

January, 2012

Reforms to Tax Laws for the 2012 Tax Year

Dear clients and friends:

In October 2011, the Economic Package for the 2012 Tax-Year was approved, comprising the Draft of the Decree to enact the Federal Revenue Law for the 2012 Tax-Year, the Draft of the Federal Expenditure Budget for the 2012 Tax-Year, and the corresponding General Criteria on Economic Policy.

In furtherance of the above, last November 16, the Federal Revenue Law for the 2012 Tax-Year was published in the Official Gazette of the Federation. Additionally, on December 12, 2011, the Federal Expenditure Budget for the 2012 Tax-Year and the following Decrees were published:

- a) Decree which amends, complements and repeals several provisions of the Law on Federal Governmental Fees;
- b) Decree which amends several provisions of the Decree which amends, complements, repeals and abrogates several provisions of the Law on Tax Coordination, the Law on *Tenencia* or Tax for the Use of Vehicles and the Law on the Special Production and Services' Tax, published on December 21, 2007; and
- c) Decree which amends, complements and repeals several provisions of the Federal Tax Code.

The package of economic reforms does not contain substantial amendments to tax laws, but rather procedural and administrative changes. In particular, the reform and compilation on provisions on tax receipts is worth noting, as well as reforms on the issue of tax offenses contained in the Federal Tax Code.

GRA
Goodrich, Riquelme y Asociados

Paseo de la Reforma 265
Col. Cuauhtémoc
06500, México, D.F.
Apartado postal 93 bis
Tel.: (52 55) 55 33 00 40
Fax: (52 55) 55 25 12 27
mailcentral@goodrichriquelme.com

European Office
8/10, Rue Ventadour
75001, Paris, France
Tel: 33 (0) 142 60 27 00
Fax: 33 (0) 142 60 27 13
graparis@goodrichriquelme.com

www.goodrichriquelme.com

GOODRICH, RIQUELME Y ASOCIADOS.



the Bomchil group
AN ASSOCIATION OF LATIN AMERICAN LAW FIRMS

Argentina | Bolivia | Brasil | Chile | Colombia | Costa Rica | Ecuador | El Salvador | Guatemala | Honduras
México | Nicaragua | Panamá | Paraguay | Perú | Puerto Rico | República Dominicana | Uruguay | Venezuela

FIRST. FEDERAL REVENUE LAW FOR THE TAX YEAR OF 2012

PUBLIC REVENUE AND DEBT

I. Revenue

ART. 1

For the 2012 tax-year, it is estimated that the Federation shall collect revenue in the amount of \$3.706 trillion pesos. Said amount will be obtained under the following items:

- a) "Revenue for the Federal Government" in the amount of \$2.313 trillion pesos;
- b) "Revenue from institutions and companies" in the amount of \$996,435.1 million pesos;
- c) "Revenue from financing" estimated in the amount of \$396,872.9 million pesos.

A) Revenue for the Federal Government

Said item includes the following concepts and amounts: a) taxes, including the tax on oil yielding in the amount of \$1.466 trillion pesos; b) contributions for improvements in the amount of \$23 million pesos; c) fees, including the Fees on hydrocarbons, in an estimated amount of \$789,105.9 million pesos; d) any taxes not included in the above-mentioned sections generated in prior tax-years pending assessment or payment in the amount of \$1,120.3 million pesos; e) products in the amount of \$3,850.3 million pesos and f) fees for the use of services in the amount of \$53,335.1 million pesos.

B) Revenue from institutions and companies

The \$996,435.1 million pesos to be obtained as "Revenue from institutions and companies" will be integrated by a) the amount of \$805,024.2 million pesos from "own revenue from institutions and companies" of which \$428,877.3 million pesos come from Petróleos Mexicanos; and b) the amount of \$191,410.9 million pesos as "contributions on social security".

C) Report by the Executive

The Federal Executive now has the obligation to send a report to the corresponding commissions in the Chamber of Deputies regarding the mechanism used to set prices for electricity and fuels such as gasoline and gas.

