

# 3rd MEXICO UPDATE BREAKFAST

Investment, sourcing and manufacturing opportunities in the Aerospace industry

## Tax & Legal Update

Chicago, November 29th, 2011

UNITED STATES

CANADA

MEXICO

POLAND

CHINA

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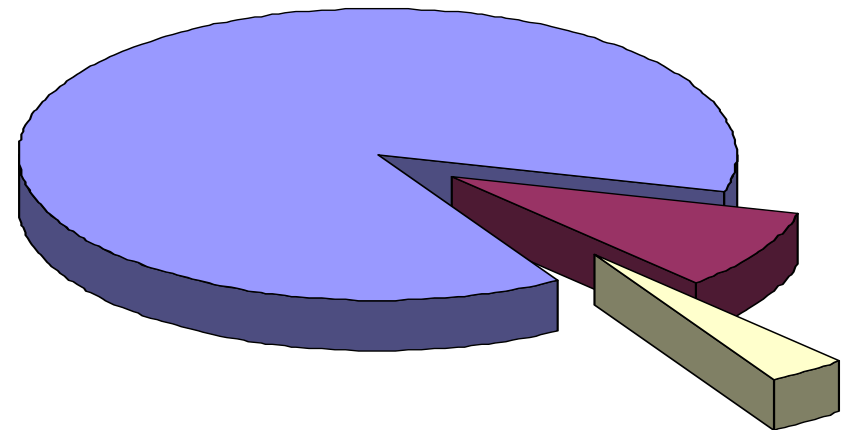
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# Mexico's Security Issue – Contextualizing Violence

National	15,273	100%
Chihuahua	4,427	29%
Sinaloa	1,815	11.9%
Tamaulipas	1,209	7.9%
Guerrero	1,137	7.4%
Durango	834	5.5%
Mexico	623	4.1%
Nuevo Leon	620	4.1%

50%

- 90% Organized Crime
- 7% Armed Forces
- 3% Civilians



In 2010, 70% of homicides were committed in 7 states.

(Source: Mexican Federal Government. December 31<sup>st</sup>, 2010)

# Elections are coming!

## 2011:

- State and local elections: Hidalgo, Coahuila, **Edo Mexico**, Nayarit and Michoacán.

## 2012:

- Presidential
- Federal: 500 Representatives (*diputados*) and 128 Senators
- State (13): 6 Governors
- Municipal and Local Districts
- **Possible changes to tax laws and other laws after elections.**

## Flat Rate Tax / “IETU”

- The IETU tax (*Impuesto Empresarial a Tasa Única*) serves as a minimum tax.
- A Mexican taxpayer corporation must pay an IETU tax of 17.5% on net income only to the extent such amount exceeds the company’s regular income tax for the year.
- Oct 12: Decree extending IETU exemption for *Maquiladoras/IMMEX* until December 31, 2013.

# Maquiladora/IMMEX Program

## What is a Maquila or IMMEX?

- Facilitates export manufacturing and provisions of export services
- 100% open to foreign investors
- Provides for “temporary importation” (no VAT and/or duties, “virtual export/import”)
- Industrial, Service or both
- “Certified” maquiladora (additional benefits)

# Maquila/IMMEX Program

- **Transformation, manufacture or repair** of goods, inventory and other supplies provided by a foreign principal.
- Import into Mexico of raw materials, machinery and equipment with no payment of import duties and VAT, as long as most of the finished goods are exported.
- Annual exports over \$500,000 USD or at least 10% of its annual invoicing.

## Amendments to the Maquiladora/IMMEX Decree

- Published on Dec 24<sup>th</sup>, 2010 include changes:
  - Streamline administrative burdens of the IMMEX program
  - Revised “transformation or repair”
  - Permanence for temporary imports/ sensitive products
  - New obligations and benefits
  - Causes for program cancellation
- Administrative changes were effective on March 24, 2011.
- Tax-related changes were effective on January 1, 2011.

