

Decree - Tax benefits to taxpayers of the affected areas of the state of Guerrero

On October 30, 2023, the “Decree granting several tax benefits to taxpayers in the areas affected by the severe rains and strong winds during October 24, 2023” (the “Decree”) was published in the Federal Official Gazette, through which the Ministry of Finance and Public Credit seeks to contribute to the reactivation of the productive plant and the preservation of sources of employment in the areas affected by Hurricane Otis in the state of Guerrero by granting tax benefits to taxpayers of the affected areas.

Incentives

The Decree grants the following tax incentives to taxpayers that have their tax domicile, agency, branch or any other establishment in the municipalities of Coyuca de Benitez, Benito Juarez, Acapulco de Juarez, Atoyac de Alvarez, Xalpatlahuac and Tecpan de Galeana in the state of Guerrero:

1. A tax incentive is granted consisting of immediately deducting the investments made in new or used fixed assets in such zones, during the period between October and December 2023, in the fiscal year in which such assets are acquired, applying the rate of 100 percent on the original amount of the investment, provided that such fixed assets are used exclusively and permanently in the mentioned zones and are destined for replacement, reconstruction or rehabilitation.

It should be noted that the incentive will not be applicable in the case of automobiles, automobile armoring equipment or any fixed asset that is not individually identifiable, nor in the case of airplanes other than those used for agricultural aerial spraying.

Furthermore, taxpayers that have insurance against damages to fixed assets that have been declared a partial or total loss due to Hurricane Otis, may only apply the tax incentive on the amount of any additional amounts that are recovered for payment of insurance indemnities and that are invested in fixed assets.

2. A tax incentive is granted to taxpayers who make payments for income from salaries and in general for the rendering of subordinated personal services (except those assimilated to salaries), consisting of the possibility of delivering the income tax withholdings of their workers, corresponding to the months of October, November and December 2023, in three equal installments, provided that the subordinated personal service for which such income is paid is rendered in the affected areas.

The first installment will be delivered in the month of January, the second in February and the third in March 2024, without the payment of any adjustments, surcharges or fines.

3. A tax incentive is granted to taxpayers consisting of delivering in three equal installments the definitive payment of value added tax and excise tax on production and services corresponding to the months of October, November and December 2023, for the acts or activities corresponding to their tax domicile, agency, branch or any other establishment located in the affected areas.

The first installment will be delivered in the month of January, the second in the month of February and the third in the month of March 2024, without the payment of any adjustments, surcharges or fines.

4. A tax incentive is granted exempting corporate taxpayers that pay taxes under the terms of Titles II or VII, Chapter XII of the Income Tax Law and individuals that pay taxes under the terms of Title IV, Chapter II, Sections I and III and Chapter III of the same Law, from the obligation to make provisional income tax payments corresponding to the months of October, November and December of 2023, the fourth quarter of 2023, as well as the third four-month period of 2023, as applicable. This is provided that such income corresponds to their tax domicile, agency, branch or any other establishment located in the affected areas.

Likewise, individual taxpayers who pay taxes under the terms of Title IV, Chapter II, Section IV of the Income Tax Law are exempted from the obligation to file the monthly payments corresponding to October, November and December 2023, provided that the income corresponds to their tax domicile, agency, branch or any other establishment located in the affected areas.

5. A tax benefit is granted to individual taxpayers who pay taxes under the terms of Title IV, Chapter II, Section II, of the Income Tax Law in force until December 31, 2021, consisting of the deferral of the obligation to file the returns corresponding to the fifth and sixth two-month periods of the 2023 tax year to February 2024 at the latest, provided that the income corresponds to their tax domicile, agency, branch or any other establishment located in such affected areas.

This is not considered a non-compliance for purposes of the provisions of Article 112, section VIII, second paragraph, of the aforementioned ordinance.

Additionally, the obligation is deferred of individual taxpayers referred to in Article 113-A, last paragraph of the Income Tax Law, to file income tax payments corresponding to October, November and December 2023, which must be delivered no later than February 2024, provided that the income corresponds to their tax domicile, agency, branch or any other establishment located in the affected areas.

It is important to point out that what is indicated in this number will not give rise to the payment of adjustments, surcharges and fines.

6. A tax incentive is granted to taxpayers engaged exclusively in agricultural, livestock, fishing or forestry activities, who choose to make half-yearly provisional income tax payments in accordance with the provisions of rule 1.3. of the "Resolution of administrative facilities for the taxpayer sectors indicated therein for 2023", published in the Federal Official Gazette on March 3, 2023, during the second semester of 2023, who may opt to file monthly value added tax returns corresponding to such semester, in accordance with the Value Added Tax Law, without being considered in default of the requirements established in the mentioned facilities resolution to opt to file half-yearly provisional income tax payments.

7. In addition to what is indicated in the previous paragraphs, the requests for refund of value added tax filed until December 2023 by taxpayers who have their tax domicile, agency, branch or any other establishment in the affected areas, corresponding to credit balances generated prior to the mentioned month, will be processed in half of the term established in Article 22 of the Federal Tax Code, that is, 20 business days.

But this is not applicable to:

- i. Taxpayers to whom the presumption established in Article 69-B of the Federal Tax Code has been applied, once the list referred to in the fourth paragraph of said article has been published in the Federal Official Gazette and in the Tax Administration Service Portal.
 - ii. Taxpayers requesting a refund based on tax receipts issued by taxpayers included on the list referred to in the preceding section.
 - iii. Taxpayers whose Digital Seal Certificate has been cancelled for not having corrected or refuted the irregularities detected by the tax authorities in terms of article 17-H, section X of the Federal Tax Code.
 - iv. Taxpayers that prior to the entry into force of the decree have been subject to the exercise of verification powers to verify the origin of the credit balance.
8. Furthermore, it is established that taxpayers who prior to October 2023 are authorized to make the payment in installments of omitted taxes and their accessories under the terms of Article 66 of the Federal Tax Code and who have their tax domicile in the affected zones referred to in Article Fourteen of this Decree, may defer the payment of the installments corresponding to the month of October 2023 and subsequent ones that have been authorized, resuming, under the same terms and conditions authorized, the payment schedule of such installments as of February 2024, without it being considered for these purposes that the installments were not paid on time, and therefore no surcharges for extension or delay shall be paid.
 9. Finally, the Decree establishes that individuals who have their homes in the affected areas referred to in Article Fourteen of this Decree, who pay taxes under the terms of Title IV of the Income Tax Law, will not consider as taxable income for purposes of such law, income from economic or monetary support received from legal entities or trusts authorized to receive donations deductible from income tax, provided that such economic or monetary support does not come from related parties under the terms of the Income Tax Law and is destined for the reconstruction or rehabilitation of their homes.

VWYS has a highly qualified tax team to help you obtain the benefits provided for in the Decree.

We hope you find this note useful and for further information or clarification of any questions, please contact

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S I N C E R E L Y

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