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HISTORY OF MEXICO'S TAX REGIME: A HAPHAZARD JOURNEY

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Mexico's tax regime can best be described as haphazard and uncoordinated, as indirect levies were often assessed to satisfy short-term needs, irrespective of the economic capacity to pay of the local population. When compared to other members of the OECD, Mexico reports a relatively low tax-to-GDP ratio. This may be attributable to the vast presence of small to medium size companies conducting business in the informal market, the comparatively minor percentage of individuals and companies that regularly pay tax, and proliferation of tax benefits historically enjoyed by the wealthy.

This Article covers the more salient features of Mexican tax legislation since the conquest by Spain in 1521 until the nation obtained its full independence three hundred year later, and all throughout the political and economic upheavals the young republic experienced right up until the end of the

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twentieth century. Levies enacted by the Spanish Crown to extract revenues are examined, along with indirect assessments on consumption promulgated after independence. Also addressed are alternative levies enacted since the early twentieth century that failed to raise revenues and/or were administratively burdensome, ultimately leading to their extinction.

The author recommends streamlining Mexico's tax system by expanding the base, and eliminating the various exclusions, preferences, and credits currently available under the income tax law. By increasing revenues from income tax, the federal government should be better able to reduce indirect levies on the sale of goods and services. Simultaneously, political leaders should lessen the country's century-old dependence on non-fiscal revenues derived from oil production.

INTRODUCTION

Mexico often conjures up vivid and contrasting images of colorful skulls in celebration of the Day of the Dead, beautiful balmy beaches surrounded by lush green mountains, and tumultuous festivities incorporating mariachis, piñatas, and tequila. These and other depictions have been faithfully captured by such accomplished painters as the illustrator of satirical skeletons (*calaveras*) José Guadalupe Posada, the muralist Diego Rivera, or Frida Kahlo, well known throughout the art world for her intimate portraits; by such highly revered entertainers as the screen idol Jorge Negrete, the comedian Mario Moreno "Cantinflas", or the pop legend Luis Miguel; and by such distinguished writers as the poet and Nobel Laureate Octavio Paz, the novelist Carlos Fuentes, or the seventeenth century scholarly mystic Sor Juana Inés de la Cruz.

From a tax viewpoint, the country officially known as the United Mexican States (*Estados Unidos Mexicanos*) has consistently reported a relatively low fiscal revenues to gross domestic product ratio (tax-to-GDP ratio), when compared to other countries, despite widespread enactment of taxes on income and consumption. According to the World Bank, Mexico reported a 13.5% tax-to-GDP ratio in the year 2021, as compared to 14.0% for Latin America and the Caribbean, and 14.4% for the world.[1] Similarly, the Organization for Economic Cooperation and Development (OECD) confirms a tax-to-GDP ratio of 16.7% for the same year, somewhat less than the 21.7% ratio for the Latin American and Caribbean region, and

[1] *Tax Revenue (% of GDP)*, WORLDBANK, https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS (last visited Jan. 27, 2024). Tax-to-GDP ratios reported by other jurisdictions in Latin America and the Caribbean for year 2021 (unless otherwise indicated) are as follows: Argentina 11.5%, Bahamas 16.7% (2022), Barbados 27.4% (2016), Brazil 15.0 (2022)%, Chile 19.6%, Colombia 15.4% (2022), Costa Rica 14.0%, Dominican Republic 14.4%, Ecuador 13.2% (2022), El Salvador 19.4%, Guatemala 11.6%, Honduras 14.8% (2020), Jamaica 25.7% (2020), Nicaragua 19.8% (2022), Panama 7.5%, Paraguay 9.8%, Peru 16.1%, Trinidad and Tobago 16.5% (2019), and Uruguay 18.5% (2020). No data was provided for Cuba, Puerto Rico, and Venezuela. *Id.*

well below the 34.1% average ratio reported for OECD-member nations.[2] Indirect taxes, whether in the form of a value added tax or assessments on the sale of goods and services, represent the largest source of revenues for the Mexican government, when compared to what occurs in other OECD member nations where direct levies, such as social security contributions, constitute the single most important source, followed closely by personal income taxes.[3]

Mexico's historically low level of collections from taxes, when compared to other countries in the Americas, may emanate partly from the numerous exemptions and incentives granted over the years to the private business sector.[4] Another reason may involve the countless small and medium-size companies (*pymes* in Spanish) which routinely operate in the underground or informal economy.[5] Yet another plausible explanation may lie in the proliferation of non-income levies, many of which started out as transient measures, ever since Hernán Cortés first arrived at the Mexican Atlantic coastline and eventually conquered the Aztec capital of Tenochtitlán in 1521.[6]

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[2] *Revenue Statistics in Latin America and the Caribbean 2023 – Mexico*, OECD (May 16, 2023), https://www.oecd.org/tax/tax-policy/revenue-statistics-latin-america-and-caribbean-mexico.pdf. *See also OECD Economic Surveys - Mexico 2024 - Executive Summary*, OECD 5 (Feb. 2024), https://www.oecd.org/economy/mexico-economic-snapshot/. Mexico currently reports the lowest tax-to-GDP ratio in the OECD. *Id*.

[3] *Id*. The highest share of tax revenues in Mexico originated from value added tax, as well as from tax on goods and services, representing 25.7% of the total collected in year 2020. *Id*.

[4] *See* Thomas Dalgaard, *The Tax System in Mexico: A Need For Strengthening the Revenue-Raising Capacity* (OECD Econ. Dep't Working Papers No. 233, 14-15, 2000), https://www.oecd-ilibrary.org/docserver/713001800850.pdf?expires=1706285950&id=id&accname=guest&checksum=5A02E0ACC612 [hereinafter *The Tax System in Mexico - OECD*].

[5] *See* Yolanda Morales, *Baja Recaudación de México, Vinculada a la Informalidad: OCDE*, EL ECONOMISTA (Dec. 25, 2023, 19:56), https://www.eleconomista.com.mx/economia/Baja-recaudacion-de-Mexico-vinculada-a-la-informalidad-OCDE-20231225-0048.html. According to an OECD official, approximately 35% of households in Mexico operate in the informal economy. *Id*. *See also The Tax System in Mexico - OECD, supra* note 4, at 6. The informal sector in Mexico is primarily a by-product of widespread poverty, lack of basic skills of a large portion of the population, and absence of an effective social safety net. *Id*.

[6] *See Conquest of Mexico*, BRITANNICA, https://www.britannica.com/place/Mexico/The-rise-of-the-Aztecs (last visited April 16, 2024).

For the most part, these non-income assessments were embraced by successive administrations (initially under colonial rule and thereafter when independence was secured from Spain), irrespective of political ideology, to enable swift collections. Most levies, though, often ignored the financial capability of their subjects to pay. In other words, these assessments were essentially regressive in nature, in that those taxpayers with less resources where disproportionally impacted. Despite these shortcomings, tax officials favored these types of assessments as they were easier to enforce when compared to traditional taxes on income, in addition to being much more difficult to evade.

The Article concludes by calling for a continued simplification of Mexico´s tax regime, by curtailing the excessive reliance on inefficient (and often temporary) indirect levies in favor of a more progressive, transparent, and easy to enforce direct tax on net income, with less exemptions and preferences, based primarily on one´s economic capacity to pay. Also called for is a value added tax where transactions enjoying a zero rate are narrowly tailored to basic staples and certain exportations. These measures, in turn, should expand the taxable base, generating adequate funds to address the pervasive income inequality that unfortunately continues to plague substantial portions of the Mexican population.

I. SPANISH COLONIAL ERA

Throughout the expanse of Spain´s domain in the Americas, tax policy was aimed primarily at extracting as much revenue as possible from the colonies.[7] To fully comprehend the current tax framework in Mexico, we must closely examine how the tax regime evolved ever since the conquerors arrived from the Spanish mainland to the American hemisphere. What follows is a survey of the main levies enacted in Mexican territory during the three-hundred year period of colonial rule, as well as the plethora of taxes enacted since the beginning of the nineteenth century by an independent Mexican republic. Moreover, tax legislative initiatives adopted in

[7] 1 ENCYCLOPEDIA OF MEXICO: HISTORY, SOCIETY & CULTURE 1461 (Michael S. Werner ed., 2d ed. 1997).

Mexico reflect, to a large degree, what was occurring elsewhere across the Americas.

A. Habsburg Dynasty (1521 – 1700)

Some of the first levies to be enforced within the vast confines of Spain's colonial domain involve the *avería*, assessed over the value of goods transported between the Spanish mainland and its American colonies to fund the costs of operating the imperial fleet;[8] the *quinto real*, a levy initially equal to one-fifth of the value of products extracted from gold and silver mines, based on the notion that these mining sites belonged to the royal crown;[9] and since 1640 an early version of the stamp tax (*papel sellado*), whereby a stamped government paper was required for all sorts of public instruments and private contracts.[10]

Prevalent since the sixteenth century was the *capitación* or head tax assessed in fixed quantities of maize and cash money, as part of an overall policy to phase-out *encomiendas* (whereby a Spanish-born tenant collected tributes from the local indigenous population),[11] in favor of collecting tribute revenues directly to the Spanish crown.[12] The encomienda, by the way, lent itself to widespread instances of corruption on the part of the Spanish-born trustee (*encomendero*) who often ruthlessly exploited the native Indians under

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[8] 1 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE 406 (Jay Kinsbruner & Erick D. Langer eds., 2d ed. 2008). There was no fixed rate; this ad valorem tax was abolished in 1660. *Id*.

[9] HENRY BAMFORD PARKES, A HISTORY OF MEXICO 100 (3d ed. 1960). The levy was subsequently reduced to one-tenth. *Id*.

[10] 5 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE 54 (Jay Kinsbruner & Erick D. Langer eds., 2d ed. 2008). By 1800, the sale of papel sellado produced an estimated 85,000 pesos of annual net income in Mexico. *Id*.

[11] 3 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE 107 (Jay Kinsbruner & Erick D. Langer eds., 2d ed. 2008). An *encomienda* is defined as the right to control the labor of and collect tribute from an indigenous community, granted by the Spanish crown to subjects (especially the first conquerors and their descendants) as a reward for their service. Unlike the Spanish peninsular version of the *encomienda*, the recipient (*encomendero*) did not have the legal right to own land, nor legal authority over the natives. In return, the *encomendero* promised to settle down in the nearest Spanish town and protect the indigenous population, arranging for its conversion to Roman Catholicism. *Id*.

[12] ENCYCLOPEDIA OF MEXICO: HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1463.

its care to increase the land´s output.[13] The *encomienda* system was fiercely criticized by the Dominican friar Bartolomé de las Casas, essentially equating the conditions under which the local indigenous population was obligated to render personal labor services to slavery.[14]

In New Spain or *Nueva España* (which included modern-day Mexico),[15] the head tax replaced a previous indigenous levy while acknowledging the Spanish king´s overlordship.[16] In recognition of the dramatic decline in the local native population during the mid-sixteenth century - due mainly to epidemic diseases and fatalities from the conquest - the Spanish colonial administration adjusted tribute assessments by deemphasizing money payments in favor of maize and wheat.[17] In addition, a whole other series of levies were assessed on the indigenous population: examples include an annual tribute to fund the construction of the cathedral in Mexico City, while in the Yucatán peninsula a tax was assessed to support community expenses.[18]

Notwithstanding, three of the more prominent non-income levies enforced in New Spain (as well as in the rest of the Spanish American empire) during the Habsburg era starting 1521 until 1700[19] - which remained in force during the Bourbon dynasty,[20]

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[13] SANDRA MOLINA & ALEJANDRO ROSAS, 1 ÉRASE UNA VEZ MÉXICO 122-23 (2013).

[14] THE OXFORD HISTORY OF MEXICO 153 (Michael C. Meyer & William H. Beezley eds., 2000).

[15] *Viceroyalty of New Spain*, BRITANNICA, https://www.britannica.com/place/Viceroyalty-of-New-Spain (Feb. 2, 2024). First established in 1535, New Spain extended itself to include not only present-day Mexico, but also significant parts of central and southwestern United States, most of Central America and the Caribbean, as well as the Philippines. *Id*.

[16] LUIS WECKMANN, THE MEDIEVAL HERITAGE OF MEXICO 358-59 (Frances M. López-Morillas trans., 1992). The head tax lasted throughout the colonial period and was called the "Indian tribute." *Id*.

[17] ENCYCLOPEDIA OF MEXICO: HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1463-64.

[18] *Id*. at 1464.

