

ClientAlert

Tax

October 2014

Extension to Deadline to Disclose Relevant Transactions for Fiscal Year 2014



Pursuant to article 31-A of the Federal Tax Code, rule I.2.8.1.14 and Annex 1-A of the Fifth Set of Amendments to the Miscellaneous Fiscal Resolution for Fiscal Year 2014, as of January 1, 2014, taxpayers are obliged to disclose to the Revenue Service Administration ("SAT") the information on the transactions listed in a form approved by such Administration (Form 76).

Such information has to be submitted on a monthly basis and has to include the respective reportable transactions carried out during the immediate preceding month. Originally, it was provided that transactions carried out within fiscal year 2014 were to be disclosed as follows: 1st Quarter by October 30, 2014; 2nd Quarter by November 30, 2014; 3rd Quarter by December 30, 2014; and 4th Quarter by January 30, 2015.

However, the deadline for disclosing relevant transactions for the all quarters of fiscal year 2014 was extended until January 31, 2015. The foregoing is pursuant to press release 140/2014 issued by SAT on October 29, 2014.

Form 76 was recently released by SAT on its website and among the reportable transactions are the following:

1. Certain derivative financial transactions and related payments
2. Transfer of certain financial instruments (if coupons are detached from its main instrument and transferred separately)
3. Transfer pricing adjustments and royalty expenses and payments if determined based on residual profit values
4. Direct and indirect changes in partners or shareholders
5. Transfer of shares
6. Changes of tax residency
7. Corporate restructurings and reorganizations implying a transfer of shares
8. Centralization or decentralization of any of the following functions of an economic group: purchasing; treasury; logistics; accounts receivable and accounts payable; payroll and personnel

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9. Changes in business model, implying starting or ceasing to perform any of the following functions: manufacturing (or *maquila*) of goods owned by a non-Mexican resident; distribution or trading of goods acquired from a non-Mexican resident; and administrative auxiliary services for the benefit of a non-Mexican resident
10. Transfer of intangibles and financial assets
11. Transfer of a goods while holding certain types of rights over such goods
12. Contribution of financial assets to a trust if transferor holds a right to reacquire such assets
13. Transfer of goods derived from a merger or spin-off
14. Certain transactions with countries that have a territorial tax system
15. Financing transactions in which interest becomes due and payable after a year or more, including the payment of such interest and its accrual and recording in books
16. Split, transfer and utilization of losses (NOLs) as the consequence of a spin-off, and utilization of NOLs after a merger
17. Capital redemptions and payment of dividends if the funds distributed were obtained from loans

The law is not clear as to the consequences of failing to comply with said obligation; however, it is provided that if taxpayers file the report with incomplete data or with errors, taxpayers shall enjoy a cure period to fix the report. Such cure period is of 30 days and is counted as of the date in which SAT notifies the taxpayer of the errors or data missing in the report. The law provides that taxpayers shall be deemed in default of their obligation only if after the expiration of the cure period, they fail to provide the information, or they provide it but it includes errors.

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