

RECENT TAX DEVELOPMENTS IN MEXICO

- The asset tax is a minimum tax applicable in Mexico as an alternative to income tax. Until December 31, 2006, in order to calculate the taxable base of the asset tax, the Asset Tax Law allowed indebtedness contracted with Mexican or foreign entities to be deducted from the value of the assets belonging to the taxpayer, if certain requirements were met. As of January 1, 2007, the Asset Tax Law was amended by eliminating the deduction of indebtedness from the tax base.

As a result of this amendment, thousands of constitutional “*amparo*” proceedings were filed with Mexican courts by taxpayers in order to challenge the amendment alleging a violation of the constitutional principles with respect to taxation.

- As of January 1, 2007, the Federal Tax Code was amended to provide that rulings issued by Mexican tax authorities are not binding upon taxpayers. The result is that taxpayers may no longer challenge negative rulings in the federal courts.

The reason for the amendment of the Federal Tax Code was to prevent the requesting of tax rulings for the sole purpose of provoking an official government action which could then be challenged in court.

- As of January 1, 2007, the Income Tax Law was amended in order to restrict thin capitalization rules to indebtedness between Mexican and foreign related parties, leaving outside the scope of the rules, indebtedness between Mexican related parties.
- Pursuant to the amendments to the Income Tax Law regarding back-to-back transactions, as of this year any operation through which a party provides cash, goods or services to another party who in turn provides, **directly or indirectly,** cash, goods or services to the former, is deemed as a back-to-back transaction.
- According to a recent decision of the Supreme Court of Justice, international treaties (including double taxation treaties), signed by Mexico and ratified by the Senate, occupy a higher hierarchical position than general laws and are only subject to the constitution. This is not a binding decision but reaffirms the general rule that federal laws (including tax laws) should not prevail upon international treaties.