ADMINISTRATIVE FACILITIES AND TAX BENEFITS

II. Surcharge rate

ART. 8

The surcharge rate for 2012 for extension in payment of any tax credits shall be 0.75% per month on any outstanding balance.

In case payment in installments is authorized according to the Federal Tax Code, the applicable rate, including update-restatement, shall be the following:

- a) 1% per month for installments up to 12 months;
- b) 1.25% per month for installments from 12 months up to 24 months;
- c) 1.50% per month for installments above 24 months, as well as for payments with deferred term.

III. Fees for the use of services

ART. 10

The Federal Executive is authorized to set or change any fees to be collected in the 2012 tax-year for use, enjoyment, benefit or exploitation of assets of public dominion or for the provision of services in exercise of public law attributions for which fees are not established or these are not paid for any legal cause.

Until the fees for the 2012 tax-year have not been authorized, those effective as of December 31, 2011 shall be applied, multiplied by the corresponding ratio depending on the month in which they were authorized, or in case a later amendment has been made, from the last time they were modified in said tax-year, pursuant to the following chart:

MONTH	RATIO
January	1.0300
February	1.0250
March	1.0211
April	1.0192
May	1.0193

MONTH	RATIO
June	1.0268
July	1.0269
August	1.0220
September	1.0175
October	1.0131
November	1.0087
December	1.0043

IV. Products

ART. 11

The Federal Executive is authorized issue particular resolutions to set or amend any products intended to be collected by government agencies during the 2012 tax-year, even when their collection is set forth in other laws.

Any products that have not been submitted for approval by the Ministry of the Treasury and Public Credit must not be collected by the corresponding government agency after March 1st, 2012.

Until products for the 2012 tax-year have not been authorized, those effective as of December 31, 2011 shall be applied, multiplied by the corresponding ratio depending on the month in which they were authorized, or in case a later amendment has been made, from the last time they were modified in said tax-year, in accordance with the ratio chart set forth for calculating the fees corresponding to the use of services.

V. Imposition of sanctions

ART. 15

Tax authorities shall not impose sanctions to taxpayers when infringement of customs' provisions discovered under the procedure described in Article 152 of the Customs' Law (Administrative Procedure for Omitted Contributions) occurred before January 1st, 2012, and for which, as of the date of enactment of the Revenue Law, the corresponding sanctions have not been previously determined. The above, provided that and when due to circumstances pertaining the offender or in which the offense was committed, the applicable tax credit is not above 3,500 investment units or its equivalent in Mexican currency as of January 1st, 2012.

During the 2012 tax-year, any taxpayers fined for infringements resulting from non-compliance of any federal tax obligations other than payment obligations, including those related with the Federal Taxpayers' Registry, the submission of returns, applications, notices, the obligation to have accounting, as well as those that are fined for not making provisional payments of a contribution, with the exemption of those imposed for declaring excessive tax losses and those pertaining to challenging the exercise of capacities to carry on with inspections in the tax domicile of the taxpayer, regardless of any actions to correct their situation which may result from such inspection, will pay 50 percent of the corresponding fine if such payment is made once tax authorities have initiated exercise of their inspection capacities and before the final resolution regarding the inspection visit or the official communication with remarks is issued; provided, further, that in addition to such fine, any omitted contributions and accessories, as the case may be, are paid.

Additionally, whenever taxpayers mend their tax situation and pay any omitted contributions together with any accessories, as the case may be, after the final certificate of the inspection visit is issued or the official communication with remarks is notified, but before the assessment determining the amount of omitted contributions is notified, will pay 60 percent of the corresponding fine, provided any omitted contributions and accessories, as the case may be, are paid.

VI. Tax incentives

ART. 16

For purposes of the special production and services' tax, tax incentives are maintained setting forth the possibility of crediting said tax in favor of (i) some sectors acquiring diesel for their final consumption including persons who carry on with entrepreneurial activities, with the exception of those devoted to mining; and (ii) taxpayers acquiring diesel for their final consumption and for use in automotive vehicles used for public and private transportation of people and cargo.

