

Reportable Schemes

“Disclosure of Aggressive Tax Arrangements”

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Background

- ❑ OECD BEPS actions: recommendations to fight tax avoidance through international tax arrangements
 - ❑ Anti-Abuse Rule
 - ❑ Disclosure of Aggressive Tax Arrangements
- ❑ Recommendations to tax authorities
- ❑ Mexico active in implementation of recommendations since 2014



BEPS Action 12

- ❑ Tax avoidance vs. tax evasion
- ❑ Reporting obligations for taxpayers regarding certain aggressive or abusive tax arrangements adopted
- ❑ Not new: U.S. Canada, UE, etc.
- ❑ Focused to aggressive/abusive tax arrangements – principal purpose is to reduce tax burden



2020 Tax Reform

- ❑ Addition of Title (Chapter) to Federal Fiscal Code
- ❑ Schemes adopted to reduce tax burden (tax planning): elimination, reduction or deferral of tax
 - ❑ Personalized
 - ✓ Design, marketing, organization, implementation or management of scheme for a specific taxpayer
 - ✓ Threshold of \$100 million pesos
 - ❑ Generalized
 - ✓ Packaged tax plan to be implemented by a third party
- ❑ Reporting parties: tax advisors or/taxpayers (includes certain foreign advisors)



2020 Tax Reform – Maquiladoras Concern

- ❑ Situations of concern:

- ❑ VI. C) Related party transactions whereby rent-free arrangements of goods or free services are granted

- ❑ *Commodatum for machinery and equipment?*

- ❑ *Management services and technical assistance?*

- ❑ Avoidance of a permanent establishment under provisions of income tax law or tax treaties

- ❑ *PE protection of principal granted by law, provided that a number of conditions are met*



2020 Tax Reform – Maquiladoras Concern

- Maquila model is a reportable scheme, indeed:
 - PE is avoided
 - M&E is used without consideration

- Maquila model is not a reportable scheme:
 - Model not intended to obtain tax benefit in Mexico
 - PE protection granted by law
 - Commodatum part of the model and regulated by law (30% rule)
 - Valuation of tax benefit, is any, under very complex rules
 - Safe harbor and APA considers the reporting of a return on the principal's M&E and inventories



Penalties

- ❑ Penalties

- ❑ 50% – 75% of benefit

- ❑ MP\$50,000 – MP\$2,000,000





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Thank you!!!!