
The new obligations regarding the Controlling Beneficiaries.

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Due to recent reforms in the Mexican Federal Tax Code and the Miscellaneous Tax Resolution, new obligations have been created, as part of their accounting, for legal entities regarding the obtaining and conservation of reliable, complete, and updated information of their controlling beneficiaries. Said information must additionally be provided to the Mexican Tax Administration Service (the “SAT” for its acronym in Spanish) upon request.

According to the regulations mentioned above, and in broad terms, a controlling beneficiary is a person or group of persons who, directly, indirectly, or contingently (i) obtain a benefit derived from its participation in a legal entity, trust or any other legal figure, or (ii) has control over the legal entity, trust or any another legal entity (the “Beneficiary”). When a person is not identified under the established criteria, for the regulatory effects in Mexico, the Beneficiary will be any person who holds the position of sole manager, or each member of the board of directors of the legal person or equivalent.

Therefore, those who find themselves in this position, whether the legal entities directly, or public notaries, public brokers or any other person who participates in the legal acts that lead to the incorporation of a legal entity, must carry out internal control procedures so that, if requested by the relevant authority, the required information of the Beneficiary is made available. These procedures may be all those that are reasonable and necessary to obtain and preserve the information regarding the identification of the Beneficiary and said information will be considered part of the accounting information that the SAT may require from time to time.

As mentioned before, legal entities or their equivalents under Mexican law must at least: (i) adequately identify the Beneficiary; (ii) obtain and maintain available the reliable, complete and updated information about the identification data of the Beneficiary; (iii) keep said information, as well as the supporting documentation of the internal control procedures that were taken for said effects; and (iv) provide or allow timely access to the aforementioned information to the tax authorities. It is important to mention that the SAT may in turn provide this information to foreign tax authorities upon request and under the protection of any international treaty in force in which the United Mexican States that is a party.

Non-compliance with the obligations related to the identification of the Beneficiaries may be subject to a fine of up to MxP\$2,000,000 (Two Million Pesos) (approximately U.S.\$100,000 (One Hundred Thousand Dollars)).

Please consider that we are available to discuss with you the needs that may apply in each case for the due fulfillment of the new obligations with respect to the Beneficiaries, as well as to identify, obtain, preserve and, when appropriate, present the corresponding relevant information.

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