Likewise, tax incentive is maintained for taxpayers devoted exclusively to the public and private ground transportation of cargo or people using the national network of toll highways, which consists in allowing a credit against income tax for expenses made in payment of services for the use of toll highway infrastructure, equal to 50% of the total expenses made for this concept.

Regarding exemptions during the 2012 tax-year, the following shall apply:

1. The exemption on payment of the tax on new cars shall continue being applicable for individuals or legal entities that sell in retail or definitively import automobiles propelled by rechargeable electric batteries, as well those electric vehicles that also have an internal combustion engine or an engine that works with hydrogen, pursuant to the provisions of the Customs' Law,.
2. Likewise, the exemption remains for payment of the Fee for Customs' Procedure caused in connection with the import of natural gas pursuant to the terms of Article 49 of the Law on Federal Governmental Fees.

VII. Provisions regarding income tax

ART. 21

A) *Interests regime*

The new scheme to calculate and withhold the tax on interests contained in the "Decree which amends, complements and repeals several provisions of the Laws on Income Tax, Tax on Cash Deposits and the Value Added Tax, of the Federal Tax Code and of the Decree which establishes the obligations that may be denominated in Investment Units; and which amends and complements several provisions of the Federal Tax Code and the Income Tax Law published on April 1st, 1995", published in the Official Gazette of the Federation on December 7, 2009, is again deferred. It shall be applicable since January 2013.

As a consequence of the above, the annual rate for withholding income tax continues to be 0.60% per annum for the 2012 tax-year.

B) *Charity Institutions*

For 2012, the concept of charity institutions that qualify as non-taxable entities is limited to those that are devoted to "social charity" pursuant to the Law on the National System for Social Assistance and in the General Health Law; to "civic activities"; to "foster development of indigenous villages and communities"; to "promote gender equality"; to "contribute with services to assist social groups with disabilities"; to "promote sports"; to "support the exploitation of natural resources, protect the environment, flora and fauna, preserve and restore ecologic balance, as well as to promote sustainable development at regional and community level of urban and rural zones"; to "promote and foster education, culture, art, science and technology"; to "encourage actions to improve

popular economy”; to “participate in civil protection actions”; to “provide services which support the creation and strengthening of organizations which carry on with activities foster purpose of this law (*sic*)”; as well as to “promote and defend consumers’ rights”.

The above provides context to the term used in the first part of paragraph VI of Article 95 of the Income Tax Law, so that Charity Institutions authorized under the state laws of private charity institutions which are not devoted to any of the purposes and in the contexts also set forth by such legal provision, shall not be considered as non-taxable.

C) Registry of Banks

During the 2012 tax-year, a rate of 4.9% will be applicable to interests earned by foreign banks and financing entities with limited purpose which comply with the placement and fund receiving percentages set forth by the Tax Administration Service (duly registered before the tax authorities), that are residents in countries with which an effective treaty to avoid double taxation has been executed with Mexico as beneficiaries and, provided further, the requirements set forth in the treaty are met to apply the rates set forth therein for this type of interests.

D) Permanent Establishment

During the 2012 tax-year, it shall not be considered that residents abroad that directly or indirectly provide raw materials, machinery or equipment to carry on with *maquila* activities through companies authorized with a *maquila* program under the shelter form (*maquila albergue*) authorized by the Ministry of Economy have a permanent establishment in the country, provided that such residents abroad are not related parties of the corresponding company with *maquila* program under the shelter form, nor a related party of such company.

For the above, *maquila* companies that operate under the shelter form shall submit, no later than on June, 2013, information related to operations carried on under such modality, pursuant to the General Provisions issued by the Tax Administration Service for such purpose.

Additionally, the *maquila* companies mentioned in the preceding paragraph shall comply with the following requirements:

1. Comply with the provisions of the fifth paragraph of Article 32-D of the Federal Tax Code, exclusively regarding paragraphs I, II and III of such legal body.

2. Submit a report with its financial statements as set forth in the Federal Tax Code when compelled to do so or, else, in case they chose not to file such report, submit the information in the terms and means set forth in generally applicable rules issued by the Tax Administration Service pursuant to the provisions of such article.
3. File annual and monthly federal tax returns, the Informative Statement regarding Operations with Third Parties, as well as the Informative Statement for Manufacturing, *Maquila* and Export Service Companies, pursuant to the terms and conditions set forth in the legal framework.

