

Reform to the Tax Law of the State of Queretaro | New Ecological Taxes

Mexico City, March 14, 2022

On January 1 2022, was published in the Legislative Gazette (*Gaceta Legislativa*) N° 010 of Santiago de Querétaro, the "Opinion of the Law Initiative that reforms, adds and repeals various provisions of the Tax Law of the State of Querétaro, of the Organic Law of the Executive Power of the State of Querétaro, of the Tax Code of the State of Querétaro, of the Law for the Management of Public Resources of the State of Querétaro, of the Law of Acquisitions, Disposals, Leases and Contracting of Services of the State of Querétaro, of the State Intermunicipal Tax Coordination Law of the State of Querétaro, of the Land Registry Law for the State of Querétaro and the Public Works Law of the State of Querétaro. Presented by the Planning and Budget Commission" (*Dictamen de la Iniciativa de Ley que reforma, adiciona y deroga diversas disposiciones de la Ley de Hacienda del Estado de Querétaro, de la Ley Orgánica del poder Ejecutivo del Estado de Querétaro, del Código Fiscal del Estado de Querétaro, de la Ley para el Manejo de los Recursos Públicos del Estado de Querétaro, de la Ley de Adquisiciones, Enajenaciones, Arrendamientos y Contratación de Servicios del Estado de Querétaro, de la Ley de Coordinación Fiscal Estatal Intermunicipal del Estado de Querétaro, de la Ley de Catastro para el Estado de Querétaro y de la Ley de Obra Pública del Estado de Querétaro. Presentado por la Comisión de Planeación y Presupuesto*) (the "Opinion").

With respect to the reform to the Tax Law of the State of Queretaro (*Ley de Hacienda del Estado de Querétaro*) (the "Law"), Title Three (*Of the Taxes*), Chapter Nine (*Ecological Taxes*) was added, which includes the following:

A. Tax for Environmental Remediation in the Extraction of Materials

1. *Object*. The extraction of soil and subsoil of the following materials (jointly, the "Materials") (i) nonmetal materials with low environmental impact,¹ and (ii) nonmetal materials with high environmental impact,² that constitute deposits of the same natures as the components of the land.

¹ Sand, grit, *tezontle*, *tepetate*, *tepecil*, clay, a combination of the former, or those of the same or similar nature, characteristics or properties.

² Gravel, granite, volcanic rock, basalt, marble, onyx, travertine rock, sedimentary rocks, metamorphic rocks and igneous rocks, or those of the same or similar nature, characteristics or properties.

2. *Taxpayers.* Individuals, legal entities and economic units that, in the State territory, extract materials from the soil and subsoil that constitute deposits of the same or equal nature as the components of the land.
3. *Dues.* The tax will be caused for each cubic meter extracted from the Materials, based on the following dues (the "Due"):

Material	UMA
Nonmetal materials with low environmental impact	0.20
Nonmetal materials with high environmental impact	0.50

4. *Base.* Will be the quantity that results from applying the Due, to the volume of cubic meters of extracted material, according to the manifested in the annual report of the Registry of Emissions and Transfer of Contaminants (*Registro de Emisiones y Transferencia de Contaminantes*) through the Annual Operation Certificate (*Cédula de Operación Anual*) filed with the Ministry of Sustainable Development of the State of Querétaro (*Secretaría de Desarrollo Sustentable del Estado de Querétaro*) ("SEDESU").
5. *Time and Form of Payment.* The tax must be payed in definitive payments, by tax return filed with the Ministry of Finance (*Secretaría de Finanzas*) no later than the 22nd of the immediately following month that in which the materials were extracted.

An informative annual tax return must also be submitted no later than March of the year following the relevant fiscal year.

6. *Obligations.* The obligations of the taxpayers, among others, are the following: (i) register their tax address in the State; (ii) register, by notice, within 10 business days following the date of commencement of operations with the State Tax Authority; and (iii) keep an extraction Record Book to record the quantity in cubic meters of extracted material from soil or subsoil.

B. Tax for Gas Emissions into the Atmosphere

1. *Object.* The emissions into the atmosphere of the following substances generated in the productive processes carried out in the State, either singly or any

combination of them that affect air quality, the components of the atmosphere and that constitute greenhouse gases (jointly, the "Greenhouse Gasses"):

- Carbon Dioxide,
- Methane,
- Nitrous oxide,
- Hydrofluorocarbons,
- Perfluorocarbons, and
- Sulfur hexafluoride

2. *Taxpayers.* Individuals, legal entities and economic units that, in the State territory or residents outside the State, that have facilities or stationary sources in which the activities that determine the emissions into the atmosphere taxed by the tax in the territory of the State are carried out.
3. *Base.* The tax base is the amount of contaminant load of taxed emissions that are carried out from the facilities or fixed sources expressed in tons.