[19] *Id*. at 1421. The term "Habsburg" refers to the Austrian royal house from which Carlos I of Spain (1516-56), who shortly thereafter, became Charles V of the Holy Roman Empire, descended. *Id*.

[20] *Id*. at 153. The term "Bourbon" refers to the French royal house from which Felipe V (1700-24, 1724-46), grandson of Louis XIV of France, descended. *Id*.

right up until independence from Spain in 1821 - were the *almojarifazgo*, the *alcabala*, and to a lesser extent, the *diezmo*.

The first levy, *almojarifazgo*,[21] was a customs duty of Arab origin assessed on Spain´s overseas trade with its American colonies starting 1543; it was initially imposed at a rate of 2.5% on exports and 5% on imports, varying afterwards.[22] Collection of *almojarifazgos* took place at major port cities,[23] such as Acapulco in the Atlantic coast or Veracruz in the Pacific coast. Many exemptions were granted for certain products or regions, and its collection often lent itself to fraudulent practices.[24]

The second levy, *alcabala*, was originally formulated as a sales tax during the Roman Empire, kept in place by Arab traders during the Middle Ages, and finally brought over by Spain to its American colonies in the sixteenth century.[25] The levy was first adopted in Mexican territory in 1574, initially at a rate of 2% of the sale price.[26] The rate increased to 4% in 1635, and three years later to 6% to fund Spain´s main fleet, remaining fixed at that rate for the rest of the colonial period, with certain exceptions made to meet fiscal emergencies.[27] Tax collections commenced on January 1, 1575, and applied to all individuals, except for the local indigenous population and members of the clergy.[28] Amounts collected from *alcabalas*

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[21] WECKMANN, *supra* note 16, at 342. The term *almojarifazgo* is derived from the Arab word *almojarife*, as treasurers were called in medieval Spain up until the time of Alfonso XI, during the first half of the fourteenth century. *Id*.

[22] 1 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 8, at 117; *see also* WECKMANN, *supra* note 16, at 342. Rates varied over the years between 2.5% and 15%, depending on the quality and origin of the merchandise. *Id*.

[23] Ernest Sánchez Santiró, *¿Y si los Ciudadanos Cobraran los Impuestos a los Ciudadanos? El Sistema Tributario en Nueva España*, RELATOS E HISTORIAS EN MÉXICO, No. 147, at 51 (Jan. 2021).

[24] 1 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 8, at 117.

[25] JAIME SUCHLICKI, HISTORICAL DICTIONARY OF CUBA 21 (2d ed. 2001).

[26] 1 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 8, at 84; *see also* WECKMANN, *supra* note 16, at 343.

[27] ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 8, at 84. Certain items were exempt from the *alcabala*, such as arms, medicine, paintings, books, corn, and grain. *Id*.

[28] 1 ENCICLOPEDIA DE MÉXICO 273 (José Rogelio Álvarez dir., 4th ed. 1998).

typically represented slightly over one-third of all fiscal revenues reported by the viceroyalty of New Spain.[29]

The cascading effect of the *alcabala* proved to be especially burdensome to local businesses as it was charged at each production and distribution stage, thus constituting a primitive version of a value added tax but with one notable distinction: no credits were available.[30] By 1800, revenues generated annually in Mexico by this particular levy reached 2.5 million pesos.[31] Tax was collected on at customs upon importation as well as on domestic goods,[32] hampering New Spain´s domestic market. Prior to the eighteenth century, though, collections for municipalities and merchant guilds (*consulados*)[33] tended to be subcontracted (or farmed out) to semiprivate or private hands.[34] For instance in the early seventeenth century, the collection of *alcabalas* on pulque (agave wine) for the municipalities of Mexico City and Puebla was rented out, in exchange for substantial monetary amounts.[35]

The third and final levy, *diezmo*, represented a tithe equal to one-tenth of the value of goods, often paid in-kind, principally with cattle

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[29] Rafael Lara Dorantes, *La Recaudación Tributaria en México*, REVISTA DEL INSTITUTO DE CIENCIAS JURÍDICAS DE PUEBLA, No. 23, at 115 (2009), https://www.revistaius.com/index.php/ius/article/view/192/186.

[30] SUCHLICKI, *supra* note 25.

[31] ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 8, at 84.

[32] ENCYCLOPEDIA OF MEXICO: HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1449.

[33] 2 ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE 585 (Jay Kinsbruner & Erick D. Langer eds., 2d ed. 2008). The *consulado* originated from medieval institutions designed to protect the interest of merchants after the Roman Empire collapsed; its principal feature was the establishment of a tribunal to litigate commercial disputes, thus avoiding the costs and length of time to litigate at the ordinary courts. In 1543, the Spanish crown authorized a *consulado* to the merchants of Sevilla, granting a monopoly on all trade with the American colonies. *Id*. The first *consulado* in the Americas was established in Mexico City in 1604, followed by one in Lima (Peru) in 1613; these two American tribunals addressed all sorts of commercial matters, including contracts, bankruptcy, shipping, and insurance. Because of their close link with Spanish peninsular interest, most *consulados* were eventually abolished after the American colonies declared their independence from Spain during the nineteenth century. *Id*. at 586.

[34] ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 8, at 84; *see also* THE OXFORD HISTORY OF MEXICO, *supra* note 14, at 143.

[35] WECKMANN, *supra* note 16, at 343.

or agricultural products.[36] In Mexico, the levy evolved to obligate the local population to pay the tithe on three main products: wheat, cattle, and silk.[37] The tithe could be collected directly by the ecclesiastical authorities or a private contractor, and was utilized to support the local church hierarchy.[38]

To summarize, throughout the Habsburg´s reign the population of New Spain was confronted by a myriad of levies promulgated for the benefit of the ecclesiastical realm (*diezmo*), and for the royal treasury (*quinto real*, *alcabala*, *almojarifazgo*, and *capitación*). Collections were usually channeled through a series of intermediaries: treasurers and accountants contracted by the Crown extracted funds from individuals conducting business with or working at the mining company (in the case of *quinto real* and *diezmo*);[39] along with owners of haciendas, indigenous chief, or local mining company (with regards to *capitación*).[40]

Nonetheless from a historical perspective, the major source of revenues collected from Mexican territory for the benefit of Spain originated not necessarily from the levies noted above but from its monopoly over the production and distribution of tobacco.[41] Despite a concerted effort to collect revenues generated from import-export taxes and royal fifths on silver production, the Spanish crown neglected to promote a manufacturing infrastructure in the mainland to meet the ever-growing demand for finished goods in New Spain.[42] Consequently, the Habsburg fiscal policy of pursuing short-term revenues hampered the long-term economic development of New Spain and other American colonies.[43] This would ultimately prove costly to Spain when it lost the vast majority of its American empire at the beginning of the nineteenth century.

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[36] ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 33, at 820.
[37] *Id*.
[38] *Id*.
[39] Sánchez Santiró, *supra* note 23, at 50.
[40] *Id*. at 51.
[41] *Id*.
[42] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1422.
[43] *Id*.

B. Bourbon Dynasty (1700 – 1821)

One of the unfortunate (yet predictable) consequences of transferring the collection of taxes to private contractors during the Habsburgs reign was a spike in cases of tax fraud and corruption.[44] Once the Bourbon dynasty established its control in the Spanish peninsula at the beginning of the eighteenth century,[45] however, this inefficiency in raising fiscal revenues in the American colonies was tackled head on by having the government directly assess and collect, streamlining the whole process.[46] In 1754 the collection of *alcabalas* in Mexico City was entrusted to royal officials; two decades later it was adopted elsewhere throughout New Spain.[47] These modifications to the tax collection mechanism formed part of an overall scheme to remove power from local and regional governments enjoyed under Habsburg rule, in favor of a system of direct rule or *intendencias*, where government bureaucrats were held directly accountable to Spain.[48]

Shortly after his designation in 1765 as the colony´s new royal inspector general (*visitador*), José de Gálvez established the Royal Tobacco Monopoly (*Real Estanco de Tobaco*), which dramatically increased public funds,[49] becoming the largest revenue source for the treasury in New Spain.[50] By the end of the colonial period, revenues originating from the sale of tobacco-related products

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[44] *Id*. at 155.

[45] *Colonial Period, 1701-1821*, BRITANNICA, https://www.britannica.com/place/Mexico/Expansion-of-Spanish-rule (last visited April 16, 2024). At the conclusion of the War of the Spanish Succession (1701-1713), the Habsburg dynasty finally relinquished the Spanish Crown, along with its prized American possessions (including New Spain), to the Bourbon dynasty. *Id*.

[46] *See* ALICIA HERNÁNDEZ CHÁVEZ, MEXICO A BRIEF HISTORY 94 (Andy Klatt, trans. 2006).

[47] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 155; *see also* THE OXFORD HISTORY OF MEXICO, *supra* note 14, at 280.

[48] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1102.

[49] *Id*. at 552. At its peak, the state tobacco monopoly employed more than 17,000 people, generating profits for the Spanish crown of almost 4 million pesos. *Id*. at 155.

[50] THE OXFORD HISTORY OF MEXICO, *supra* note 14, at 280.

represented almost 30% of all collections.[51] Tobacco planting was restricted to the eastern state of Veracruz, with all planters obligated to sell their crops to the monopoly which, in turn, produced cigars and cigarettes, eventually to be sold at licensed stores throughout the colony.[52] The economic success of the tobacco monopoly encouraged Gálvez to extend royal monopolies to other goods, such as salt, mercury, gunpowder, and even playing cards.[53]

Mining constituted yet another vital source of fiscal revenues for the Spanish crown all throughout the eighteenth century, as Mexico emerged to become the world´s largest producer of silver.[54] Royal revenues rose from 3 million pesos in 1712 to 20 million pesos during the 1790s.[55] Transatlantic trade expanded considerably, during the latter half of the eighteenth century, as new ports in Spain could trade legally with its American colonies.[56] The *alcabala* continued to play a prominent role in raising revenues for the royal coffers under Bourbon rule: for instance, over one-third of all annual revenues collected during the period 1785 to 1789 originated from *alcabalas*, outstripping by far amounts collected from other levies.[57]

Simply put, one can state that the tribute system in colonial Mexico reflected the Spanish crown´s increasing attempts to exhort full control over the extraction of wealth from the local population.[58] The proliferation of levies during the Bourbon era became ever so pervasive, that by 1790 residents of Mexico paid up to 84 different

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[51] Lara Dorantes, *supra* note 29, at 116. The royal tobacco factory established in Mexico City, in fact, employed over ten thousand workers around the year 1800. *Id*.

[52] ENCYCLOPEDIA OF MEXICO: HISTORY, SOCIETY & CULTURE, *supra* note 7, at 155.

[53] *Id*. at 155, 552.

[54] BRIAN HAMNETT, A CONCISE HISTORY OF MEXICO 115-16 (1st ed. 1999). Mexican silver production increased from 12 million pesos in 1762 to 27 million pesos in 1804. *Id*.

[55] *Id*. at 115.

[56] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 155. Between 1778 and 1796 registered exports from Spain to its American colonies quadrupled. *Id*.

[57] 1 ENCICLOPEDIA DE MÉXICO, *supra* note 28, at 274. New Spain reported average annual revenues of 10 million pesos during this period, with over 3.5 million pesos representing collections of the *alcabala*. *Id*.

[58] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1464.

types of taxes, inciting the local population to demand more autonomy with regards to fiscal matters,[59] foreshadowing the clamor for greater autonomy and then independence from Spain just a few decades later.

II. REPUBLICAN ERA

After independence from Spain, the Mexican tax system manifested significant structural deficiencies due to its continued reliance on indirect taxes, mainly in the form of import and export duties at the federal level, and sales taxes (*alcabalas*) at the state level.[60] As was prevalent during the colonial period, indirect taxes were historically favored by Mexican officials in charge of formulating fiscal policy as they facilitated collection, despite often burdening the working class sector and potentially inciting social unrest. Moreover, given the continued effectiveness of the *alcabala* to secure funds, even at the expense of impeding the free flow of commerce, each state that made up the federal republic of Mexico enacted levies affecting the transfer of goods, initiating a long-lasting "customs war."[61]

Moreover, the multiplicity of levies existing in Mexico (and elsewhere in Latin America) may perhaps be attributable, to a certain extent, to inheriting Spain´s rather lethargic colonial bureaucracy. Predictably, a comprehensive and coordinated fiscal regime failed to emerge in a now independent nation facing turbulent events the next two centuries, including civil wars, foreign invasions, and economic calamities. Instead, fiscal measures were promulgated to suit specific needs as they arose and/or to combat budget deficits, irrespective of the long-term consequences.

