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FEATURED Q&A

Does AMLO Have the Right Plan to Curb Tax Evasion?



The approach proposed by Mexican President Andrés Manuel López Obrador to stem tax evasion could hinder investment and encourage people to remain in the informal sector, Nicolás Mariscal writes below. // File Photo: Mexican Government.

Q Mexican President Andrés Manuel López Obrador is seeking to clamp down on tax evaders with proposals to require pre-trial detention for defendants accused of the crime and potential confiscation of assets before conviction. López Obrador says tax evasion costs the country's treasury some \$25 billion annually in lost revenue. Is tax evasion as big a problem as López Obrador says it is? Are his initiatives the right way to address the problem? What would his proposals on the subject mean for the investment climate in Mexico and the country's economy more generally?

A Nicolás Mariscal, member of the Advisor board and chairman of Grupo Marhnos: "Tax evasion has always been a problem all over Latin America, and Mexico is not the exception. According to the Organization for Economic Cooperation and Development, the percentage of resources obtained through tax contributions is one of the lowest in the region, particularly given the total wealth in the country. Mexico's tax revenue is only 13 percent of GDP, according to the World Bank. Various administrations have tried to tackle this problem but have been unable to alleviate the situation. In late June, the Tax Administration Service announced there were more than 8,200 companies with simulations of commercial transactions and emissions of false invoices, allowing irregularities of more than \$17 billion. Tax evasion and its side effects have been a priority for López Obrador since he took office. In fact, on Oct. 15, the lower house passed a bill that would make tax fraud and the purchase or sale of false receipts a type of organized

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TODAY'S NEWS

POLITICAL

Mexico: Gun Battle Breaks Out Over Kingpin's Son

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POLITICAL

Bolivians Head to the Polls Sunday

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ECONOMIC

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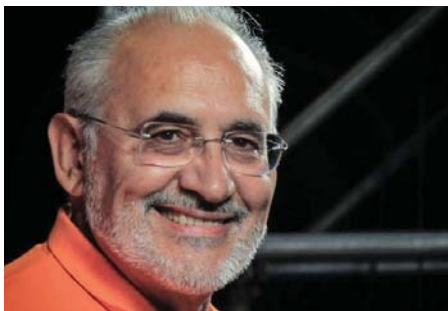


Carrasquilla // File Photo: Inter-American Dialogue.

POLITICAL NEWS

Bolivians Head to the Polls Sunday

Nearly seven million Bolivians will head to the polls Sunday to choose a president and legislators, with leftist Evo Morales seeking a controversial fourth term in office after holding the post for the past 14 years. Although Morales has been leading in opinion polls, his main rival, Carlos Mesa, 66, has been closing the gap, making the 2019 race the toughest challenge yet to Morales' rule, Reuters reported. The scholarly Mesa was vice president of Bolivia to Gonzalo Sánchez de Lozada for just over a year before Sánchez was forced to resign in 2003. Mesa served as president for a year and a half, until his own resignation amid social protests in early 2005. If no single candidate wins a simple majority on Sunday, a runoff will be held Dec. 15. Solid economic growth averaging 4 percent per year over much of the past



Mesa // File Photo: via Twitter @carlosdmesag.

decade has kept Morales relatively popular, but after more than a decade in power, voters are growing weary of waiting for improved public services amid allegations of cronyism and corruption in Morales' government, The Economist reported. His opponents bitterly reject that Morales can run this year at all. Bolivia's Constitution sets a limit of two terms, and in 2016 Bolivians voted in a referendum against him running again this year. But Morales' supporters convinced the country's Constitutional Court to let him run again, saying term limits violated his rights. Voters will also choose the country's 166-seat, two-house Congress for the next five years. [Editor's note: See related [Q&A](#) in Wednesday's issue of the Advisor.]

Venezuela, Brazil Win Seats on U.N. Human Rights Council

Venezuela and Brazil on Thursday won seats to represent Latin America on the U.N. Human Rights Council, BBC News reported. For Venezuela in particular, the vote was controversial because the Andean nation has been accused of severe human rights violations by the United Nations itself. At the U.N.'s General Assembly meeting in Geneva, Venezuela was selected to fill one of the two open Latin America seats in the 47-member body with 105 votes in favor. Brazil won the other seat, with 153 votes. Costa Rica, which announced its candidacy just this month in a bid to prevent Venezuela from winning a three-year term on the council, received 96 votes. China, Russia, Cuba and other allies, some of which also face criticism for human rights abuses, ultimately gave Venezuela the win, The Washington Post reported. Venezuelan President Nicolás Maduro applauded the decision, calling it an "important achievement." Maduro's government has been accused of jailing, torturing and arbitrarily arresting opposition figures. Members of the Human Rights Council are meant to work to uphold and promote human rights around the world, according to the report. Human rights watchdogs had called on U.N. members to reject Venezuela's bid. "With the seat, Venezuela will try to undermine scrutiny of its abuses and the abuses of its allies," said Louis Charbonneau, U.N. director at Human Rights Watch, The Washington Post reported. Under far-right President Jair Bolsonaro, Brazil has also come under criticism for human rights abuses. Bolsonaro is seeking to boost legal protections for police who kill on the job, proposing in a bill to lessen sentences for officers who shoot because of "excusable fear, surprise or violent emotion," Reuters reported. He has also said criminals should "die like cockroaches." Meanwhile, Wilson Witzel, Rio de Janeiro's governor, has ordered snipers to fire on suspects from helicopters. Between January and August, Rio police killed 1,249 people, according to the report, nearly a fifth more than last year.

