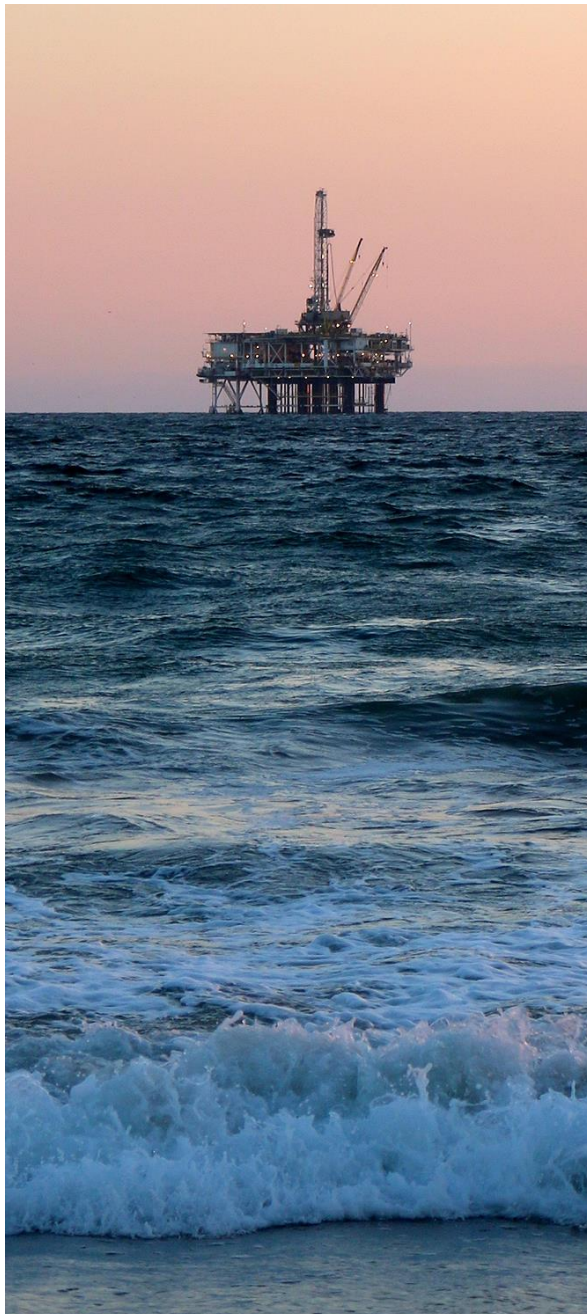

Presuncion Presumption of improper transfer of tax losses involving corporate restructures, spin offs, mergers of Mexican corporations and shareholders changes

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On June 1st, 2018, the “Decree that amends, adds and repeals provisions of the Mexican Federal Fiscal Code, the Customs Law, the Federal Criminal Code and the Law to Prevent and Punish Crimes Committed on Hydrocarbons matters” was published on the Federal Official Gazette.



Article 69-B Bis of Mexican Federal Fiscal Code

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Article 69-B Bis was added to the Federal Fiscal Code (FFC) in order to establish specific situations where the Mexican Tax Authority may assume improper transfer of tax losses in connection with transactions involving corporate restructures, spin offs and mergers of Mexican corporations, or upon changes in the equity structure of a company when anyone ceases to be a shareholder thereof.

This new article provides when it will be assumed that a tax loss has been improperly transferred, namely considering: the company’s incorporation date; the time lapsed as from when the losses occurred; the value and transfer of the assets; related party transactions; the material capabilities; the segregation of property rights, if the transactions are secured, among others.

Taxpayers failing to undermine the presumption of an improper transfer of tax losses will be listed on the Mexican Tax Authority website and the Federal Official Gazette and any tax benefits claimed on the losses will be rejected.

Based on this information, corporate restructures, spin offs and mergers of Mexican corporations, as well as changes in the equity structure as a consequence of which anyone ceases to be a shareholder of a company involving the transfer of tax losses, should be analyzed under the optics of Article 69-B of the FFC.

Cuatrecasas, S.C. is at your service to comment on the above, and in general for any inquiry related to this note.



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