

## Tax Practice Group Newsletter



### Enactment of the fourth draft version of the Second Resolution of modifications to the Miscellaneous Tax Resolution for 2020.

On July 14, 2020, the Second Resolution of Modifications to the Miscellaneous Tax Resolution for 2020 (the "MFT") was published on the website of the Tax Administration Service (SAT per its acronym in Spanish).

Through this publication, various Rules were modified and added, including the extension of the deadline for the presentation of the fiscal audit report for the taxable year 2019 until August 31, 2020, multiple rules related to compliance with tax obligations derived from the digital economy, general provisions, as well as various modifications to the system of issuing Digital Tax Receipts ("CFDIs") and the cancellation of digital stamps by the Tax Administration Service ("SAT").

#### 2.1.6 Non-working days.

The SAT vacation period is from July 20 to 31, 2020, only for tax returns and tax audits divisions.

#### 2.13.2. Filing of the 2019 tax report:

For the taxpayers' audit reports where differences in tax to be paid are determined, it is indicated that the administrative facility will be applicable as long as the corresponding contributions are paid no later than July 15, 2020, and is reflected in the relevant annex of the aforementioned audit report.

Additionally, the deadline for the presentation of the tax audit reports corresponding to the 2019 fiscal year was extended, with a new deadline of August 31, 2020.

It is specified that, in case of failure to comply with the provisions of this rule, the administrative facility will be considered as not exercised, and consequently, the audit tax report presented will be considered extemporaneous.

#### 12.1.7. Payment of contributions and, where applicable, the withholdings of residents abroad who provide the digital services referred to in Article 18-B of the Value Added Tax Law ("VATL").

Residents abroad who render digital services may pay the corresponding contributions in Mexican pesos through credit institutions authorized as auxiliaries by TESOFE or make them directly from abroad through the notice "13 / PLT Notice of option for the payment of contributions from abroad, for the rendering of digital services in Mexico", contained in Appendix 1-A.

Taxpayers who decide to carry out payments from abroad may pay in Mexican pesos or in American dollars, in which case, they must generate the corresponding registration / payment code. If it is elected to make the payments in US dollars, the payment must be

conducted using the exchange rate published by Banco de México.

#### **12.1.8. Value Added Tax ("VAT") for providing digital services through digital platforms.**

The tax payment will be conducted by submitting the "Payment of the VAT, for the provision of digital services return", no later than the 17th day of the month immediately following that corresponding to the payment.

#### **12.2.8. Income considered for the calculation of the withholding for the alienation of goods and rendering of services through digital platforms.**

Entities or individuals providing digital intermediation services between third parties will consider as a basis for the calculation of Income Tax withholdings, the income actually received by Individuals through digital or similar platforms, and the income paid directly by the digital platform to said individuals. The preceding is without considering the income received directly from the acquirers of the goods or services obtained through the intermediation of the platforms above.

#### **12.2.9. VAT withholding tax payment to be conducted by digital intermediation services renderers.**

People who provide digital intermediation services between third parties must conduct the entire VAT withholdings, through the "VAT payment withholdings for the use of platforms tax return".

#### **12.2.10. Informative return for digital services intermediation.**

Providers of digital intermediary services must provide information to the SAT concerning their counterparts, even if they had not charged the fee and the corresponding VAT for their operations.

The above must be reported through the "Informative withholdings tax return for the use of technology platforms", no later than the 10th day of the month immediately following the information.

#### **12.3.12 Income Tax ("IT") provisional return for Individuals obtaining income from the sale of goods or the rendering of services through digital platforms.**

Individuals engaged into business activities, selling goods or providing services through internet or digital platforms will submit the IT payment through the "Income Tax payment by Individuals through digital platforms tax return", to the extent that they have not elected to consider as definitive payment the IT determined and paid by said Individuals.

#### **12.3.13. Tax return for final payments of the IT by individuals who obtain income directly from users or buyers of the goods or services and through digital platforms.**

Individuals engaged in business activities, selling goods

or providing services through the Internet or digital platforms, who elected to determine and paid the IT by the application to total income received the same rates applicable to digital platforms, shall conduct the final payment of IT through the "Tax Return for the income tax payment of individuals, through digital platforms" no later than the 17th day of the month immediately preceding the month in which the payment is required.

#### **12.3.14. VAT incurred by individuals who have received direct payments for transactions carried out via digital platforms.**

The monthly tax return for payments made directly for the customer in operations carried out through digital platforms will be considered as a definitive payment, and will be made through the "Tax return for the VAT payment of individuals, digital platforms", no later than the 17th day of the month immediately following the month to which the payment corresponds.

