COELUM

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Pronunciation: ‘che-l&m, is Latin for airspace or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.

New VAT Refund procedure for International Airlines in Mexico.

by Juan Manuel Estrada

On March 3rd, 2015, the Mexican Official Gazette published the first general Resolution that modifies the general Miscellaneous Tax Resolution for 2015. In broad terms, this Resolution intendeds to further clarify and detail the current position adopted by the Mexican Tax Authorities with regards to our tax legal framework, thus providing a sustainable guidance for the interpretation of such dispositions of the VAT refund regime for international airlines.

"This new rule, effective as of March 4th, 2015, provides an alternative to the current submission of periodical VAT returns, by providing an additional ad hoc procedure for the reimbursement of VAT...".

The present analysis focuses on the addition of Rule 2.3.15. which was introduced to the aforementioned Miscellaneous Tax Resolution, in order to establish a new Value-Added Tax (hereinafter "VAT") refund procedure applicable for both U.S. and international Carriers (provided that any such carriers proceed from countries that have celebrated a Bilateral Air Transport agreement with Mexico, and that such agreement comprises equivalent or similar provisions to that of Article 7 subsection d) stated in the U.S. – Mexico Bilateral Air Transport agreement; such equivalent disposition are found in instruments entered with Spain, Italy, Germany and UK amongst others) [1].

This new rule, effective as of March 4th, 2015, provides an alternative to the current submission of periodical VAT returns, by providing an additional ad hoc procedure for the reimbursement of VAT, paid specifically for fuel, lubricant oils, other fungible technical materials, spare parts, ordinary equipment, and supplies.

General Scope of Rule 2.3.15.

Rule 2.3.15. stipulates that all U.S. air carriers (the Resolution only addresses U.S. air carriers but, as mentioned, it can be applicable to airlines of other States as well) appointed for this benefit in consideration to a Bilateral Air Transport agreement entered with Mexico, are subject to request VAT return trough a new expedite procedure subject to the following:

I. VAT is charged for and paid by carriers in the acquisition of fuel, lubricant oils, other fungible technical materials, spare parts, ordinary equipment, and supplies as stated in subsection d) of Article 7 of the U.S. – Mexico Air Transport Agreement; and

II. When such goods are placed onboard of carriers of such airlines that are designated by a contracting State and that such goods are used as per the provision of international air transportation services.

Any and all VAT return procedures pursuant to this new rule shall be filled before the Central Tax Audit Administration in charge of Large Taxpayers with the following documentation:

1.- Dispositions of Article 7 subsection d) of the U.S. – Mexico Bilateral Air Transport agreement

In order to prevent discriminatory practices and to assure equality of treatment, both parties agree further to observe the following principles:
...
(b) Fuel, lubricating oils, consumable technical supplies, spare parts, regular equipment, and stores introduced into the territory of one party by the other party or its nationals, and intended solely for use by aircraft of such party shall be exempt on a basis of reciprocity from customs duties, inspection fees and other national duties or charges.

I. 8/CFF application form provided by the Tax Authorities;

II. Valid Permit issued by the Ministry of Communication and Transportation trough the Civil Aviation Authority (DGAC) that allows such airline to operate international routes to and from Mexico; and

III. Electric invoices where VAT was credited to the carriers.

In consideration of the foregoing, and as previously manifested, the information herein provides a more expeditious procedure to request VAT paid for the purchase return of fuel, lubricant oils, other fungible technical materials, spare parts, ordinary equipment, and supplies.

It is important to highlight that this ad hoc procedure for the reimbursement of VAT paid for fuel, lubricant oils, other fungible technical materials, spare parts, ordinary equipment, and supplies is not opposed to the ordinary procedure for VAT return, in which airlines are required to provide monthly VAT declaration statement that thoroughly detail the transactions held with their suppliers, and consequently proceed filling the corresponding VAT return claim for such specific term (monthly period).

