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Global Tax Alert

News from EY Americas Tax

Panama's National Assembly approves bill creating "EMMA" special regime for manufacturing services

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On 6 August 2020, the National Assembly of Panama approved Bill No. 355 of 2020 on its third and final debate. The bill establishes the Special Regime for the Establishment and Operation of Multinational Enterprises that Render Manufacturing Services ("EMMA" for its Spanish acronym). Entities under the EMMA regime will have various tax, customs, labor and immigration benefits.

Background

As part of a plan to boost and reactivate the national economy after the COVID-19 pandemic, the Panamanian Ministry of Commerce and Industries proposed the bill to create the EMMA regime in July 2020. For a discussion of the proposed bill, see EY Global Tax Alert, [Panamanian Ministry of Commerce and Industries proposes creating special regime for manufacturing services](#), dated 30 July 2020.

Changes in the approved bill

Certain provisions of the bill were modified from the original bill presented at the Panamanian National Assembly by the Ministry of Commerce and Industries. The most important modifications include the following.

Modifications regarding the applicable income tax

Initially, the bill contemplated an exemption from corporate income tax (CIT) for the first five years from an entity's registration with the EMMA regime. After those first five years, the entity would be subject to CIT on the net taxable income derived from the services rendered at a reduced rate of 5%. However, the approved bill eliminates the exemption from CIT for the first five years, providing a reduced CIT rate of 5% applicable from the entity's registration under the regime.

Similarly, the approved bill also eliminates the exemption for the first five years with respect to the withholding of CIT that taxpayers in Panama would have applied under the proposed bill with respect to the amounts to be paid to companies under the EMMA regime for the services they provide.

License cancellation

In the event that the Technical Secretariat of the Commission cancels an entity's license under the EMMA regime, the approved bill establishes a reconsideration procedure to serve as the initial proceeding to be filed against this administrative act. Subsequently, an entity may file an appeal proceeding before the Multinational Enterprises Licensing Commission.

Modifications on labor aspects

The approved bill incorporates a 50% surcharge on work performed during the agreed weekly day off, as well as a 25% surcharge for overtime.

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