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[59] *Id*. at 155 & 552.

[60] Carlos Marichal Salinas, *Tres Grandes Reformas Fiscales y Tres Derrotas*, RELATOS E HISTORIAS EN MÉXICO, No. 147, at 40 (Jan. 2021); *see also* PARKES, *supra* note 9, at 189.

[61] 1 ENCICLOPEDIA DE MÉXICO, *supra* note 28, at 275. *See also* Lara Dorantes, *supra* note 29, at 115.

A. Independence up to Porfiriato (1821-1910)

Shortly after attaining full independence in 1821 and a brief stint with a monarchy headed by Emperor Agustín I,[62] businesses and individuals had to confront during those initial decades of the young republic a whole series of levies in their everyday lives.[63] The republic´s first constitution, promulgated in 1824,[64] installed a federal system of government enabling levies to be enacted not only by the central bureaucracy, but also by states and municipalities.[65] Article 50 of the 1824 Constitution granted authority to the federal Congress to establish all those contributions necessary to cover general expenses, and administer their collection.[66] The states that made up the federation were also fully empowered to enact contributions,[67] other than those impacting importations and exportations.[68] Interposing a U.S.-inspired federal scheme upon an already existing and highly centralized Spanish colonial system, where numerous direct and indirect were prevalent, invariably posed a challenge to the newly independent republic.[69]

Most levies during this period were indirect in nature, with the federal government relying heavily on import duties while states depended principally on collections from *alcabalas*.[70] By way of illustration, road transportation was subject to high shipping costs, due to road tolls, municipal fees, transit licenses, and *alcabalas*; nearly 1,000 collection posts (*garitas*), in fact, were set up throughout

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[62] History of Mexico - The Mexican Empire, 1821-23, BRITANNICA, https://www.britannica.com/place/Mexico/
Independence (last visited April 19, 2024).
[63] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1449.
[64] CONSTITUCIÓN FEDERAL DE LOS ESTADOS-UNIDOS MEXICANOS [CONSTITUTION] Oct. 4, 1824.
[65] Lara Dorantes, *supra* note 29, at 116.
[66] CONSTITUCIÓN FEDERAL DE LOS ESTADOS-UNIDOS MEXICANOS, *supra* note 64, art. 50(VIII).
[67] *Id*. art. 161(VII).
[68] *Id*. art. 162(II). None of the states could promulgate import and export duties without the consent of the federal Congress. *Id*.
[69] Lara Dorantes, *supra* note 29, at 116-17.
[70] *Id*. at 117.

Mexican territory in the late 1830s.[71] To encourage foreign trade, the federal government opened seaports to commerce with all nations, but imposed a 25% duty on all imports, along with the *alcabala*.[72] Such a heavy fiscal burden, not surprisingly, invited smuggling by loading off goods along the vast coastline of Mexico.[73] Moreover, costs incurred to maintain a bloated army force and mounting debt inherited from insurgent governments led to a significant revenue shortfall.[74]

Rather than face the ire of wealthy landowners or members of the church hierarchy, the government of President Guadalupe Victoria (1824-1829)[75] instead focused on borrowing from foreign banks.[76] The high level of foreign indebtedness set a dangerous precedent that would have serious consequences for the country several decades later when President Benito Juárez suspended payments to three European nations leading to the eventual imposition by France of a monarchy in Mexican territory,[77] and during the latter half of the twentieth century when the government of José Lopez Portillo was forced to default on its foreign debt once oil prices collapsed.[78]

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[71] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7 (noting that domestic goods could be subject to duties ranging from 5% to 10%, while imported items were assessed duties from 3% to 40%).
[72] PARKES, *supra* note 9, at 189.
[73] *Id*.
[74] *Id*.
[75] *Guadalupe Victoria*, BRITANNICA, https://www.britannica.com/biography/Guadalupe-Victoria (last visited April 22, 2024). Guadalupe Victoria was a military general who fought for the independence of Mexico from Spanish rule, subsequently becoming the first elected president of the Mexican Republic. *Id*.
[76] *See* PARKES, *supra* note 9, at 189-90.
[77] *Benito Juárez*, BRITANNICA, https://www.britannica.com/biography/Benito-Juarez (last visited April 22, 2024). Faced with near bankruptcy conditions after a devastating civil war between liberals and conservatives, President Juárez decided in 1861 to suspend payments on debts owed to Spain, Great Britain, and France. The first two nations reached an agreement with the Mexican government; however, France had other plans, invading Mexico and eventually imposing a monarchy three years later, under the figurehead of Maximilian of the Habsburg dynasty. *Id*.
[78] *José López Portillo*, BRITANNICA, https://www.britannica.com/biography/Jose-Lopez-Portillo (last updated Feb. 13, 2024). Although Mexico, during the Presidency of López Portillo in the late 1970s, enjoyed vast petroleum reserves with a significant rise in export revenues, the government managed to squander the

Mexico´s political instability, nevertheless, made borrowing from abroad a very expensive endeavor and thus, import duties continued to serve as the central government´s mainstay to meet budgets while protecting local market interests.[79] The Mexican Congress, for example, enacted a 15% import duty to help defray the costs of paying government salaries after engaging in a prolonged war with Texas (previously part of Mexico), which had declared independence and was ultimately annexed by the United States in 1845.[80] Moreover, the constant lack of funds reported by successive republican administrations was in due, in part, to a tax collection process mainly outsourced to corrupt administrators,[81] very reminiscent of colonial times.

The imposition of regressive-type levies, spearheaded by the dreaded capitation (or head) tax, placed a heavy burden over the local indigenous population during the first half of the nineteenth century, as it disregarded the individual´s financial capacity to pay.[82] Throughout its enforcement in the republican era, the head tax was consistently viewed as an unjust tribute as it was imposed on all males between the ages of sixteen and sixty.[83] The precursor to Mexico´s independence, Miguel Hidalgo,[84] had attempted to abolish this

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resulting wealth due to persistent corruption and unrestrained borrowing; when oil prices plummeted in 1981, followed by rising interest rates and a world recession, the country reached a point where it could no longer repay its foreign debt. *Id*.

[79] 2 ENCYCLOPEDIA OF MEXICO: HISTORY, SOCIETY & CULTURE 1433 (Michael S. Werner ed., 2d ed. 1997). *See also The Early Republic*, BRITANNICA, https://www.britannica.com/place/Mexico/Independence (last visited April 21, 2024).

[80] THE OXFORD HISTORY OF MEXICO, *supra* note 14, at 355, 358.

[81] Luis Jáuregui, *La Caída del Dictador. Una Caricatura de Santa Anna en 1845*, RELATOS E HISTORIAS EN MÉXICO, No. 147, at 20 (Jan. 2021).

[82] Javier Torres Medina, "*Dios, Tierra y Reducción de Impuestos". Rebeliones de Pueblos Indígenas Contra el Pago de Tributos en la Década de 1840,* RELATOS E HISTORIAS EN MÉXICO, No. 147, at 54-55 (Jan. 2021).

[83] Jáuregui, *supra* note 81, at 21.

[84] *Miguel Hidalgo y Costilla*, BRITANNICA, https://www.britannica.com/biography/Miguel-Hidalgo-y-Costilla (last updated Mar. 13, 2024). Hidalgo called for an end to colonial rule in New Spain on September 16, 1810, an event known as the *Grito de Dolores*, even though independence was not fully achieved until 1821. *Id*.

"Indian tribute" in Guadalajara by decree on December 6, 1810, but was ultimately unsuccessful.[85]

The continued imposition of the head tax, along with other contributions, prompted various uprisings across Mexican territory throughout the 1840s.[86] The most notorious rebellion erupted in Yucatán in 1847.[87] Known as the Caste War (*Guerra de Castas*), the majority indigenous Maya population in the peninsula, most of them poor agricultural peasants who worked in sugar fields belonging to large estates (*haciendas*) owned by the minority white elite, demanded equality and lower taxes.[88]

The continued weakness exhibited by Mexico's tax collection logistics often led to public servants not being remunerated, inciting some to engage in corrupt practices.[89] The lack of resources to adequately fund the armies may even have contributed to the country ceding all claims to Texas and losing almost half of its territory to the United States, as stipulated under the 1848 Treaty of Guadalupe Hidalgo.[90] The country during the middle of the nineteenth century was presided over by the charismatic yet unpredictable Antonio López de Santa Anna.[91] After returning from yet another exile (this time from Jamaica) and confronted by the near-bankrupt conditions the nation was facing since independence, Santa Anna enacted in January 1854 a tax on windows and doors,[92] following the examples

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[85] Sánchez Santiró, *supra* note 23, at 53. *See also* PEDRO SALMERÓN SANGINÉS, BENITO JÚAREZ. LA REBELIÓN INTERMINABLE 24 (2d ed. 2019). Commemorating the leader of the Mexican independence movement, Miguel Hidalgo, the future President Benito Juárez pronounced a speech in 1840 attacking the heavy burden that these contributions continued to inflict over the local indigenous population. *Id*.

[86] Torres Medina, *supra* note 82, at 55-56. An uprising took place, for instance, in the municipality of Chilapa in southern Mexico (currently part of the State of Guerrero), located between Mexico City and the port city of Acapulco. *Id*.

[87] ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 33, at 189; *see also* Hamnett, *supra* note 54, at 147.

[88] ENCYCLOPEDIA OF LATIN AMERICAN HISTORY & CULTURE, *supra* note 33, at 189.

[89] Lara Dorantes, *supra* note 29, at 117.

[90] *The Age of Santa Anna: Texas and the Mexican-American War*, BRITANNICA, https://www.britannica.com/place/Mexico/Independence.

[91] *Id*. Santa Anna became President of Mexico a record eleven times, over the span of twenty years.

[92] *Cuáles Eran los Absurdos Impuestos que se Cobraban en Tiempos de Santa Anna*, INFOBAE (Oct. 6, 2021, 5:26 AM EST),

set previously by some European nations.[93] Enforcement of this levy proved to be an ordeal, as many exceptions were granted, with registration of taxpayers a time-consuming process, leading to its abolition just five months later.[94]

Still another levy, this one enacted in October 1853 on dogs located within the confines of the City of Mexico, also proved futile as very few owners volunteered to register; besides, a fixed monthly amount of one peso was due, irrespective of the type or size of the animal and thus, could not be deemed equitable.[95] With Santa Anna´s final departure from the presidency, this assessment also became extinct.

Promulgation of the 1857 Constitution, as part of the liberal movement to reform the nation´s laws during the Presidency of Ignacio Comonfort (1855-1857),[96] addressed somewhat the inordinate number of levies, tributes and assessments embedded within Mexico´s tax legislation. In particular, Article 31 of the 1857 Constitution stipulated that all Mexican individuals should contribute to the public funds - whether at the federal, state, or municipal level - in a proportional and equitable manner (*de la manera proporcional y equitativa*).[97] It also called for abolition of the much despised *alcabala*, along with domestic tariffs, all across the national territory, starting June 1, 1858.[98] Despite this constitutional initiative, the *alcabala*

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https://www.infobae.com/america/mexico/2021/10/06/cuales-eran-los-absurdos-impuestos-que-se-cobraban-en-tiempos-de-santa-anna/. Taxes varied depending on the city and location of the property. *Id*.

[93] Héctor Strobel Del Moral, *Los Impuestos a Puertas, Ventanas, Perros, Caballos y Carros de Santa Anna, 1853-1855*, 106 SECUENCIA. REVISTA DE HISTORIA Y CIENCIAS SOCIALES 7 (2020).

[94] *Id*. at 11-15.

[95] *Id*. at 22-23.

[96] *La Reforma*, BRITANNICA, https://www.britannica.com/place/Mexico/La-Reforma (last visited April 22, 2024). Promulgation of the 1857 Constitution spurred the ire of church authorities and military leaders eventually leading to the imposition, by exiled conservatives along with assistance from the French Emperor Napoleon III, of a monarchy in 1864 by proclaiming Maximilian, a member of the Habsburg dynasty, Emperor of Mexico. The second attempt at a monarchy in Mexico would not last long, as Maximilian was executed at the behest of Benito Juárez who restored the republic in 1867. *Id*.

[97] CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA MEXICANA DE 1857 [Constitution], art. 31(II) (Mex.).