Airlines that wish to opt for this new VAT refund procedure, and that have been previously submitting and ongoing regular claims for VAT refunds, must first adjust their input VAT by eliminating the reference to the VAT that will be filled trough the new procedure, before applying for this new refund procedure.

The aforementioned procedure modification request will not be applicable when the airline has credited the VAT that has been transferred to it, unless such Airlines files a complementary declaration through which it requests the authority to deem such VAT as non-credited, along with the corresponding supportive documentation.

"It is important to highlight that this ad hoc procedure for the reimbursement of VAT paid for fuel, lubricant oils, other fungible technical materials, spare parts, ordinary equipment, and supplies is not opposed to the ordinary procedure for VAT return...".

Furthermore, ordinary VAT refund procedures normally takes at least six to twelve months for its resolution. Usually, these term is extended if the Tax Authorities request additional information with regards to the filling, thus this procedures will usually entail a considerable amount of time, resources and effort, whereas the new refund procedure, in our experience has proved to be more efficient, having both the final resolutions and the corresponding refund enacted within a two months term.

Finally, It is important to state that the present resolution was issued by the Mexican Tax Authorities due to a misinterpretation of both the Chicago Convention on International Civil Aviation (Chicago Convention of 1944) and the U.S. – Mexico Bilateral Air Transport agreement and not as thoroughly though provision intended to benefit airlines, nevertheless, unwillingly Mexican Tax Authorities have provided airlines with an invaluable tool that will shorten and facilitate the VAT refund procedure for one of airlines larges VAT generators (fuel), thus providing an significant incentive for international airlines operation to Mexico.

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Mexican Aerospace Industry doubles its market share.

The Mexican aerospace industry will double its participation in the global market, going from 5% to 10% in 20 years, with which it will reach a market value of US$300 billion, said Frederic Garcia, CEO of Airbus Group to Mexico. The national supply may be among the five largest globally, because Mexico has competitive advantages to increase the supply chain of the industry; however, there must be participation from the private sector and from universities. Another important aspect is the strategic agreements with OEMs and grant compensations to them, Mr. Frederic Garcia recommended. He also explained that these compensations will request OEM companies to purchase similar component amounts to the local suppliers to those made to large assemblers with presence in other countries. *www.mexico-now.com September 18, 2015.*

NAICM begins bidding package for its preliminary works.

The Secretariat of Communications and Transportation (SCT) disclosed the project for the bidding process for the preliminary works for the Mexico City's New International Airport (NAICM), aiming to award the contract for the works related to land leveling and clearing, including the construction of temporary access roads to the NAICM, structures, drainage, paving and signage works. According to the Federation's Expenditure Budget, US$343.75 million will be allocated for its construction. *www.mexico-now.com September 18, 2015.*

AEM seeking for a space research center in Chihuahua.

The Mexican Space Agency (AEM) coordinates the signing of a cooperation agreement with the Government of Chihuahua to install a space training and research center, as part of its plan to establish regional centers for space development in the federal states. Javier Mendieta Jimenez, General Director of AEM, said that this center will boost the State development in satellital and space matters and will contribute to strengthen the aerospace sector in Chihuahua in order to promote the creation of new high technological added value jobs. *www.mexico-now.com September 18, 2015.*

Aerospace sector´s goal: doubling employments by 2020.

The aerospace manufacturing sector in Mexico expects to exceed the 100,000 direct jobs within the next five years, expressed Benito Gritzewsky, President of the Mexican Federation of Aerospace Industries (FEMIA). Currently, the aerospace manufacturing sector has 43,000 direct workers that produce from electrical components to large assembly turbines. Mr. Gritzewsky said that the aerospace industry had a 17% development annual growth in 320 manufacturing, design and maintenance sites around Mexico during the 2004-2014 period. It is expected that this year closes having 52,000 jobs created in the aerospace manufacturing sector and with exports per US$7.5 billion; as well as surpassing the 320 facilities and reaching the 30% of local integration. The challenge for 2020 is reaching the US$12 billion exports, the creation of 110,000 jobs and a 50% of integration of local manufacturing, highlighted Mr. Gritzewsky. *www.mexico-now.com September 18, 2015.*

Aerospace industry in Mexico will generate up to 50,000 jobs in 2015.

