

NEWSLETTER



**VAT treatment for export
of services in Mexico**



In the current context of rapid digitalization, global markets are continuously evolving. **Economic agents, multinational groups, and others, in their effort to optimize their operations, have established business relationships with entities and individuals in various countries to fulfill strategic functions.** Within this framework, services provided by Mexican individuals and entities to residents abroad have emerged as a key tool for improving the operational efficiency of some companies. **These services can encompass administrative, accounting, financial, information technology (IT), tax, and even legal processes, among others.**

The main premise is that by centralizing or outsourcing these functions in Mexico, entities located in other countries can benefit from high-quality services. This model not only reduces time and costs but can also be more efficient than hiring these services within their own jurisdiction

The Export of Services and Its Effects on VAT in Mexico

According to **Article 29 of the VAT Law and Article 58** of its Regulation, it is possible to apply a 0% VAT rate to exported services. **These services must be contracted by a resident abroad; must be paid from bank accounts opened in foreign financial institutions; and it must be possible to demonstrate that the benefit derived from these services, i.e., their utilization, was effectively realized abroad.** Only under these conditions can activities be considered as exported services, allowing for the application of the 0% VAT rate.



In Mexico, there is a tendency to assume that services provided by local entities and individuals to other entities located abroad are effectively considered as “**exported**” services. However, for these activities to qualify as “**exportation of services**” and apply the **0% VAT rate**, it is essential to conduct a case-by-case analysis to verify that they meet the formal requirements and to identify where the benefit of such services is obtained.

Export Services with a 0% VAT Rate

The VAT Law specifies the services eligible for the **0% VAT** rate in the case of export. These include:

- **Technical assistance, related services, and technical services concerning industrial, commercial, or scientific experiences.**
- **Maquila and sub-maquila operations under customs legislation.**
- **Advertising.**
- **Commissions and brokerage services.**
- **Insurance and reinsurance.**
- **Financing operations.**
- **Filming or recording.**
- **Services provided at call centers.**
- **Specific information technology services.**

It is important to note that if services **provided by Mexican residents to residents abroad are not included in this list, they will be subject to the general 16% VAT rate**, regardless of their utilization by entities abroad. This situation can have an economic impact, as **VAT** charged to residents abroad will not be recoverable.

Tax Audits and Reviews by Tax Authorities

Recently, tax authorities in Mexico have intensified their scrutiny of the correct application of the **0% VAT rate on exported services**. This oversight covers not only services explicitly mentioned in the legislation, such as advertising and commissions, but also other services whose nature may be subject to interpretation. Recent publications and judicial criteria, such as the thesis titled "**VALUE ADDED TAX. THE 0% RATE SET FOR IN ARTICLE 29, SECTION IV, SUBSECTION D), OF THE RELEVANT LAW APPLIES TO COMMISSION SERVICES ONLY WHEN RELATED TO THE EXPORTATION OF GOODS OR SERVICES THAT HAVE EFFECT IN FOREIGN COUNTRIES,**" have emphasized the need for services to be effectively utilized outside the national territory for the **0% rate** to be valid.



In the resolution that led to the aforementioned criterion, **the Collegiate Circuit Court (TCC)** upheld, in line with the **Second Chamber of the Supreme Court of Justice of the Nation (SCJN)** in resolving the direct amparo review number 2007/2015, that **the VAT Law** regulation only provides certain supporting elements for taxpayers to demonstrate that specific services are utilized abroad. However, it was concluded that this regulation does not establish an exhaustive list of requirements nor offer a conclusive

definition of the concept of **"utilization abroad."**

Ultimately, **the TCC determined that the 0% VAT rate** applies to commission services only when they are utilized abroad, which the taxpayer could not demonstrate in the analyzed case. **This criterion clearly establishes that it is not sufficient for services to be contracted and paid for by a resident abroad;** it is equally essential that these services are effectively utilized outside Mexico. If this requirement is not met, the application of the **0% rate** could be rejected, resulting in tax adjustments and the obligation to pay **VAT at the general rate of 16%**.

Conclusions and Recommendations for Companies

For companies providing services to residents abroad, it is essential to conduct a thorough review of the activities intended to be classified as service exports. It is crucial to ensure that all legal and fiscal conditions are met to apply the **0% VAT rate**, thereby avoiding fiscal risks that could lead to unplanned additional costs.

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Sincerely,
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