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TAX GROUP

Navigating Tax Law Policies in Latin America

WSG

World Services Group

Introduction

The international community, through the OECD, has been trying for more than 15 years to implement tax policies at a global level, which would allow standardizing the tax burden of taxpayers (mainly those with multinational presence), and the exponential development of the digital economy has accelerated these efforts, generating the 15 Actions of the BEPS Plan and now Pillars 1 and 2.

However, it is entirely to be expected that any development of international tax policies should be accompanied by the parallel development of new organizational alternatives for companies with local and international presence, allowing new business alternatives and opportunities, together with greater tax efficiencies, within the legal parameters established by the different jurisdictions.

Latin America is no exception, although the different jurisdictions in the region are not fully integrated to the previous efforts of the international community, mainly due to their general situation of economic development; therefore, the mere fact of sharing the rules of the game applicable to the different actors within the region, becomes an enormously useful tool in order to coordinate and improve the opportunities of business reorganization to take advantage of the economic opportunities and the possibilities of tax efficiency applicable.

Attending the inherent multinational characteristics of WSG, the following information tries to integrate the most useful and interesting highlights of the WSG Latam Tax Group, gathering the tax rules applied in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. Alas, this document has not the intention being the "solution" of each single tax issue that might rise to WSG Latam Tax Group members, it wants to be the first approach to analyze the best course of action on those matters.

The contents are systematized on 4 major areas: Income Taxes, Trading Taxes/Rules, OECD/International Tax Rules and Special Promotions. Each area take care of the main aspects of each tax jurisdiction regarding each major topic, such as Corporate Income Tax or Capital Gains Tax on Income Taxes, Value Added Tax on Trading Taxes, or BEPS actions on OECD/International rules. This structure allows to create tax-jurisdiction sheets, similar as "Doing business" documents does, but this time only on tax matters. The final area (Special Promotions) seeks to highlight special concessions by industry, which any country applies to promote FDI.

Dr. Diego Martín Menjívar
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WSG TAX GROUP

Table of Contents

4 Argentina — Beccar Varela / SMS
10 Bolivia — C.R. & F. Rojas Abogados
16 Brazil — Veirano Advogados
28 Chile — Carey
32 Colombia — Brigard Urrutia
46 Costa Rica — BLP
50 Ecuador — Bustamante Fabara
54 El Salvador — Consortium Legal
60 Guatemala — Alta
66 Honduras — Consortium Legal
70 Mexico — Basham
78 Nicaragua — Consortium Legal
84 Panama — Morgan & Morgan
88 Paraguay — Vouga Abogados
94 Peru — Rodrigo, Elías & Medrano Abogados
104 Uruguay — Guyer&Regules
110 Venezuela — Lega

Argentina

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INCOME TAXES

Corporate Income Tax (CIT):

Resident companies are taxed on worldwide income. CIT is payable upon the net income obtained during each fiscal year, in accordance with a sliding scale rate between 25% and 35%. As a general rule, income is allocated to the fiscal year in which it accrued. There is a mechanism to adjust the taxable income for inflation when annual inflation exceeds a certain threshold.

Net operating losses can be carried forward for the next 5 fiscal years.

Dividend Tax (DT):

The distribution of profits to (i) non-residents; and (ii) resident individuals, is subject to a 7% DT withholding. Dividends received by an Argentine company are not subject to DT.

Capital Gains Tax (CGT):

Capital gains derived by tax-resident companies are included in taxable income and taxed at the regular corporate tax rate in all cases.

Sale of shares

Capital gains derived by resident individuals from the sale, exchange, barter or disposal of unlisted shares, quotas, participations in entities and titles are subject to a 15% tax. The same rate would apply to foreign residents, to the extent that the investor is not resident in, and the funds do not arise from, "non-cooperating" jurisdictions1 and this tax may be calculated on actual net income or on 90% presumed income, thereby resulting in an effective 13.5% tax on the sale price (indirect sales are included under certain conditions).

Capital gains derived by resident individuals and foreign residents (to the extent that the investor is not resident in, and the funds do not arise from, "non-cooperating" jurisdictions) from the transfer of listed shares are covered by an exemption.

If the investor is resident in or the funds arise from "non-cooperating" jurisdictions, a 35% rate applies on a 90% presumed income, thereby resulting in an effective 31.5% tax on the sale price.

Sale of real estate

The sale of real estate property is subject to income tax or to tax on the transfer of real estate, as the case may be, as follows:

- sales performed by foreign legal entities: subject to income tax at a 35% rate that the seller could choose to apply over (1) a 50% net presumed income, thus reaching a 17.5% effective rate on the gross sale price; or (2) the effective net income (gross sale price versus acquisition cost minus the expenses incurred in Argentina to obtain such gain);
- sales performed by individuals residing in Argentina or abroad regarding real estate property acquired by them before 1 January 2018: subject to tax on the transfer of real estate at a 1.5% rate over the gross sale price;
- sales performed by individuals residing in Argentina regarding real estate property acquired by them as from 1 January 2018: subject to income tax at a 15% rate over the effective net income (gross sale price versus restated acquisition cost minus the expenses incurred to obtain such gain). The sale of real estate used for housing is exempted from income tax; and
- sales performed by individuals residing abroad regarding real estate property acquired by them as from 1 January 2018: subject to income tax at a 15% rate over the effective net income (gross sale price versus restated acquisition cost minus the expenses incurred in Argentina to obtain the gain).

Withholding Tax (WHT):

Foreign residents are subject to WHT at a 35% rate (except for special rates set forth for capital gains). Generally, the WHT is applicable on a net presumed income, which differs depending on the concept.

1 https://www.afip.gob.ar/jurisdiccionesCooperantes/no-cooperantes/periodos.asp

For example:

A) Interest

An effective withholding tax rate of 15.05% (i.e., 35% over a 43% net presumed income) applies to the following types of interest payments:

- Interest on loans obtained by Argentine financial entities.
- Interest on loans granted by foreign financial entities located in the following jurisdictions:
  - Jurisdictions not considered to be low- or no-tax jurisdictions under Argentine rules.
  - Jurisdictions that have signed exchange-of-information agreements with Argentina and have internal rules providing that no banking, stock market or other secrecy regulations can be applied to requests for information by the Argentine tax authorities.
- Interest on loans for the importation of movable assets, except automobiles, if the loan is granted by the supplier of the goods.

The withholding tax rate for all other interest payments to nonresidents is 35%.

B) Royalties:

The general withholding tax rate for royalties is 31.5% (*i.e.*, 35% over a 90% net presumed income). If certain requirements are satisfied, a 21% rate (*i.e.*, 35% over a 60% net presumed income) may apply to technical assistance payments and a 28% rate (*i.e.*, 35% over an 80% net presumed income) may apply to certain royalties (e.g., use of trademarks).

TRADING TAXES

Value Added Tax (VAT):

VAT is a general value added tax levied on taxable supplies of goods and services, as well as on final imports of taxable goods and services into Argentina. Exports of goods and services are zero-rated. Some specified transactions are exempt. The standard rate is 21%. An increased rate of 27% applies to some services (such as the supply of certain communications services, power, etc.) and a reduced rate of 10.5% applies to fixed assets and other concepts.

Free-Trade Zones System (FTZ):

There are thirteen FTZ in operation in Argentina that were created to encourage business growth and development. The FTZ offer several benefits to the companies operating in these areas. These benefits include no customs duties and no value-added tax on goods imported into the FTZ.

Custom Allowances:

Export incentives

The temporary importation of raw materials and intermediate and packaging goods for the manufacture of products intended for export is exempt from customs duties, insofar as certain conditions are met.

The sequence would be as follows: first exempt import, industrial process and then export.

What the regime does require is to guarantee all taxes plus an additional duty of 2% per month (total 24%) to ensure compliance with the regime.

The imported merchandise must be exported for consumption under the new resulting form, within 360 days, computed from the date of its release. However, in the case of non-serial production goods duly indicated, the term will be 720 days.

In turn, the importer may apply to Customs for a justified extension which may be granted for a single period of up to 360 days, subject to the prior express authorization of the Secretariat of Industry.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Argentina signed the MLI in 2017, but it has not entered into force yet.

On November 28th, 2022, the joint opinion of the Foreign Affairs and Worship and Budget and Finance Committees advising the approval of the Bill filed on April 1st, 2022 by the Executive Branch to ratify the MLI was published.

For its approval, the Bill must be approved by both the Argentina Chamber of Deputies and the Chamber of Senators.

Tax Conventions for Avoiding Double Taxation:

Argentina is part of many Double Taxation Treaties currently in force: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Mexico, Netherlands, Norway, Qatar, Russia, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom and Uruguay. Most of the treaties currently in force are structured along the lines of the OECD Convention.

On the other hand, Argentina recently signed Double Taxation Treaties with Austria, China, Japan, Luxemburg, and Turkey but they have not entered into force yet.

Multilateral Assistance Convention (MAC):

The MAC was signed by Argentina on 11/03/2011 and is in force as from 01/01/2013.

Common Reporting Standard (CRS):

Argentina is one of the countries that has committed to the adoption of the OECD CRS between tax authorities. Argentina committed to first exchange in 2017.

General Resolution (AFIP) No. 4056 /2017 establishes a reporting regime for financial institutions with respect to accounts and financial assets owned by non-residents, in accordance with the OECD Common Reporting Standard.

In December 2022, General Resolution (AFIP) No. 4056 /2017 was amended to include measures aligned with the FATCA intergovernmental agreement signed between Argentina and the United States.

Controlled Foreign Corporation Rules (CFC):

The main rules on CFC are found in article 130 of the income tax law.

A foreign company is considered CFC when: (i) the entity is controlled by Argentine resident shareholders, (ii) it does not have enough substance to carry out its activity or at least 50% of the earnings of the foreign entity are passive income or its earnings derives from income of any kind that directly or indirectly generates tax-deductible expenses for related parties resident in Argentina, and (iii) the effective corporate taxation in the country of residence of that entity is below 75% of the tax that would be applicable in accordance with the Argentine corporate taxation regime.

Shareholders resident in Argentina must include in their taxable income the profits derived by foreign company when the CFC rules applies. In such case, the resident shareholders will have the foreign income treated as if it had been earned directly by those shareholders for purposes of income tax. Consequently, the foreign income will be characterized in accordance to its original nature (e.g., interest, rent) instead of being characterized as anticipated dividend derived from the CFC.

Transfer Pricing Rules (TP):

The Argentine law includes transfer-pricing rules that generally apply to transactions between related parties.

In addition, transactions between unrelated parties may also be subject to these rules. Transactions with entities and individuals located in “non-cooperating” or “low- or no-tax” jurisdictions are deemed to be not carried out at arm’s length.