*NOTE: Some amendments do not apply to Maquila/IMMEX operations that were in existence and compliant with all requirements as of December 31, 2010.*

# Treaties To Avoid Double Taxation

- No limitations on repatriation of capital and dividends, particularly when a FTA/investment agreement exists.
- Tax treaties, among other things, reduce withholding taxes on dividends, interest, royalties and capital gains.



# E-Invoicing

CLASSIFICATION	ELECTRONIC INVOICE	
Annual Income*	Printed Bi-Dimensional Bar-Coded (CBB) Version	Electronic (CFDI) Version
More than \$4M Pesos (US\$325K)	Only for transactions of \$2,000 Pesos or less, before taxes (approx. US \$162)	4
\$4M Pesos or less (US\$325K)	4	Optional

# New Export Controls

- The Secretary of Economy (SE) issued an “Accord” establishing a system of export controls for arms, parts, and dual-use goods, software and technology that could be used in the manufacture and proliferation of conventional weapons and weapons of mass destruction.
- The Accord entered into force on **October 21, 2011**.
- Items listed on the Accord’s annexes require an export permit from the SE before they may be exported (exceptions apply).

## Amendments to the Federal Commercial Code

Published on January 27, 2011 in the Official Gazette, the amendments include:

- Changes to the arbitration and litigation section
- Enforcement of arbitral awards
- Important new provisions for judges on interim measures
- Introduction of new section on oral trials

# Employees' Alimentary Aid Law

- Effective January 18th, 2011, Mexican employers receive tax benefit for providing to their employees
  - food services
  - food baskets
  - printed or electronic food coupons
- Only employers providing alimentary aid in accordance with rules published by Mexican Tax Ministry will be eligible for the tax benefits

## Employees' Alimentary Aid Law

- Deduction of expenses incurred under both Mexican Income Tax and Corporate Flat Tax Laws,
- and
- The value of the benefits provided will be excluded from the basis used to calculate social security contributions under social security laws.

# Proposed Changes in Labor Law

**The main political parties proposed and are discussing in Congress comprehensive changes in the labor law, such as:**

- New hiring options: extended observation period, initial training, hourly.
- Add sexual harassment as ground for termination
- Flexible use of mandatory days off.
- Employers support for employees to conclude basic education levels.
- Increase use of disabled employees and infrastructure for them, including permitting remote employment.
- Repeal pregnancy test requirement.

# Proposed Changes in Labor Law

- New rules for outsourcing companies, including specific obligations for the outsourcing company and the client company, to avoid that outsourced employment might be used to evade employer's obligations.
- Stricter rules for unions, including
  - claiming ownership of a bargaining agreement
  - rules for initiating strikes
  - repealing mandatory deductions for union dues and
  - termination if not member of the union

# NEW Data Protection Law

- The “Federal Law of Protection of Personal Data held by Private Parties” (LPD) was published last year, but certain provisions only became effective on **July 6, 2011**.
- The LPD governs every aspect of the use and storage of **Personal Data** and **Sensitive Personal Data**, including the purposes for which companies collect such information, the way they store it, with whom they share it, and when and how they delete the information after it is used.
- Any collecting of personal data must have a lawful justification and is subject to the consent of the data owner, except as otherwise provided by the LPD.



## Are you in compliance with LPD's requirements?

- The designation of a person or creation of a department in charge of personal data **responsible** for handling all such data, including promoting protection within the company and managing the personal data rights according to the LPD; and
- The requirement to provide a Privacy Notice to each individual about whom personal data is being collected.
- Lack of compliance with or violations of the LPD include fines ranging from US \$500 to US \$1,600,000 per violation, and/or imprisonment for up to five years. In case of Sensitive Personal Data or reoccurrence, sanctions are doubled.

