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Indirect Tax Alert

News from EY Americas Tax

Mexico amends customs rules for 2020, impacting maquiladoras and others

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On 24 July 2020, amendments to Mexico's general customs regulations for 2020 were published in the *Official Gazette*. The amendments include changes to the current requirements, benefits and obligations of the Value-Added Tax (VAT) and Excise Tax Certification program (collectively, the "VAT certification"). These changes may impact the operations of businesses operating under the maquiladora and other regimes in Mexico.

Background: VAT certification program

The VAT certification process started in Mexico as a result of its 2014 tax reform, when the law changed regarding the temporary importation of goods. As a result, VAT became due on temporary imports, but an immediate credit of the VAT was allowed if the importer was VAT certified (so no cash payment was due on import). The VAT certification process is permitted for companies that import goods temporarily under one of the various foreign trade regimes in Mexico, the most common of which is the maquiladora program. Under these foreign trade regime programs, inventory is imported temporarily for some type of qualified processing, assembly or transformation and then exported. In some cases, the goods are processed by one company and then transferred to another business in the supply chain for additional processing or to be included in another product before there is an actual export of the goods. The VAT certification program has rules to address the issues that generally facilitate these transactions.

Importers with the VAT certification are classified as AAA, AA and A. A higher classification gives the importer additional benefits, including accelerated processing of VAT refunds and the ability to implement virtual pedimentos. Virtual pedimentos allow for the transfer of imported goods to other Mexican residents without the need to physically export the goods, provide extended time for goods to remain imported temporarily, and convey numerous procedural and administrative benefits.

Impact of and changes made by the amendments

The amendments to the general customs regulations will have a more significant impact on VAT-certified companies that have not obtained the Authorized Economic Operator certification (AEO certification) by limiting the VAT certification benefits to the immediate tax credit on the corresponding importations. The AEO certification verifies that the company complies with certain customs requirements and can be obtained through an application process. In addition to the changes described later, the amendments eliminate many of the procedural and administrative benefits of the VAT certification program.

The 2020 amendments eliminate the accelerated process for VAT refunds. Under the prior rules, VAT refunds for AAA-certified companies could be processed within 10 days, within 15 days for AA-certified companies, and within 20 days for A-certified companies. Under the amendments, export companies are subject to the general refund process, which is generally 40 days but can be further extended with reviews, during which the tax authorities may ask for additional information.

The amendments also reduce the time that temporarily imported inventory can remain in Mexico from 36 months to 18 months. This includes goods imported through virtual imports.

Another significant change relates to the ability to issue virtual declarations or pedimentos to transfer temporarily imported inventory to Mexican residents. This benefit will now only apply to companies with an AEO certification. For example, to the extent a maquiladora transfers inventory to another manufacturer or customer in Mexico, it can now only do so if the maquiladora exporting the goods has an AEO certification. The change is significant, as the virtual export and import process is critical to allow for transfers of temporarily imported goods to other Mexican entities for further processing or sale into the Mexican market.

Impact on AEO certification

Some of the benefits that were eliminated from the VAT certification program under the amendments are still included in the AEO certification rules. As such, businesses operating without the AEO certification should consider obtaining the AEO certification in order to continue with certain benefits previously available with the VAT certification. For example, for those with the AEO certification, the time limit for temporarily imported inventory can be extended to 36 months with this program and the ability to virtually export to Mexican residents would continue to be available.

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