In addition, the Argentine law includes rules on analyzing transactions involving the import or export of goods with the participation of a foreign intermediary that is not the actual importer at destination or exporter at origin, respectively, if at least one of the foreign parties involved (that is, the intermediary, importer or exporter) is a related party. In these cases, the law requires proof that the foreign intermediary’s remuneration is in line with the risks it assumes, the functions it carries out and the assets involved.

The law provides for the following transfer-pricing methods:

1. Comparable uncontrolled price method
2. Resale price method
3. Cost-plus method
4. Profit-split method
5. Transactional net margin method

For exports of goods with known prices and with the intervention of an intermediary that is related or located in “non-cooperating” or “low- or no-tax” jurisdictions, the income tax law requires the Argentine exporter to file the agreements supporting the transactions with the federal tax authority. If the agreements are not filed, the Argentine-source income from the export is determined considering the known prices on the date the goods are loaded into the transportation vehicle, with appropriate comparability adjustments, if applicable.

Thin Capitalisation Rules (TC):

The Argentine income tax law establishes a limit for the deduction of interest arising from financial loans granted by related parties. The limit equals 30% of earnings before interest, taxes, depreciation and amortization (EBITDA) or a certain amount to be determined by the Executive Power (currently ARS1 million), whichever is higher. The limit each year is increased by the amount unused (if applicable) in the prior three years. In addition, if certain interest was not deductible in a given year due to the application of the limitation, it can be carried forward for five fiscal years. For this purpose, interest includes foreign exchange losses.

The law provides exemptions from the deduction limit for certain situations (for example, the interest is derived on loans obtained by Argentine banks and financial trusts, or the beneficiary of the interest has been subject to tax on such income in accordance with the Argentine income tax law). In addition, the limitation does not apply to situations in which it is proved that the ratio of interest to EBITDA of the Argentine borrower is equal to or lower than the same ratio for its economic group with respect to debt with unrelated lenders for the same fiscal year.

Hybrid Structures Rules (HS):

There are no specific HS rules.

The Federal Tax Procedure Law No. 11,683 sets forth the “economic reality principle” as the general anti-avoidance rule, which is the guideline used upon interpreting tax regulations and transactions. Through this rule, for tax purposes, the federal tax authority may disregard the legal forms or structures that are evidently inadequate in view of the economic intention of taxpayers, considering the real economic intention as qualified in the forms or structures that the private law would apply.

International Services rules:

There are no specific HS rules.

The Federal Tax Procedure Law No. 11,683 sets forth the “economic reality principle” as the general anti-avoidance rule, which is the guideline used upon interpreting tax regulations and transactions. Through this rule, for tax purposes, the federal tax authority may disregard the legal forms or structures that are evidently inadequate in view of the economic intention of taxpayers, considering the real economic intention as qualified in the forms or structures that the private law would apply.

International Services rules:

Income generated by foreign residents can only be taxed in Argentina if it is deemed to derive from Argentine source of income. In the case of services, income is considered of Argentine source if it is generated by services rendered within its boundaries.

If the services are rendered directly from abroad, they do not generate Argentine source income. However, services which imply a consulting, advice, or a transfer of knowledge to a local taxpayer, such as technical assistance and guidance services rendered to local taxpayers are deemed to generate Argentine source income regardless of where they are rendered. There is no precise definition in Argentine Income Tax Law of what should be deemed an "advice service" or "technical assistance services"; however, in principle, services that entail the transfer of knowledge to the recipient would be deemed as such. This is a very controversial issue, given that the Federal Tax Authority tends to broaden the scope of this definition to attempt to tax any technical service rendered and Courts have, in occasions, agreed with such interpretations.

If applicable, income tax is withheld by the local payers at different rates depending on the type of income. As a rule, 31.5% on the gross amount in the case of tax, legal, commercial, financial consulting services and 28% or 21% for technical assistance services pertaining to productive processes (depending on whether those services are obtainable in Argentina or not).

SPECIAL PROMOTIONS

Other Concessions by Industry/Market:

Modern Biotechnology and Nanotechnology: Law No. 26,270 established a promotion system for the development and production of modern biotechnology and nanotechnology granting benefits like early return of VAT or accelerated depreciation of fixed assets for Income Tax purposes, among others.

Renewable Energy: Companies engaged In the production of energy through renewable sources are entitled to certain tax benefits, like early return of VAT or accelerated depreciation of fixed assets for income tax purposes, among others.

Knowledge - Based Activities: This regime, established by Law 27,506, is intended to replace the former Software Promotional Regime, but also would broaden its scope to contemplate and promote other economic activities that are knowledge- based and/or intensive in the use of new technologies. Benefits include stability of the benefits derived from the regime's provisions and a reduction of Corporate Income Tax rate.

Mining Activities: Mining Investment Law No. 24,196 includes a 30-year fiscal stability period plus other benefits.

Special Tax Regimes, Incentives or Subsidies:

Tierra del Fuego: Although with certain limitations in the case of new projects, companies established the Province of Tierra del Fuego enjoy important tax benefits, based on a system established by Law No. 19,640 and supplementary regulations.

Tax Exemptions:

Tax exemptions are granted to non-profit organizations, as long as certain conditions are met.

Bolivia

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INCOME TAXES

Corporate Income Tax (CIT):

Bolivia's Corporate Income Tax (CIT), or "IUE," is 25% of the annual net profit. Net profit is income minus deductible expenses, as per Bolivian accounting standards. Deductible expenses are those directly related to a company's operations and must be properly recorded.

Income generated within Bolivia is taxed, regardless of where the contracts were signed or the nationality of the parties involved.

Additional taxes apply to certain industries:

- Financial institutions with a return on equity index above 6%, excluding development banks, and insurance/reinsurance companies, must pay an extra 25% income tax. This tax cannot be offset or deducted from the CIT.
- Non-renewable natural resources industries like mining and oil/gas have an extra 25% CIT. This tax allows for two deductions: one of 33% of investments as of 1991 and another of 45% of gross revenue for operations earning 250 million BOB or more.
- Mining companies pay an additional tax on net profits: 12.5% for exploitation activities and 7.5% for value-adding manufacturing. They also pay mining royalties, 1% to 7% depending on the mineral, based on the total sales price. There is a 60% discount for sales within Bolivia. Royalties can be offset against CIT and are deductible for CIT purposes.

Tax on Gross Income: Transaction Tax (IT)

The tax on gross income, also known as the transaction tax (*impuesto a las transacciones* or *"IT"*), applies a 3% rate on monthly gross income from any economic or commercial activity, including non-profit activities. Exceptions are made for the sale of investments (per the Stock Exchange Law) and local sales of minerals, oil, and gas that are destined for export.

Corporations pay either the Corporate Income Tax (CIT) or the transaction tax, choosing the higher of the two. The CIT is paid annually and counts as an advanced payment of the transaction tax, which is due monthly. If the cumulative monthly transaction tax exceeds the CIT prepayment within the year, the taxpayer is charged the transaction tax monthly until the year-end. For instance, a corporation's CIT payment for the 2021 fiscal year in April 2022 serves as a prepayment for the transaction tax due from May 2022 to April 2023.

Dividend Tax (DT):

In Bolivia, dividend income received from domestic corporations that are subject to Corporate Income Tax (CIT) should be excluded from the net taxable profits of the investor. On the other hand, dividend income received from foreign corporations is not subject to CIT. This is because it is not recognized as income sourced from Bolivia.

Capital Gains Tax (CGT):

In Bolivia, there are no specific regulations pertaining to capital gains in the current legislation. Capital gains are included in the annual Corporate Income Tax (CIT) if they are recognized as income sourced from Bolivia. The tax rate applied to these gains is 25%.

Withholding Tax (WHT):

In Bolivia, withholding tax regulations differ based on the recipient's residency status and the type of payment.

Payments made to Bolivian residents:

- Dividends paid to Bolivian residents, either individuals or corporations, are not taxable.
- Payments made by corporations to individuals in relation to the acquisition of goods or provision of services that are not supported with an invoice or fiscal receipt are subject to a WHT of 8% on goods and 16% on services.

Payments made to non-residents:

- Dividend payments, distributions of profits to the head office by Bolivian branches, interest payments, royalty payments, and fees paid for any type of services made to non-residents are subject to a WHT of 12.5%.
- Activities considered partially performed within Bolivian territory (e.g., telecommunication services, insurance, transportation, production/distribution of cinematographic films, etc.) by non-residents are subject to a reduced WHT of 2.5%.
- Payments to non-domiciled individuals for their activities performed within Bolivian territory are subject to a WHT at a rate of 16%.

Regarding tax treaties, Bolivia currently has effective double tax treaties (DTTs) with the Andean Community (i.e., Colombia, Ecuador, and Peru), Argentina, France, Germany, Spain, Sweden, and the United Kingdom. Beneficial WHT rates on dividend distributions are provided by DTT with Spain and Sweden at 10% and 0%, respectively, provided the Spanish or Swedish holding company can demonstrate that it is the beneficial owner and holds more than a 25% interest in the Bolivian company. These treaties help to prevent the double taxation of income.

TRADING TAXES

Value Added Tax (VAT):

In Bolivia, Value-added tax (VAT) is a 13% indirect tax applied at every production, distribution, or delivery stage of goods and services. The actual tax rate comes to 14.94% as VAT is included in the final price. The tax is designed to target final consumption, with taxpayers deducting input VAT from output VAT, effectively shifting the tax burden to the final consumer. VAT declarations and payments are made monthly, with due dates depending on the company's tax identification number's last digit.

Exemptions to VAT include financial transactions generating revenue from interest (like credits or deposits from financial entities), purchases of promissory notes, securities, shares, and credit instrument transactions, and income from company reorganization or capital contributions.

Free-Trade Zones System (FTZ):

Bolivia's Free Trade Zone (FTZ) system boosts national development by increasing industry productivity, jobs, and investment. Established under Supreme Decree 2779 (May 25, 2016), FTZs are operated by public, private, or mixed entities adhering to safety, technology, environmental responsibility, and best business practices.

FTZs include Zona Franca Comercial/Industrial El Alto (La Paz), Winner (Santa Cruz), Oruro (Oruro), Patacamaya (La Paz), and Puerto Suarez (Santa Cruz).

Goods imported into Bolivia's FTZs should be specifically for that zone and consigned to an authorized user per Supreme Decree Nº 2779. The FTZ user sends a request for authorization through the FTZ concessionaire to the Service Unit for Operators of the National Customs. Once approved, the user can conduct authorized FTZ operations.

As per the decree, industrial FTZ users can engage in operations including transformation, production, and reconditioning of goods; vehicle, machinery, and equipment adaptation; passive improvement operations; and assembly activities.