# Immigration: between two Laws

## General Population Law:

- May 1st 2010 entry into force of immigration amendments
- Still valid to date for processing of visas, work permits and any process pending

## NEW Immigration Law:

- Published on May 25th 2011
- Changes to Entry & Status until the Regulations are published (approx. December 2011)

# FMM

# No Inmigrante

Entry Registration			Departure Registration		
ESTADOS UNIDOS MEXICANOS			ESTADOS UNIDOS MEXICANOS		
FORMA MIGRATORIA MÚLTIPLE (FMM)			FORMA MIGRATORIA MÚLTIPLE (FMM)		
ESTE FORMA DEBE SER LLENADA DE MANERA INDIVIDUAL POR TODO EXTRANJERO QUE SE INTERNE A MÉXICO, INCLUIDO EL PERSONAL DIPLOMÁTICO			ESTE FORMA DEBE SER LLENADA DE MANERA INDIVIDUAL POR TODO EXTRANJERO QUE INTERNE A MÉXICO, INCLUIDO EL PERSONAL DIPLOMÁTICO Y SEA ENTREGADA A SU SALIDA DEL PAÍS		
Datos como aparecen en el pasaporte			Datos como aparecen en el pasaporte		
1. Nombre: <b>1 JOHN</b>	2. Apellido (s): <b>2 SMITH</b>	3. Nacionalidad: <b>3 BRITISH</b>	1. Nombre: <b>1 JOHN</b>	2. Apellido (s): <b>2 SMITH</b>	3. Nacionalidad: <b>3 BRITISH</b>
4. Fecha de nacimiento: <b>26 01 1981 4</b>	5. Sexo: <input type="checkbox"/> Femenino <input checked="" type="checkbox"/> Masculino	6. Núm. Pasaporte: <b>6 1234567</b>	4. Fecha de nacimiento: <b>26 01 1981</b>	5. Sexo: <input type="checkbox"/> Femenino <input checked="" type="checkbox"/> Masculino	6. Núm. Pasaporte: <b>6 1234567</b>
7. Medio de Transporte: <input checked="" type="checkbox"/> Aire <input type="checkbox"/> Terrestre <input type="checkbox"/> Marítimo	8. Aerolínea y núm. vuelo, embarcación o matrícula en la que arriba: <b>8 AAA 001</b>	9. País de inicio de viaje: <b>9 ENGLAND</b>	7. Residencia habitual: <input type="checkbox"/> México <input checked="" type="checkbox"/> Extranjero	8. Aerolínea y núm. vuelo, embarcación o matrícula en la que abandona el país: <b>8 1234567</b>	USO OFICIAL: <input type="checkbox"/> Transmigrante (en día) <input type="checkbox"/> Visitante Land (3 días) <input type="checkbox"/> Visitante Fronteral (en día) <input type="checkbox"/> Prependiente Económico
10. Si es extranjero residente amate el número de PMA o FMA o Fotocredencial de Intermigra (no complete la pregunta si) <b>10 123456</b>	11. Lugar o ciudad de destino en México o en el Extranjero: <b>11 ACAPULCO</b>	12. Tipo de viaje: <input checked="" type="checkbox"/> Turismo <input type="checkbox"/> Trabajo <input type="checkbox"/> Negocios <input type="checkbox"/> Oficial/Diplomático <input type="checkbox"/> Tripulante	El agente migratorio marcará la opción correspondiente conforme a la VISA		
13. Domicilio en México: <b>13 "HOTEL MEXICO"</b>	14. Actividad principal en su país de residencia: <input checked="" type="checkbox"/> Trabajo <input type="checkbox"/> Estudio <input type="checkbox"/> Retirado <input type="checkbox"/> Minero de salta <input type="checkbox"/> Desempleado	Días de estancia en México o en el Extranjero: <b>12 14 DAYS</b>	Estancia máxima hasta 30 días: <input type="checkbox"/> Turismo <input type="checkbox"/> Ministerio de Culto o Asociación Religiosa <input type="checkbox"/> Voluntario Distinguido <input type="checkbox"/> Estudiante <input type="checkbox"/> Corresponsal		
Declaro bajo protesta de decir verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.			Voluntario, Actividad Laborativa. Estancia máxima hasta 180 días: <input type="checkbox"/> Profesional <input type="checkbox"/> Consejero <input type="checkbox"/> Artista <input type="checkbox"/> Campesino <input type="checkbox"/> Científico <input type="checkbox"/> Homeno <input type="checkbox"/> Científico <input type="checkbox"/> Otros		
Fecha: <b>30 04 2010 15</b>			Vista para salir por FMA (Sólo migrante de tránsito): <input type="checkbox"/> Oficial o Diplomático <input type="checkbox"/> Titular de Forma Migratoria <input type="checkbox"/> Tripulante Aéreo		
Firma del extranjero: <i>John Smith</i>			Núm. de FME		