These companies shall not apply the transfer-pricing provisions for *maquila* companies and, in case any of the above-mentioned obligations are not complied with, the Tax Administration Service will require such company to, within a term of 30 calendar days, clarify what it deems to be in its interest or, in case such non-compliance is not remedied, the company will be suspended from the Importers' Registry.

E) Pensions and Retirements Funds

During the 2012 tax-year, legal entities that have foreign pension and retirement funds as shareholders which comply with the requirements set forth in the Income Tax Law to qualify for an exemption of such tax, may exclude the annual accruable inflation adjustment and any income obtained from exchange rates deriving exclusively from liabilities contracted for the acquisition or to obtain income for the granting of temporary use or enjoyment of plots of land or constructions attached thereto located in the country.

F) Derived financial transactions

It is provided that no Income Tax will be paid on derived financial debt transactions which make reference to the Interbank Equilibrium Interest Rate (TIIE, for its initials in Spanish, *Tasa de Interés Interbancaria de Equilibrio*) or to credit instruments issued by the Federal Government or the Bank of Mexico or any other determined by the Tax Administration Service by means of generally applicable rules or which, in addition to making reference to said rate or instruments, make reference to any other interest rate or underlying instruments which, in turn, make reference to the TIIE or any of the above-mentioned instruments, or to such rate or instruments and to any other interest rates, provided they are traded in stock exchange or recognized markets, pursuant to the Federal Tax Code and that the effective beneficiaries are residents abroad.

VIII. Provisions of the flat-rate business tax

ART. 21

The obligation continues to provide tax authorities with the corresponding information for concepts that served as basis to determine the flat-rate business tax, using the format issued for such purpose by the Tax Administration Service by generally applicable rules. Information mentioned in this paragraph shall be submitted even when no tax must be paid pursuant to the provisory payment filings or the corresponding annual returns.

Additionally, also for 2012, taxpayers may not credit against income tax, any tax credit for deductions above their income in the year in which such credit was generated.

SECOND. FEDERAL TAX CODE

GENERAL PROVISIONS

I. Transactions carried on with the general public

ART. 14

Transactions are considered carried on with the general public when simplified tax receipts are issued in connection therewith.

II. National Consumer Prices' Index

ARTS. 16-C, 17-A, 20 Y 20-BIS

In furtherance of the Agreements which transferred the duty of calculating and broadcasting the National Consumer Prices' Index from the Bank of Mexico to the National Institute on Statistics and Geography as of July, 2011, the Federal Tax Code now provides that the entity in charge of producing and broadcasting said indexes is the National Institute on Statistics and Geography.

III. Term of digital certificates

ARTS. 17-D AND TRANSITORY SECOND

The maximum term of effectiveness for the certificates was expanded from two to four years, which will only be applicable for those that are issued after January 1st, 2012.

TAXPAYERS' RIGHTS AND OBLIGATIONS

IV. Means of payment

ART. 20

Any means of payment recognized by the Law for taxes and contributions will also be applicable for governmental products and fees for services.

V. Surcharges and updating contributions and governmental fees for services

ART. 21

In calculating any surcharges, the applicable rate shall consider up to the hundredth and, as the case may be, be adjusted to the immediately higher hundredth when the digit of the thousandth is equal to or higher than 5, and when the thousandth is less than 5, the rate shall keep the resulting hundredth.

VI. Accounting

ART. 28

The concept of accounting is extended, to expressly include tax receipts or documents evidencing income and deductions, and exclude "certificates of compliance with tax provisions".

Tax authorities may request the translation of and exchange rate used for any information in a language other than Spanish or amounts in foreign currency recorded in the taxpayers' accounting.

VII. Tax receipts

ARTS. 29, 29-A, 29-B, 29-C AND 29-D

A) Standardization of requirements

The Federal Tax Code unifies several requirements of tax receipts that were scattered in other legal and regulatory provisions as well as in the miscellaneous resolution.