[98] *Id*. at art. 124.

proved to be quite resilient (as it was a consistent and prolific money-maker), lasting for yet another four decades.[99]

Meanwhile, the disproportionate burden imposed by the *alcabala* over poorer (mainly Indian) sectors of the population continued to be a major concern, especially for President Benito Juárez (1858-1872), himself a native Indian from the southern state of Oaxaca, who advocated for its elimination.[100] However, the government´s perennial demand for funds kept the levy operational for the time being.[101] Reactivation of the economy continued to be rather lethargic for the remainder of the nineteenth century as mere transfers of goods, even within Mexican territory, triggered the levy.[102] For instance, if an entrepreneur wanted to transport goods from Guadalajara to Mexico City, the *alcabala* had to be paid in each state where the merchandise traversed.[103]

Apart from import and domestic tariffs, the government presided over by Benito Juárez, at the behest of his Finance Minister Matías Romero, raised additional funds by adopting legislation in 1871 establishing a new version of the stamp tax (*impuesto del timbre*),[104] replacing the long-standing *papel sellado* prevalent in colonial times.[105] The scope of this new levy was eventually amplified to encompass all sorts of documents, manufacturing and bottling of alcoholic beverages, lotteries, transportation, professional activities, and exportation of precious minerals.[106] By the early 1900s, amounts

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[99] *See infra* note 112.

[100] *See* MEXICO SINCE INDEPENDENCE 57 (Leslie Bethell ed., 1991). The liberal party originally advocated eliminating the *alcabala*, not so much because of its disproportionate impact on the poor but because it interfered with free trade. *See also* SALMERÓN SANGINÉS, *supra* note 85, at 42.

[101] *See* MEXICO SINCE INDEPENDENCE, *supra* note 100, at 82.

[102] SANDRA MOLINA & ALEJANDRO ROSAS, 2 ÉRASE UNA VEZ MÉXICO 244 (2014).

[103] *Id*.

[104] Marichal Salinas, *supra* note 60, at 42.

[105] *See Antecedentes Históricos de la SHCP,* SECRETARÏA DE HACIENDA Y CRËDITO PÚBLICO [SHCP], https://www.gob.mx/cms/uploads/attachment/file/28395/antecedentes_historicos_shcp.pdf (last visited April 22, 2024).

[106] Marichal Salinas, *supra* note 60, at 42. Starting 1895, a stamp tax equivalent to three cents was collected for every five pesos of precious metals exported from Mexico.

collected from stamp taxes exceeded even those derived from export duties.[107]

Throughout the over 30-year quasi-dictatorial rule of Porfirio Díaz, commonly known in Mexico as the *Porfiriato* (1876-1880, 1884-1911),[108] federal tax revenues originated primarily from two sources: customs duties on goods entering the country and stamp taxes.[109] Other sources came from levies assessed on precious metals, and limited taxes on foreign companies doing business within Mexican territory.[110] Notwithstanding, the federal government attempted to raise further funds not necessarily by increasing taxation, but instead by luring foreign investments.[111] To further entice foreign investors into the Mexican market, the then highly-regarded Minister of Finance (*Ministro de Hacienda*), José Yves Limantour, instigated the complete and final eradication of the *alcabala* in 1896 by means of a decree issued by President Díaz.[112] This measure alleviated, to a certain extent, the inherent complexity of the Mexican tax regime.

B. Nationalization of Oil Industry (1910-1938)

To promote foreign investments in the oil sector, the Mexican government headed by Porfilio Díaz offered a series of tax breaks in the first decades of the twentieth century.[113] For these purposes, President Díaz (along with his Finance Minister Limantour) was careful to entice funding commitments from Europe, particularly Great Britian, to counterbalance the overwhelming domination of

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[107] *Id*.

[108] *The Age of Porfirio Díaz*, BRITANNICA, https://www.britannica.com/place/Mexico/The-age-of-Porfirio-Diaz (last visited April 22, 2024).

[109] Lara Dorantes, *supra* note 29, at 118.

[110] MEXICO SINCE INDEPENDENCE, *supra* note 100, at 82. Other means of financing entailed obtaining loans from foreign banks at favorable interest rates, taking advantage of the fact that Mexico´s credit rating improved significantly. *Id*. *See also* HERNÁNDEZ CHÁVEZ, *supra* note 46, at 126.

[111] MEXICO SINCE INDEPENDENCE, *supra* note 100, at 82.

[112] Decreto no. 1 de mayo de 1896, Reformas y Adiciones a la Constitución Política de la República Mexicana del 5 de Febrero de 1857. *See* 1 ENCICLOPEDIA DE MÉXICO, *supra* note 28, at 277; *see also* ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 747; *see also* WECKMANN, *supra* note 16, at 343; *see also* MOLINA & ROSAS, *supra* note 102, at 245.

[113] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1077.

investments originating from the United States in other sectors of the Mexican economy.[114]As was the case with tobacco farming and silver mining during the Spanish colonial era, the federal government expected - and continues to expect - the oil industry to secure a certain level of non-tax revenues (*ingresos no tributarios*), even in times of economic upheaval; accordingly, taxes were raised on petroleum in 1910.[115]

When fiscal revenues dropped sharply due to decreased economic activity, the *Porfiriato* administration increased taxes on the middle class, while continuing to grant exemptions to foreign businesses and members of the new Mexican ruling class.[116] Fiscal revenues reported during the first decade of the twentieth century at the federal, state, and municipal levels, nevertheless, accounted for only 8% of the nation´s gross national product.[117] This was a recipe for disaster, as social tensions between the rich and poorer sections of the population predictably exploded, leading to the downfall and exile of President Díaz in 1911, just prior to the start of the decade-long Mexican revolution.[118]

Successive governments led by Francisco Madero (1911-1913) and Victoriano Huerta (1913-1914), similarly, raised taxes on petroleum to meet budgetary deficits caused by the continued turbulence the country was experiencing all throughout the 1910s.[119] Faced with declining tax revenues and a severe devaluation of the peso,

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[114] ENRIQUE KRAUZE, SIGLO DE CAUDILLOS: BIOGRAFÍA POLÍTICA DE MÉXICO (1810-1910) 25 (2009). In addition to oil refineries, U.S. companies invested in mines, railways, and financial institutions. *Id*. *See A Qué Personaje se le Atribuye la Frase "Pobre México, Tan Lejos de Dios y Tan Cerca de los Estados Unidos" que AMLO Modificó*, INFOBAE (Oct. 8, 2021, 1:19 PM EST), https://www.infobae.com/america/mexico/2021/10/08/a-que-personaje-se-le-atribuye-la-frase-pobre-mexico-tan-lejos-de-dios-y-tan-cerca-de-estados-unidos-que-amlo-modifico/. The well-known phrase "Poor Mexico, so far from God and so close to the United States" is commonly attributed to President Díaz. *Id*. *See also* ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 79, at 503-04.

[115] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1077.

[116] MEXICO SINCE INDEPENDENCE, *supra* note 100, at 110-11.

[117] *Id*. at 111.

[118] *See generally* HERNÁNDEZ CHÁVEZ, *supra* note 46, at 187.

[119] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1077.

Presidents Madero and Huerta were also compelled to increase taxes on tobacco and alcohol.[120] All this at a critical period in history known as the Mexican Revolution when governments were frequently toppled by populist military leaders such as Francisco Villa or Emiliano Zapata, or by governors such as Venustiano Carranza in the northern state of Coahuila.[121] The next few decades witnessed a proliferation of levies assessed over numerous industrial products and services, including the exportation of petroleum and its derivatives, consumption of gasoline and electricity, usage of telephone lines and trains, and advertisements.[122] President Madero, for instance, decreed in June 1912 a tax on oil production, which was promptly condemned as confiscatory in nature by several U.S. companies.[123]

Even with promulgation of the nation's Constitution in 1917 (still in force),[124] which authorizes Congress to impose contributions necessary to meet budgetary goals,[125] the oil industry continued to be viewed as a reliable source of non-fiscal revenue for federal and state coiffeurs.[126] Article 27 of the 1917 Constitution granted regulatory oversight and authority to assess taxes over the oil sector.[127] This entailed classifying the oil fields as royalty property of the Mexican state, with oil companies becoming concessionaries, just as colonial miners had paid royalties to the Spanish crown for the

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[120] Estela Zavala, *Los Impuestos y Los Problemas Financieros de Los Primeros Años de la Revolución*, 31 HISTORIA MEXICANA, 328-30, 335-36 (1982), https://historiamexicana.colmex.mx/index.php/RHM/article/view/2589.

[121] *The Mexican Revolution and its Aftermath*, 1910-40, BRITANNICA, https://www.britannica.com/place/Mexico
/The-Mexican-Revolution-and-its-aftermath-1910-40 (last visited April 22, 2024).

[122] *La Historia de los Impuestos en México*, CERE CONSULTORES (May 17, 2019), https://cereconsultores.com.mx/
blog/37-historia-impuestos-mexico (last visited April 22, 2024).

[123] MEXICO SINCE INDEPENDENCE, *supra* note 100, at 137.

[124] CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS [CPEUM] May 2, 1917 (Mex.) [hereinafter Constitución Política de los Estados Unidos Mexicanos de 1917].

[125] *Id*. at art. 73(VII).

[126] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1077.

[127] *Id*. Article 27 of the 1917 Constitution overturned the property laws of 1884 and 1891, which had encouraged foreign investments in mining and oil by granting subsoil property rights. *Id*.

privilege of exploiting the king's mines.[128] Pursuant to the 1917 Constitution, President Venustiano Carranza (1917-1920) imposed tax on oil production, and required companies to register all their wells.[129]

Taxation of oil production continued to be the norm under the succeeding administration of President Álvaro Obregón (1920-1924), as a reliable vehicle to pay for the nation´s restructured debts with foreign banks.[130] Given all the other existing indirect levies imposed at the federal, state, and municipal levels, no wonder the then-Finance Minister, Alberto Pani, described the Mexican tax regime as being "complicated, incoherent, regressive, and anarchic."[131]

Throughout the 1920s, unions representing employees working for foreign-owned oil companies were claiming better working conditions, increases in salaries, and benefits, as stipulated under Article 123 of the 1917 Constitution,[132] under the threat of disrupting strikes.[133] Continued reluctance on the part of foreign-owned oil companies to offer these benefits to their Mexican-based employees triggered their eventual expropriation on March 18, 1938, by the government led by President Lázaro Cárdenas (1934-1940).[134] Ever since, the federal government's overt reliance on oil-related revenues continues to impact the nation's fiscal policy, at the expense of formulating a more carefully tailored long-term strategy to develop other sectors of the economy.[135]

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[128] *Id*.
[129] *Id*.
[130] *Id*. at 1078.
[131] Lara Dorantes, *supra* note 29, at 119.
[132] *See* MEXICO SINCE INDEPENDENCE, *supra* note 100, at 176. Article 123 of the 1917 Constitution limits a day's work to eight hours, guarantees the right to form unions and to strike, and establishes compulsory arbitration. *Id*.
[133] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1080. A strike against the British-owned company, El Águila, broke out in 1923 among its 1,200 employees who seized control of the oil refinery. The company finally relented agreeing to recognize the union, grant an eight-hour workday, increase salaries, and pay severance. *Id*.
[134] *Id*. at 1081. *See also* History & Society - Petróleos Mexicanos, BRITANNICA, https://www.britannica.com/topic/Petroleos-Mexicanos (last visited Feb. 29, 2024).
[135] *See The Tax System in Mexico - OECD*, *supra* note 4, at 5-6.

C. Economic Miracle and Debt Crisis (1938-2000)

The oil industry has long played a pivotal role in boosting Mexican nationalism and expanding the nation´s economy.[136] Nationalization of the oil sector represented both a return to the earlier economic model prevalent during the colonial period, as well as an expansion of the Mexican state´s role in the local market. The creation of the state-owned oil firm, *Petróleos Mexicanos* (PEMEX), enabled the federal government to potentially achieve its economic goals as a vehicle to raise non-fiscal revenues, but at the expense of catering to domestic political pressures.[137]

Between 1938 and 1970, revenues generated by state-controlled PEMEX did not represent a significant portion of the nation´s finances and were typically reinvested to maintain and develop PEMEX´s infrastructure.[138] However, the subsequent oil boom enjoyed by the nation in the 1970s, most notably during the administration of José López Portillo (1976-1982), provided much needed funds to the central government to support public programs; this at a time when revenues generated from direct (income) taxes and indirect (consumption) taxes, as a percentage of GDP, continued to be relatively low, when compared to other nations.[139]

By the mid-twentieth century, though, successive republican administrations enacted tax legislation covering a myriad of other goods and services, including assessments on tires (*Ley del Impuesto sobre Llantas y Cámaras de Hule*), production of cement (*Ley del Impuesto a la Producción del Cemento*), resale of oil and lubricants (*Ley del Impuesto sobre la Reventa de Aceites y Grasas Lubricantes*), automobiles and assembled trucks (*Ley del Impuesto sobre Automóviles y Camiones Ensamblados*), and exploitation of radio and television stations (*Ley del Impuesto a las Empresas que Explotan Estaciones de Radio o Televisión*), among others.[140] Besides,

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[136] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1082.

