

Value Added Tax (VAT): Impacts on the Maquiladora Industry Began Jan. 1, 2015

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As of Jan. 1, 2015, a 16 percent **value added tax (VAT)** will once again affect the temporary imports of goods performed by **Maquiladoras**, unless a certification is obtained from the **Mexican Revenue Service** or certain other conditions are fulfilled.

Tax reforms that became effective in 2014 brought changes to the VAT regime in Mexico. Before 2014, temporary imports performed by *Maquiladoras* or *companies operating under the IMEX program (a program that allows for the temporary importation of goods that are used in an industrial process or service to produce, transform or repair foreign goods imported temporarily for their subsequent export)* were exempt of VAT, the general import tax, and other countervailing duties. Under the tax reform, such temporary imports were going to be subject to a 16 percent VAT, which generally is fully creditable but only for one month after such VAT is paid. That typically generates the right to a tax refund that usually may take from two to three months to be received by the taxpayers. As such, this has a serious effect on the cash flows of *Maquiladoras*.

To reduce such burden, in December 2013 the president of the United Mexican States issued a Decree granting certain benefits to that industry, some applicable indefinitely and some only in 2014. The practical effect of the Decree was to suspend the payment of VAT and eliminate the cash-flow concerns of *Maquiladoras* because it allowed for the VAT to be credited in the same tax return for the month in which the tax is paid. That generated a zero-VAT effect, at least during 2014, year in which this benefit was applicable. Unfortunately, as of Jan. 1, 2015, the relief granted by the Decree expired and the old rules are once again in effect.

To avoid adversely affecting cash-flow, *Maquiladoras* should consider articles 25 and 28-A of the Mexican VAT Law, whereby the 16 percent VAT rate payable by *Maquiladoras* on temporarily imported goods may be 100 percent creditable provided that:

a certification is or was obtained from the Mexican Revenue Service, or

a guaranty of the VAT is granted by an authorized Mexican institution (by a suretyship or guaranty bond) for the benefit of the Mexican Federal Treasury (TESOFE) satisfying all requirements set forth in Customs General Regulations.

Such certification may be obtained under three different categories – A, AA or AAA – depending on the type of operations, number of employees and certain other characteristics of the applicant. Each category has different requirements and benefits, with the “AAA” certification having the greatest benefits, including in respect of term of validity of the certification. The issuance of a certification depends, in part, on the Mexican Revenue Service’s assessment of the strength of the controls and compliance with registrations maintained by the applicant.

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