For the determination of the emitted tons, the taxpayers will convert the Greenhouse Gasses into the Equivalent of Carbon Dioxide (*Bióxido de Carbono Equivalente*) (CO₂e), multiplying each ton of type of gas emitted for the related factor according to the following:

Greenhouse Gasses	Molecular Compositions	Tons of Emitted Gas	Equivalent of CO₂ in Tons
Carbon Dioxide	CO ₂	1	1
Methane	CH ₄	1	28
Nitrous oxide	N ₂ O	1	265
Hydrofluorocarbons	HFC-23	1	12,000
	HFC-125	1	12,400
	HFC-134a	1	5,560
	HFC-152a	1	120
	HFC-227ea	1	6,450
	HFC-236fa	1	979
	HFC-4310mee	1	1,500
Perfluorocarbons	CF ₄	1	6,630
	C ₂ F ₆	1	11,100
	C ₄ F ₁₀	1	9,200
	C ₆ F ₁₄	1	7,910
Sulfur hexafluoride	SF ₆	1	23,500



4. *Dues.* The tax will be caused in the moment that the taxpayers emit into the atmosphere, affecting the State territory, applying a tax rate equivalent to 5.6 UMA (\$538.832 Mexican pesos) for ton emitted of Equivalent Carbon Dioxide (CO₂e) or the conversion of the same.
5. *Time and Form of Payment.* The taxpayers will pay annually, through tax return that will be submitted in the forms and means authorized by the Ministry of Finance, in the following month in which the relevant report was made in the Pollutant Emissions and Transfer Registries (*Registros de Emisiones y Transferencias de Contaminantes*) (RETC), of the Ministry of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*), as well as the emissions reports of the Pollutant Emissions and Transfer Registries (RETC) of the State, from SEDESU.
6. *Obligations.* The obligations of the taxpayers, among others, are the following: (i) register their tax address in the State; (ii) register, by notice, within 10 business days following the date of commencement of operations with the State Tax Authority; and (iii) keep an Pollutant emissions Record Book.

C. Tax for the Final Disposal of Hazardous and Special Management Waste

1. *Object.* The final disposal of special management waste in landfills or public or private final disposal sites located in the State, as well as the temporary storage or controlled confinement of hazardous waste in the State that, by causing its release into the environment, is a toxic or dangerous constituent, which causes risk effects to the human health, ecosystems or ecological balance.
2. *Taxpayers.* Individuals, legal entities and economic units classified as a large generator in terms of the General Law for the Prevention and Comprehensive Management of Waste (*Ley General para la Prevención y Gestión Integral de los Residuos*) that, under any title, by themselves or through intermediaries, carry out the final disposal of waste, as well as temporary storage or controlled confinement of hazardous waste.
3. *Base.* The quantity in tons of special management waste deposited or stored in landfills or public or private final disposal sites located in the State or by ton of hazardous waste confined in the State.

Hazardous or special management waste that entering value chains or going to recovery processes such as: collection and storage, separation, reuse, intermediate treatment, co-processing, use, soil improver, will not constitute the tax base with the exception of the following: (i) when the special management waste or hazardous waste remains for more than 6 (six) months since it was deposited or stored, without carrying out the process of reuse, recycling, co-processing or recovery; and (ii) when the deposited, stored or confined waste have not been destined for reuse, recycling, co-processing or recovery processes for more than 6 (six) months.

4. *Dues.* The tax will be caused and payed, applying a tax rate equivalent to 1.25 UMA (\$120.275 Mexican pesos) per ton of special management waste deposited or stored or by per ton of hazardous wastes stored temporarily or confined in the State.
5. *Time and Form of Payment.* The tax must be payed monthly, through tax return and additional information to be submitted to the Ministry of Finance by the individuals, legal entities, as well as economic units, no later than the 22nd day of the month immediately following the one in which the special management waste was deposited or stored or by ton of hazardous wastes stored in temporary form or confined in the State.
6. *Obligations.* The obligations of the taxpayers, among others, are the following: (i) register their tax address in the State; (ii) register, by notice, within 10 business days following the date of commencement of operations with the State Tax Authority; (iii) keep a Record Book of Deposited or Stores Special Management Waste; and (iv) keep a Record Book of Confined Hazardous Waste, identifying the amount in tons, date and place of confinement.

The Law entered into force on January 1st, 2022. The taxpayers that have started operations prior the entry into force of the Law will comply with the obligation to register, within the month following its entry into force, that is, during the month of February 2022.

It will be possible to challenge the payment of the taxes described above after the first act of application, that is, once the taxpayers have made the payment of the applicable tax.

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