[137] *Id*. The high costs incurred by PEMEX were attributed mainly to union control and overstaffing. *Id*. at 1084.

[138] Marichal Salinas, *supra* note 60, at 45.

[139] *See generally* Hamnett, *supra* note 54, at 277.

[140] *See infra* note 187, art. 2 (Transitorio), for a complete list of levies that were subsequently abrogated upon the enactment of the value added tax effective 1980.

laws were promulgated in 1943 imposing a tax on the production of match sticks,[141] and in 1975 on logging.[142]

Given the pervasive multiplicity of levies and inherent complexity of laws in force in Mexico at the time, taxpayers were uncertain as to the precise amount of tax they owed to the government, quite conceivably encouraging some to evade tax altogether. This scenario also undoubtedly contributed to making the process of formulating a reliable annual federal budget for policymakers an insurmountable task.

Governments under the auspices of the ruling Institutional Revolutionary Party or *Partido Revolucionario Institucional* (PRI),[143] headed by Presidents Luis Echeverría (1970-1976) and his successor López Portillo, continuously failed to effectively reform the nation´s overall tax system, becoming ever so more reliant on revenues derived from the exportation of oil.[144] All these factors inevitably led to the "petrolization" (*petrolización*) of the Mexican economy.[145] The increase in spending and loan borrowings led to a foreign debt crisis in 1982, with the national economy near bankruptcy.[146] As a result, most oil revenues were designated to paying-off debts owed to foreign banks, with little left to improve the country´s infrastructure.[147]

Given the nation's delicate economic scenario, the government presided by President Miguel de la Madrid (1982-1988) stayed away from proposing any comprehensive income tax reform and instead, remained focused on obtaining revenues from a captive set of taxpayers, by raising the general rate of value added tax.[148] The federal

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[141] *See* Ley del Impuesto sobre Producción de Cerillos y Fósforos, Diario Oficial [DO] 28-04-1934 (Mex.), formato HTML, https://www.dof.gob.mx/nota_to_imagen_fs.php?cod_diario=192007&pagina=1&seccion=0 (consultada el 2 de marzo de 2024).

[142] *See* Ley del Impuesto sobre la Explotación Forestal, Diario Oficial de la Federación [DOF] 31-12-1975 (Mex.).

[143] *Institutional Revolutionary Party*, ENCYCLOPEDIA BRITANNICA, https://www.britannica.com/topic/Institutional-Revolutionary-Party (last visited Mar. 2, 2024).

[144] Marichal Salinas, *supra* note 60, at 45.

[145] *Id*.

[146] *Id*.

[147] *Id*.

[148] *Id*. *See also IVA Histórico en México*, CONTADURÍA Y CONSULTORÍA INTEGRAL INTELIGENTE SÁNCHEZ & SÁNCHEZ ASOCIADOS, https://contaduriaccii.com.mx

government, predictably, began increasing its share of PEMEX oil funds, further consolidating the "petrolization" of the nation´s finances.[149] Subsequent PRI administrations led by Presidents Carlos Salinas de Gortari (1988-1994) and Ernesto Zedillo (1994-2000), continued to rely heavily on oil revenues to meet its foreign debt obligations.[150] By the mid-1990s, the high costs of operating PEMEX led political leaders to approve increasing the rate of tax assessed on its income to 67%, almost doubling the rate applied to other corporations operating within Mexican territory.[151]

III. PROFILE OF SELECTED TAXES

At this stage of our tax journey, we will examine the three main federal levies currently adopted under Mexican legislation, one of which is direct (income tax), with the other two being indirect (value added tax, and tax on goods and services). We will also briefly review two distinct alternative minimum levies that failed to live up to their expectations in terms of collections and/or administration, and were eventually abolished, such as the tax on assets and a flat-rate business tax imposed on cash flows.

A. Direct and Indirect Taxes

At present, federal tax revenues derive mainly from income tax (a direct levy, associated with one's economic capacity to pay), along with value added tax and an excise tax on goods and services (indirect levies, not linked to one´s financial capability), in that order.[152] These three federal levies, nevertheless, were non-existent

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/iva-historico-2/ (last visited Jan. 27, 2024). The value added tax (VAT) rate increased in Mexico from 10% to 15% in 1983, *id.*, the first full calendar year of President De la Madrid's term in office.

[149] Marichal Salinas, *supra* note 60, at 45, 47.

[150] *Id*. at 47.

[151] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 1084. At that time, the general corporate income tax rate in Mexico was set at 35%. *Id*.

[152] *See Recaudación – Ingresos Tributarios del Gobierno Federal*, SERVICIO DE ADMINISTRACIÓN TRIBUTARIA (SAT), http://omawww.sat.gob.mx/cifras_sat/Paginas/datos/vinculo.html?page=IngresosTributarios.html (last visited Jan. 27, 2024). The Mexican Service Tax Administration (SAT) provides a breakdown of federal tax revenues (*ingresos tributarios*) by month since the year 2010.

during the nearly three-hundred years of colonial New Spain or the first one-hundred years of an independent republican Mexico. With the rise of indirect consumption taxes, import duties have lost the prominence they once boasted during colonial and early republican times.[153]

All levies instituted in Mexico must now comply with the proportional and equitable criteria set forth pursuant to Article 31 of the 1917 Constitution,[154] and as first enumerated in the 1857 version.[155] Congress is authorized to impose contributions to meet federal budgets,[156] including special levies encompassing foreign trade and other specified sectors of the economy.[157] The 1917 Constitution also grants the power to enact levies to the states (as well as the City of Mexico) that form an integral part of the Mexican Republic,[158] by stating that all taxing authority not expressly stipulated to the federal government remains reserved with the states.[159] The payroll tax (*impuesto sobre nóminas*) is a prime example of a state levy.[160] The states also impose a small number of minor taxes on transfers of property, old motor vehicles, hotel accommodations, lotteries, and "some public services."[161] Municipalities are likewise granted the authority to collect taxes pursuant to Article 115 of the 1917 Constitution, with the taxation of immovable property (*impuesto predial*) being the predominant municipal levy.[162]

We now examine the main features of the taxation on income, value added, and sale of goods and services, especially considering

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[153] *See The Tax System in Mexico - OECD*, *supra* note 4, at 8.
[154] Constitución Política de los Estados Unidos Mexicanos de 1917, *supra* note 124, art. 31(IV).
[155] Constitución Política de la República Mexicana de 1857, *supra* note 97.
[156] Constitución Política de los Estados Unidos Mexicanos de 1917, *supra* note 124, art. 73(VII).
[157] *Id*. at art. 73(XXIX).
[158] *See id*. at art. 124.
[159] *Lo Que Todo Contribuyente Debe Saber*, PROCURADURÍA DE LA DEFENSA DEL CONTRIBUYENTE, 1, 46 https://www.gob.mx/cms/uploads/attachment/file/64513/Lo_que_Todo_Contribuyente_debe_de_saber.pdf.
[160] *Id*. at 47.
[161] *The Tax System in Mexico - OECD*, *supra* note 4, at 23.
[162] *See* Constitución Política de los Estados Unidos Mexicanos de 1917, *supra* note 124, art. 115(IV). *See also Lo Que Todo Contribuyente Debe Saber*, *supra* note 159, at 47.

how they have evolved to become critical pillars of the overall federal tax framework currently in place in Mexico.

1. Income Tax

Prior to the twentieth century, the federal government in Mexico had never promulgated a tax on income. That all changed once the decade-long turmoil, sparked by the sudden departure of Porfirio Díaz in 1911, finally sizzled. To celebrate the one-hundred year independence from Spain, President Obregón issued a decree in 1921 officially announcing a new levy popularly known as *impuesto del centenario*.[163] This "centennial tax" was formulated as a one-time extraordinary federal contribution to be paid by all Mexican workers, professionals, artists, business owners, and investors,[164] to finance the acquisition of boats for the merchant navy and improve port facilities.[165] Tax was assessed on a gross basis, with no deductions allowed for expenses,[166] classified into different categories (*cédulas*).[167] Rates of tax ranged from 1% to 4%,[168] and had to be paid at local post offices on September by means of commemorative stamps.[169] Those persons reporting monthly income of less than one hundred pesos, however, were not obligated to pay.[170]

Taking a broader perspective, the "centennial tax" constitutes the first (albeit brief) attempt by the federal government at instituting a direct and progressive tax on income that respected the twin principles of proportionality and equity, first espoused by the 1857 Constitution.

The introduction of a formal income tax legislation finally occurred just a few years later in 1925, during the Presidency of

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[163] Decreto Estableciendo un Impuesto Federal, Extraordinario y Pagadero por una Sola Vez, Sobre Ingresos o Ganancias Particulares, Diario Oficial [DO] 03-08-1921 (Mex.), formato HTML, https://www.dof.gob.mx/nota_to_imagen_fs.php?cod_diario=186351&pagina=1218&seccion=0 (consultada el 2 de marzo de 2024).
[164] *Id*. at art. 1.
[165] *Id*. at art. 6.
[166] *Id*. at art. 5.
[167] See *id*. at arts. 9, 11, 14 & 16.
[168] *Id*. arts. 10, 12, 15 & 17.
[169] *Id*. art. 7. Stamps were issued in four different versions, ranging from ten cents to one hundred pesos. *Id*.
[170] *Id*. art. 4(I).

Plutarco Elías Calles (1924-1928),[171] offering the federal government an additional tool to design its fiscal policy, while simultaneously reducing its dependency on customs duties.[172] As opposed to the temporary "centennial tax", the permanent income tax or *impuesto sobre la renta* (ISR) enabled taxpayers to reduce gross income by claiming qualified deductions, arriving at a net taxable base (*ganancia gravable*).[173] Rates varied depending on the type of income reported: for instance, income from business activities was subject to rates ranging from 2% to 8%.[174] A portion of the federal tax collected was allocated to the state and municipality where the income was earned.[175]

Upon its formal incorporation into the Mexican legislative framework, the income tax gradually increased its coverage and importance, at the expense of the stamp tax.[176] Over the course of the next decades right up to 1980, the income tax became the single most relevant revenue source for the federal government,[177] and continues to be the case in more recent years.[178]

Nonetheless, the long-standing ruling party PRI failed to design a truly progressive system requiring those who report more income and/or net worth to pay more tax.[179] Instead, ISR was somewhat regressive in nature as it was assessed primarily on salaries earned by members of the working class and government employees, both belonging to the so-called "captive taxpayers" (*contribuyentes*

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[171] Ley del Impuesto Sobre la Renta [LIR], Diario Oficial [DO] 18-03-1925 (Mex.), formato HTML, https://dof.gob.mx/nota_to_imagen_fs.php?codnota=4500656&fecha=28/09/1926&cod_diario=191404 (consultada el 3 de marzo de 2024) [hereinafter LIR de 1925].

[172] ENCYCLOPEDIA OF MEXICO HISTORY, SOCIETY & CULTURE, *supra* note 7, at 613.

[173] LISR de 1925, *supra* note 171, at art. 7.

[174] *Id*. at art. 8. On the other hand, income from agricultural activities was subject to a fixed 4% rate. *Id*. at art. 19.

[175] *Id*. at art. 4.

[176] Marichal Salinas, *supra* note 60, at 43.

[177] *Id*.

[178] *See Evolución de la Actividad Recaudatoria en 2021 y Programas y Presupuesto en 2022*, SERVICIO DE ADMINISTRACIÓN TRIBUTARIA (SAT) (Feb. 2002), http://omawww.sat.gob.mx/gobmxtransparencia/Paginas/documentos/focalizada/Recaudacion2021_ProgramasyPresupuesto2022.pdf (Mex.) [hereinafter *Evolución de la Actividad Recaudatoria*].

