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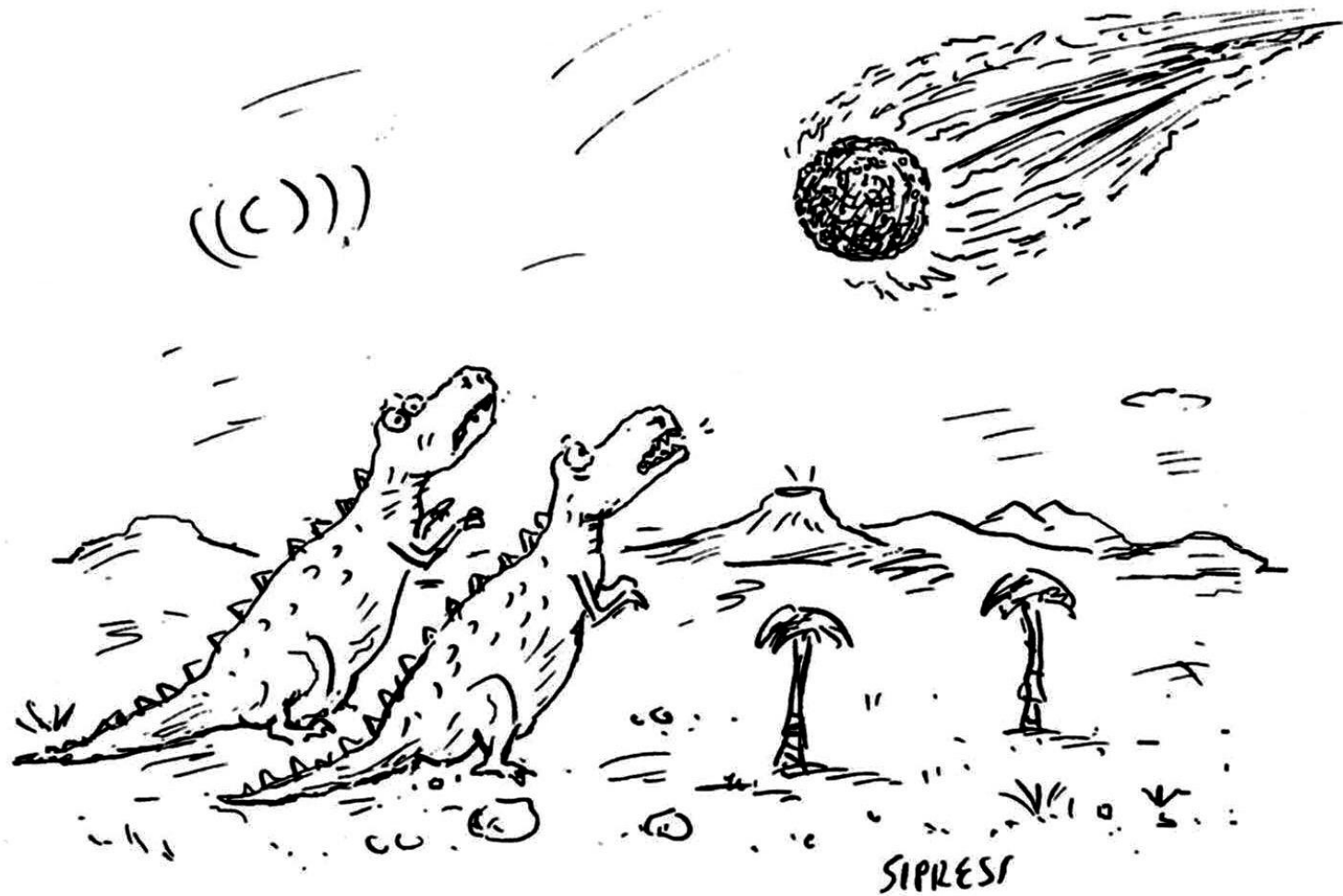
TTN Conference 2017

TAX INFORMATION EXCHANGE IN 2017

- AN UPDATE FROM THE MEXICAN PERSPECTIVE -

Arturo G. Brook





“Maybe it isn’t going to be so bad.”

Agenda

- DTTs and TIEAs
- FATCA and the IGA
- CRS
- Switzerland
- Repatriation and Amnesty
- Audit Efforts



DTTs & TIEAs

- Treaties in force or in negotiation with approximately 100 jurisdictions
- Treaty efforts began in early 1990s (OECD)
- Information exchange with most treaty partners
- Signatory of the Convention on Mutual Administrative Assistance in Tax Matters



FATCA & IGA

- Mexico was an early adopter of an IGA (2012)
- *Automated* and “*reciprocal*” information exchange
- Information from the IRS to the SAT includes:
 - Depository Accounts generating over \$10 in interest
 - Custodial Accounts generating US source income
 - Accounts held directly by Mexican individuals or entities
- New W8 forms include field for taxpayer ID
- **No reporting of UBO of offshore entities, trusts, or foundations (FOR NOW)**



FATCA & IGA

- Mexico receives the following information:
 - Name
 - Address
 - Taxpayer ID
 - Name of Bank
 - Account Number
 - Amount of interest earned
 - Amount of US source income



FATCA & IGA

Article 6 Reciprocity.