## FOREIGN CITIZENS:

"If you enter Mexico by land or sea for tourism, business or transmigration, in order to pay your duties, you must make the corresponding payment by completing the DPA (Derechos, Productos y Aprovechamientos) format, named "Hoja de Ayuda (Aid Page)" (e 5 five) and attach the bank payment receipt to the "departure registration" section contained in your FMM for submission at your departure.

You will pay no duties if you enter the country by land as a tourist, provided your stay does not exceed 7 days."

Foreigners should keep this portion of the immigration form at all times. In case of loss carry out the replacement proceeding

## Data as they appear in the passport

1. Name (s)
2. Surname (s)
3. Nationality
4. Date of birth (dd/mm/yyyy)
5. Sex: Female or Male
6. Passport number
7. Mean of transportation (plane, land or sea)
8. Airline and flight number
9. Country where journey began  
If you are resident foreigner write down the number of FM2 or FM3 or Immigrant photo card
10. Place or city of destination in México or abroad
11. Type of trip (tourism, work, bussiness, diplomat, crew, transit, other).
12. Write down the days you are going to stay in Mexico
13. Adress in Mexico
14. Main activity in your country of residence (work, student, homemaker, minister of religion, retired, unemployed)
15. Date dd/mm/yyyy and signature

**IMPORTANT:**  
THIS FORM MUST BE FILLED OUT INDIVIDUALLY BY ALL FOREIGN CITIZENS ENTERING TO MEXICO, INCLUDING DIPLOMATS.

ESTADOS UNIDOS MEXICANOS		SECRETARÍA DE GOBERNACIÓN		INM	
SECRETARÍA DE GOBERNACIÓN		INSTITUTO NACIONAL DE MIGRACIÓN		INSTITUTO NACIONAL DE MIGRACIÓN	
SEGOB		NO INMIGRANTE		NUE.	
Nombre/Name		Nacionalidad/Nationality		País/Country	
Fecha de nacimiento/Date of Birth		CURP		Sexo/Sex	
Calidad		Modalidad		Característica	

Nº:	
Fecha de expedición/Date of Issue	
Fecha de vencimiento/Expiration	
El extranjero No Inmigrante reside temporalmente en México. The owner of this document is a temporary resident in Mexico.	FIRMA TITULAR

# NEW Immigration Law – what is coming?

- **Visitor** – not paid – less than 180 consecutive days
- **Visitor** – paid – less than 180 consecutive days
- **Regional Visitor** (citizens/resident of neighbor countries)
  - not paid – entry to border area – 3 days
- **Visitor Border Worker** (citizens of neighbor countries)
  - paid – work permit – 1 year
- **Temporary Resident** + work permit – less than **4 years**
- **Permanent Resident**
- Family Members
- Point System

# Cross Border Trucking

- Under an agreement reached in March by presidents Obama & Calderon
- Oct 14: First Mexican truck company (Transportes Olympic) has been granted authority to operate beyond U.S. commercial border zones.

# Thank you

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