#### **12.3.20. Individual tax return for the provisional payments of Income Tax for income obtained from the sale of goods or rendering of services through digital platforms.**

Individuals engaged in business activities selling goods or providing services through the Internet or digital platforms, for the income received directly by the customer of the goods or services, and that do not elect to consider them as definitive payments of the determined IT, applying the same rates that should be applied for digital platforms to carry out the corresponding IT withholdings; should make it through the presentation of the "Tax return for the VAT payment of individuals, digital platforms" no later than the 17th day of the month immediately before that to which the payment corresponds.

#### **12.3.21. VAT payment tax return by individuals who carry out activities exclusively on digital platforms, who do not elect to consider VAT withholding taxes as definitive payments.**

This establishes the obligation to use the format "Tax return for the VAT payment of individuals, digital platforms," for taxpayers who elect not to consider the withholdings made by digital platforms as definitive payments.

#### **12.3.22. Possibility to consider as a definitive payment the IT determined and paid by individuals at the rates established in Article 113-A of the Income Tax Law ("ITL") and the 8% VAT rate.**

Individuals engaged in business activities or who sell goods or provide services via the Internet, through digital platforms that obtain income directly through the digital platforms and from the users of the services or acquirers of goods and who elect to pay the IT by applying the withholding rates provided for in the law, must indicate that they elect to consider such payments to be definitive by filing the tax return through the SAT

website within thirty days from the time they carry out the definitive payment of the IT and VAT.

**12.3.23. Cancellation of operations through digital platforms for IT purposes for individuals with the option of final IT payments in accordance with Article 113-A of the ITL.**

When transactions are cancelled, refunds are received, or discounts or bonuses are granted, for the disposal of goods or services, carried out through digital platforms, and they have withheld the corresponding IT for the income received through those platforms, or in the event that they have received payment directly from the purchasers of goods or users of the respective services, whose income has already been declared and paid, the individual offering the goods and services making the return of all or part of the corresponding income may reduce the amount of income from such transactions without including the VAT transferred, through the submission of a supplementary tax return for the month to which the original transaction corresponds, to cancel its effects in whole or in part.

The aforementioned, in the case of discounts, refunds or bonuses issue the CFDI of expenditure, containing the amount of the deposit that has been refunded or in case of cancellation of the transaction, make the cancellation of the corresponding CFDI.

**12.3.24. Cancellation of goods disposal or service provision operations through digital platforms for the purposes of IT, in the case of individuals who elect to have withholdings considered as final payment.**

When transactions are cancelled or discounted, refunded, or bonuses are granted for the disposal of goods or services, carried out through digital platforms, computer applications and similar, the persons offering them and who exercise the option referred to in Article 113-B may request the return of the relevant IT which has been withheld, as follows:

- I. In cases of discounts, refunds or bonuses, they must issue a CFDI of expenditure under rule 12.3.19. of the MFR, or in case of cancellation of the transaction, the corresponding CFDI must be cancelled.
- II. The return request must be submitted through the ERF (Electronic Return Format), as provided for in Rule 2.3.9. and the processing application 14/PLT "Request for payment of IT, for cancellation of transactions carried out through digital platforms", contained in Annex 1-A, accompanying the CFDI of egress referred to in the previous section, as well as the CFDI of Withholdings and Payment Information that has been issued to it by the digital platform, computer application or similar, by the corresponding transaction. The refund shall be for all or part of the income of the transaction concerned, including the IT that has been withheld

from them and the VAT that has been withheld from them according to each case.

**12.3.25. Cancellation of operations carried out by persons who dispose of goods or services, through digital platforms for IT purposes.**

Persons who dispose goods or provide services through technology platforms, computer applications and similar, when cancelling transactions, receiving refunds or granting discounts or bonuses, for the disposal of goods or services, may decrease the cancellation, return, discount or respective bonus, on provisional payments to be made in accordance with Article 160 of the ITL, provided that they have the documentation reflecting the operation, such as the CFDI of egress that includes the amount of the income that it has returned or in case of cancellation of the operation, make the cancellation of the corresponding CFDI.

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## Tax

This practice pragmatically advises clients on tax planning, federal and local tax optimization for new or existing operations and expansion projects, national and international corporate reorganizations, tax treaties, transfer pricing, private wealth management, and provides representation during complex tax audits and litigation.

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