

On December 30, 2021, Decree 442/2021, which amends the General Fiscal Law of the State of Yucatán, was published in the Official Gazette of the State of Yucatán (the "Decree"). A tax on the emission of greenhouse gases into the atmosphere (*Impuesto a la emisión de gases a la atmósfera*), and a tax on the emission of soil, subsoil, and water pollutants (*Impuesto a la emisión de contaminantes al suelo, subsuelo y agua*), was included in the second title of said Law, respectively.

I. Tax on the Emission of Greenhouse Gases into the Atmosphere

A. Object

The object of the Tax on the Emission of Greenhouse Gases into the Atmosphere ("Emissions Tax") is the emission into the atmosphere of certain substances generated in the productive processes that are developed in the State, and that create an affectation to its territory; considering "emission into the atmosphere" as the direct or indirect emission of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, either individually or any combination of them, that affect the air quality, the components of the atmosphere, and that constitute greenhouse gases that cause an environmental deterioration, due to its emission.

B. Taxpayers and Tax Basis

The taxpayers of the Emissions Tax are the persons, legal entities, and economic units, resident in the State or the residents outside the State, which have installations or stationary sources that generate the emissions into the atmosphere subject to this tax in the territory of the State. The value of the polluting load of the taxed emissions into the atmosphere that are generated from installations or stationary sources, expressed in tons, constitutes the tax basis.

To determine the tax basis, a measurement or direct estimate of the emissions into the atmosphere generated will be performed, and, when applicable, the reference of the last Registry of Emissions and Transfer of Pollutants from the Ministry of Environment and Natural Resources, as well as the emissions' reports of the State Registry of Emissions of the Ministry of Sustainable Development of the State of Yucatán (the "Ministry"), will be used.

In order to determine the tons emitted, the taxpayer will perform a conversion, multiplying the ton of the type of gas emitted by the factor indicated in the following table:

Greenhouse Gases	Molecular Composition	CO2 Equivalence
Carbon dioxide	CO2	1
Methane	CH4	23
Nitrous Oxide	N2O	296
Hydrofluorocarbons	HFC-23	12,000
	HFC-125	3,400
	HFC-134 ^a	1,300
	HFC-152 ^a	120
	HFC-227ea	3,500
	HFC-236fa	9,400
	HFC-4310mee	1,500
Perfluorocarbons	CF4	5,700
	C2F6	11,900
	C4F10	8,600
	C6F14	9,000
Sulfur hexafluoride	SF6	22,200

C. Causation and Fee

The Emissions Tax will be caused in the moment the taxpayers generate the indicated taxed emissions into the atmosphere that affect the territory of the State, applying a tax fee equal to 2.70 Units of Measurement and Update ("UMA"), by ton emitted of carbon dioxide or its conversion, in accordance to the table of the previous subsection.



D. Time of Payment

The Emissions Tax will be paid by means of an annual statement indicating the total taxed emissions into the atmosphere that the taxpayer generated in the fiscal year, which will be presented in the month of may of the year following the one in which the corresponding fiscal year ends. The taxpayers will perform provisional monthly payments on account of this tax, by means of a statement indicating the emissions into the atmosphere generated from the beginning of the fiscal year to the last day of the month corresponding to the payment, that will be presented no later than the 17th of the month following the one corresponding to the payment.

The effectively paid provisional monthly payments of the corresponding fiscal year, can be credited against the respective annual statement.

E. Obligations and Incentives

In addition to the obligations previously mentioned and the ones indicated in the applicable fiscal provisions, the taxpayers of the Emissions tax must comply with the following obligations:

1. Do their accounting in accordance to the Fiscal Code of Yucatán ("FCY") and identify the operations for which the Emissions Tax must be paid, in accordance to the general rules issued by the Fiscal Administration Agency of Yucatán (the "Agency"), as the case may be;
2. Present the corresponding statements¹; and
3. Keep a Pollutants Emissions' Registry Book² that will be available to the Ministry and Agency, for purposes of their management and as a control, inspection, and follow-up method of the compliance of the fiscal and environmental normativity.

When a decrease of the pollutants subject to this tax exists, and this is equal to a 20% or more, between a fiscal year and another, a fiscal incentive will be granted to the taxpayers, which will consist of a 15% reduction in the tax that must be paid, in the following fiscal year in which the decrease is identified. In order for the incentive to proceed, the taxpayers must prove before the Agency, the effective reductions by means of the corresponding accounting and legal documentation.

¹ The taxpayer is obligated to present its statements, even when a tax payable does not exist, as long as he does not present the notice of reduction of obligations in connection to this tax. If a taxpayer has multiple facilities in the State, he must present a consolidated statement.

² This book must include all of the information established in article 47-M of the General Fiscal Law of the State of Yucatán.



II. Tax on the Emission of Soil, Subsoil and Water Pollutants

A. Object

The object of the Tax on the Emission of Soil, Subsoil, and Water Pollutants ("Pollutants Tax") is the emission of polluting substances generated by the industrial or farming activities that are released, disposed, discharged or injected into the soil, subsoil, or the water in the State of Yucatán.

B. Taxpayers and Tax Basis

The taxpayers of the Pollutants Tax are the persons, legal entities, or economic units that, regardless of their fiscal residence, directly or through intermediaries, perform the acts or activities indicated in the previous subsection, in the territory of the State, under any title.