Goods can be indefinitely stored in FTZs, subject to proper inventory management. However, goods that are legally or regulatorily prohibited from importation, or those needing prior authorization or certification, cannot enter FTZs, with specific exceptions.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Bolivia has not signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). Instead, the country utilizes the limitation on benefits provisions present in its current income tax treaties, as well as its domestic law provisions, to implement the Base Erosion and Profit Shifting standards.

Tax Conventions for Avoiding Double Taxation:

Bolivia currently has effective double tax treaties (DTTs) with several countries and economic communities. These include the Andean Community, which comprises Colombia, Ecuador, and Peru, as well as with Argentina, France, Germany, Spain, Sweden, and the United Kingdom.

There are also beneficial Withholding Tax (WHT) rates provided for dividend distributions under certain DTTs. For example, the DTTs with Spain and Sweden offer rates of 10% and 0%, respectively. However, this is applicable only if the Spanish or Swedish holding company can prove it is the beneficial owner and holds an interest of more than 25% in the Bolivian company. This mechanism helps to prevent double taxation and encourages cross-border investments by reducing the tax burden on foreign earnings.

The specific tax treaties to avoid double taxation ratified by Bolivia are the following:

- Andean Pact Countries (Directive 578)
- Argentina (Ratified October 30, 1976)
- Germany (Ratified September 30, 1992)
- Sweden (Ratified January 14, 1994)
- United Kingdom (Ratified November 3, 1994)
- France (Ratified December 15, 1994)
- Spain (Ratified May 30, 1997)

Multilateral Assistance Convention (MAC):

Bolivia is currently not a participating jurisdiction in the Convention on Mutual Administrative Assistance in Tax Matters coordinated by the OECD.

Common Reporting Standard (CRS):

Bolivia has not implemented the Common Reporting Standard (CRS) for automatic exchange of financial account information. Being a non-member of the Organization for Economic Co-operation and Development (OECD), Bolivia does not plan to adopt the OECD's Pillar One and Two rules.

Controlled Foreign Corporation Rules (CFC):

There are no CFC provisions in Bolivia.

Transfer Pricing Rules (TP):

Taxpayers are required to submit a transfer pricing study to the Bolivian Tax Authority. This study, submitted along with the statutory financial statements and the annual CIT return, must include details such as:

1. Full identification of the taxpayer and related parties.
2. Description of the activity conducted.
3. Description, characteristics, amounts, and volume of transactions carried out between related parties.
4. Tax identification number and country of residence of related parties.
5. Commercial strategies, including the determination of prices and other special circumstances.
6. Functions carried out by the taxpayer within the related transaction from a commercial and industrial perspective.

The following six methods can be used to determine the value of a commercial and/or financial transaction carried out between related parties:

1. Comparable uncontrolled price.
2. Resale price method.
3. Cost plus method.
4. Profit split method.
5. Transactional net margin method.
6. Evident price on transparent markets method.

The selection of a method depends on the nature and the real economic situation of the transactions under analysis and the circumstances of each case (i.e., the rule of the best method). The definitions of the methods align with the international principles defined by the OECD, except for the sixth method, which is derived from Argentinian legislation with some variations.

If it is not possible to determine the value of a transaction through one of the above methods, taxpayers can apply other methods that are in accordance with the nature and real economic situation of the transaction.

Thin Capitalisation Rules (TC):

In Bolivia, there are currently no specific provisions for thin capitalization in the legislation, apart from the establishment of restrictions on the deductibility of interest when the funding is provided by shareholders.

Hybrid Structures Rules (HS):

Bolivia is not a member of the OECD and has not implemented provisions regulating hybrid mismatch arrangements.

International Services rules:

When payments are made to foreign affiliates or foreign service providers, they are subject to a Withholding Tax (WHT) of 12.5%. This applies without any restriction if the Bolivian company is remitting income that is sourced from Bolivia. Such income could come from various activities including, but not limited to, interest on loans, provision of any kind of services, and royalties.

SPECIAL PROMOTIONS

Special Tax Regimes, Incentives or Subsidies:

Investment incentives: At present, Bolivia does not offer any specific incentives for domestic or foreign investment. However, this could change with the anticipated regulation of Law 516, also known as the Promotion Investment Law.

Foreign tax credit: Bolivian legislation currently does not include provisions for recognizing foreign tax credits.

Export incentives: Bolivia incentivizes export activities through the reimbursement of VAT and customs duties incurred in the production of goods destined for export, albeit with certain limitations for oil and gas companies.

Other incentives: A variety of other incentives exist. For example, Bolivia allows foreign exchange transactions and maintains a system of free-floating exchange rates. In practice, however, the US dollar has maintained a fixed exchange rate for approximately the past decade.

Several VAT exemptions are also in place. Services provided by tourist and lodging establishments to foreign tourists without a Bolivian residence or address are exempt from VAT. Similarly, the importation of books, magazines, and newspapers, as well as the sale of produced or imported books, are taxed at a zero VAT rate. International road transportation is also exempt from VAT, or subject to a 0% VAT rate.

Additionally, interest income derived from public debt raised through the issuance of securities in external capital markets, including the provision of legal, financial, and other advisory services related to the operation of public debt in external capital markets, is exempt from CIT.

Regional manufacturing tax incentives: In Bolivia, new industrial manufacturing companies that set up operations in the Departments of Oruro and Potosí can benefit from several tax exemptions as per laws No. 876, 877, and 967. These exemptions include the Consolidated Tariff Charge (GAC) and Value Added Tax (IVA) on the importation of machinery for installation and operation, the GAC on the importation of raw materials used in production, and the Transaction Tax (IT) on the sale of their products. The exemptions on raw materials and transaction tax are valid for a period of five years from the start of production.

To qualify for these exemptions, companies must adhere to certain conditions and obligations. They must submit a request for tax exemptions to the Districts of the Tax Administration, along with necessary documentation such as a project profile, a feasibility study, and lists of machinery and raw materials to be imported. Companies are also required to pay all other taxes not specified in the exemptions and must present their financial statements annually to the National Internal Tax Service. It is crucial to note that any breach of these obligations and requirements can lead to the automatic cessation of the granted benefits.

Tax Exemptions:

As part of Bolivia's tax code under Law 2492 established on August 2, 2003, several tax exemptions are available, with the Corporate Income Tax (CIT) being the most regulated. These exemptions serve as a dismissal of tax obligations, as explicitly defined by the law. However, exemptions need to comply with certain conditions and requirements, including the type of taxes involved, whether it is total or partial, and the specified duration.

Tax exemptions are not applicable to taxes that are instituted after the exemption is set. Furthermore, exemptions, even those with an indefinite timeframe, are subject to change or revocation by subsequent laws. In cases where the exemption has a predetermined duration, changes or revocation of the law will not affect those who have already formalized the exemption.

Key exemptions under Law 843 include:

- Value-added Tax (VAT) Exemptions (Article 14) stipulate that diplomats, entities, and institutions with diplomatic status are exempt from VAT on imported goods. Also, goods brought into Bolivia by travelers, as determined by the customs tariff, are exempt from VAT.
- Transaction Tax (IT) Exemptions (Article 76) cover personal work in a dependent relationship, public office roles, and export activities. These exemptions also extend to services provided by National, Departmental, and Municipal Governments and their respective bodies, barring public companies. Furthermore, private educational establishments, interest from various bank accounts, and services by foreign diplomatic representatives are exempt.
- Corporate Income Tax (CIT) Exemptions (Article 49) apply to activities conducted by National Government entities, Departmental Prefectures, Municipalities, Public Universities, Regional Development Corporations, and their related institutions. Legally authorized non-profit associations, foundations, or institutions also qualify for these exemptions.
- Motor Vehicle Tax Exemptions (Article 53) pertain to properties owned by the Central Government, Departmental Prefectures, Municipal Governments, Regional Development Corporations, Public Institutions, and those classified as uncultivable or ecological reserves. These exemptions are also applicable to non-commercial, non-industrial activities on properties owned by legally authorized non-profit organizations, as well as properties belonging to foreign diplomatic and consular missions.

To benefit from these exemptions, entities must have their exemption status recognized by the Tax Administration.

Brazil

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INCOME TAXES

Corporate Income Tax (CIT):

CIT is a federal tax computed similarly to the practices in other countries, i.e., the taxpayer computes its annual (or quarterly) net profits, as per its legal book. Then such net income before taxes is adjusted in order to reflect nondeductible costs and expenses, or nontaxable revenues. This method of collecting CIT shall be referred herein as the actual profit method.

In a nutshell: (i) costs and expenses must be necessary for the business in order to be considered deductible; (ii) gains and losses derived from adjustments for fair value (including adjustments of receivables and payables to present value) are deferred to the moment of realization; (iii) losses due to impairment shall only become deductible upon realization of the asset; and (iv) assets surplus and goodwill paid in a business combination may be amortized for tax purposes in no less than five years.

The basic income tax rate for the calculation of CIT based on yearly or quarterly adjusted actual profits is based on the following tax table:

Level of Income	Quarterly Basis (R$)	Annual Basis (R$)	Income Tax Rate
Net Income before Tax up to:	60,000	240,000	15%
Net Income exceeding limits above:			10%

Legal entities that adopt the annual income tax computation must advance their income tax payments throughout the calendar year based on an estimated tax basis of profits.

Income tax legislation provides for a simplified method for collecting corporate income tax, known as the deemed profits method (“lucro presumido”). Only small and medium size businesses may elect for this alternative method (annual gross revenues up to R$ 78 million).

Under this method, the taxpayer reports its CIT based on a predefined margin of the operating gross revenue to determine the profit of the taxable activity, as per the following table:

Description	Deemed margin in % of gross revenues
General Deemed Margin (except for the ones below)	8%
Resale of fuel (derived from oil, ethanol, and natural gas	1.6%
Transportation (except for cargo, which is subject to 8%)	16%
Services (except for hospital services), business intermediation, administration, and rental income	32%

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Once the deemed margin is computed, such margin is subject to the levy of the CIT tax rates.

Capital gains and financial income are fully taxable under the deemed profits system, i.e., no deemed margin is attributed by law.

CIT taxation in Brazil also comprises the Social Contribution on Net Profits (CSLL), which is a federal tax practically equivalent to CIT. The reason for this duplicity is that since, according to the Federal Constitution, the Union must share 49% of its income tax revenues with the States and Municipalities, it has engaged in its own “tax planning”, thus reducing CIT down to 25%, and instituting the CSLL as a means to reduce the sharing of tax revenue.

The main difference is that this social contribution carries a 9% rate, so that the combined statutory rate for income taxation in Brazil is 34% (25% CIT plus 9% CSLL). In the case of financial institutions, the applicable rate is 15% (a 20% rate applies when it comes to banks).