NEWS BRIEFS

Mexico: Gun Battle Breaks Out Over Kingpin's Son

Several people were killed and scores injured after heavy fighting broke out in Mexico's Sinaloa State Thursday when authorities seized one of the sons of jailed drug kingpin Joaquín "El Chapo" Guzmán, BBC News reported. Video showed heavily armed men firing on police on streets littered with burning cars, buses and barricades. The fighting raged for hours after Ovidio Guzmán López was found during a routine patrol in the city of Culiacán. Police withdrew without Guzmán in their custody to avoid further violence, officials said. Guzmán López was indicted in 2018 by a grand jury in Washington, along with a brother, on drug trafficking charges.

Schlumberger Revenue Falls in Latin America

Houston-based oil services company Schlumberger Limited said today its revenue from Latin America declined 9 percent sequentially in the third quarter of this year due to lower activity in Argentina and Mexico. On a year-on-year basis, Latin America revenue was up 4 percent, to just over \$1.01 billion during the third quarter.

Mexican President Open to Slim's Investment in Infrastructure Projects

Mexican President Andrés Manuel López Obrador told his regular news conference on Thursday that he welcomes billionaire Carlos Slim's offer to invest more than \$5 billion in infrastructure projects during his six-year term, Reuters reported. There are "many projects to reactivate the economy," the president said. Slim said on Wednesday he will invest the money if his companies receive contracts to build key projects. The mogul has at times been at odds with López Obrador, who canceled a major airport project Slim had supported.

Trump Nominates Chapman as Next Envoy to Brazil

The White House said Thursday that U.S. President Donald Trump intends to nominate Todd Chapman as his envoy to Brazil, EFE reported. Chapman, who served as U.S. ambassador to Ecuador from 2016 until just a few months ago, previously worked in Brasília as a consultant to the U.S. Embassy from 2011 to 2014. Prior to pursuing a diplomatic career in 1990, Chapman was also a consultant in Brazil, the White House said. He has worked in the Western Hemisphere Affairs office in the State Department, as well as a political, economic and trade advisor for the U.S. Embassy in La Paz. His nomination must be approved by the U.S. Senate. [Editor's note: See related [Q&A](#) in the Sept. 27 issue of the Advisor.]

ECONOMIC NEWS

Colombia Will Submit Same Tax Reforms Again: Carrasquilla

Colombia's government will submit to Congress exactly the same tax reform proposal that the country's Constitutional Court overturned this week, Finance Minister Alberto Carrasquilla said Thursday, *El Tiempo* reported. In a 6-3 vote, the court ruled that the law would remain valid until Jan. 1, stating that the law was not properly published in the legislative gazette between votes in the lower and upper houses, which violated normal procedure, Reuters reported. "The national government will not cease its intention to reactivate the economy, create the conditions for job creation for all Colombians and close social gaps," President Iván Duque said on Wednesday night following the court's decision, *El Espectador* reported. The government still has enough time to push a reform that would come into effect next year when the current one becomes void, Duque

added. The law included increased income tax on high earners, as well as a cut in business taxes and an additional levy on banks' earnings, Reuters reported. Elements of an older law that were overturned or modified will come back into effect unless lawmakers pass an alternative proposal before Dec. 1, the court said. [Editor's note: See related [Q&A](#) in the Oct. 1 issue of the Advisor.]

Brazil Income Gap Reaches Record High

The gap between the richest and poorest Brazilians reached a record last year, *Folha de S.Paulo* reported Thursday. The average monthly income of the richest 1 percent of

the Brazilian population reached the equivalent of 33.8 times the income of the poorest 50 percent, according to the latest survey of households from state statistics agency IBGE, which started the survey in 2012. Research manager Maria Lúcia Vieira said the increase in inequality reflects a deep recession in the labor market in recent years. Coinciding with the increase in inequality, there has also been a decrease in total households served by Bolsa Família, Brazil's conditional cash transfer program, from 15.9 percent of total households in 2012 to 13.7 percent in 2018. Although Brazil's economy has been growing this year after an extended period of contraction, the recovery has been "extremely shallow and disappointing," Goldman Sachs economist Alberto Ramos told clients in a research note this week.

