US-LATAM Corridor Insights
The Maquila Paradigm Shift

Reassessing Operations in Mexico

Changes to the Maquila Tax Regime | The time to act is now

Recent changes to the maquila tax regime in Mexico and implementation of Pillar 2 around the world are causing companies to re-evaluate the transfer pricing, tax, customs and overall economics of operating as a maquila in Mexico.

Whether a company is just starting to consider maquiladoras or has a well-established maquiladora in Mexico, the time to analyze the impact of these regulatory changes on their operations is now.

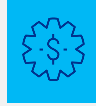
Introduction to Maquiladoras

Maquiladoras (also known as maquilas) have been a staple of the Mexican industrial landscape. Maquilas operate under an optional tax regime, engaging in routine manufacturing activities which imply the temporary importation of raw materials, components, and/or semifinished products that are transformed into finished goods exclusively for export. Domestic sales, if any, can be made through a separate distribution entity, but not directly by the maquila.

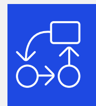
Maquila operations basically involve two parties: (1) a principal (i.e., the non-Mexican affiliate that owns the raw material and machinery); and (2) the Mexican entity (i.e., maquila) that renders the industrial assembly/transformation services.

KPMG Observations

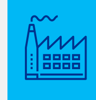
Determine whether mandatory safe harbor will result in increased tax liability



Understand how Pillar 2 may result in top-up tax



Consider an internal assessment of customs obligations to avoid fines



Explore alternative regimes for manufacturing operations

Analyze the benefit of modeling and/or a functional analysis

The IMMEX Program and Maquila operations

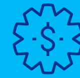
The Manufacturing, Maquiladora, and Export Services Industry Program ("IMMEX") provides certain incentives to multinationals that set up maquilas in Mexico–mostly customs, tax, and administrative benefits.

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS017956-1A

Determine whether mandatory safe harbor will result in increased tax liability

Recent reforms to the maquila regime impose the use of safe harbor rules potentially resulting in increased tax liability in Mexico:

- Historically, maquilas were allowed to compute their taxable income by either requesting an advance pricing agreement ("APA") or following the safe harbor rules.
- APAs have been more attractive alternatives than the safe harbor rules, particularly for maquilas with asset-intensive operations.
- In 2022, the APA alternative was repealed. The last wave of APAs (those requested in 2021) will expire in 2024. As such, the last year in which the APA alternative is effective is 2024.
- Under the safe harbor rules, the corporate income tax liability of a maquila is determined by applying a 30 percent tax rate on either (a) 6.9 percent return on the assets used for the maquila's operation (including those owned by the principal) or (b) 6.5 percent return on domestic operating cost and expenses of the maquila.
- As a result, the Mexican tax liability of many maquilas has increased or is expected to increase in 2025.



Understand how Pillar 2 may result in top-up tax

Many multinational companies have structured maquilas with principals located in European jurisdictions, such as the Netherlands, Switzerland, Belgium, or the United Kingdom. Typically, the principal (through its Mexican branch) sells the finished goods outside of Mexico, capturing a profit margin.

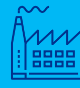
- Under the maquila tax regime, the foreign principal is exempt from having a permanent establishment in Mexico in connection with the manufacturing operation. As such, profits derived from the sale of finished goods are not taxable in Mexico (assuming that the principal does not carry out sales activities in Mexico).
- On the other hand, several jurisdictions in Europe treat the Mexican branch as a permanent establishment. However, profit attribution to the home office may often be limited under a branch income exemption applied by the home jurisdiction.
- That fact pattern generates stateless income pursuant to the Global Anti-Base Erosion rules, given that income derived from the sale of goods is neither taxable in Mexico nor in the principal's home office jurisdiction.
- Moreover, defining where those profits should be taxed is also critical. As of May 2024, Mexico has not introduced a Qualified Domestic-Minimum Top-up Tax (QDMTT). Thus, income inclusion rules (IIRs) are likely to apply at the principal's place of incorporation. If Mexico eventually introduces a QDMTT, then the IIR would no longer apply, but taxation in Mexico would be considerably increased. Foreign tax credit implications should also be analyzed.

