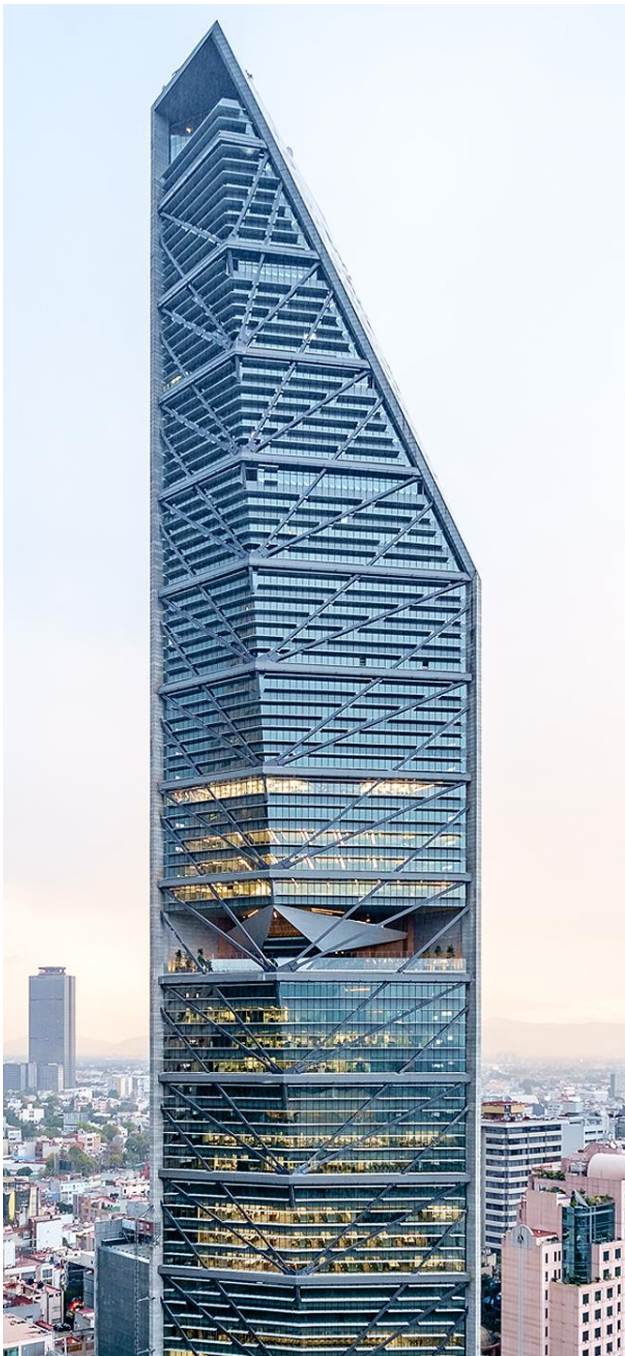

2022 Tax Reform

Mexico City – Tax

November 16, 2021



Potential Tax Impact on the Taxation of Private Clients.

On November 12, 2021, the Executive Branch published in the Federal Official Gazette (“DOF”) the “Bill by which various provisions of the Mexican Income Tax Law, Mexican Value Added Tax Law, the Mexican Excise Tax Law, Mexican New Automobiles Federal Law, the Mexican Federal Tax Code, and Other Regulations are amended, added and repealed” (hereinafter the “**2022 Tax Reform**”).

The Bill includes several amendments that may have a potential impact on the taxation of private clients residents of Mexico.

The following are the most relevant aspects of the 2022 Tax Reform for individual taxpayers:



Relevant Aspects for Private Clients

1. Federal Income Law

1.1. Decrease of rates applied to interest paid by the Mexican financial system

- A significant decrease of withholding tax on interest portfolio paid by the financial system is published for fiscal year 2022. Specifically, a withholding rate of 0.08% per year is established on financial system's interest in contrast to the 0.97% rate in force during fiscal year 2021.

2. Federal Tax Code ("FTC")

2.1. Change of Tax Residence

- Taxpayers who change their tax residence to a preferential tax regime ("REFIPRE") will maintain the Mexican tax residence for a period of 5 (five) years. This condition will not be applicable when the country or jurisdiction of new tax residence has in force a Tax Information Exchange Agreement with Mexico or an International Tax Treaty that allows mutual administrative assistance in the notification, collection and recovery of taxes.

2.2. Concept, obligations and penalties of controlling beneficiary

- Legal entities, trustees, settlors, or beneficiaries, as well as the contracting parties in legal entities, will be required to obtain and keep as part of their accounting records the information of the "controlling beneficiaries", as well as the obligation to provide such information to the tax authority when required.
- Regarding the "Controlling beneficiary" concept, the 2022 Tax Reform adopts the definition proposed by the Financial Action Task Force for the "Controlling beneficiary concept" inspired by different thresholds related to control faculties, shareholding, economic benefits and voting rights, among others.
- In addition, fines are imposed for taxpayers that propose inaccurate, incomplete or erroneous information to the tax authorities.



3. Mexican Income Tax Law (“MITL”)

3.1. Gain or loss on foreign exchange

- The 2022 Tax Reform clarifies that the foreign exchange gain, which must be calculated on a daily basis, may not be less than the resulting from applying the official exchange rate to settle obligations denominated in foreign currency in accordance with the exchange rate published by Mexico’s Central Bank in the Federal Official Gazette (“DOF”).

3.2. Property and Usufruct

- As a result of aggressive tax planning involving the segregation of tax attributes on property (the division of the bare property from the use and enjoyment), the event of consolidating the property attributes (termination of usufruct) will be foreseen as accruable income.
- Likewise, notary publics, brokers and judges will have to report the division of the property attributes by means of a declaration filed within the following 30 days after the transaction date.

3.3. Gain computation in the transfer of bare property

- Article 19 of the MITL is amended to establish that in the case of assets where the use and enjoyment of bare property is transferred, the gain derived from the transfer of assets will be determined by subtracting from the agreed price the original amount of the investment, in the proportion of the price that corresponds to the transferred assets according to the appraisal performed by a professional authorized by the tax authorities.

3.4. REFIPRES (CFC rules)

- Articles 176 and 177 of the MITL are amended to establish that neither the annual inflation adjustment nor the exchange gains or losses resulting from foreign currency fluctuations will be considered in the determination of income subject to REFIPRE or in the corresponding tax result of foreign legal entities.



3.5. Restrictions on gifts made by individuals

- The 2022 Tax Reform provides that the deductions arising from gifts to nonprofit institutions shall not exceed the lesser of five times the annual value of the *Unidad de Medida y Actualización* (“UMA”) or 15% of the total annual income of the individual donor. This limitation does not consider complementary retirement contributions.

3.6. Elimination of exempt income for individuals engaged in agricultural, livestock, forestry, or fishing activities.

- Article 74-A of the MITL which previously provided that income derived from agricultural, livestock, forestry or fishing activities as exempted is repealed, since this sector of taxpayers will enjoy the facilities provided in the Simplified Trust Regime (*Régimen Simplificado de Confianza*).

For additional information regarding the content of this document, please contact our Tax team in Mexico.

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