[179] Marichal Salinas, *supra* note 60, at 43.

cautivos); wealthier sectors of the population - consisting mainly of empresarios, bankers, and landowners - remained relatively unscathed.[180]

To complicate matters, the income tax that emerged turned out to be unreliable in raising revenue as enabling laws and regulations, as drafted, tended to favor the wealthy: for instance, high net-worth individuals typically were able to allocate their income into separate categories, lowering their overall effective tax burden; in addition, higher net worth individuals could own bearer shares (*acciones al portador*) allowing them to avoid disclosing to the tax authority their passive-type income, consisting mainly of dividends and capital gains.[181]

An attempt in the mid-1960s by the Finance Minister Antonio Ortiz Mena to reform these two provisions of the income tax law, during the Presidency of Gustavo Díaz Ordaz (1964-1970), failed due to fierce resistance from the private sector,[182] and lack of political willpower on the part of the PRI.[183] The reform that ultimately passed was highly regressive as income derived from labor remained subject to comparatively higher rates of tax, when compared to the rates applied to passive-type income accumulated by their wealthier counterparts.[184] This trend of under-taxing corporations and high net worth individuals continued its course throughout the decade of the 1970s during the administrations of Díaz Ordaz and Echeverría.[185]

2. Value Added Tax

At a time when the nation enjoyed a resurgence of oil revenues during the late 1970s, the government headed by President López Portillo finally took the bold initiative to combat tax evasion and improve collections by enacting a value added tax or VAT (*impuesto*

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[180] *Id*. at 43-44.
[181] *Cf*. MEXICO SINCE INDEPENDENCE, *supra* note 100, at 358.
[182] *Id*. Another attempt in 1972 at reforming these two provisions concerning fragmented income and anonymous shareholdings was likewise vehemently rejected by the private sector and thus, was never debated by Congress. *See id*. at 368.
[183] Marichal Salinas, *supra* note 60, at 44.
[184] *Cf*. MEXICO SINCE INDEPENDENCE, *supra* note 100, at 358.
[185] *See* DANIEL LEVY & GABRIEL SZÉKELY, MEXICO PARADOXES OF STABILITY AND CHANGE 151 (2d ed. 1987).

al valor agregado, IVA),[186] that became effective January 1, 1980.[187] To the extent VAT collected on sales exceeds VAT paid on purchases, the difference is remitted monthly to the fiscal authority,[188] providing in principle a steady flow of revenues readily available for the federal government throughout the calendar year. This system of credits avoided the harmful cascading effect (*efecto en cascada*) that the *alcabala* and other comparable taxes on revenues (such as the ISIM discussed below) unfortunately displayed.[189]

Initially set at 10% during its first three years in existence, the rate fluctuated between 10% and 15% up until the year 2009.[190] At present, VAT is set at 16%,[191] with a lower rate of 8% available to those taxpayers located in the northern region bordering the United States.[192] A 0% VAT rate applies to the sale of basic foods and drinks (*canasta básica*), medicines, books, newspapers, and magazines;[193] goods and services exported abroad also benefit from this reduced rate.[194] Specifying targeted exemptions for basic food staples commonly consumed by lower-income sectors of the population should translate into a more equitable levy. Nonetheless according to the OECD, the many exemptions and zero-rated goods and services granted have led to a significant reduction in taxable

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[186] *Id*. at 157. *See also* María del Ángel Molina, *El establecimiento del IVA en México: un problema político-económico, 1968-1980*, 27 AMÉRICA LATINA EN LA HISTORIA ECONÓMICA, 1, 13 (2019) [hereinafter *El establecimiento del IVA en México*].

[187] Ley del Impuesto al Valor Agregado [LIVA] art. 1 (Transitorio), Diario Oficial de la Federación [DOF] 29-12-1978, última reforma DOF 12-11-2021 (Mex.).

[188] *Id*. at art. 1.

[189] *See El Establecimiento del IVA en México*, *supra* note 186, at 8, 15.

[190] *See IVA Histórico en México*, *supra* note 148. The VAT rate in Mexico increased to 15% in 1983, reverting to 10% between 1992 and 1995; the rate increased once again to 15% starting 1996 and remained unaltered for another fourteen calendar years. *Id*.

[191] Ley del Impuesto al Valor Agregado [LIVA] art. 1 (Transitorio), Diario Oficial de la Federación [DOF] 29-12-1978, última reforma DOF 12-11-2021 (Mex.).

[192] Decreto de Estímulos Fiscales Región Fronteriza Norte, Diario Oficial de la Federación [DOF] 31-12-2018 (Mex.).

[193] Ley del Impuesto al Valor Agregado [LIVA] art. 2-A(I), Diario Oficial de la Federación [DOF] 29-12-1978, última reforma DOF 12-11-2021 (Mex.).

[194] *Id*. at art. 2-A(IV).

consumption, and low compliance as some transactions are falsely reported by consumers as being zero-rated.[195]

The VAT law replaced an earlier federal tax on business income[196] called *impuesto sobre ingresos mercantiles* (ISIM),[197] along with a whole set of other federal assessments,[198] arguably to streamline Mexico's federal tax system. Entering into force on January 1, 1948, during the administration of President Miguel Alemán (1946-1952),[199] ISIM was assessed over gross income generated from the sale of goods[200] and rendering of services,[201] and applied to both companies and individuals.[202] Tax was initially set at 1.8% (*18 al millar*) of taxable income.[203] In exchange for abolishing their respective tax on business income (*impuesto general sobre el comercio y la industria*), states were entitled to receive an amount equal to 1.5% (*15 al millar*) of taxable income reported within their jurisdiction.[204] Tax returns were filed on a monthly basis, based on income reported the previous period.[205] The fact that tax was paid by the purchaser but collected by the seller (who transferred the tax

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[195] *The Tax System in Mexico - OECD*, *supra* note 4, at 13. "VAT compliance in Mexico is only around 63 per cent": that is, "only 63 pesos were collected out of every 100 pesos that should have been collected.:" *Id*.; *see also id.* at 32.

[196] Ley del Impuesto al Valor Agregado [LIVA] art. 2(1) (Transitorio), Diario Oficial de la Federación [DOF] 29-12-1978, última reforma DOF 12-11-2021 (Mex.).

[197] *See* Ley Federal del Impuesto sobre Ingresos Mercantiles § 5, Diario Oficial [DO], 31-12-1947 (Mex.).

[198] *See* Ley del Impuesto al Valor Agregado [LIVA] art. 2 (Transitorio), Diario Oficial de la Federación [DOF] 29-12-1978, última reforma DOF 12-11-2021 (Mex.).

[199] *See* Ley Federal del Impuesto sobre Ingresos Mercantiles § 5, art. 2, Diario Oficial [DO], 31-12-1947 (Mex.).

[200] *Id*. at art. 1(1).

[201] *Id*. at art. 1(2).

[202] *Id*. at art. 7.

[203] *Id*. at art. 8. *See* María del Ángel Molina Armenta, *Cómo Nació el IVA: El Impuesto que Enterró el Federalismo Fiscal*, RELATOS E HISTORIAS EN MÉXICO, No. 147, at 62 (Jan. 2021) [hereinafter *Cómo Nació el IVA*]. Between 1973 and 1980, the rate increased to 4%, in part to entice the states to join in the federal pact to centralize tax collections. *Id*.

[204] *See* Ley Federal del Impuesto sobre Ingresos Mercantiles § 5, art. 8, Diario Oficial [DO], 31-12-1947 (Mex.). Shortly afterwards, the rate decreased to 1.2%. *See Cómo Nació el IVA*, *supra* note 203, at 62.

[205] *See* Ley Federal del Impuesto sobre Ingresos Mercantiles § 5, art. 30, Diario Oficial [DO], 31-12-1947 (Mex.).

collected as an added cost to the purchaser) meant that ISIM was in essence an indirect levy, similar in nature to the VAT currently in place.[206]

ISIM encompassed every stage of production and distribution of goods and services right up to the final consumer.[207] When compared to other sales taxes such as the stamp tax, ISIM was easier to administer and highly efficient in fundraising.[208] Its cascading feature, though, caused the final consumer to suffer the full economic impact of the levy,[209] which presumably inhibited further growth of the Mexican domestic market.[210] In that sense, ISIM resembled the notoriously regressive *alcabala* from earlier colonial times. To make matters worse, costs associated with administering the levy were quite high as ISIM operated with up to seven different rates.[211]

Despite the negative repercussions associated with implementing ISIM, federal and state governments continued to rely on a myriad of other levies, such as stamp taxes, excise taxes, and property taxes. This overlap of levies, not surprisingly, resulted in companies and individuals having to confront a rather complex and uncoordinated system, that potentially could prompt double taxation over the same item of income. No different than what taxpayers faced previously during Spanish colonial rule or the first republican administrations under Mexican self-rule, purportedly encouraging some to evade paying taxes altogether.

3. Excise Tax

The federal excise tax in Mexico is formally known as *impuesto especial sobre producción y servicios* (IEPS) or special tax on production and services, targeted at specified consumptions.[212] After

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[206] *See Cómo Nació el IVA, supra* note 203, at 62.
[207] *Id.* at 61.
[208] Procesos Legislativos - Dictamen/Origen, Ley del Impuesto al Valor Agregado, Suprema Corte de Justicia de la Nación [SCJN] 08-12-1978, https://legislacion.scjn.gob.mx/Buscador/Paginas/wfProcesoLegislativoCompleto.aspx?q=7i5lK9rRYqoysrw79EZFjZEyPJpvnRwkndQH4r6o1a3Tdm2RVfo7W+CLvnOkI5h+ssJDLfxtNKSV1aXTeG4Zlw== (Mex.).
[209] *Id*.
[210] *See id*.
[211] *Id*.
[212] *Lo Que Todo Contribuyente Debe Saber*, *supra* note 159, at 45. IEPS was designed to achieve certain non-tax goals, such as dissuading the consumption of

income tax and value added tax, IEPS constitutes the third most important revenue-generating levy for the federal government.[213] Entering into force January 1, 1981, during the administration of President López Portillo,[214] IEPS replaced an earlier tax on sugar and alcoholic beverages,[215] along with levies assessed on the sale of gasoline, insurance, and telephones.[216]

This levy is designed essentially to target the supply of certain goods and services, as well as imports.[217] Goods subject to tax include food with high calorie content (commonly referred to as junk food or *alimentos chatarra*), alcoholic beverages, cigars and tobacco, and gasoline.[218] Examples of services subject to the levy include telecommunications and lotteries.[219] Rates vary greatly depending on the type of good or service;[220] for instance, alcoholic beverages and beer are subject to rates of IEPS that fluctuate anywhere from 26.5% to 53% depending on alcohol content,[221] while cigarettes are subject to a rate as high as 160%.[222] As is the case with VAT, exportations enjoy a zero rate.[223]

Similar in nature to VAT discussed previously, IEPS constitutes an indirect levy which is passed on to the final consumer.[224] In certain instances, the sale of a product attracts both VAT and IEPS: a

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alcoholic beverages, tobacco, and food products with low nutritional value. *See id*.

[213] *See Evolución de la Actividad Recaudatoria*, *supra* note 178.

[214] Ley del Impuesto Especial Sobre Producción y Servicios [LIEPS], Diario Oficial de la Federación [DOF] 30-12-1980, últimas reformas DOF 12-11-2021 (Mex.).

[215] *Id*. at art. 3(II) (Transitorios). The specific law repealed was formally called *Ley Federal de Impuestos a las Industrias del Azúcar, Alcohol, Aguardiente y Envasamiento de Bebidas Alcohólicas*. *Id*.

[216] *Id*. at art. 2 (Transitorios).

[217] *Id*. at art. 1.

[218] *Id*. at art. 2(I).

[219] *Id*. at art. 2(II).

[220] *See* Ley del Impuesto Especial Sobre Producción y Servicios [LIEPS] art. 2(II), Diario Oficial de la Federación [DOF] 30-12-1980 (Mex.).

[221] *Id*. at art. 2(I)(A).

[222] *Id*. art. 2(I)(C)(1). Cigars (*puros*) are also subject to a general IEPS rate of 160%. *Id*. art. 2(I)(C)(2). Nonetheless, the rate is drastically reduced to 30.4% to the extent the cigar is entirely made by hand, ostensibly to encourage employment in Mexico. *Id*. art. 2(I)(C)(3).

[223] *Id*. at art. 2(III).

[224] *Lo Que Todo Contribuyente Debe Saber*, *supra* note 159, at 45.

prominent case involves the sale of gasoline where VAT and IEPS can represent up to 40% of the total price paid by consumers.[225] Consequently, as with any other indirect consumption tax, IEPS can potentially have a disproportionate impact on those sections of the population with less monetary means.[226]

B. Alternative Minimum Taxes

In addition to taxes on income and consumption, legislators in Mexico have sporadically enacted alternative minimum taxes to guarantee an additional flow of funds to overcome a particular budget crisis, irrespective of whether they adhere to constitutional principles of tax fairness or economic capacity. The term "alternative minimum" is used here in the sense that corporate taxpayers would pay each year the higher of their income tax or alternative tax liability.

