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Japan tax alert

Ernst & Young Tax Co.

MDR updates in Mexico

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As part of the Mexican tax reform enacted on 9 December 2019, similar to the European Mandatory Disclosure Regime (MDR), Mexican tax authorities established the obligation for taxpayers and tax advisors to report, certain transactions with tax benefit in Mexico. All participants in the arrangement shall be disclosed including non-residents.

Identity of individuals advising through a legal entity shall be disclosed as well as the identity of the employees of the taxpayer providing advice if there is not external advisor. In addition, under an agreement between the tax advisor and the taxpayer, the taxpayer may agree to take over any disclosure obligation in which case the tax advisor will no longer be liable of the reporting obligation.

As mentioned above, mandatory disclosure requirement applies to any kind of transaction that generates a **Mexican tax benefit** and has, among others, one of the following characteristics; (i) transaction involving a foreign entity applying a tax treaty with Mexico with respect to income that is not subject to tax in the country of residence or being subject there to tax at a beneficial rate compared to the general corporate rate in the country or jurisdiction of the foreign entity's residence, (ii) transfer of tax losses, (iii) transactions that prevent the application of the permanent establishment (PE) provisions, (iv) transaction with accounting and tax values that differ by more than 20%, (v) transaction avoiding the application of dividend withholding tax on individuals or foreign residents, (vi) preventing exchange of financial and tax information with foreign authorities, (vii) transactions with related parties about intangibles, some restructures, (viii) Hybrid mechanisms, (ix) preventing identifying the beneficial owner.

The starting date for complying with the new reporting obligations is set forth on 1 January 2021 for transactions designed, marketed, organized, implemented or administered from 2020 onwards. However, reportable transactions designed, marketed,

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organized, implemented or administered before 2020 must be disclosed by the taxpayer (not the advisor) if any kind of tax benefit is reflected in tax year 2020 or later.

Furthermore, as part of the new reportable obligation provisions, severe penalties for noncompliance to taxpayers and tax advisors are imposed. In case of taxpayers, for example, the penalty may reach up to 75% of the tax benefit triggered per transaction that was not reported or reported incompletely to the Mexican Tax Authorities, while for tax advisors may go up to 20 million Mexican pesos (approximately 1 million USD).

Should you have further comments/ queries please let us know.

For additional information with respect to this alert, please contact the following:

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