

International Taxation Practice Group (ITPG)

Relevant aspects of the new Law against Money Laundering

By **Sergio Guerrero Rosas**

In October 2012, President Felipe Calderón of Mexico announced the Federal Law for the Prevention and Identification of Operations with Resources of Unlawful Origin, better known as the Law Against Money Laundering, in the Official Publication of the Federation.

Despite the early decision in the President's administration to confront the criminality which had become the major threat

to the peace and integrity of the state – and to do so with all its available resources, in its first years, the government's strategy to bring down and arrest dozens of drug trafficking capos failed to place the same level of importance on the finances of the cartels.

Yet, while it may appear strange to see Mexico struggling in its fight against the kind of financial irregularities posed by the cartel practices, it should be remembered

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that only two years ago, it successfully implemented requirements for and limits on the use of the U.S. cash dollar; measures which, according to official calculations, reduced circulation of the dollar in Mexico by 70%.

Meanwhile, the new law has been designed to continue detecting and investigating potentially illegal resources by focusing on those commercial operations considered most susceptible to being utilised for laundering purposes. Limits have therefore been established on the use of cash in operations related to the acquisition of goods and capital that exceed certain quantities. Among the “vulnerable activities” are gambling, betting and raffles; the marketing of department store prepayment cards; the approval of loans and pawnshop credit; construction and development projects and the buying and selling of real estate; dealings in art work and precious stones; and the acquisition of vehicles, planes and yachts.

Furthermore, non-financial intermediaries of economic transactions are now obliged to verify the identity of their clients, providing information on their activities and occupations or sources of income; documentation of which must be retained and conserved for a period of five years. In addition, new obligations have also been placed on financial institutions. Banks and bureaux de change must establish measures and procedures to prevent and detect suspicious activities. Among others, such precautions include formal, regular reports on vulnerable activities to be pre-



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sented to the Secretary of the Treasury and Public Credit (SHCP).

As a result, in order to verify that activities of intermediaries and financial institutions are in accordance with the new law, another stipulation is that a unit specialising in financial analysis be created, focused on the investigation of suspicious operations. Moreover, the SHCP has been granted the facility to carry out inspections, with the right to apply sanctions of up to 100% of the value of operations of those groups failing to follow these practices.

Limits which the new law considers to be vulnerable activities and therefore have to be reported to SHCP include:

- Gambling, betting and raffles = USD 3,000
- Marketing of prepayment cards = USD 3,800 or above
- Marketing of precious metals = USD 7,600

- Artwork = USD 23,000
- Cars above 400,000 and armour = USD 23,000
- Attorney services = USD 38,500
- Donations = USD 15,000¹

One of the most important elements in relation to our field of work takes into account the fact that the provision of independent professional services, specifically where duties and actions are performed on behalf of a third party in the area of trusts and the buying or selling of businesses, has also been identified as a vulnerable activity, and is therefore fully subject to the requirements of President Felipe Calderon's Law Against Money Laundering.²

As a result, we have to be aware of new regulations being issued in accordance

with this new Law Against Money Laundering and prevent any problem or contingencies relating to our independent professional services.

¹ Amount subject to change, depending on the Mexican Peso-USD exchange rate.

² The new regulations are expected to come into full effect as of next summer.

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