Moreover, tax administration officials typically favor these alternative assessments as being easier to implement and enforce (while also being harder to evade), when compared to traditional taxes on net income. These alternative levies generally take the form of a tax on assets, whether on a gross or net basis. In the case of Mexico, though, an asset tax was promulgated, but subsequently abolished and replaced by a uniquely-tailored flat-rate business tax based on cash flow movements, which also turned out to be yet another transient remedy.

1. Tax on Assets

The intended goal of legislators when promulgating a tax on assets is to encompass those profits potentially generated by assets, either owned or leased, that are utilized by the taxpayer to conduct business. By way of illustration, a Mexican company reporting one million pesos worth of assets is typically expected to report a

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[225] *See Evolución del IEPS sobre gasolinas y diésel en los últimos cinco años*, EL ECONOMISTA (Jan. 16, 2024 11:23 AM), https://www.eleconomista.com.mx/empresas/Evolucion-del-IEPS-sobre-gasolinas-y-Diesel-en-los-ultimos-cnco-anos-20240116-0043.html.

[226] *See Qué es el IEPS: La guía definitiva para entender este impuesto en México y cómo afecta tu vida cotidiana*, FACTORO (Mar. 24, 2023), https://factoro.mx/blog/que-es-el-ieps/. *See also Lo Que Todo Contribuyente Debe Saber*, *supra* note 159, at 45.

minimum return of 6%, or annual income of at least 60,000 pesos. Applying a rate of 30% (that is, the rate of corporate income tax currently in place in Mexico) against these 60,000 pesos results in a hypothetical levy equal to 18,000 pesos, or 1.8% of assets.

Starting 1989 during the administration headed by President Salinas de Gortari, Mexico enacted its own version of the tax on assets, originally called *impuesto al activo de las empresas*, which subsequently changed its name to *impuesto al activo* (IMPAC).[227] Taxable base varied over the course of time: IMPAC was initially assessed on a net basis, gross assets less certain liabilities, but eventually mutated in its final year in operation into an assessment on the gross value of average annual assets.[228] Tax was assessed mostly at a rate of 1.8%.[229] IMPAC was paid only to the extent the amount owed in any given year exceeded the tax levied on net income.[230] Eventually, IMPAC was abolished in 2008 and has not re-emerged since.[231]

Despite its relatively short duration in existence, IMPAC was mired in controversy as court challenges to its constitutionality were constantly being filed by taxpayers, in the form of petitions for injunctive relief (*amparos*), leading to its eventual extinction. By way of background, the average value of net assets was generally subject to a 1.8% tax per Article 2 of the IMPAC law. Most debts acquired by Mexican companies from domestic lenders were taken into consideration to arrive at net assets, as authorized under Article 5 of the

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[227] Ley que establece, reforma, adiciona y deroga diversas disposiciones fiscales, Diario Oficial de la Federación [DOF] 31-12-1988 (Mex.). Mexican tax on assets entered into force on January 1, 1989, pursuant to a Decreto. *Id*.

[228] In exchange for reducing the rate in its final year in operation (2007), IMPAC´s tax base was expanded, per Article 2, to deny taxpayers certain deductions with respect to bank loans and other liabilities. *Id*.

[229] *See* Ley del Impuesto al Activo, art. 12-A, Diario Oficial de la Federación [DOF] 31-12-1988, últimas reformas DOF 27-12-2006 (Mex.), formato PDF, https://www.diputados.gob.mx/LeyesBiblio/abro/lia/LIA_abro.pdf (consultada el 18 de abril de 2024). The rate of IMPAC was initially set at 2% in 1989, decreased to 1.8% in 1995, and finally settled at 1.25% in 2007, its last year in operation. *See id*. at art. 2.

[230] *Id*. at art. 9.

[231] *Id*.

law.[232] By contrast, deductions claimed with respect to loans entered with foreign lenders were disallowed.

There was, in principle, no justifiable reason for making this rather artificial distinction between foreign and domestic lenders to calculate taxable base, nor did the legislation under review grant any consideration as to whether those debts indeed reduced the company´s ability to pay tax. Based on these findings, Mexico's Supreme Court issued in 2004 an influential thesis (*tesis de jurisprudencia*) affirming that Article 5 of the IMPAC law violated the tax equity principle set forth under Article 31(IV) of the 1917 Constitution.[233]

2. Flat-Rate Business Tax

IMPAC was immediately replaced - although ultimately unsuccessfully - by the fleeting flat-rate business tax or *impuesto empresarial de tasa única* (IETU).[234] This levy is unique in that it is computed by taking into account cash inflows originating from the sale of assets and services rendered, and cash outflows made to purchase

[232] Impuesto al Activo de las Empresas, Diario Oficial de la Federación [DOF] 31-12-1988 (Mex.). Debts contracted with permanent establishments of foreign residents, located in Mexican territory, were also allowed as a deduction from gross assets to arrive at taxable base. *Id*.

[233] Activo. El Artículo 5o., Párrafo Primero, de la Ley del Impuesto Relativo, en cuanto exceptúa de la Autorización para Deducir Deudas, a las Contratadas con Empresas Residentes en el Extranjero que no tengan Establecimientos Permanentes en México, Transgrede el Principio de Equidad Tributaria, Suprema Corte de Justiciade la Nación [SCJN], Semanario Judicial de la Federación y su Gaceta, Novena Época, Tomo XX, Noviembre de 2004, Tesis 2a./J. 150/2004, página 41 (Registro No. 180211), https://sjf2.scjn.gob.mx/detalle/tesis/180211 (Mex.).

[234] Decreto por el que se expide la Ley del Impuesto Empresarial a Tasa Única, Diario Oficial de la Federación [DOF] 01-10-2007 (Mex.), formato PDF, https://www.diputados.gob.mx/LeyesBiblio/abro/lietu/LIETU_abro.pdf (consultada el 18 de abril de 2024) [hereinafter Decreto LIETU]. Officially called *Impuesto Empresarial a Tasa Única* in Spanish, IETU went into effect during the presidency of Felipe Calderón, on January 1, 2008. *Id*.

assets and pay for services.[235] The resulting taxable base was subject to an initial rate of 16.5%,[236] with certain credits available.[237]

In force since 2008, while Felipe Calderón was president (2006-2012), IETU replaced an earlier tax on assets (IMPAC) and acted essentially as an alternative minimum tax, whereby companies operating in Mexican territory paid each fiscal period the higher of their income tax or IETU liability. Tax analysts questioned the overall fairness of implementing IETU as it effectively denied businesses the ability to claim deductions for employee salaries, interest paid on loans, and most royalty payments, not to mention its steep administrative compliance costs.[238] As expected, IETU was inevitably abolished six years later by the government headed by former President Enrique Peña Nieto (2012-2018).[239]

C. Tax Collections

Government policy favoring the private sector is reflected in the country´s tax regime.[240] The historically low levels of revenues derived from collection of taxes can best be explained, in part, by the fact that Mexico´s tax laws encourage investments rather than fiscal responsibility; consequently, the government is severely hampered in its ability to effectively address the country´s chronic income inequality.[241] In fact by the end of the 1960s, Mexico reported a tax-

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[235] Decreto LIETU, *supra* note 234, arts. 2, 5.

[236] *Id*. at art. 1, Cuarto (Transitorio). When ratified in 2008, the rate of IETU was initially set at 16.5%, raised to 17% in 2009, and finally settled at 17.5% from 2010 to 2013. *Id*.

[237] *Id*. ch. III. Credits pertaining to losses, payroll, and income tax paid were allowed to offset IETU liability. *Id*.

[238] *See id*.

[239] Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Ley del Impuesto al Valor Agregado; de la Ley del Impuesto Especial sobre Producción y Servicios; de la Ley Federal de Derechos, se expide la Ley del Impuesto sobre la Renta, y se abrogan la Ley del Impuesto Empresarial a Tasa Única, y la Ley del Impuesto a los Depósitos en Efectivo, Diario Oficial de la Federación [DOF] 11-12-2013 (Mex.), formato HTML, https://www.dof.gob.mx/nota_detalle.php?codigo=5325371&fecha=11/12/2013#gsc.tab=0 (consultada el 18 de abril de 2024) (Mex.). IETU was abolished, effective January 1, 2014, by the administration of President Peña Nieto. *Id.*

[240] *See* LEVY & SZÉKELY, *supra* note 185, at 136.

[241] *Id*. *See also The Tax System in Mexico - OECD*, *supra* note 4, at 6. According to a 2000 OECD Economics Department report, income is considerably lower and

to-GDP ratio of only 9.9%, one of the lowest in the world at that time.[242] This correlation can partly be corroborated by the presence of inadequate collection mechanisms, but more likely to the systematic underpaying of tax by wealthy business owners when compared to their employees.[243]

A reorganization of the tax collection process became essential as the confluence of federal, state, and local levies on the sale of goods and rendering of services placed a stranglehold on the nation´s overall economic development.[244] During the period 1940 to 1970 there was a concerted effort to concentrate the authority to collect taxes in favor of the federal government, to the detriment of states and municipalities.[245] The so-called "fiscal federalism" (*federalismo fiscal*) was abandoned, with states and municipalities surrendering their respective fiscal sovereignty, in exchange for receiving transfers (*participaciones*) from the federal government: a somewhat disorderly process not immune to exchanges of political favors that continues even to this day, albeit to a lesser degree.[246]

To strengthen this arrangement, a Fiscal Coordination Law (*Ley de Coordinación Fiscal*) was finally enacted in 1980,[247] the same day that VAT came into force,[248] assigning the collection and distribution of tax revenues to the federal government.[249] Specifically, the federal government agreed to distribute revenues it collected and deposited into a general fund (*Fondo General de Participaciones*) for participating states, the Federal District (now called City of

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much more unequally distributed in Mexico when compared to other OECD countries, except for Turkey. *Id*.

[242] LEVY & SZÉKELY, *supra* note 185, at 136.

[243] *Id*. at 136-7.

[244] *See Cómo Nació el IVA, supra* note 203, at 62.

[245] Marichal Salinas, *supra* note 60, at 45.

[246] *Id*.

[247] Ley de Coordinación Fiscal [LCF], Diario Oficial de la Federación [DOF] 27-12-1978, últimas reformas DOF 03-01-2024 (Mex.)., formato PDF, https://www.diputados.gob.mx/LeyesBiblio/pdf/LCF.pdf (consultada el 18 de abril de 2024.

[248] *See id*. at art. 1 (Transitorio). With the enactment of the 1980 Fiscal Coordination Law, the previous 1953 agreement between the Federation and the States (*Ley de Coordinación Fiscal entre la Federación y los Estados*) was expressly abolished. *Id*. at art. 2 (Transitorio).

[249] *See Cómo Nació el IVA, supra* note 203, at 61.

Mexico), and municipalities.[250] The central government retains 80% of all federal revenues and mineral rights collected annually; the remaining 20% is assigned to the 32 states, along with the more than 2,400 municipalities, that form an integral part of the Mexican republic.[251] Ostensibly, this measure contributed to diminishing the rather chaotic budgetary process experienced by federal government officials up until that point.

