



Tax Newsletter
August 09, 2018

Informative Memorandum.

Bill to amend the Income Tax Law in order to tax estates and gifts.

On August 8, 2018, a Bill to amend the Mexican Income Tax Law to tax the recipients of inheritance and gifts was published in the Official Gazette of Permanent Commission of the Federal Congress.

Federal Congressman Jorge Álvarez Máñez, of the "Movimiento Ciudadano" party introduced the Bill. This same Congressman presented an identical Bill visible on the September 6, 2016 Congressional Gazette, which was not approved in 2016.

Scope of the Bill

The Bill proposes to tax the recipients of gifts among spouses or from ascendants to descendants and vice versa, that exceed \$10,000,000 MXP. It also proposes to tax recipients of inheritances if it exceeds such threshold. In either case, the tax levies on the recipient.

In general terms the tax burden is calculated as follows:

Estate tax. Income received from inheritance is liable to following tax burden:

1. Taxpayers must file an advance estimated tax payment within the 15 days of receipt of the income and pay the tax pursuant to the following schedule:
 - a. A 10% tax rate on income in excess of \$10'000,000.00 MXP and up to \$50'000,000.99 MXP
 - b. A 20% tax rate on income in excess of \$50'000,001.00 MXP and up to \$100'000,000.99 MXP
 - c. A 30% tax rate on income in excess of \$100'000,001.00 MXP
2. The Bill provides that the foregoing tax are an advance estimate and it does not provide rules of how such tax should be considered for purposes of the yearend tax liability of the taxpayers. Therefore, absent possible amendments to the Bill, we can assume that the annual income tax should be calculated by applying the general progressive tax rate for individuals, which can be of 35%.

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Gifts. Recipients of gifts will be liable to the same advance estimated tax payments and rates listed above, if they exceed \$10'000,000.00 MXP. As in the case of inheritances, given that the Bill proposes the 10%, 20% and 30% rates as advance estimates tax payments, the effective tax burden based on the progressive tax rates for individuals can reach 35%.

General Remarks

Even though the Bill is pending legislative approval, given the political times in Mexico it is important to pay attention to this proposal as it intends to introduce a gifts and estate tax as part of Mexico's Income Tax Law.

The Bill has several loopholes leaving questions unanswered. Thus, questions such as the value of goods received through inheritance or gifts are unclear; the same holds true to as it pertains to the gift exemption below the threshold, is there an annual exemption? After paying the tax, do the taxpayers have a built in cost basis on the inherited goods for which inheritance or gift tax is paid.

We will follow up on the progress of this Bill and will keep you informed.

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