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## Advance version of the miscellaneous tax rules for the application of the “Decree on Tax Stimulus for the North Border Region”

Mexico office

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The “Decree on Tax Stimulus for the North Border Region” (the “Decree”) was published in the Official Federation Gazette (*Diario Oficial de la Federación*, “DOF”) on December 31, 2018.<sup>1</sup>

This Decree foresees the possibility that certain taxpayers<sup>2</sup> may apply a tax credit equivalent to one third of the income tax accrued during the tax year or of provisional payments of the personal income tax accrued in the same tax year, or of provisional payments in the same tax year, proportionally to the total income generated in the region, out of the taxpayer’s total income earned in that tax year or in the period corresponding to the provisional payments.

This Decree also foresees that individuals and legal persons performing acts or activities in the region for the disposal of assets, provision of services, or granting the temporary use or enjoyment of assets may apply a tax credit equivalent to 50% of the value-added tax rate (“VAT”), which implies a direct rate reduction (from 16% to 8%).

In line with the above, on January 7, 2019, the advance version of Resolution Six on Amendments to Miscellaneous Fiscal Resolution for 2018 and its Annex 1-A (“MFR”), which is pending publication in the DOF, was published on the Tax Administration Service website.



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## Chapter 11.11 of the Decree on Tax Stimulus for the North Border Region of Resolution Six on Amendments to the MFR 2018 and its Annex 1-A

Chapter 11.11 establishing the rules for the application of the Decree and Annex 1-A were added to the MFR. Below are the main points for application of the tax stimulus:

- Notification of registration in the “Registry of beneficiaries of the stimulus for the North Border Region” regarding personal income tax

Taxpayers that wish to apply the tax stimulus regarding income tax must register in the “Registry of beneficiaries of the stimulus for the North Border Region” (Registry of beneficiaries).

To this end, taxpayers that had their tax domicile in the North Border Region prior to the coming into force of the Decree must submit the “Notification for registration in the Registry of beneficiaries of the stimulus for the North Border Region” (the Registration notification) included in Form 1/DEC-10 of Annex 1-A by **March 31, 2019**, and provide proof that they have had that tax domicile at least 18 months before the registration date.<sup>3</sup>

Taxpayers that, after the coming into force of the Decree, intend to establish their tax domicile in the North Border Region can also apply this tax stimulus, provided they submit the registration notification within the month following registration or submission of the notification, and also prove that they have economic capacity, assets and facilities in the region.<sup>4</sup>

In this regard, we advise conducting a preliminary analysis to verify whether you meet the tax stimulus requirements with regard to income tax.

- Notification to apply the tax stimulus with regard to VAT in the North Border Region

Taxpayers that prior to the coming into force of the Decree have their tax domicile in the North Border Region and wish to apply the tax stimulus with regard to VAT must submit the “Notification to apply the tax stimulus with regard to VAT in the North Border Region” (the Notification”) included in Form 4/EC-10 of Annex 1-A by **February 7, 2019**.



Taxpayers that, after the coming into force of the Decree, intend to establish their tax domicile in the North Border Region, can apply the tax stimulus, provided they submit the Notification together with the application for registration in the Federal Taxpayers Registry.

As a result of all the above, it is important to review each specific case to establish the steps to follow to apply the tax stimulus, as well as to comply with the deadlines and the specific rules for the issuance of the Online Digital Tax Receipts (*Comprobantes Fiscales Digitales por Internet*, “CFDI”) for this stimulus regarding VAT.

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## Contact

Cuatrecasas is available for any clarification, comment, or advice regarding the information in this news flash.

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- 1 The North Border Region comprises the following municipalities: Ensenada, Playas de Rosarito, Tijuana, Tecate and Mexicali in Baja California State; San Luis Río Colorado, Puerto Peñasco, General Plutarco Elías Calles, Caborca, Altar, Sáric, Nogales, Santa Cruz, Cananea, Naco and Agua Prieta in Sonora State; Janos, Ascensión, Juárez, Praxedis G. Guerrero, Guadalupe, Coyame del Sotol, Ojinaga and Manuel Benavides in Chihuahua State; Ocampo, Acuña, Zaragoza, Jiménez, Piedras Negras, Nava, Guerrero and Hidalgo in Coahuila de Zaragoza State; Anáhuac in Nuevo León State; and Nuevo Laredo; Guerrero, Mier, Miguel Alemán, Camargo, Gustavo Díaz Ordaz, Reynosa, Río Bravo, Valle Hermoso and Matamoros in Tamaulipas State.
  - 2 Individual and legal persons that are residents of Mexico, as well as residents abroad with a Permanent Establishment in Mexico, earning their income exclusively in the Region and paying taxes within the general system for legal persons, for individuals with income from business activities, and for legal persons that opt to pay taxes under the “cash flow” rather than the accrual system.
  - 3 Taxpayers can prove the history of their tax domicile by means of bank statements, utility bills, and tax payments showing the taxpayer’s name and fiscal domicile.
  - 4 Taxpayers who start to operate in the North Border Region must prove that they will use new fixed assets and estimate that they will earn least 90% of their total income in the tax year from activities performed in the region. They must also prove that they have economic capacity, assets, and facilities, submitting documents proving the main sources of income, assets, rights and other resources available, as well as the furniture, machines, and equipment available for conducting their operations.