

Mexico City's Government Increases Payroll Tax Rate and Creates New Ecological Tax

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On December 27, 2024, an amendment and supplement to the Tax Code of Mexico City was published in the Official Journal of Mexico City establishing i) an increase in the payroll tax rate ("ISN") from 3% to 4% on the total amount of expenditures made for payments to subordinate personnel and ii) a new ecological tax, which taxes emissions of polluting gases such as carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O) that exceed one ton of carbon dioxide equivalent (t CO₂e) per month. The new provisions establish a fee of \$58.00 pesos per ton of CO₂e and applies exclusively to emissions generated by fixed sources, defined as permanent installations intended for industrial, commercial, service processes or any other activity that emits pollutants into the atmosphere.

The amendment and supplement entered into force on January 1, 2025. It is possible that such provisions could violate Mexico's constitution, and therefore be challenged by filing an amparo lawsuit within fifteen business days after making the first payment of the ISN or the new ecological tax. Likewise, it is expected that a significant number of companies in Mexico City will file such an amparo suit, so the courts will likely issue a uniform resolution. In any case, if a favorable resolution is issued for the companies, note that such resolution would benefit only those parties who individually filed amparo lawsuits.

As noted, in both the increase in collection of the ISN and the new ecological tax, the new provisions could violate Mexico's constitutional order. This is because, while the amendment and supplement state that amounts collected will be directed in each case to i) a special fund for infrastructure and urban mobility and ii) to promote actions to guarantee a healthy environment and to promote animal welfare projects, neither case includes the reasons why the government needs more funds, which violates the principle of defining the destination of public spending and the fundamental right to legal certainty.

We suggest readers review the new provisions to determine how such will affect their businesses. We are prepared to assist companies in the preparation of amparo lawsuits on behalf of our clients.