Mexico's aerospace exports will grow 10% this year, to bring along revenues of US$ 7.0 to 7.5 billion, compared to the US$424.4 million earned last year. Luis Lizcano, General Director of the Mexican Federation of the Aerospace Industry (FEMIA), said that Queretaro, Baja California, Sonora, Chihuahua and Nuevo Leon are the leading Mexican States to heave the record. He also said that between 48,000 and 50,000 jobs will be generated, and added that 80% of exports go to the U.S. while remaining the 20% is shipped to Europe. The major growth potential is for military aviation in Mexico. *www.mexico-now.com September 18, 2015.*

In this month extract was prepared by Vera García, Pablo Domette, Miguel Ruelas, Laura Morales and Lorena Gay.

IATA senior management appointments.
Safety and Flight Operations (SFO).

Gilberto Lopez Meyer will take up his role as Senior Vice President for SFO on 19 October 2015. He will be based in Montreal and he succeeds Kevin Hiattwho left IATA in July. He joins IATA from the Mexican Civil Aviation Authority which he has twice led as its Director General (2003-2008 and from 2014 to the present). Lopez Meyer started his aviation career as a pilot with Mexicana Airlines (1986-2003) and also has strong experience in airports having twice served as the Director General of Aeropuertos y Servicios Auxiliares (2008-2012 and 2013-2014) as well as the Director General of Mexico City International Airport (2012-2013). *Avionews.com September 25, 2015.*

Aircraft Industry well-being for Mexico.

The global and Mexican aerospace industry have solid foundations that will drive to a further development within the next five years. With the increase of low cost flights, low oil prices, new airplanes demand, among others factors, the industry will experience a significant growth and innovation, allowing to foresee a steady growth. "Currently, the commercial aeronautical industry globally "flies over" an economic turmoil. In fact, one of the major trends in the global aeronautical industry is the seemingly unstoppable growth of the market, which significantly impacts all suppliers", said Sergio L. Ornelas, the organizer of Mexico's Aerospace Summit 2015, to be held in Queretaro on September 3rd and 4th. Big firms in this sector are developing more efficient equipment for new aircrafts, concerned about the environment. The creation of new composite materials will continue to replace metal, while the avionics will clarify the cockpit and will improve safety. *www.mexico-now.com September 25, 2015.*

Hangar lab inauguration in Mexico.

Aeronautical University in Queretaro (UNAQ) inaugurated its hangar-lab that will contribute to the development and consolidation of the aerospace industry in the State, for the training of professionals and researchers in the sector. Jorge Gutierrez de Velasco Rodriguez, UNAQ´s Rector, stands out the importance of this area and the commercial alliance between the governments of Mexico and France as well. Besides, Mr. Gutierrez highlighted that these partnerships have yielded results through the UNAQ, training technical professionals and higher technicians with university degree with skills comparable to human capital from other countries. *www.mexico-now.com September 25, 2015.*

Saving in Mexico, Aeronautic paradise.

The companies engaged in the aeronautical sector save between 10% and 15% by preferring to settle in Mexico, industry representatives estimated. "Mexico is more attractive because companies can save between 10% and 15% in transportation costs, the establishment of plants and the existence of specialized personnel, compared to other regions such as Central and South America", explained David Gonzalez, CEO of IRM Industry Movers. Van Rex Gallard, Boeing´s Sales Director to Mexico, agreed that settling in Mexico translates into savings. He explained that there are savings in transport because the components are transferred on time; it also saves on personnel training by having some development of labor and engineering in the country. *www.mexico-now.com September 25, 2015.*

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