The basis of the Pollutants Tax is the amount of square meters of land or cubic meters of water affected, as the case may be, with polluting substances that are emitted or released from the installations or stationary sources, expressed in:

1. Soil and Subsoil: the amount of milligrams per kilogram, dry base, obtained from samples performed in accordance to the Official Mexican Standards ("NOMs"), in each one hundred square meters of land, according to the following:
 - a. **Soils contaminated by hydrocarbons**, the samples will be obtained in accordance to NOM-138-SEMARNAT/SSA1-2012, Maximum permissible limits of hydrocarbons in soils and guidelines for the sampling in the remediation characterization and specifications.
 - b. **Soils contaminated by arsenic, barium, beryllium, cadmium, hexavalent chromium, mercury, nickel, silver, lead, selenium, thallium, and vanadium**, the samples will be obtained in accordance to NOM-147-SEMARNAT/SSA1-2004, that establishes the criteria to determine the remediation concentrations of soils contaminated by arsenic, barium, beryllium, cadmium, hexavalent chromium, mercury, nickel, silver, lead, selenium, thallium, and vanadium.
2. For water: the amount of milligrams per liter, presented in each cubic meter, obtained by samples performed in accordance to NOM-001-SEMARNAT-1996, that establishes the

maximum permissible limits of pollutants in wastewater discharges in national waters and assets.

a. Basic pollutants in wastewater:

Pollutant	Amount of milligrams per liter, per cubic meter
Oils and Greases	25
Total Suspended Solids	60
Biological Oxygen Demand 5	60
Total Nitrogen	25
Total Phosphorus	10

b. Pollutants in wastewaters, caused by heavy metals and cyanides:

Pollutant	Amount of milligrams per liter, per cubic meter
Arsenic	0.1
Cadmium	0.1
Cyanide	1
Copper	4
Chromium	0.5
Mercury	0.005
Nickel	2
Lead	0.2
Zinc	10

For purposes of the foregoing, the specified values represent a unit of pollutant in square meters of soil or cubic meters of water affected, as the case may be. The unit of pollutant in soil, subsoil, or water must be expressed in whole numbers, therefore, in case there are fractions or surpluses of polluting substances that do not constitute a unit of pollutant, they will be rounded down.

C. Causation and Fee

The Pollutants Tax will be caused applying the following equivalents and fees:

1. Soil and Subsoil: the tax fee equal to 0.27 UMA per each unit of soil and subsoil pollutants indicated in point 1 of the previous subsection, found in each one hundred square meters; and

2. Water: the tax fee equal to 0.20 UMA per each unit of water pollutants indicated in point 2 of the previous subsection, found per cubic meter.

If the soil subsoil, or water was contaminated by two or more of the substances indicted in point 1 or 2 of the previous subsection, the fee will be paid per each unit of pollutant.

D. Time of Payment

The Pollutants Tax will be paid by means of a definitive monthly statement, indicating the units of pollutants in square meters of soil or cubic meters of water affected, as the case may be, that the taxpayer generated in the corresponding calendar month, which must be presented in the Agency's authorized offices, no later than the 17th of the calendar month following its causation date or the following business day, if that was not the case.

E. Obligations and Incentives

In addition to the obligations previously mentioned and the ones indicated in the applicable fiscal provisions, the taxpayers of the Pollutants tax must comply with the following obligations:

1. Present a registration notice before the Ministry;
2. Do their accounting in accordance to the FCY, and identify the operations for which the Pollutants Tax must be paid, in accordance to the general rules issued by the Agency, as the case may be;
3. Present the corresponding statements³;
4. Keep a specific registry of the polluting substances indicated in subsection B of this section, that are acquired or used in industrial or farming activities, as well as of the amounts in a physical solid, semisolid, and liquid state, emitted to the soil, subsoil, or water; to that effect, the taxpayer must have a volumetric meter to measure the waters that are released, disposed, discharged, or injected into the soil, subsoil, or water; and
5. Perform the monthly sample tests indicated in the applicable NOMs.

The fiscal incentives applicable to the Pollutants Tax are established in section I, subsection E. of this document.

³ If a taxpayer has multiple facilities in the State, he must present a consolidated statement. The taxpayer is obligated to present its statements, even when a tax payable does not exist, as long as he does not present the notice of reduction of obligations in connection to this tax.

III. Entry into force

The entry into force and compliance of the Emissions Tax and Pollutants Tax will be carried out as follows:

Transitory Articles	
First	Entry into Force. The Decree entered into force on January 1 st , 2022.
Second	Fee for the emission of units of pollutants in water. For purposes of section II of article 47-AU of the General Fiscal Law of the State of Yucatán (the " <u>Law</u> "), the applicable fee during the 2022 fiscal year will be 0.10 UMA, and the applicable fee for the 2023 fiscal year will be 0.15 UMA.
Third	First provisional payment. For purposes of the indicated in article 47-AL of the Law, the first provisional payment will include the months of January, February, March, and April corresponding to the 2022 fiscal year, and will be performed by means of a statement presented no later than May 17, 2022.
Fourth	Presentation of the first monthly statement. The statement indicated in article 47-AV of the Law, will include the months of January, February, March, April, and May of 2022, and will be presented with the information accumulated to the month of May, no later than June 17, 2022.

IV. Means of Appeal

Given that the first provisional payment of the Emissions Tax must be presented by means of a statement, no later than May 17, 2022, and this is considered as the first act of application of the Decree in connection to the Emissions Tax, that causes a harm, an indirect *amparo* proceeds against it. The indirect *amparo* lawsuit must be presented before the corresponding District Court, within the term of fifteen (15) business days, as of the business day following the one in which the first provisional payment is made.

On the other hand, given that the first monthly statement of the Pollutants Tax must be presented no later than June 17, 2022, and this is considered the first act of application of the Decree in connection to the Pollutants Tax, that causes a harm, an indirect *amparo* proceeds against it. The indirect *amparo* lawsuit must be presented before the corresponding District

Court, within the term of fifteen (15) business days, as of the business day following the one in which the first monthly statement is presented.

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