The CSLL is considered a creditable foreign income tax by most foreign countries, including countries that maintain treaties for the avoidance of double taxation with Brazil. In summary, it is internationally considered to have the nature of an income tax.

The legal entities that have elected to report CIT as per the deemed profits system must also collect CSLL as per the same method. The difference is that in the case of CSLL, the deemed margin is 9%, except for service providers, in which case it shall be 32%.

Dividend Tax (DT):

Dividends may be distributed tax-free (to nonresidents as well). This means that from the perspective of a shareholder, the overall tax cost is 34% (CIT). This exemption applies also to the capitalization of profit reserves. In such case, the capitalized amount is considered cost of acquisition by shareholder for computing capital gains income tax, in the event of disposal.

Brazilian law allows legal entities subject to CIT under the actual profits method to compute, pay and deduct an interest on equity (JCP). There will be a 15% withholding income tax. If the taxpayer is domiciled in a jurisdiction with favorable taxation, the rate is of 25%.

This may result in a net tax saving of up to 19% (34% minus 15%).

It is important to mention that the legal entity that receives JCP, if resident in Brazil, is subject to PIS and COFINS (9.25%). For this reason, normally JCP will only be an effective tax shelter if the beneficiary of payment is a Brazilian resident individual or a nonresident investor.

Finally, there are bills of laws aiming to change this lack of taxation on dividends, as well as to adjust income taxation in Brazil. Even though some of them were subject to advanced discussions in the recent past, it is still unforeseeable if any of them will be and when will be approved in the Congress.

That being said, it is undeniable that the current political environment is favorable to the approval of a tax reform that very likely will end the long-standing dividend exemption, albeit combined with a reduction of the statutory CIT rate.

Capital Gains Tax (CGT):

Capital gains correspond to the difference between the purchase price and the acquisition cost registered by the seller of Brazilian assets and/or investments.

For Brazilian legal entities, capital gains are fully taxable under both actual and deemed profits systems under an aggregate 34% rate.

Capital gains realized by nonresidents on the sale of assets and investments held in Brazil are subject to the same tax treatment applicable to individual's resident in Brazil. The gain is subject to the withholding income tax ("WHT") at the following progressive rates:

1. 15% of the amount of capital gains not exceeding R$ 5 million;
2. 17.5% of the amount of capital gains exceeding R$ 5 million up to R$ 10 million;
3. 20% of the amount of capital gains exceeding R$ 10 million up to R$ 30 million and
4. 22.5% of the amount of capital gains that exceed R$ 30 million.

A 25% flat WHT rate applies when it comes to capital gains realized by nonresidents domiciled in low tax jurisdictions, as determined under applicable laws (e.g., Cayman Islands and BVI).

For both individual's resident in Brazil and nonresidents the acquisition cost usually corresponds to the sum of the capital contributions and reinvestments.

The purchaser (if resident in Brazil) or purchaser's attorney-in-fact (if not resident in Brazil) is legally responsible for calculating and collecting the WHT on behalf of the nonresident seller.

Certain double tax treaties may provide for a partial or full reduction on the WHT rate applicable on capital gains realized by nonresidents on the sale of assets and investments in Brazil (e.g., the treaties with Israel, Japan, Portugal, and Belgium),

Finally, capital gains deriving from sales realized by nonresidents investors in compliance with the rules of CMN Resolution No. 4,373/00 in the stock exchange are exempt from income tax.

Withholding Tax (WHT):

Transactions that result in the remittance of profits, earnings, revenues or gains abroad are subject to the imposition of WHT depending on the nature of the transaction. Below are some examples of the WHT imposition:

Dividends: WHT is not imposed in the distribution of dividends for foreign and local shareholders (regardless of the country of domicile).

Capital gains: WHT is imposed over capital gains earned by non-residents at progressive rates from 15% to 22.5%.

Royalties: WHT is imposed over royalties remitted abroad at a 15% rate. Please note that Brazilian laws always imposed certain limits for the deductibility of royalties for CIT purposes, such as the royalties paid to shareholders and the royalties exceeding the maximum limit of 5% of the net revenues. This latter limitation was recently revoked by Law 14596/13 (production of effects as of January 1st, 2024). It is also worth pointing out that certain tax treaties may provide for a partial or full reduction on the WHT rate.

Interest: WHT is imposed over interest paid to non-residents at a 15% rate.

Except for dividends, a flat 25% WHT rate applies for payments to beneficiaries domiciled in tax havens.

TRADING TAXES

Value Added Tax (VAT):

Basically, the taxes levied on consumption are: ICMS (State VAT), IPI (Federal Excise Tax), PIS/COFINS (Federal Social Contributions on gross revenue), ISS (Municipal Service Tax) and Import Duty (I.I.).

ICMS

ICMS is a State VAT imposed on the (i) imports of goods; (ii) sales, transfers, and remittances of goods, and (iii) rendering of specific services[1].

The in-State sales are subject to ICMS tax rates defined by the States in which the transaction is carried out, generally, from 17% to 20%.[2]

1 Services of communication or intermunicipal/interstate transportation.
2 Different rates may vary according to the product.

ICMS levied on interstate operations is subject to a more complex regime. Interstate rates vary depending on the status of the recipient of the goods (ICMS taxpayer vis-a-vis non-ICMS taxpayer), the origin and the destination States of the goods[3] or whether the goods are imported or not[4].

As mentioned, ICMS is also charged on importation of goods, upon customs clearance.

ICMS' taxable basis on importation is the customs value of the product, plus all the other taxes and expenses levied on the importation. On national outputs, ICMS' taxable basis is the operation value (e.g., sales price).

As a non-cumulative tax, the taxpayer can register credits of the ICMS levied on the previous operation (including on importation) to be offset with the ICMS due on local subsequent transactions.

As a rule, ICMS credits are allowed if 2 (two) requirements are met: (i) the previous operation must have been taxed (i.e., ICMS must be outlined in the invoice of the seller or paid at the customs clearance); and (ii) the subsequent operation must be taxed.

ICMS rate of 17% or 18% is the general rate applicable to importations. However, some tax incentives may be applicable, as explained below.

Also, incentives may be applicable in subsequent operation of in-State or interstate sales.

In order to grant ICMS incentives, some States require the incorporation of manufacturing plant in its territory, as well as minimum number of job creation, among other requirements.

IPI

IPI is a federal excise tax imposed on (i) the import (customs clearance) of industrialized products; (ii) the first output of imported goods; (iii) outputs of products subject to manufacturing. It is a non-cumulative (value-added) tax, so that IPI levied on acquisition of imported or local goods, raw-material or other inputs can be registered as a credit to be offset with the IPI debits on sales of manufactured or imported products.

The tax rates vary from 0% to 330%, depending on the tariff code of the products.

IPI's taxable basis is: (i) on imports: customs value plus I.I.; (ii) on national sales: sales price, plus the so-called ICMS, plus PIS and COFINS (if any), which will be described below.

As a non-cumulative tax, IPI credits on acquisition of local or imported goods, raw-materials or other inputs are allowed when the subsequent sale will be taxed. In case of acquisitions of fixed asset or national acquisitions of goods for mere resale (when the product is not submitted to any manufacturing procedure), IPI paid in the previous operation is registered as a cost.

PIS/COFINS

PIS and COFINS are two federal social contributions intended to fund the Brazilian Social Security system. The regular taxable basis of these contributions is the gross revenue monthly registered by the company. PIS and COFINS are also due on imports, upon customs clearance, on top of the customs value of the imported product.

The tax rates on importations are normally 2.1% (PIS) and 9.65% (COFINS). In some cases, depending on the tariff code of the imported products, there is an additional 1% of COFINS. The additional 1% of COFINS is not recoverable, so, it is always registered as cost.

PIS and COFINS might be considered as a value-added tax, meaning that the acquisitions (by means of importation of local purchase) of goods and services (if considered as inputs) may give rise to tax credits to be offset with PIS and COFINS levied on the gross revenues in connection with local sales and services.

3 Interstate sales from States of the Regions of South or Southeast (except Espirito Santo), to the States of Midwest, North, Northeast and Espirito Santo are subject to a 7% rate. Sales from States of Midwest, North, Northeast and Espirito Santo to the States of South and Southeast are subject to 12% ICMS rate. Any other interstate operation with national goods are subject to 12% ICMS rate.
4 Interstate sales of imported goods are subject to 4% ICMS rate.

As regards gross revenues related to local sales, the rates are: (i) cumulative regime: 0.65% (PIS) and 3% (COFINS) – no credits allowed; (ii) non-cumulative regime: 1.65% (PIS) and 7.6% (COFINS) – credits in inputs (purchases and in the main expenses).

The definition on whether the company will adopt the cumulative or non-cumulative regime depends mainly on the regime of Corporate Income Tax ("CIT") adopted by the legal entity: companies under the so-called Deemed Profit for CIT purposes will follow the cumulative regime of PIS and COFINS; companies under the so-called Actual Profit for CIT purposes will follow the non-cumulative regime of PIS and COFINS.

ISS

ISS is a Municipal tax due on services listed in the applicable legislation, the Complementary Law No. 116/2003.

Tax rate of ISS varies from 2% to 5% depending on the municipality where the service provider is located, or where the service is rendered, depending on the type of service. The taxable basis of ISS is the service price.

ISS is always registered as costs by the service taker (no credits are allowed).

Import Duty (I.I.)

I.I. is a Federal tax levied on importation of products and paid by the importer in Brazil upon customs clearance. The tax rates vary from 0% to 35%, depending on the tariff code - as per the Mercosur Common Nomenclature ("NCM") - of the imported product.

I.I.'s taxable basis is the customs value of the product, generally its CIF value (cost, insurance and freight).

I.I. is not recoverable, so, it is always registered as cost.

Some NCM codes allow the application of the so-called of Ex-Tariff Codes (or "Ex-tarifário"). It is an exceptional tax treatment that reduces the I.I. to zero or 2%. However, to adopt this treatment, the technical specification of the equipment must be identical to the description of the Ex-Tariff Code already provided by the Brazilian legislation.

Further, it is possible to request for an Ex-Tariff Code specifically for a specific imported product. In order make such request, the company would need to evidence that there is no national production or that the national product is not similar to the imported one in terms of quality, price, and delivery time. Those requests usually take from 6 (six) to 18 (eighteen) months to be analyzed by the proper authorities.

Also, imports from some locations (e.g., Mercosul group, Israel, Egypt) could be subject to I.I. exemption or reduction.