B) Term to deliver or send the digital tax receipt

The digital tax receipt shall be delivered or sent to the clients within three days following that in which the transaction occurred and, as the case may be, shall provide them with a printed version of the digital tax receipt upon request.

C) Verification of authenticity of the digital tax receipts

The authenticity of digital tax receipts may be verified consulting the Internet site of the Tax Administration Service, verifying that the folio number stated in the digital tax receipt has been authorized for the issuer and that the certificate for the digital stamp is effective and registered at the time of issuing the receipt.

By issuing generally applicable rules, tax authorities may establish administrative capabilities for taxpayers to issue their digital tax receipts with their own means or through service providers.

D) Requirements of tax receipts

The requirement to set forth the name, corporate denomination or corporate name and the domicile of the issuer of the receipt has been eliminated. However, a requirement is created for tax receipts to include the tax regime under which the taxpayer is paying taxes under the Income Tax Law. For the general public and residents abroad, the receipts shall state as the client's Federal Taxpayer's Registry the generic code for the Federal Taxpayers' Registry set forth by the tax authorities in generally applicable rules.

To request the return of value added tax, foreign tourists shall include their identification data, as well as those of the means of transport with which they leave or arrive into the country, as the case may be. Likewise, they shall also comply with the requirements set forth by the Tax Administration Service by generally applicable rules.

Receipts issued in certain scenarios shall additionally comply with the provisions specified for each case, as follows:

1. In the case of receipts issued by individuals complying with their tax obligations through the coordinated (Simplified Regime) and which have chosen to pay taxes individually, the receipt shall identify the corresponding vehicle.
2. Receipts for donations deductible under the Income Tax Law shall expressly state the above and include the number and date of the authorization certificate or

official communication of renewal. In case they refer to items that have been previously deducted, state that such donation is non-deductible.

3. Those corresponding to the lease of real estate properties shall include the number of the land-tax account (*cuenta predial*) of the real estate property or information of the non-redeemable real estate participation certificate.
4. Those for the sale of processed tobacco shall specify the total weight of tobacco contained in the processed tobacco being sold or the number of cigarettes sold.
5. Those for the sale of new automobiles, as well as receipts issued by taxpayers importing automobiles to remain definitively in the Northern border strip of the country and in Baja California, Baja California Sur and in the partial region of Sonora, shall include the vehicle's code, pursuant to generally applicable rules issued by the Tax Administration Service.
6. In case the items or goods cannot be individually identified, such situation shall be expressly stated.
7. In the case of progressive lenses and school transport services, the amount corresponding to such concepts shall be itemized.
8. Transactions originating the issuance of any instruments pending collections shall contain the amount effectively paid by the debtor when the parties acquiring such documents have granted any discounts, reductions or credits.
9. Additionally, tax receipts shall establish the manner in which payment was made, whether in cash, by electronic transfer of funds, nominative checks or debit, credit or service cards or by electronic money pouches authorized by the Tax Administration Service and state, at least, the last four digits of the corresponding account number or card.

E) Use of printed tax receipts

The limit of two thousand pesos as amount for the receipts that can be issued in printed form with bi-dimensional bar code (CBB, for its initials in Spanish, *código de barras bidimensional*) will no longer be applicable; thus, the possibility of exercising this option remains only for taxpayers who, during the previous tax-year, obtained income below those set forth by the Tax Administration Service by generally applicable rules.

F) Simplified tax receipts and merchandise in transit

Likewise, the requirements for simplified receipts are concentrated in order to achieve a single regulation, releasing from the obligation to issue them in cases where payment is made using several electronic means. Simplified receipts may not be used to carry on with any deductions or credits.

On the other hand, in case of merchandise transported in the National territory, regulations on documents that need to be provided are simplified; merchandise involved in Foreign Trade shall be subject to the applicable provisions of the Customs' Law.

VIII. Early termination of the inspection visit

ART. 47

Authorities shall have no obligation to conclude any inspection visits that have been ordered to the taxpayer's domicile before their time, in case the visited party with the obligation to issue a report on its financial statements or that has exercised the option to do it pursuant to the provisions of Article 32-A of the Federal Tax Code, submits such documents upon expiration of the term set forth in the Federal Tax Code.

