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Global Tax Alert

News from Americas Tax Center

Mexico's Tax Administration issues regulations regarding interest on certain Mexican corporate debt bonds and sale of Mexican shares through an IPO

On 29 April 2019, Mexico's Tax Administration (SAT for its Spanish acronym) published, in the *Official Gazette*, the 2019 Miscellaneous Tax Regulations (MTRs), which, among other things, regulate the provisions of a special decree granting a tax incentive related to the withholding tax on interest paid by Mexican residents for certain publicly traded corporate debt bonds. The MTRs also regulate the special decree's provisions that reduced the tax rate for certain taxpayers on the gain obtained from the sale of Mexican shares through an initial public offering (IPO).

President Lopez Obrador published the special decree in the *Official Gazette* on 8 January 2019. For additional information on the decree, see EY Global Tax Alert, *Mexico's President issues special tax incentive decree for interest on corporate debt bonds and sale of public shares*, dated 17 January 2019.

General rules for applying the tax incentive for interest on certain Mexican corporate debt bonds

The 2019 MTRs set forth that the withholding tax incentive applies to interest paid on bonds sold through the Mexican stock exchanges under the terms of the Securities Market Law. Additionally, the bonds must be placed and registered in licensed stock exchange markets under the Mexican Laws.

To qualify for the tax incentive, nonresidents should confirm their residence status by signing and delivering an affidavit to the party paying the interest. In the affidavit, the nonresidents must indicate, under oath, that they are residents in a country or jurisdiction with which Mexico has a double tax treaty in force or a broad agreement for the exchange of information. Nonresidents must sign and submit the affidavit before the interest is paid.

General rules for applying reduced tax rate on the sale of Mexican shares through an IPO

To apply the reduced capital gains tax rate granted by the decree, the 2019 MTRs state that the stockholders' equity value in the Mexican company whose shares are disposed of should not exceed MXP25,000 million pesos (approximately US$1.2 billion). Companies should calculate this value before the initial public offering.

Additionally, the MTRs allow over-allocation operations (follow-ons) (i.e., capital increases made after the IPO) to be classified as IPOs, provided the IPO agreement establishes that those operations may be considered IPOs. The over-allocation operations, however, must take place within 30 days of the date on which the placement price of the shares included in the IPO is determined and other Securities Market Law general requirements are met.

The MTRs require companies to determine if 20% of the shares of the Mexican company have been acquired by a venture capital investment trust in Mexico (FICAP in Spanish) before the IPO. In determining the percentage, companies should consider the shares acquired by foreign entities related to the FICAP or the FICAP's administrator, provided the foreign entities or administrator are considered tax transparent entities abroad.

The MTRs also include new rules on: (1) the acquisition of Mexican shares by a publicly traded "special purpose acquisition company" (SPAC); and (2) an exchange of shares derived from the merger of a Mexican company into an SPAC. The new rules will apply to the extent the stockholder complies with certain requirements listed therein.

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