes that royalties charged to related parties and the interests received by mutual agreements, are not subject of this tax.

Also, the residents abroad with permanent establishment in Mexico, will pay the IETU, for the revenues attributable.

The tax will be determined on cash collections, according to the mechanism established in the Value Added Tax (VAT).

Cash payments incurred in the year are deductible when they are indispensable for carry out the taxable activities.

Related to investments, there is the possibility to deduct all those made in the fiscal year before IETU is in force. With the idea of not affecting the taxpayers whom made investments before the IETU is in force, special rules allow to deduction of them.

For the case of the inventories, the IETU allows their deduction also on cash flow basis; nevertheless, it does not contemplate any rule for the deduction of the existing inventories as of December 31st of 2007.

The Law excludes the deduction of expenses derived from payments of salaries and related payments according to the income tax law and the social security contributions. However, there is a tax credit against the IETU equivalent to the amount resulting from multiplying the factor of .175 by the



value of the taxable salary payments and the contributions of social security paid by the employer.

The IETU is calculated by fiscal year applying the rate of 17.5% (16.5% for fiscal year 2008) on the base obtained from reducing the authorized paid deductions from the collected revenues. Against the annual tax, provisional payments, the income tax paid of the year and the income tax withheld abroad, can be credited.

Additionally, it is allowed to apply against the annual tax, a credit resulting from applying the IETU rate, to the difference between the authorized deductions and taxable revenues, when the first mentioned were greater; such credit could be offset during the following ten years.

### **Cash Deposits Tax Law (IDE)**

All individuals and legal entities are subject to the IDE for all the deposits in cash, in national or foreign currency, in any account they have in the institutions of the financial system.

### **The following persons are exempt of the IDE:**

- a)** Governmental entities
- b)** Legal entities with no lucrative purposes
- c)** All individuals and legal entities for accumulated deposits in cash up to \$25,000 Pesos monthly, in one or more accounts in the same financial institution. Cashiers checks are not included in this exemption.



- d) Institutions of the financial system for the deposits in cash, derived from its financial intermediation, or the purchase and sale of foreign currency.
- e) Non Mexican individuals, for the deposits in cash made in its accounts, which are exempt for income tax purposes.

Individuals and legal entities, for the cash deposits derived from loans granted by financial institutions.

The tax rate would be 2% over the taxable deposits, which will be withheld by the institutions of the financial system.

The IDE paid in the year will be creditable against the income tax.

The right to the credit is personal of the taxpayer and could not be transmitted to other entities even as a result of merger or spin off.

### **Special tax on products and services**

Gambles, lotteries would be taxed with 20% rate.

### **Federal Tax Code**

The term to refund the VAT to the taxpayers was extended to 90 and 180 days in order to verify and request additional information.

The faculties of the tax authorities to review documentation are extended in those cases in which the taxpayers exhibits during a lawsuit, additional

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documentation which was not provided to the tax authorities during an audit procedure.

It is established that when a person who is not in the Federal Tax Registry receives deposits in its bank accounts in a fiscal year for more than a million pesos, it will be considered that such deposits are earnings or acts or activities over which contributions shall be paid.

It is indicated that those persons rendering services to third parties for the total or partial omission of the payment of contributions or collaborating in the alteration of accounts, false entries or information in the accounting records, will be subject of penalties from 35 to 50 thousand pesos, or from 10 to 20% of the omitted contribution.

### **Income Tax Law**

It will be considered as taxable revenues, the transfer of funds for future capital increases or the increases of capital in cash for more than \$600,000 Pesos, when the taxpayers do not inform to the tax authorities about the reception of the funds within the following fifteen days.

The deduction of donatives is limited to 7% of the taxable income obtained by the donor, in the immediately previous year, which implicates that taxpayers with losses in such year will not be able to deduct donations. If the taxpayer is an individual, the limit will be 7% of the taxable revenues of immediately previous year.



New rules are established to deduct the losses derived from the alienation of shares and other instruments in which the revenue is not interest, as well as from the financial losses derived from capital referred to shares or share indexes.

It is authorized for capital investment companies to update the gain derived from the alienation of shares, interest and losses derived from the alienation of shares.

New rules are established to exclude certain credits from the definition of back to back loans, when the borrower is not able to dispose of the titles or the debt instruments which guaranty them.

It is established that the exemption for individuals for the alienation of shares will not be applicable when having 10% or more of the representative shares of the capital stock of the issuer or have, directly or through a group of persons, the control of an issuer company, alienate in a term of twenty-four months, 10% or more of the capital.

The table of the tax tariffs for individuals is modified incorporating the salary credit in three additional limit amounts.

New rules are established applicable to preferred fiscal regimes.



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