March 11, 2020

EY TAX Flash

Aspects to Consider for Estimated Income Tax Prepayments in 2021. Rule 3.9.19 of the Miscellaneous Tax Resolution

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On December 29, 2020, the Miscellaneous Tax Resolution for fiscal year 2021 was published in the Official Gazette. The most relevant aspects of which were shared on our Tax Flash "Miscellaneous Tax Resolution 2021" dated January 5th, 2021. The rules issued by the tax authorities for 2021 include rule *3.9.19. Estimated Monthly Corporate Income Tax prepayments*, which has a direct impact on the filing process for monthly income tax prepayments.

Keep in mind that this rule does not modify the determination process established in the Mexican Income Tax Law for monthly income tax prepayments; however, as of 2021, the tax prepayment return will be pre-filled with the following information:

- **Information on income tax invoices (CFDI for its acronym in Spanish) issued by entities during the payment period**
- Information corresponding to the income tax prepayments made in prior periods
- Information on the annual income tax return of the immediately prior year

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Although the rule states that the pre-filled information obtained from prior income tax prepayments or the annual income tax return can only be modified by filing amended returns. It is unclear what will be the process to follow if the income CFDIs issued during the period do not match with the entity's nominal (taxable) income or whether the pre-filled amounts can be modified. This aspect is extremely relevant since corporate entities can have a range of nominal income that is not necessarily supported by CFDIs, such as foreign exchange gains, recovery of bad debt, insurance refunds, among others; the amount of nominal income may not necessarily match with the amount of the consideration supported by the CFDI (e.g. in the sale of fixed assets, nominal income will be the taxable gain obtained rather than the sale price); or the entity may obtain nominal income considered taxable prior to the issuance of the CFDI (e.g., providing the service or delivering the goods prior to the issuance of the CFDI), so it would be important to be able to manually adjust nominal income in the return.

Taxpayers may also find that the amount of the consideration supported by the income CFDI issued during the period is higher than the nominal income for the same period. This could happen due to a number of reasons, such as: the entity already considered the respective income as taxable in a prior period; the entity issued a CFDI to substitute a cancelled CFDI issued in a prior period; there are duplicate CFDIs; the entity has reported income for tax purposes that does not require the issuance of a CFDI, as is the case of civil partnerships or entities under the regime for agricultural, livestock, forestry and fishing activities; among other cases.

This new modality has not been habilitated in the Tax Authorities platform; however, we believe it is important for companies to identify the differences between their nominal income and income CFDIs (e.g., gains on sale of fixed assets, gains on sale of shares, foreign exchange gains, revenue provisions, among others) in order to reconciliate such variances. It is also necessary to review the procedure for issuing and cancelling income CFDIs.

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