“The Government of the United States acknowledges the need to achieve equivalent levels of reciprocal automatic information exchange with Mexico(...)”



Common Reporting Standard

- CRS acts as Global FATCA
- Automatic Information Exchange between 95 countries
- Mexico among 55 countries starting in 2016
- The rest will follow in 2017
- Significant ID and financial information subject to exchange
- Rules are currently being developed



Common Reporting Standard

- Financial Institutions required to:
 - Conduct appropriate due diligence
 - Collect substantial information
 - Confirm client's tax residence
 - Report to their domestic tax authority (for automatic transmission to relevant tax authority)



Common Reporting Standard

- Financial Institutions defined as:
 - Depository Institutions
 - Custodial Institutions
 - Investment Entities (Including Trusts, PICs, Partnerships, and Foundations)
 - Specified Insurance Company



Common Reporting Standard

- Financial Account defined as:
 - Depository Account
 - Custodial Account
 - **Debt or Equity* in a Trust, PIC, Partnership, or Foundations**
 - Cash Value Insurance or Annuity Contract

*Equity in a trust includes a settlor or beneficiary or any person who exercises ultimate effective control



Common Reporting Standard

- Account Holders subject to Reporting:
 - Account holders that are tax residents in a reportable jurisdiction
 - Look-through to the UBO where:
 - Account holder is a Passive Non-Financial Entity (NFE)
 - With controlling persons who are tax resident in a reportable jurisdiction



Common Reporting Standard

- **Passive NFEs subject to look through:**
 - **Entities not managed by a professional that do not conduct an active business**
 - **Entities managed by a professional that are not located in a participating jurisdiction**



Common Reporting Standard

- Controlling Persons:
 - Trust: Settlor, trustee, protector, beneficiary, or anyone else exercising ultimate effective control
 - Entity: Substantial shareholder, individual exercising control, senior managing officials



Common Reporting Standard

- CRS Self-Certification Form shall include:
 - Account holder name
 - Address
 - Tax residence
 - Tax ID
 - Date and place of birth
 - CRS entity classification



CRS – Activated Exchanges with Mexico (51)

Argentina	Czech Republic	Guernsey	Liechtenstein	St V and the G
Australia	Denmark	Hungary	Lithuania	San Marino
Austria	Estonia	Iceland	Luxembourg	Seychelles
Belgium	Faroe Isl	India	Malta	Slovak Republic
Bermuda	Finland	Ireland	Mauritius	Slovenia
BVI	France	Isle of Man	Montserrat	South Africa
Bulgaria	Germany	Italy	Netherlands	Spain
Cayman	Gibraltar	Jersey	Norway	Sweden
Colombia	Greece	Korea	Portugal	Turks and C
Croatia	Greenland	Latvia	Romania	United Kingdom
Cyprus				

AEOL with Switzerland

- Joint declaration on the introduction of the AEOL in tax matters signed between Switzerland and Mexico on November 18, 2016
- Based on OECD standard (CRS)
- Information for 2018 to be exchanged on 2019



AEOL with Switzerland

“Mexico meets in particular the high demands in terms of adherence to the principle of specialty and the safeguarding of the confidentiality for the data delivered”.

Swiss Federal Council



Repatriation and Amnesty - Old

- “Timbre” and anonymous payment are gone
- 2016 Amnesty required repatriation of funds by 6/30/2016
- Investments maintained out of Mexico as of 12/31/2014
- Tax paid applying regular rates
- Principal amount must have been subject to tax in Mexico
- Investments must be maintained in Mexico for 3 years
- No penalties or criminal charges
- Taxpayer name made public
- Extremely unsuccessful



Repatriation and Amnesty - New

- 2017 Amnesty requires repatriation of funds by 7/19/2017
- Investments maintained out of Mexico as of 12/31/2016
- Same name accounts or related parties
- Attractive rate of 8%
- Principal amount must have been subject to tax in Mexico or also subject to 8% rate
- Investments must be maintained in Mexico for 2 years
- No penalties or criminal charges
- **Rules have not been published yet!**



Audit Efforts

- No litigation/precedents on deferral structures
- No generalized audit efforts yet
- Anecdotal evidence of “invitation letters” by tax authority



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iGRACIAS!

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