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Mexico

Sugar

New Tax for Beverages Containing HFCS

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Report Highlights:
On January 1, 2002, the Mexican Federal Register published modifications to the Law of Special Taxes on Production and Services imposing a tax of 20 percent on soft drinks and beverages that contain HFCS. This situation affects production and imports of fructose. The industry is studying the issue to gauge its impact on the beverage industry and to find solutions.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Mexico [MX1], MX

Introduction: This report summarizes a tax announcement published in Mexico's "*Diario Oficial*" (Federal Register) on January 1,2002.

Disclaimer: This summary is based on a *cursory* review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in Spanish, the latter shall prevail.

FAS/Mexico's Executive Summary: In an "extra-official" session, Mexican legislators approved the 2002 budget Tuesday, January 1st, 2002 which included new taxes on soft drinks, telephone services, cigarettes and liquor among other sectors. These taxes are expected to boost government revenues to 69 billion pesos (US$7.5 billion). It is expected that companies producing and importing high fructose corn syrup (HFCS) will be adversely affected. The new legislation imposes a 20 percent tax on sales of soft drinks and beverages that use any sweetener other than sugar from cane. The tax for soft drinks is included in the reformed Law of Special Taxes on Production and Services published in the Mexican Federal Register (Diario Oficial) on January 1, 2002.

This means that any soft drink, concentrate products, mineral water, syrups, flavor extracts that are used to produce any drinking beverage containing HFCS, no matter what the percentage used of HFCS, will be taxed 20 percent in addition to the taxes already imposed. It is not clear whether other sweeteners besides HFCS will be included in this tax, since there appears to be a definitional discrepancy between two different articles of the same law, with regard to sweeteners and soft drinks:

> a) Article 2, I, G states that the new tax applies to soft drinks and beverages that use "any sweetener other than cane sugar", which could for instance apply to non-fructose sweeteners used in diet sodas.

however,

> b) Article 3, XV defines soft drinks as *all non-fermented beverages, made with/from water, or carbonated water, extracts or fruit essences, flavorings, with/without gas, as long as they contain fructose.*

Despite this discrepancy, it is clear that the law will apply to soft drinks containing HFCS; however, it remains to be seen whether or not it will apply to non-HFCS containing beverages which have been sweetened by a substance other than cane sugar. So far, fruit juices and fruit nectars are not considered to be soft drinks.

Trade Concerns: According to the HFCS industry, Mexico consumes about 600,000 MT of HFCS, of which 250,000 MT are imported from the United States. Approximately, 475,000 MT, or 80 percent of total consumption, is destined for the beverage industry, which is the amount that is directly affected by the new tax on beverages containing HFCS. This situation affects production and imports of this product, but it is unclear as to the extent. In addition, the U.S. corn quota to Mexico will also be affected, as Mexico imports approximately 770,000 MT of U.S. corn, all of which is then converted in Mexico into HFCS.

On a separate, but related, issue, the 2002 budget is considering a decrease of 500,000 MT of over quota imported U.S. corn for all purposes, including for HFCS uses. This would seem to indicate that the Government of Mexico is expecting to import less corn for HFCS uses and to utilize more of its domestic sugar stocks. This would consequently seem to contradict the intent of the recently passed tax package, which is to generate more government revenue by taxing beverages containing HFCS.

Some bottling companies that use HFCS in their soft drinks use 50 percent sugar and 50 percent fructose in their manufacturing formula; however, for juice-flavored sodas (apple, grapefruit, grapes) some companies use 100 percent fructose, while others use slightly less. Although, the consumer might be willing to pay for this price increase in some beverages, bottling companies using other non-HFCS sweeteners (depending on the definition) or cane sugar in their products would seem to have a comparative advantage. As a result, certain bottling companies may switch to or increase their usage of cane sugar in their product formulas. Only minor manufacturing adjustments would be needed to effect this change. Moreover, sugar can be readily purchased on the domestic market, due to Mexico's current sugar surplus.

While the new law seems to give a comparative advantage to sugar, that remains uncertain. Sugar prices are higher than HFCS prices. Prices for standard sugar are 4,800 pesos/Mt (US$522/MT) and for refined sugar 5,600 pesos/MT (US$609/MT), while prices for HFCS are lower at approximately 3,600 MT (US$392/MT). Bottling companies are studying the situation to analyze if it is price convenient to change to sugar or to continue producing sodas with HFCS. According to this industry, there are still stocks of sodas produced with HFCS in Mexico, but it is unclear how such inventories will be affected by this new law. Both the bottling companies and the HFCS industry are studying this issue to gauge the impact of this new tax as well as to find solutions.

It is worth noting that protests have been raised as to the taxes of other products and the inconsistencies found in the law. It seems that what was written in the *Diario Oficial* differs from what was agreed to and written in the Lower Chamber Gazette. According to news sources, other economic sectors affected by this new law (e.g., telephone and liquor companies) are preparing injunctions.

Title: Law on Special Taxes on Production and Services

Important Dates
1. Publication Date: January 1,2002
2. Effective Date: January 1, 2002

Agency in Charge: Secretariat of Treasury (SHCP)

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FAS Mexico Web Site: We are available at http://www.atomexico.gob.mx or visit our headquarter's home page at http://www.fas.usda.gov for a complete selection of FAS' worldwide agricultural reporting.

Useful Mexican Web Sites: Mexico's equivalent of the Department of Agriculture (SAGARPA) can be found at www.sagar.gob.mx and Mexico's equivalent of the Department of Commerce (SE) can be found at www.economia.gob.mx These web sites are mentioned for the readers' convenience but USDA does NOT in any way endorse, guarantee the accuracy of, or necessarily concur with the information contained on the mentioned sites.