As abovementioned, imports of goods are also taxed by ICMS, IPI and PIS/COFINS and, depending on the regime or the NCM, there could be an exemption or reduction of such taxes in imports. Imports of services are taxed by ISS, PIS/COFINS and other taxes mentioned below.

Export taxes

Exports are generally not taxed by trading taxes. Only certain products are taxed, e.g., weapons and ammunition, tobacco and cigarettes containing tobacco.

Also, exporters can enjoy tax incentives in imports and local acquisition of inputs of goods to be manufactured and exported, i.e., the so-called drawback integrated.

Tax Reform

Taxes levied upon consumption are under a major tax reform in Brazil. The Congress is voting a relevant change in the Federal Constitution (Constitutional Bill No. 45/2019) to simplify the taxation levied on goods and services in order to introduce a completely new dual VAT system. There will be a transition period of around 3 to 10 years, thus, even if the tax reform is approved, the taxes abovementioned will still be applicable for this period.

In summary, a federal VAT would substitute PIS and COFINS and a subnational VAT would substitute ICMS and ISS. A new federal excise tax would substitute IPI.

Free-Trade Zones System (FTZ):

There are some types of Free-Trade Zones in Brazil. The most common is the Manaus Free-Trade Zone (ZFM - *Zona Franca de Manaus*). There are also the ALC (*Áreas de Livre Comércio*) and ZPE (*Zonas de Processamento de Exportação*). Finally, there is also the SUDENE, which is not technically a Free-Trade Zone, but is a tax incentive to companies that aims at incorporating a manufacturing plant in the Northeast region of Brazil.

ZFM

The transaction with goods originated from or destined to ZFM are treated as imports and exports, respectively, for tax purposes. Thus, all commercial transactions with other Brazilian States are subject to customs control, as if they were cross border transactions.

The companies interested in setting up a business at ZFM, to enjoy tax benefits, must present an industrial project based on some criteria, e.g., Compliance with a Basic Production Process ("PPB"), creation of employment in the region, increase the level of productivity and competitiveness, reinvestment of profits in the region, investment in human resources for R&D, among others. PPB consists in the description of the minimum industrial stages required in the manufacturing of a determined product. PPB also determines the percentage of nationalization of the product.

The federal tax incentives granted in ZFM may be summarized as follows: exemption of import duties (I.I.) and IPI on the importation of foreign inputs; exemption of PIS and COFINS for importations destined to industrialization and of fixed assets; remittance of goods to ZFM from other States for consumption or manufacturing are treated as exports, i.e., exempted from IPI and PIS/COFINS; the sale of goods produced in ZFM to other States is benefited with a reduction of I.I. of 88%, and the exemption of IPI; there is also a complex system of deemed tax credits that turns ZFM more competitive than any other States in Brazil.

ALC

ALC (*Áreas de Livre Comércio*) are territories for which the law granted tax incentives for the development of international border cities located in the North region of Brazil. Thus, the law offers tax reductions in order to attract investments for the increase of business in these areas. Basically, the incentives are: exemption of import duty (I.I.) and IPI on the importation of foreign inputs; exemption of PIS and COFINS for importations; ICMS exemption for local consumption;

ZPE

The Export Processing Zones (ZPE) are characterized as areas of free trade with abroad, destined to the installation of companies focused on the production of goods to be exported, being considered primary zones for the purpose of customs control. Companies that settle in ZPEs have access to specific tax, exchange, and administrative treatments.

Basically, the tax incentives are: local acquisition of inputs with suspension of IPI and PIS/COFINS, and imports with suspension of I.I, IPI, PIS/COFINS and Additional Tax on Maritime Freight (AFRMM).

SUDENE

SUDENE is the granting of federal incentives to stimulate companies to incorporate a manufacturing plant in the Northeast region of Brazil.[5]

Legal entities interested in obtaining tax incentives and benefits in SUDENE's area, must register and file an electronic request through the Tax Incentives and Benefits System - SIBF.

Basically, after the approval of the project, companies will have a reduction of 75% of Corporate Income Tax. The incentives are granted only to taxpayers that have manufacturing activity, classified as priority investments by the government.

To enjoy the incentive, the request must be filed until December 31, 2023.[6]

5 Ordinance MIN No. 283 of July 04, 2013.
6 More details: https://www.gov.br/sudene/pt-br/centrais-de-conteudo/manual-de-instrucoes-para-elaboracao-de-pleitos-de-incentivos-fiscais

Custom Allowances:

Given that Brazil has 27 States, a series of ICMS incentives and benefits are available.

Generally, the incentives are an ICMS deferral on imports and reduction of ICMS burden in subsequent resales or sales of manufactured products. The tax burden commonly is reduced to 1% to 3% of the sales prices.

In order to grant ICMS incentives, some States require the incorporation of manufacturing plant in its territory, as well as minimum number of job creation, minimum value to be invested, annual targets of revenue or quantity of goods produced, commitment of acquisition of local inputs, among other requirements.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Brazil opted not to sign the MLI. The main ground for this decision was the peculiar character of the instrument that could lead to long-lasting discussions in the Brazilian Congress, delaying the entering in force of the applicable measures. Instead of signing the instrument, decision was made to promote changes and adjustments in the double tax treaties currently signed and to be signed by Brazil, with the adaptation and adjustment based on the MLI. This option was based on the idea that Brazil has few signed tax treaties, making it more feasible to individually amending them.

Tax Conventions for Avoiding Double Taxation:

Brazil is party of many Double Taxation Treaties currently in force: Argentina, Austria, Belgium, Canada, Chile, China, Czech Republic, Denmark, Ecuador, Finland, France, Hungary, India, Israel, Italy, Japan, Luxembourg, Mexico, Netherlands, Norway, Peru, Philippines, Portugal, Russia, Singapore, Slovakia, South Africa, South Korea, Spain, Sweden, Switzerland, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, and Venezuela. Most of the treaties currently in force are structured along the lines of the OECD Convention.

On the other hand, Brazil recently signed Double Taxation Treaties with Colombia, Paraguay, United Kingdom and Uruguay, but they have not entered into force yet.

Multilateral Assistance Convention (MAC):

The MAC was signed by Brazil in 2011 and is in force as from 04/14/2016.

Common Reporting Standard (CRS):

Brazil has committed to the adoption of the OECD CRS between tax authorities. Brazil has committed to first exchange in 2018.

Normative Ruling No. 1680 establishes the reporting regime for financial institutions and rules for identification of accounts and financial assets in accordance with the CRS. Normative Ruling No. 1681 regulates the mandatory country-by-country report to be delivered by each entity domiciled in Brazil that is the final controlling entity of a multinational group.

Controlled Foreign Corporation Rules (CFC):

The main rules on Brazilian CFC are established by arts. 77 and following of Law 12973/14 and Normative Ruling No. 1520/14.

In a nutshell, according to such rules, all the profits earned by each direct or indirect controlled entity of a Brazilian controlling shareholder shall be subject to CIT in Brazil (at the regular 34% rate) at December 31st of the year it was earned, regardless on any profit distribution. A foreign tax credit may be allowed on the corporate income tax effectively paid by the foreign investees, up to the limit of the tax due in Brazil on such profits.

Transfer Pricing Rules (TP):

TP rules are relevant only in case the Brazilian company is subject to CIT under the actual profits system.

Cross-border transactions involving goods, rights or services carried out between a Brazilian entity and a foreign related entity or any entity domiciled in tax havens or subject to privileged tax regimes are subject to Brazilian transfer pricing rules. Such rules must be complied with to determine the maximum deductible amount of import costs (and interest expenses) and the minimum taxable revenue of the export transaction (and interest revenues).

The transfer pricing law was recently changed (in June 2023), as an attempt to approach and adequate Brazilian transfer pricing rules to international standards based on OCDE guidelines. The rationale was the adequation to arm's length principle and the substantial change of rules that were exclusive to Brazilian system.

Until today, Brazilian TP controls were based on formulary procedures, with fixed margins and some distortions in the system. Now, pressed by its intent to become an OECD member, Brazil has shifted its TP legislation in order to adopt the arm's length criterion.

Transactions qualified as "controlled transactions" are subject to the transfer pricing controls (commercial or financial relations between two or more related parties, directly or indirectly performed, including agreements or contracts by any means).

As regards the "controlled transactions" related to import and export of goods, before the new legislation, taxpayers could opt for the method that resulted in lower taxation. The new rules determined that now the taxpayers must adopt the most appropriate method, with more emphasis on the method of independently comparing prices (so-called PIC method). Also, according to the new legislation, the limitations of the non-deductibility of payment of royalties for Income Tax purposes would no longer exist.

Also, as regards intangibles, the older legislation was quite restrictive, while the new legislation is more flexible and wanting to conform with market practices.

The above means that Brazil is in a situation in which there are no precedents in relation to the new forthcoming legislation, and the existing precedents are based on the legislation that soon will no longer be in force.

These new rules will be effective and enforceable only in 2024 (taxpayers may elect to anticipate the adoption of such rules in 2023).

It is still unforeseeable how the methods of transfer pricing calculation will take place in practical terms because the Federal Revenue Office did not enact the regulations yet.

Thin Capitalisation Rules (TC):

The Brazilian thin capitalization rules do not impose a limit on the parties' ability to contract a given interest rate, but only limit the deductibility of the financial expenses (interest) for CIT (corporate income tax) purposes in Brazil. Therefore, such rules are relevant only in case the Brazilian company is subject to CIT under the actual profits system.

Interest expenses shall only be deductible for the Brazilian borrower, for CIT purposes, if: necessary for the activities conducted by the Brazilian debtor; the amount of the debt owed to a foreign related party that holds equity interest in the Brazilian borrower does not exceed twice the amount of the equity interest held (maximum 2:1 debt/equity ratio); the amount of the debt owed to a foreign related party that holds no equity interest in the Brazilian borrower does not exceed twice the amount of the total net worth of the Brazilian borrower (maximum 2:1 debt/equity ratio); and the aggregate debt held by all the foreign related party lenders does not exceed twice the amount of the aggregate equity held by all foreign related party lenders in the Brazilian borrower.

If the foreign creditor (related or unrelated) is considered as having a privileged tax regime, the limits would be more restrict, so that instead of maximum 2:1 debt/equity ratio, the maximum indebtedness ratio would be 0.3: 1 (30% of the equity held or net worth of Brazilian borrower).

Hybrid Structures Rules (HS):

There are no specific HS in Brazil.

Section 116, sole paragraph, of Brazilian National Tax Code sets forth Brazilian rule corresponding to a general anti-avoidance rule, stating that tax authorities may disregard legal structures and transactions that aim at disguising a tax triggering event or the nature of the constitutive elements of a tax obligation. However, Brazilian scholars sustain that such disposition is not applicable since it was not regulated by a proper law.