IX. Sanctions to Certified Public Accountants

ART. 52

The Federal Tax Code now regulates the sanction procedure to be followed by tax authorities against certified public accountants who certify financial statements for tax purposes in case they fail to comply with the provisions set forth in the Federal Tax Code, the Regulations of such Code or any generally applicable rules issued by the Tax Administration Service or to apply the audit rules or procedures.

SANCTIONS

X. Updating fines and amounts under the Customs' Law

ART. 70

The fines and amounts set forth in the Customs' Law are also subject to the update-restatement procedure set forth in Article 17-A of the Federal Tax Code.

b) Visitor with permit to carry on with paid activities	\$ 2,350.00
c) Regional Visitor	\$ 295.00
d) Visitor Border Worker	\$ 295.00
e) Visitor with adoption purposes	\$ 2,280.00
f) Temporary Resident:	
i) Up to one year	\$ 3,130.00
ii) Two years	\$ 4,690.00
iii) Three years	\$ 5,940.00
iv) Four years	\$ 7,040.00
g) Permanent Resident	\$ 3,815.00

Payment for the replacement of any document will be subject to a payment equal to the fee for such document, as the case may be.

Foreigners remaining in National territory under the following capacities are exempt from payment of these fees:

1. Temporary Resident Student.
2. Visitors without permit to carry on with paid activities who are within any of the following scenarios:
 - a) Entering the National territory by land, provided their stay in the country does not exceed seven days. In case such term is exceeded, the fee will be paid upon exiting the National territory.
 - b) Passengers or crew members of cruise ships on international journeys, disembarking to visit the country in Mexican ports that are included in their touristic schedule and embarking on the same ship to continue their trip, provided they do not exceed twenty-one days counted from their first arrival into National territory.
 - c) Crew members entering the country on-board any vessel other than those set forth above, disembarking in Mexican ports and embarking on the same vessel to continue their trip, provided they do not exceed fifteen days, counted from their first arrival into National territory.
 - d) Active crew members entering the country on-board international regular passenger transport aircrafts, provided their stay in the country does not exceed seven days.

- e) Whenever authorized pursuant to the cooperation or education, culture and scientific treaties.

A fee of \$1,000.00 shall be paid for the reception, study of the application and authorization of any change in the conditions to stay and for regularizing the immigration situation.

The amendments to these provisions shall be effective once the Regulations to the Immigration Law become effective.

MINISTRY OF THE ENVIRONMENT, NATURAL RESOURCES AND FISHING

SERVICES RELATED WITH WATER AND ITS INHERENT PUBLIC ASSETS

II. Attributions of the National Water Commission

ART. 192-E

The National Water Commission is granted the capacity to interrupt the use, exploitation and benefit of any assets of public dominion of the Nation in case the aggregate amount of the fee has not been paid for one or more quarters. For the above, taxpayers are required to submit payment receipts or, as the case may be, documents containing the corresponding clarifications within a term of 10 business days and in case these are not provided or payment of the aggregate amount of the fee is not evidenced, interruption of the use, exploitation or benefit of assets of public dominion of the Nation will be effected, until the corresponding payments are made.

The above is not applicable in the case of domestic use under concession titles and public urban use under any assignment titles.

MINING

III. Subjects of payment

ART. 262

Individuals or legal entities that hold a concession or which carry on with works related to the exploration or exploitation of substances or minerals subject to the Mining Law shall pay mining fees.

FOURTH. DECREE WHICH AMENDS, COMPLEMENTS, REPEALS AND ABROGATES SEVERAL PROVISIONS OF THE TAX COORDINATION LAW, THE LAW ON *TENENCIA* OR TAX FOR THE USE OF VEHICLES AND THE LAW ON THE SPECIAL PRODUCTION AND SERVICES' TAX

Tax Coordination Law and the Special Production and Services' Tax

ARTS. SECOND AND SIXTH

The distribution of amounts collected as fees for the final sale to the public of gasoline and diesel, is extended until January 1st, 2015.