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crime with more severe penalties. Now this felony falls in the same category and, hence, is subject to the same punishments as organized crime. While these measures and the relentless approach López Obrador has launched against tax evasion deserve praise, they might create an atmosphere of uncertainty and fear for some investors. On top of the high risk of falling victim to false receipts, recent reforms have paved the way for pre-trial detentions, as well as the potential confiscation and sale of assets even before a conviction. This threatens the right to freedom, to property and to a hearing and a fair trial, which will hinder investment and encourage people to remain in the informal sector."

A **Amanda Mattingly, senior director at The Arkin Group in New York:** "Enforcing the tax code and going after tax evasion are laudable goals and certainly intrinsic to good governance as much in Mexico as anywhere else. Increasing tax collection in Mexico is also sound policy. According to the World Bank, tax revenue in Mexico is just 13 percent of GDP, making it lower than other economies in Latin America. However,

pre-trial detention for defendants accused of tax evasion and the potential confiscation of assets before conviction go against judicial norms and due process. They could even have the unintended consequence of

“ Punishing potential tax evaders as harshly as drug traffickers is not going to help build confidence.”

— Amanda Mattingly

encouraging Mexicans to remain in the informal sector to avoid tax collection. President López Obrador's proposals for tax reform are not all bad, and even the IMF recently recommended that Mexico speed up the pace of tax reforms given the lower growth outlook for the country, which just narrowly avoided slipping into recession in the first half of 2019. However, the proposals to clamp down on tax evasion have received much backlash from the business community upon which the Mexican economy is reliant for growth. López Obrador would do better to increase transparency and accountability in

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governance as a way to weed out corruption rather than the perceived targeting of corporate executives. Even if these proposals play well to López Obrador's base of popular support—like the decision to cancel the \$13 billion airport did last year—punishing potential tax evaders as harshly as drug traffickers is not going to help build confidence in the investment climate in Mexico and will hurt the Mexican economy going into 2020."

A **Richard Sinkin, founder and partner of InterAmerican Group in San Diego:** "President López Obrador rode an electoral wave of revulsion against the main political parties (PRI and PAN) largely on a platform of a major anti-corruption program. Ranked 138 out of 178 nations (and rising rapidly), Mexico has been and still is awash in corruption. And tax evasion is a national sport. With a solid legislative majority, AMLO has introduced sweeping anti-corruption legislation. The real question is whether this comprehensive legal structure has any real possibility of success. It seems López Obrador has recognized that without strong, independent institutions with enforcement capability, which still do not exist, this will be another example of Mexico legislating excellent laws that never produce a positive outcome. In response, he's proposed the draconian measure of pre-trial detention and asset confiscation before conviction of alleged tax evaders. This is in keeping with his authoritarian and populist inclinations but will be rightly perceived as a serious threat to the political establishment and to many investors who are unsure about where AMLO is taking the country economically. It's a terrible idea."

A **José Carlos Rodríguez Pueblita, CEO and founding partner of Pondera Lab:** "Congress has approved reforms that criminalize certain behaviors that may indicate tax evasion. Although tax evasion is an important problem that should not be tolerated,

these reforms were not needed and feed uncertainty to the business sector because they allow authorities to freeze accounts and properties and jail those under investigation, violating the principle of presumption of innocence. This is not the right way to approach the tax evasion problem. The legal framework was already there to prevent evasion, but the real underlying problem is law enforcement. There are enough data to combat with intelligence, stronger coordination among agencies and a combination of soft and hard policies to induce citizens and firms to comply with the law and avoid illegal acts. Furthermore, these new laws will effectively operate as additional red tape that hinder economic activity and deter those in the informal sector to join the formal sector."

A **Alma Caballero, director for Mexico at McLarty Associates:** "Mexico has been characterized by high tax evasion, where the interaction of formality versus informality and legality versus illegality have been at the core of the issue. The high level of informality (representing close to 60 percent of the economic active population in Mexico), coupled with high poverty rates, means that traditional instruments of monetary and fiscal management are much less effective than otherwise would be the case. Ever since he first began his presidency, President López Obrador has indicated that he would not accept corruption or impunity under his administration and would reprimand whoever was guilty, even if they were friends, family or political comrades. However, the latest proposal to require pre-trial detention for defendants accused of tax evasions has raised concerns regarding the policy's prospects to arbitrarily seize assets, freeze bank accounts and even halt business activity in Mexico based on speculation as opposed to facts. Moreover, this recent development contributes to an uncertain business climate regarding legal protection and the enforceability mechanisms that would be implemented to address the matter at hand."

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