International Services rules:

Taxation on the payment for imported services (technical services, technical assistance, transfer of technology) has a very high tax burden in Brazil of approximately 40% on top of the royalties/services price, as follows: Withholding Income Tax – WHT at 15% on top of the amounts paid or credited to the provider abroad; Contribution for Intervening on Economic Domain – "CIDE-Royalties" at 10% on top of the amounts paid to the provider abroad; PIS and COFINS at a combined 9.25% rate on top of the amounts paid to the provider abroad; ISS at 2% to 5%, depending on the services provided, on top of the amounts paid to the provider abroad; and IOF-FX at 0.38% rate on top of the FX transaction.

WHT and ISS are withholding taxes (i.e., shall be withheld and paid by importer and deducted from the amounts to be remitted to the foreign provider).

PIS and COFINS on the imports of the service, although are costs for the Brazilian party, can be used to offset the PIS and COFINS on gross revenues earned by the Brazilian payor if the latter is subject to such contributions under the noncumulative regime.

CIDE-Royalties and IOF-FX are also costs for the Brazilian party and are not recoverable.

If the Brazilian retainer is also obliged to contractually bear the WHT and ISS burden (so that it must remit the total price, without deductions), the total tax burden of the transaction is even higher, once the price has to be grossed-up for the calculation of the withholding taxes).

PIS and COFINS do not levy on the payment of royalties for the sole use of intangible rights (without services involved). The payment of pure royalties abroad, with no services or transfer of technology features has a lower tax burden if compared to the importation of services.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Tax incentives are granted both in Federal, State and Municipal levels. Generally, incentives can be granted to specific products commercialized by the company, to companies located in specific regions of the country (to stimulate the development of such regions), to companies developing specific businesses etc.

At the State level, tax incentives are basically related to (i) reduction of the ICMS (by means of taxable basis reductions, tax rates deductions, granting of presumed credits etc.) and, commonly, (ii) ICMS payment deferral on import transaction.

It was very common to have States granting a series of ICMS reductions to attract investments. However, States like São Paulo, which concentrates consumers, manufacturing, and commercial companies, used to challenge those ICMS incentives unilaterally granted by other States, claiming that Brazilian Federal Constitution does not allow the unilateral granting of ICMS incentives unless all States within the so-called CONFAZ (State Council on Taxation Policy) agree with the granting. In Brazil, this conflict among the States, regarding unilateral granting of tax benefits is commonly known as "tax war".

There are two main risks in connection with the use of tax benefits unilaterally (without CONFAZ approval) granted by States: (i) other States may disallow its taxpayers (commercial companies) to take ICMS credits deriving from purchases (interstate transactions) benefited with the tax benefits granted by the other State; and (ii) the law creating the unilateral tax benefit may be challenged before the Brazilian Supreme Court ("STF").

To solve this problem, Complementary Law 160/2017 (regulated by Covenant ICMS 190/2017 – the so-called Convênio 190/17) provided for the possibility of validation of ICMS tax incentives unilaterally granted by States in the past, even those that have been considered unconstitutional by the STF, if some requirements were met by the States. Most of the States complied with the requirements, reducing therefore the tax risks in connection with ICMS benefits that were unilaterally granted by them in the past.

There are other ICMS incentives granted to specific business by means of Covenants ICMS (the so-called Convênios, are agreements made all the States with the allowance of ICMS incentives to some business. The States tends to incorporate these ICMS incentives to its own legislation), e.g.:

- Convênio ICMS 100/1997: grants ICMS exemption and reduction to agricultural inputs.
- Convênio ICMS 101/1997: grants ICMS incentive to renewable energy industry and determines that commercial transactions with equipment to provide solar and wind energy may be exempt from the ICMS.
- Convênio ICMS 1/1999: grants ICMS exemption to operations with equipment and inputs for the provision of health services.
- Convênio ICMS 38/1991: grants ICMS exemption on purchases of equipment and accessories for institutions that serve people with disabilities on physical, hearing, mental, visual aspects.

There are several other Covenants ICMS with tax exemptions or reductions.

Other Concessions by Industry/Market:

There are also tax incentives depending on the type of activity developed in Brazil, as follows.

REIDI

REIDI (Special Regime for Infrastructure Development Projects) is a federal tax incentive by which the taxpayers enrolled in the program can import or locally purchase equipment or machinery (as well as services) to be used in an approved infrastructure project with PIS/COFINS suspension (converted into 0% rate when the product/services are indeed used in the project).

To request the REIDI benefit, the taxpayer must have an approved project for the construction of infrastructure related to transportation, ports, energy, sanitation, or irrigation industries.

Once the taxpayer is enrolled with the program, sales of goods and services (to be utilized in the project) from suppliers to such taxpayer will not be subject to PIS/COFINS (thus, reducing the price of acquisition).

In case of rendering of services to taxpayers enrolled with the program, PIS/COFINS does not levy. However, only the services strictly linked with the implementation of the project would be benefited with the incentive, e.g., installation/assembly/commissioning services.

Finally, the companies that provide civil construction services to other companies already enrolled in the program can also request the same incentives (co-enrollment at REIDI). Thus, acquisitions made by the civil construction companies (including importations) will be suspended from PIS/COFINS as well as the rendering of its services to the taxpayers enrolled with REIDI. We understand the co-enrollment would not be applicable to Newco. So, the importation and local acquisitions made by Newco would not benefit from REIDI.

REPETRO

REPETRO is the special customs regime for the export and import of goods used for research and exploitation of oil and natural gas deposits. Basically, the tax incentives are: local acquisition of inputs with suspension of IPI and PIS/COFINS, and imports with suspension of I.I, IPI, PIS/COFINS.

ROTA2030

Rota 2030 is a federal government program that defines rules for manufacture and import of vehicles to be sold in Brazil. It consists of a set of standards and guidelines that manufacturers installed in the country must comply with.

In summary, the companies that comply with rules related to innovation, energy efficiency, automation of the manufacturing process, environment and investments in research and development ("R&D"), are entitled to some tax incentives that reduces the Corporate Income Tax – CIT (IRPJ and CSLL).

RECOF

RECOF is a special customs regime of industrial warehouse under computerized customs control, which allows the beneficiary to import or locally purchase (with suspension of federal taxes, i.e., I.I., IPI and PIS/COFINS) goods to be subjected to industrialization operations of products to be exported.

REPORTO

Reporto is the tax incentive used to incentivize the modernization and expansion of the port structure. This regime allows the imports of machinery, equipment, spare parts and other goods with suspension of payment of federal taxes when imported items are used directly by the beneficiaries of the regime and destined to its fixed assets for exclusive use in the modernization and expansion of the port. Basically, the tax incentives are: local acquisition of inputs with suspension of IPI and PIS/COFINS, and imports with suspension of I.I, IPI, PIS/COFINS

REPES

The REPES special tax regime is aimed at companies that exclusively operate in software development activities or provide information technology services. The incentive is granted to a company that predominantly perform software development activities or the provision of information technology services and that assumes an export commitment equal to or greater than 80% of its revenue annual gross income arising from the sale of goods and services. The company is entitled to a suspension of PIS/COFINS due in imports and local acquisition of assets and services used in the context of its activities. Also, IPI is suspended in case of imports of assets with no similar locally produced, in case the asset is imported by the beneficiary company.

RECAP

RECAP is the regime that offers special conditions to exporting companies for the acquisition of capital assets, which are assets used to produce other goods or services. This regime allows the local acquisition and import of assets and services with suspension of PIS/COFINS. It is entitled to enjoy this incentive the company that assumes a commitment to register at least 50% (fifty percent) of gross revenue with exports of goods and services, during the period of 3 (three) years.

OEA

The OEA Program (*Operador Economico Autorizado*) is not technically a tax incentive, but a customs incentive. Companies certified as OEA are considered as a low-risk, reliable operator and, therefore, are entitled to enjoy benefits offered by Brazilian Customs, related to greater agility and predictability of its cargo in international trade flows. This customs incentive tends to reduce the warehouse expenses related to imports and exports.

Special Tax Regimes, Incentives or Subsidies:

There are also other tax incentives, as follows:

Lei da informática:

The main tax incentive of the "*Lei de Informática*" is a financial credit that is an additional deduction of the income tax (IRPJ and CSLL), or a reduction of other taxes and contributions administered by the Federal IRS. The financial credits are calculated based on the expenses of the company in R&D. In general, approximately 10% of the amount invested in R&D are granted by Federal IRS as financial credit.

Also, if the goods are enrolled in the tax incentive of "Lei de Informática" for federal purposes, it is possible to enjoy a state incentive, which is the reduction of the ICMS burden. Generally, the ICMS burden in in-State sales is 18% upon the price of sales of the goods/equipment, and this incentive reduces the ICMS to 12%.

In order to enjoy the incentives, the company must comply with some requirements, e.g.: investments in R&D; regularity before Federal IRS; the tariff code (NCM) must be listed by the Decree No 5,906/2006; comply with the requirements of the Basic Production Process (PPB); adoption of the Actual Profit regime or Presumed Profit Regime for income tax purposes.

Lei do bem:

The main tax incentive of the "*Lei do bem*" is an additional deduction for Corporate Income Tax (IRPJ and CSLL), based on the expenses with research, development, and innovation (RD&I) incurred by taxpayers that adopt the Actual Profit regime for income tax calculation.

The requirements are: company must be under the Actual Profit regime; register profits in the period that the incentive will be used; regularity before Federal IRS; investments in research, development, and innovation (RD&I); fill the forms enacted by the Ministry of Technology and Innovation (MCTI); and adopt analytical control of costs and expenses for each project, in specific and individualized accounts.

Tax Exemptions:

The Federal Constitution also grants a tax immunity to some activities or situations, i.e., temples and churches, political parties, workers' unions, non-profit associations related to education and social assistance and paper used exclusively for newspapers printing, periodicals, and books.

In order to enjoy this tax immunity, some requirements must be met, e.g., the entities must not distribute any portion of its assets or income, fully apply in Brazil its resources in the maintenance of its institutional objectives, properly register its revenues and expenses in tax books under the formalities determined by law.

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INCOME TAXES

Corporate Income Tax (CIT):

Under the general taxation regime, Chilean resident entities are subject to CIT at a 27% rate over its net taxable income, generally determined under full accounting records and on an accrual basis. Entities are entitled to deduct from their gross income the expenses incurred in the corresponding tax period to the extent such expenses meet the requirements of the Income Tax Law ("ITL").

The Chilean income tax is an integrated system in which the CIT annually paid by Chilean companies may be totally or partially credited against "final income taxes" payable at the owners' level (i.e., Personal Income Tax ["PIT"] applicable to Chilean resident individuals or Withholding Tax ["WHT"] applicable to non-Chilean residents).

