

November 18, 2020

EY TAX Flash

墨西哥提出法案修订 劳动法和税法以禁止 外包

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2020年11月12日，墨西哥行政部门提出了一项法案，该法案将修订联邦劳动法、所得税法、增值税法联邦税则及其他法规。如果通过，该法案将在大部分情况下，有效消除在墨西哥的服务公司的使用。该法案在立法程序的初期阶段，在被通过之前可能会有一些修改。该法案的解释性说明里提到这是又一个尝试，致力于消除影响墨西哥劳工的虚假交易，比如不支付工资和社会保障金。

根据该法案的解释性说明，该法案旨在促进就业，废除在墨西哥危害劳工权利和减少雇主义务的做法。该法案将禁止个人和公司的外包服务。尤其是，他们不能因利益让自己的员工为其他公司提供服务。通过禁止外包服务和建立明确的规定，该法案仅允许个人和公司雇佣其他公司提供专门性质的服务或执行专门工作。如果这些专门性质的服务不是受益人的商业目的或经济活动的一部分，并且符合某些要求，它们在一定程度上将不被视为外包。

所得税法

该法案将修改墨西哥所得税法，禁止纳税人抵扣外包服务费用。纳税人需要准备相关的文件才能抵扣专门性质的服务或执行专门工作的外包费用。

增值税法

该法案不允许由外包服务产生的进项增值税计入增值税税额，这也和增值税的要求是一致的，考虑到一般情况下增值税额度只有在可抵扣的情况下才可以计入。

该法案将禁止在员工从最初的雇主转移到外包公司，在一定程度上员工继续执行雇主的主要商业活动的情况下，增值税额度的计入以及所得税的抵扣。

另外，专门性质的服务或执行专门工作的外包费用的进项增值税在满足相关文件要求的情况下可以计入增值税税额。

影响

这些法律的修订会对在墨西哥普遍存在的服务公司架构带来显著的劳工和税务方面的影响。纳税人应该持续跟进该法案的进展并且评估该法案通过后，会对公司运营产生的影响。为了符合新规定进行公司架构调整可能是必要的。

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APAC no. 03011492