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS017956-1A

Consider internal assessment of customs obligations to avoid fines

There has been a considerable increase in the volume of custom assessments to companies that operate with an IMMEX certification and value-added tax (VAT) certification.

- The return of investment of assessments performed by the customs authority is 147 pesos per peso dedicated to auditing and the income generated from customs assessment increased by 27 percent compared to last year.
- There was a recent tariff increase to several Harmonized Tariff Schedule codes in relevant sectors for the manufacturing industry such as: steel, aluminum, footwear, textiles, plastics, chemical products, paper, glass, electrical, and transportation materials.
- An internal assessment to determine the degree of compliance with customs requirements, may help prevent fines and, more importantly, the suspension of the importer's registration, IMMEX, and/or VAT certifications.



Explore alternative regimes for manufacturing operations

As the maquiladora tax regime is optional, taxpayers may opt out and select a different regime to be taxed in Mexico. Within the General Tax Regime there are several alternatives to structure manufacturing operations in Mexico. Such alternatives will typically allow companies to enjoy the customs and tax benefits of the IMMEX and VAT certification and engage in direct sales in Mexico.

- In fact, increasingly more companies with Mexican maquilas are electing to migrate out of the maquila tax regime.
- The drivers of that decision are not limited to Pillar 2 considerations, but also due to the gradual erosion of the maquila tax regime's benefits through multiple tax reforms.
- For example, since 2014, companies taxed under the maquiladora tax regime are subject to the 30 percent general corporate tax rate (instead of the preferential 17.5 percent rate they enjoyed previously).

Develop modeling scenarios and/or functional analyses of maquiladora

In light of recent changes, it may be beneficial for companies to model whether migrating out of the maquila tax regime could improve a multinationals overall financial and commercial position.

In some cases, a functional analysis of the assets, risk, and functions performed by the maquiladora could potentially conclude that an appropriate profit margin for a limited risk manufacturer should be lower than what the mandatory safe harbor rules suggest.

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS017956-1A

Let's start the conversation

Connect with KPMG US-LATAM Corridors Leads and KPMG Mexico professionals on how to re-evaluate maquila operations in Mexico in light of tax regime changes and Pillar 2 implementation.

KPMG US-LATAM Corridor Leads

Mariel Reissig *KPMG US Partner and US LATAM Corridor lead,* **Transfer Pricing**, Tax & Legal* KPMG Americas **E:** mreissig@kpmg.com	**Gisele Belotto** *KPMG US Partner and US LATAM Corridor lead,* **Trade & Customs,** Tax & Legal* KPMG Americas **E:** gbelotto@kpmg.com
Monica Del Rio *KPMG US Managing director and* *US-LATAM Corridor co-lead,* **International Tax and M&A Tax**, Tax & Legal* KPMG Americas **E:** monicadelrio@kpmg.com	**Giorgio Massari** *KPMG US Managing director and* *US-LATAM Corridor co-lead,* **International Tax and M&A Tax**, Tax & Legal* KPMG Americas **E:** gmassarifigari@kpmg.com

KPMG Mexico

Armando Lara Yaffar *Tax Partner and Head of International Tax,* KPMG Mexico **E:** armandolara@kpmg.com.mx	**Mario A. Hernandez** *Tax Partner, IMMEX/Manufacturing Practice Leader,* KPMG Mexico **E:** mhernandez1@kpmg.com.mx
Eduardo Mendez *Tax Partner, Transfer Pricing,* KPMG Mexico **E:** emendezojeda@kpmg.com.mx	**Michel Sanchez O'Sullivan** *Director, Mexico Tax Desk* KPMG Americas **E:** michelosullivan@kpmg.com

Stay up to date!
Make sure to Subscribe to TaxNewsflash – Americas to get the latest tax developments.

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

Learn about us: **kpmg.com**

* All professional services are provided by the registered and licensed KPMG member firms of KPMG International. KPMG U.S. does not provide legal services, and these services are provided only by KPMG member firms in Latin America that are permitted to do so by law.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS017956-1A

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.