Under a special regime, the CIT rate applicable to SMEs is 25%, provided the requirements established in the ITL are met. It should be noted that these entities are subject to a CIT rate of 10% for commercial year 2023, which increases to 12,5% and 25% in commercial years 2024 and 2025, respectively.

Dividend Tax (DT):

A distinction must be done between dividend distributions made to Chilean residents and those made to non-residents.

Regarding dividends distribution between Chilean resident taxpayers, it is important to differentiate between distributions made to entities and those made to individuals. Dividend distribution between Chilean entities is not subject to DT (but the distributed profits are registered in the Chilean shareholder's register with the associated CIT tax credit), whereas individuals must include the amount received in their PIT taxable base, and generally have the right to credit 65% of the CIT paid against the determined PIT.

Dividend distributions paid abroad are typically subject to a 35% WHT applied over the grossed-up dividend on a cash basis, with a full (100%) or partial (65%) credit for the CIT paid by the Chilean entities distributing the dividend. This full or partial credit will generally depend on the existence of a Tax Conventions for Avoiding Double Taxation ("TCADT") in force between Chile and the country where the taxpayer receiving the dividend resides.

Capital Gains Tax (CGT):

Capital gains obtained by Chilean resident entities are deemed ordinary income, and thus subject to CIT at a rate of 27% under the general taxation regime.

Capital gains obtained by Chilean resident individuals are generally subject to PIT, on a cash basis. If obtained from the sale of shares and the gains does not exceed USD 9,500 approx., it may qualify as non-taxable income. If obtained from the sale of real estate located in Chile (acquired post 2004), there is cap of USD 360,000 approx. that may qualify as non-taxable income.

Capital gains obtained by non-residents are generally subject to a 35% WHT on a cash basis. TCADT may provide relief or a reduced limitation on this rate. Benefits described in the paragraph above for individuals also apply to non-resident capital gains obtained from the sale of shares and real estate, respectively.

Special rules (i.e., 10% sole tax) may apply to capital gains obtained in the sale of Chilean shares that are regularly and substantially traded on a stock exchange, as outlined in Article 107 of the ITL.

Withholding Tax (WHT):

Generally, Chilean-source income (i.e., income arising from goods located in Chile or activities developed in the country) earned by non-Chilean residents is subject to WHT at a 35% rate on a cash basis. Additionally, certain payments made by Chilean residents to non-residents are subject to WHT.

The general WHT rate may be lowered by application of a TCADT or local law provisions. For example: (i) interest paid abroad arising from loans granted by foreign or international banks of financial institutions may benefit form a reduced 4% WHT; (ii) royalties paid abroad are generally subject to a WHT rate of 30%, which can be further reduced to 15% or being exempt depending on the nature of the intellectual property involved; and (iii) remuneration for services provided abroad has a special treatment (please refer to the International Services Rules below).

TRADING TAXES

Value Added Tax (VAT):

VAT is imposed at a standard rate of 19% on the habitual sale of movable assets and of real property (excluding land) located in Chile, and on services rendered or utilized in Chile that are not covered by an exemption contemplated in the law. In addition to this, VAT is applied to specific taxable events, including imports and the provision of digital services abroad. Notwithstanding, exports of goods and services and some specified transactions are VAT exempt.

The VAT levied on the acquisition of goods, utilization of services or imports gives the VAT taxpayer the right for VAT fiscal credit ("Fiscal Credit"). When said taxpayer sells goods or renders services subject to VAT, the VAT so charged becomes a VAT fiscal debit ("Fiscal Debit"), which may be offset with the carried-forward Fiscal Credit. The monthly positive difference between the Fiscal Debit minus the Fiscal Credit constitutes the VAT payable by the VAT taxpayer in cash. If the Fiscal Credit exceeds the Fiscal Debit the excess can be carried forward indefinitely.

Free-Trade Zones System (FTZ):

Certain free trade zones, specifically Iquique in the north and Punta Arenas in the south, are protected by a presumption of extraterritoriality. Goods brought into these zones are deemed located outside the country, and thus exempted from custom duties, taxes, and other charges. Users of free trade zones are exempt from VAT for specific operations carried out within the zone, such as sales and services provided to other zone users. Additionally, these users are exempt from CIT on profits derived from activities conducted within the free trade zone.

Custom Allowances:

Import operations in Chile are generally subject to the payment of a 6% customs tariff calculated over the CIF value of the goods, plus a 19% VAT, which must be collected by the National Customs Service before the goods are cleared to enter the country. Export operations are free from payment of any duties or taxes.

Preferential treatment (generally, reduced, or waived customs tariffs) may be available and claimed under applicable Free Trade Agreements or Economic Cooperation Agreements, provided that the relevant rules of origin are fulfilled.

Furthermore, the import (or sale) of specific goods including luxury products and alcoholic beverages, may be subject to additional taxes, as applicable depending on each product.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Chile has been active in implementing the BEPS recommendations. In this regard, it has already signed and deposited its Instrument of Ratification, Acceptance or Approval of the MLI, which is in force since March 2021. Furthermore, it has incorporated several changes of the 2017 OECD Model Tax Convention in its tax treaties and has made changes to internal laws in line with the said recommendations.

Tax Conventions for Avoiding Double Taxation:

Chile is a party to several TCADT. Currently, there are 36 agreements in force (please refer to https://www.sii.cl/normativa_legislacion/convenios_internacionales.html for the full list). Additionally, Chile has signed a TCADT with the US, which is not yet in force.

Multilateral Assistance Convention (MAC):

The MAC was signed by Chile on October 2013, and is in force since November 2016.

Common Reporting Standard (CRS):

Chile has subscribed the OECD's Common Reporting Standard rules, which are currently in force in the country. On 2017, the Ministry of Finance issued the Supreme Decree No. 418 of 2017, in which it established the Regulation to which information obligations derived from the CRS are subject. Furthermore, Article 62 ter of the Tax Code encompasses the provisions for the CRS rules. These rules empower the Chilean Tax Authority to seek annual information when specific criteria are fulfilled.

Controlled Foreign Corporation Rules (CFC):

Chilean resident individuals, companies, and equities must recognize for tax purposes the passive income directly or indirectly derived from controlled foreign entities on an accrued basis. This is an exception to the general rule of ITL under which foreign source income is recognized on a cash basis.

For the rules to apply, two cumulative requirements must be met: (i) control over a foreign entity by a local taxpayer; and (ii) such foreign entity obtaining passive income.

An entity is considered controlled by a Chilean resident taxpayer when, at the end of the fiscal year or at any time during the preceding 12 months, such taxpayer, alone or together with related persons or entities, in the proportion that corresponds, directly or indirectly own 50% or more of: i) the equity, or ii) the rights to profits, or iii) voting rights of the entity in question. Furthermore, control is presumed when the foreign entity is incorporated, domiciled, or resident in a country or territory considered as a preferential fiscal regime.

For the purposes of Chilean CFC rules, passive income include, among others: (i) Dividends, withdrawals, distributions, and any other form of profit distribution or accrual (unless coming from an entity whose line of business is not the obtention of passive income); (ii) Interests and other income arising from movable capital (unless the controlled entity is a banking or financial institution regulated as such by the authorities of the respective country); and (iii) Royalties or income from the assignment of the use, enjoyment, or exploitation of trademarks patents, formulas, computer programs and similar services.

Transfer Pricing Rules (TP):

Under Chilean TP rules, the Chilean Tax Authority is able to challenge the prices, values or profitability of transactions celebrated between a Chilean resident or domiciled taxpayer and its non-resident related parties, provided they do not conform to normal market values (i.e., those that have been or would have been agreed by independent parties in comparable operations and circumstances, considering, for example, the characteristics of the relevant markets, the functions assumed by the parties, the specific characteristics of the goods or services contracted and any other reasonably relevant circumstances).

Differences determined by the Chilean Tax Authority through a transfer pricing audit may be subject to a 40% penalty tax, with the risk of an additional 5% fine if the taxpayer does not provide the required information on time.

Thin Capitalisation Rules (TC):

Under Chilean TC rules, a 35% TC tax is applied on any portion of interest paid abroad to a foreign related party that is attributable to the Chilean borrower excessive indebtedness (i.e., the excess over the debt-to-equity ratio of 3:1).

The debt-to-equity ratio of 3:1 is assessed at the end of every year and shall be calculated considering both intercompany and third-party debt, as well as domestic and foreign debt, with the exception of loans with a maturity date of 90 days or less, all in a monthly permanence basis (e.g., if the company owed USD 1,200 at the beginning of the year and paid the debt in January, only USD 100 should be considered for the calculus). For this purpose, a company's equity means its tax-adjusted equity, which corresponds to the total assets of the company less its current liabilities, both at tax values.

The applicable WHT on interest payments abroad can be credited against the 35% TC tax (i.e., if the WHT applicable over the interest payment is applied at a 35% rate, TC tax would not be applicable). The 35% TC tax is deductible for income tax purposes by the borrower.

Hybrid Structures Rules (HS):

There are no specific Chilean HS rules.

The Chilean general anti-avoidance rule ("GAAR") recognizes the principle of good faith of taxpayers (i.e., legal forms should be in principle respected by the authority) but enables the Chilean Tax Authority to disregard the legal forms to the extent that taxable events are avoided by means of abuse or simulation. *Abuse* exists when the taxable event is avoided, or the tax liability is reduced or delayed, by means of one or more actions or dealings that do not have any relevant legal or economic effect -other than tax- (the reasonable exercise of choices of conduct contemplated by the provisions of Chilean tax legislation, which establishes that the taxpayers have the right to choose between reasonable behaviors and alternatives contemplated in the tax law, is recognized as valid). *Simulation* exists when the existence of a taxable event or the elements, true amount or triggering date of a tax liability is disguised.

International Services rules:

The payments for remuneration of services provided abroad is subject to a 35% WHT rate. However, this rate may be reduced to 15% for the remuneration of engineering or technical works and professional or technical services (or 20% if the beneficiary is resident in a country considered as a preferential tax regime). Additionally, several payments for services rendered abroad may be WHT exempted, such as mercantile commissions (i.e., commercial agency agreements that involve intermediation services). Moreover, these payments could be subject to the specific provisions of a TCADT.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

The VAT Law includes a provision that grants a specific VAT exemption for the importation of certain capital goods. This exemption applies to goods intended for the development, exploration, or exploitation of investment projects within a range of sectors such as mining, energy, telecommunications, research, or scientific development, and only applies provided the investment project as a whole is of involves US$ 5 million or more.