At the beginning of the twentieth century, the House of Representatives (*Cámara de Diputados*) issued a detailed study of the nation's tax regime to ascertain the reasons for its chronic inefficiency to raise funds.[252] Three main economic structural problems were identified: (i) a high concentration of income assigned to a relatively small portion of the population, susceptible to capital flight; (ii) a vast informal economy prone to evading taxes; and (iii) a disproportionate reliance on non-tax revenues generated from the production of petroleum to mask its inability to raise funds from levies assessed on individuals and companies.[253] Concerns remain that roughly a third of total federal revenues is derived from non-tax sources (mainly from PEMEX), with the remaining two-thirds coming from taxes assessed on income, value added, and the sale of goods and services.[254]

According to the 2001 Congressional report, the nation´s tax base has been narrowed significantly due to high levels of tax evasion, pointing out that only 16.18% and 27.5% of individuals and companies, respectively, regularly pay their tax obligations.[255] This explains, in part, Mexico´s low levels of tax collections, even when compared to other Latin American countries.[256] Yet another report

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[250] *See* Ley de Coordinación Fiscal*, supra* note 247, art. 1.
[251] *See id*. at art. 2. *See Cómo Nació el IVA, supra* note 203, at 61.
[252] Reyes Tépach Marcial, *Problemas estructurales del sistema impositivo y propuestas de reforma tributaria en México*, CÁMARA DE DIPUTADOS DIRECCIÓN GENERAL DE LOS SERVICIOS DE BIBLIOTECA SERVICIO DE INVESTIGACIÓN Y ANÁLISIS (2001), https://www.diputados.gob.mx/sedia/sia/se/SIA-DEC-27-2001.pdf.
[253] *Id*. at 4. *See also The Tax System in Mexico - OECD*, *supra* note 4, at 8. "In the public sector accounts of the Ministry of Finance" (*Secretaría de Hacienda y Crédito Público*), "contributions from PEMEX to the federal government budget are [classified] as non-tax revenues." *Id*.
[254] TÉPACH MARCIAL, *supra* note 252, at 17.
[255] *Id*. at 11.
[256] *See id*.

was issued by the House of Representatives six years later,[257] indicating two other factors that may justify this continuous low level of collections: (i) multiple tax exemptions, subsidies, credits, and special regimes granted by the various PRI-led governments over the years;[258] and (ii) the complexity and high costs associated with formally registering businesses.[259] Business and individuals alike face high tax compliance costs as a result of ever-increasing filings to report certain transactions (such as mergers and sales of shares), difficulty in completing returns, and excessive number of regulations.[260]

The current government led by Andrés Manuel López Obrador (2018-2024), leader of the left-leaning party Morena, has adopted a policy of neither increasing current taxes nor issuing new alternative levies, since his inauguration on December 1, 2018.[261] Instead, President López Obrador focuses on strengthening audit investigations conducted by the Mexican tax authority (*Servicio de Administración Tributaria*, SAT) over multinationals and other large taxpayers (*grandes contribuyentes*),[262] potentially escalating the amount of

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[257] Reyes Tépach Marcial, *La Propuesta de Reforma Fiscal y los Problemas Estructurales en la Recaudación en México*, Centro de Documentación, Información y Análisis, LX Legislatura de la Cámara de Diputados, México (2007), https://www.diputados.gob.mx/sedia/sia/se/SE-ISS-15-07.pdf.

[258] *See id*. at 16-25.

[259] *Id*. at 28.

[260] Lara Dorantes, *supra* note 29, at 136.

[261] *See* Belén Saldívar, *Ingresos tributarios representaron 11.8% del PIB, a noviembre sumaron 4.06 billones de pesos*, EL ECONOMISTA (Jan. 14, 2024, 7:12 PM), https://www.eleconomista.com.mx/economia/Ingresos-tributarios-representaron-11.8-del-PIB-a-noviembre-sumaron-4.06-bdp-20240114-0035.html.

[262] *See* Reglamento Interior del Servicio de Administración Tributaria, art. 28(B)(iii), Diario Oficial de la Federación [DOF] 24-08-2015 (Mex.), formato HTML, https://www.dof.gob.mx/nota_detalle.php?codigo=5404927&fecha=24/08/2015#gsc.tab=0, (consultada el 18 de abril de 2024). Large taxpayers are defined to include those corporations that reported, the previous fiscal year, annual income equal to or greater than 1.25 billion pesos (in Spanish, *1,250 millones de pesos*). *Id*. *See also El SAT presentó el Plan Maestro 2022 de Grandes Contribuyentes al sector empresarial*, SERVICIO DE ADMINISTRACIÓN TRIBUTARIA (Apr. 17, 2022), https://www.gob.mx/sat/prensa/el-sat-presento-el-plan-maestro-2022-de-grandes-contribuyentes-al-sector-empresarial-022-2022?idiom=es [hereinafter *Plan Maestro 2022*]. The Mexican tax administration now considers companies reporting annual income equal to or more than 1.5 billion pesos (in Spanish, *1,500 millones de pesos*) to be large taxpayers. *Id*.

revenues ultimately collected from assessments.[263] In fact, although the 12,857 companies identified as large taxpayers constitute a mere 0.02% of the total number of contributors, they generated almost half of all fiscal revenues collected in Mexico during the second trimester of 2023.[264] For these purposes, SAT has published effective tax rates for certain sectors of the economy for fiscal years 2020 and 2021, presumably to induce these mega corporations to voluntarily comply with their fiscal obligations.[265]

To discourage large companies from litigating tax disputes for years and thus, reduce (or even avoid) the amount of taxes ultimately paid, Mexican officials have been instructed to reject offers to forgive tax debts.[266] Critics argue that tax administrators, under the direction of López Obrador, place too much emphasis on auditing large taxpayers to raise funds, but not enough effort on combating the negative repercussions brought on by the continuous presence of a vast informal economy.[267] According to the highly-respected tax counsel, Herbert Bettinger, fiscal collections in Mexico cannot

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[263] Santiago Renteria Nolasco, *Auditorías a grandes contribuyentes dejan 49,340 millones de pesos en el I Trim de 2023: SAT*, EL ECONOMISTA (May 17, 2023, 3:36 PM), https://www.eleconomista.com.mx/economia/Auditorias-a-grandes-contribuyentes-dejan-49340-millones-de-pesos-en-el-I-Trim-de-2023-SAT-20230517-0062.html. The Mexican tax administration (SAT) conducted formal inspections of 293 large corporations during the first three months of 2023, as compared to 270 companies during the same period the previous year. *Id*.

[264] *See Fiscalización a Grandes Contribuyentes recaudó 165 mil 120 mdp en el primer semestre de 2023*, SERVICIO DE ADMINISTRACIÓN TRIBUTARIA (Aug. 21, 2023), https://www.gob.mx/sat/prensa/fiscalizacion-a-grandes-contribuyentes-recaudo-165-mil-120-mdp-en-el-primer-semestre-de-2023-042-2023?idiom=es. According to the SAT, there are close to 63 million taxpayers, of which 96% are individuals (*personas físicas*), with the remaining 4% being legal entities (*personas morales*). *Id*.

[265] *Id*. *See also Plan Maestro 2022*, *supra* note 262. The SAT is focused on companies involved in manufacturing automobiles, real estate, financing, pharmaceuticals, telecommunications, mining, and construction, among others.

[266] Marco A. Mares, *AMLO, el recaudador*, EL ECONOMISTA (Apr. 19, 2022, 6:22 AM), https://www.eleconomista.com.mx/opinion/AMLO-el-recaudador20220419-0011.html.

[267] Sebastián Díaz Mora, *Ingresos tributarios alcanzan récord en el 2023; IEPS crece 259%*, EL ECONOMISTA (Jan. 23, 2024, 12:19 AM), https://www.eleconomista.com.mx/economia/Ingresos-tributarios-alcanzan-record-en-el-2023-IEPS-crece-259-20240123-0003.html. The SAT reported tax collections from large taxpayers increasing by 11.7% in 2023, when compared to the previous year. *Id*.

improve unless one addresses the consistently high levels of informality that pervade the domestic labor market; also critical is the adoption of measures that effectively combat tax evasion by focusing on those companies that issue false invoices, along with expanding the scope of transactions subject to VAT.[268]

IV. RECOMMENDATIONS

The Mexican tax regime that has evolved over the centuries can best be described as a haphazard and uncoordinated effort to raise funds, which became even more self-evident as government officials relied exceedingly on the high prices of oil to funds various programs throughout most of the twentieth century, without investing in infrastructure, health, and education. The lack of a clear long-term fiscal policy on the part of the Mexican federal government does not bode well for foreign multinationals that favor clear and concise rules.

To counteract this concern, the federal government should strive to lessen its reliance on non-tax revenues, primarily from oil, in favor of promoting tax revenues collected from its three main sources: income tax (ISR), value added tax (IVA or VAT), and tax on goods and services (IEPS). Moreover, the Mexican federal government must boost the amount of fiscal revenues as a percentage of its gross domestic product, which has historically been quite low when compared to other countries worldwide, if it wants to provide crucial social services to those most in need. Delineating a framework that incorporates a greater portion of the population into the fiscal network while simplifying the administrative costs of collections may appear to be a daunting task, given the pervasiveness of an informal economy and income inequality.

Concerning direct taxes such as ISR, any reform should fully embrace the principles of fiscal equity and proportionality, as well as the economic capability of taxpayers. Mexico should stray away, to the extent possible, from indirect and regressive short-term fixes

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[268] Elizabeth Albarrán, *Acabar con informalidad, el principal reto para mejorar situación fiscal: Herbert Bettinger*, EL ECONOMISTA (May 13, 2019, 2:35 PM), https://www.eleconomista.com.mx/gestion/Acabar-con-informalidad-el-principal-reto-para-mejorar-situacion-fiscal-Herbert-Bettinger-20190513-0049.html. Herbert Bettinger participated in the creation of the SAT. *Id*.

assessed on a captive audience of taxpayers (mainly multinationals operating in Mexico and the middle class), in favor of a carefully planned framework entailing a direct and progressive taxation of corporate and personal income with less exemptions, preferences, and credits. This should broaden the tax base by registering more members of the wealthy class into the tax system. As to indirect consumption taxes such as VAT, the law should be amended to curtail zero-rated transactions, while perhaps raising the rate for transactions undertaken within the northern border region. Moreover, a zero-rate VAT should be assigned to a limited set of basic staples, as well as to exports that effectively promote local employment.

From a strictly corporate perspective, the legal, financial, and administrative costs associated with conducting business in the formal economy should be streamlined and simplified to encourage more small and medium size companies to register as taxpayers, thus potentially increasing overall employment levels in Mexico. By doing so, the country should benefit from a gradual spike in revenues originating from social security contributions and personal income taxes, comparable to what is reported by governments from the more economically developed OECD-member nations.

In summary, any measures that modify income and consumption levies should avoid, to the extent possible, disproportionally overwhelming lower-income portions of the population to ensure a more equitable redistribution of wealth, while increasing tax collections.

CONCLUSION

When compared to other regions of the world, indirect taxes enjoy, even to this day, a prominent role in raising funds for governments all over Latin America, including Mexico. In fact, close to half of all fiscal revenues reported in the region for 2019 originated from VAT and other consumption taxes (such as customs duties and excise taxes), compared to slightly less than one-third for OECD nations.[269] For good measure, government officials persist in

[269] *See* Cristina Enache, *OECD Report: Tax Revenue as a Percent of GDP in Latin American and Caribbean Countries Is below the OECD Average*, TAX FOUND. (Apr. 28, 2021), https://taxfoundation.org/latin-american-tax-revenue-caribbean-tax-revenue/ (last visited Jan. 27, 2024). In 2019, VAT and other consumption taxes accounted for 27.7% and 22.0% of tax revenue, respectively, for a combined

endorsing countless levies and contributions to complement traditional taxes on net income, unfortunately with little or no success. In Mexico, much heralded levies - such as ISIM, IMPAC, and IETU - ultimately turned out to be futile transient measures, as they were administratively burdensome and inefficient in raising funds, besides disregarding the taxpayer's financial capacity to pay.

Responding to the theme raised in the title of this article, the guiding principle that appears to govern tax reform movements in Mexico is to rely principally on short-term populist remedies that can raise funds quickly, while ignoring long-term policies that empower the masses to raise their economic profile. Moreover, the country's continued reliance on oil revenues to fund government programs is perplexing, given the gradual and relentless decline of reserves and worldwide focus on alternative energy sources, and must be abandoned once and for all. Instead, members of Congress, irrespective of which party wins the upcoming 2024 presidential elections, should develop a plan enhancing a more comprehensive tax scheme - based on income and value added taxes - that expands the base, by curtailing the extensive list of exemptions, credits, and discounts granted over the years to the wealthy and politically connected.

The current administration headed by López Obrador has been rather reluctant to enact new levies or amend existing ones, as those initiatives tend to be spurned by members of the working class and are not necessarily effective given the formidable presence of an informal economy. Surprisingly, President López Obrador has resisted adopting populist initiatives, such as raising taxes on net wealth or high income to widen the tax base, despite a continuous decline in non-fiscal receipts from the sale of petroleum. Instead, López Obrador has directed members of his administration to assign greater resources to enforce tax inspections of large corporations (many of which are Mexican subsidiaries of foreign multinationals) with the stated goal of reducing tax evasion, a long-term malaise that has contributed to the country´s persistent low tax-to-GDP ratio. The likelihood that the ruling party remains in power beyond 2024, with the anticipated election of López Obrador´s successor, Claudia

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49.7% of total tax revenues (reported as tax on goods and services) in Latin America. *Id.*

Scheinbaum (a former governor of Mexico City), is likely not to alter this panorama at least for the foreseeable future.