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Global Tax Alert

News from Americas Tax Center

Taxpayers should prepare for upcoming deadlines for reporting of significant transactions in Mexico

Taxpayers in Mexico should be preparing for the 30 April 2015 deadline to report significant transactions to the Mexican tax authorities for the year ended 31 December 2014. Furthermore, significant transactions for 2015 must be reported beginning in May 2015.

As previously reported, the tax reform for 2014 introduced Article 31-A of the Federal Fiscal Code, requiring taxpayers to provide information to the Mexican tax authorities regarding significant transactions. The law actually requires this reporting to be made within 30 days of the transaction. On 30 December 2014, the tax authorities issued miscellaneous tax rules that provide the types of transactions that must be reported and how the transactions should be reported. Specifically, Annex 1-A of the Miscellaneous Tax Rules for 2015 includes the guidelines for reporting relevant transactions as required by Article 31-A. Annex 1-A makes reference to official Form 76, which lists 36 different transactions segregated into five categories that must be reported monthly. The main categories are:

1. Financial transactions as provided in Articles 20 and 21 of the Income Tax Law (derivatives)
2. Transfer pricing transactions
3. Capital participations and tax residence
4. Reorganizations and restructurings
5. Other relevant transactions

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Some of the specific transactions to be reported include:

- Change of shareholders or partners directly or indirectly
- Transfers of shares
- Reorganizations
- Changes in tax residence
- Transfers of intangibles
- Transfers of goods with rights retained on those goods
- Transfers of financial assets
- Transfers of goods through a merger or spinoff
- Transactions with entities located in countries with a territorial tax system, in which a double income tax treaty has been applied
- Financing transactions, when the interest becomes payable after one year
- Payment of interest if it was payable after one year
- Transfer or acquisition of tax losses derived from a spin-off
- The use of tax losses after a merger
- Dividend distributions or capital redemptions if derived from loans

Form 76 requires taxpayers to include the name of the counter party to the transaction, the date and the amount.

Because the transaction categories are broad, taxpayers should carefully review transactions required to be reported and what implications may exist with respect to the reporting requirements.

Deadlines

On 18 December 2014, through the Miscellaneous Tax Rules for 2014, the tax authorities extended the deadline for reporting significant transactions for 2014 from 31 January 2015 to 30 April 2015. Pursuant to Miscellaneous Tax Rule 2.8.1.16 in force for 2015 transactions, taxpayers should report significant transactions quarterly using Form 76, which should be completed with the monthly information reported, as follows:

Month	Deadline
January to March	31 May 2015
April to June	31 August 2015
July to September	30 November 2015
October to December	29 February 2016

If for any particular month there are no transactions to be reported, Form 76 is not required to be filed.

Non-compliance

Pursuant to Article 31-A, if Form 76 is filed incomplete or with errors, the taxpayer has 30 business days from the date of the notice from the authorities to amend the report. After this deadline, the report will be considered as not filed.

Non-compliance with this obligation may result in fines and penalties that may range from US$100 to $2,000 as well as a negative compliance report from the tax authorities. In this regard, those taxpayers bidding for government projects or trying to apply tax incentives are required to obtain a positive compliance report from the tax authorities. Without a positive compliance report, the company is not qualified to apply tax incentives or to be awarded a government bid. Furthermore, although not clear in the tax law, non-compliance with all tax reports and obligations may result in rejections of tax refund claims or requests for authorizations from the tax authorities.

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