Similarly, investment projects intended exclusively for the development of health, educational, scientific, research or technological development activities, and the construction of housing and offices, may be exempted from the Regional Contribution, a 1% tax applied to the acquisition value in excess of US$ 10 million of all the fixed assets comprising an investment project that is subject to the environmental assessment system.

Other Concessions by Industry/Market:

Generally, Chilean tax laws do not contemplate tax benefits by industry or market. Exceptionally, and by way of reference, there is the case of a special law applicable to Chilean commercial airlines (i.e., Decree-Law No. 2,564 of 1979). According to this law, payments made by these entities to non-resident taxpayers for technical advice, services rendered abroad, interest, or any other concept related to their ordinary line of business activities, shall be exempt from WHT.

Special Tax Regimes, Incentives or Subsidies:

Chilean laws contemplate certain specific territorial tax incentives worth mentioning.

Firstly, Navarino Law (Law No. 18,392) and Tierra del Fuego Law (Law No. 19,149) establish preferential customs and tax regimes for companies domiciled in Tierra del Fuego, in the south of the XII Region. Both contemplate similar benefits ranging from corporate tax exemptions, VAT exemptions, real estate tax exemptions, among others. These benefits are exclusive for taxpayers that conduct industrial, mining, sea resources exploitation, transportation and tourism activities in this zone, provided that their establishment and activity entails a rational use of natural resources and that they ensure the preservation of nature and the environment.

On the other hand, Austral Law (Law No. 19,606) serves as a catalyst for fostering economic growth in the regions of Aysen (XI Region) and Magallanes (XII Region), along with the province of Palena (X Region). This law grants a tax credit against the CIT that ranges between 10% and 32% of the value of the fixed assets corresponding to constructions, machinery and equipment, including real estate intended for commercial exploitation for tourism purposes acquired new or constructed in the relevant year, capped at 80,000 monthly tax units (US$ 6.3 million approx.)

Tax Exemptions:

Chilean tax laws contemplate certain tax exemptions which intend to benefit non-profit organizations, if certain conditions are met.

Colombia

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INCOME TAXES

Corporate Income Tax (CIT):

1.1. Residence

1.1.1. Local entities are taxed in Colombia on their worldwide income and assets.

1.1.2. Foreign entities are taxed upon their local sourced income and assets held in Colombia at the same rate.

1.1.3. Foreign entities conducting business in Colombia on a permanent basis are deemed to have a Permanent Establishment ("PE") in Colombia. If a PE is deemed to exist, worldwide sourced income and assets allocated to the PE will be taxed in Colombia at the statutory rate. Allocation is made based on the assets, activities, functions, and risks.

1.1.4. For tax purposes, entities are deemed as local if they: (i) have their principal domicile in Colombia; (ii) they have been established in Colombia in accordance with existing laws; or (iii) have their place of effective management (POEM) in Colombia. The POEM is defined as the place where the commercial and management decisions necessary to carry out the activities of the company or entity on a day-to-day basis are made. POEM will not be configured regarding foreign entities that (i) are listed in the Colombian Stock Exchange or in another recognized Stock Exchange, or that have issued bonds that are negotiated through such a Stock Exchanges; or (ii) receive at least 80% of their total income in the country where they are incorporated.

1.1.5. Significant Economic Presence (SEP)

1.1.5.1. Applicable as of January 1, 2024.

1.1.5.2. Non-residents in Colombia who are deemed to have a SEP in Colombia are subject to income tax on income from the sale of goods and/or provision of services in favor of clients and/or users located in the national territory, in accordance with the following rules.

1.1.5.3. In the scenario of commercialization of goods or services, the SEP exists if the non-resident meets all the following requirements: (i) Maintains 1 or more deliberate and systematic interactions in the Colombian market, i.e., with 1 or more clients and/or users located in the national territory (The non-resident maintains an interaction or marketing activities with 300,000 or more customers and/or users located in Colombian territory during the previous taxable year or the current taxable year or the non-resident maintains or establishes the possibility of viewing prices in Colombian pesos (COP) or allowing payment in Colombian pesos (COP) and (ii) During the previous taxable year or in the current taxable year, the non-resident had obtained or obtains more than a gross income of 31,300 UVT (approx. USD316,000) for transactions that involve the sale of goods with 1 or more clients and/or users located in the National territory.

1.1.5.4. Regarding the provision of digital services (Online advertising services, Digital content services, whether online or downloadable, including mobile applications, e-books, music and movies, Free streaming services, including TV shows, movies, streaming, music, streaming media - "podcasts" and any form of digital content, any other service provided through a digital market for users located in the national territory, etc.), the above requirements also must be met.

1.1.5.5. Non-residents with SEP will be taxed in one of two ways (subject to the regulation issued by the National Government).

- Declare and pay the income tax return at the rate of 3% on the total gross income derived from the sale of goods and/or provision of digital services.
- Payments for the sale of goods and/or provision of services made by non-residents with SEP, in favor of clients and/or users located in the national territory, are subject to a 10% WHT upon the gross payment. In the event that this withholding is not applied, the non-resident with SEP must file and pay an income tax return statement in Colombia in accordance with literal a above referred.

1.1.5.6. The double taxation agreements (DTAs) signed by Colombia prevail over this rule, so if there is no similar taxation under the figure of SEP in their wording, there is no place to apply it.

1.2. Rate

1.2.1. CIT statutory rate is 35%.

1.2.2. For certain companies in free trade zones the CIT rate is 20% CIT on income from export of goods and services.

1.2.3. Certain types of income are subject to a 15% CIT rate under some requirements: hotel services rendered in newly built or refurbished facilities and ecotourism activities, among others.

1.2.4. There is a surcharge on the income tax of up for taxpayers of certain industries that meet some thresholds of income (e.g., financial institutions for which the surcharge is temporary, generation of electrical energy for which the surcharge is temporary and extractives activities). The rate depends on some conditions.

1.2.5. The latest tax reform (Dec 2022) established a minimum rate of taxation for taxpayers, except for foreign entities without residence in the country, which is calculated from a financial profit defined by the same law. This minimum rate would not be less than 15%. Hence, if the financial profit calculated as per the standard is lesser than 15%, the income tax to pay must be increased to achieved said 15%.

1.3. Indirect transfer taxation regime

1.3.1. Transfer at any title of shares, participations or rights held in foreign entities made by a non-resident individual or entity will trigger taxation in Colombia if it involves the indirect transfer of a Colombian asset and will be taxed as if the Colombian underlying asset had been directly transferred.

1.3.2. "At any title" includes not only a sale but any type of alienation or disposal of an asset which according to the regulations might comprise -among others- capital contributions into foreign entities, liquidations of foreign companies, payments in kind, capital reductions, and capital reductions.

1.3.3. Gain, if any, will be taxed as a long-term capital gain, at the rate of 15%, if the shareholder of the foreign entity that directly holds the Colombian asset has owned said entity for at least two (2) years by the transferor. Otherwise, the gain will be taxed as ordinary income at the statutory CIT rate (35%).

1.3.4. Exceptions:

1.3.4.1. No tax will accrue because of a transfer or disposal of foreign stock listed on a recognized stock exchange with an active secondary market and provided that the stock does not belong in more than 20% to one single ultimate beneficial owner.

1.3.4.2. No tax would accrue if the assets located in Colombia are worth less than 20% of both the book value and fair market value of the total assets of the foreign entity being transferred.

1.3.4.3. No tax will accrue if the Colombian underlying assets are transferred as a result of a foreign merger or spin-off provided that: (i) the merger or spin-off meets the reorganization neutrality requirements, and (ii) the Colombian assets represent less than 20% of the total assets owned worldwide by the group.

1.3.5. The indirect transferor will be required to file an income tax return within following month to the indirect transfer takes place, for which he must obtain the Tax ID (Registro Único Tributario "RUT").

1.3.6. Failure to comply with formal (filing) or substantial (payment) obligations will trigger interests and penalties. Be noted that in the event of non-compliance with the tax obligations by the transferor, the Colombian subsidiary will be jointly and severally liable for taxes, interests, and penalties.

1.3.7. Likewise, if the transfer takes place between associated parties, the transferor would be obliged to meet the transfer pricing formal duties if some thresholds of gross income are met.

Dividend Tax (DT):

2.1. Dividends distributed to local entities:

2.1.1. Dividends from taxed profits at corporate level, are subject to a dividend tax of 10%, to be collected via withholding tax over the gross amount of the dividends. This would not apply if a business group is registered before the Chamber of Commerce.

2.1.2. If profits were not taxed at corporate level, an equalization tax (at the same rate of the CIT -35%-) will be applicable to gross dividends distributed, and over the net value of the dividends, the 10% dividends tax will be withheld for a computed rate of 41,5%. The 10% would not apply if a business group is registered before the Chamber of Commerce.

2.2. Dividends distributed to foreign entities that are not resident in countries that have subscribed a Double Taxation Agreement with Colombia:

2.2.1. Dividends distributed to foreign non-resident entities, that arise from taxed profits at corporate level, are subject to a dividend tax of 20%, to be collected via withholding tax over the gross amount of the dividends.

2.2.2. If profits were not taxed at corporate level, an equalization tax (at the same rate of the CIT -35%-) will be applicable to gross dividends distributed, and over the net value of the dividends, the 20% dividends tax will be withheld for a computed rate of 48%.

2.3. Remittances from the PE overseas are considered a dividend and are taxed as if they were legal entities distributing dividends abroad.

Capital Gains Tax (CGT):

3.1. Income from the sale of fixed assets held for two years or more, or on the liquidation of a Company incorporated for two years or more, or when an entity gets income arising from gifts, donations. The income will be taxed with capital gains tax at a 15% rate instead of the ordinary CIT rate.

3.2. Sale of shares

3.2.1. The gain, if any, will be taxed as a long-term capital gain, at 15%, if the seller has held the Colombian shares for at least 2 years. Otherwise, the gain will be taxed as ordinary income at the statutory corporate income tax rate (35%).

3.2.2. The taxable gain will be the difference between the sales price and the applicable tax

3.2.3. basis.

3.2.4. Regarding the sales price:

3.2.4.1. If parties are not affiliated parties under the transfer pricing regulations, the price will be at least the 130% of the intrinsic value of the Colombian shares, i.e., the net equity of the Colombian entity divided by the outstanding shares. The foregoing, without prejudice to the fact that the Tax Authority (DIAN) may determine a higher price by applying technically accepted valuation methods, such as discounted cash flow or EBITDA,

3.2.4.2. If parties are affiliated parties under the transfer pricing regulations, the price will be determined by applying technically accepted valuation methods, such as discounted cash flow and under no circumstance the intrinsic value is accepted.

3.2.5. The tax basis/tax cost will be the cost in the hands of the seller plus certain tax adjustments.

Withholding Tax (WHT):

4.1. Domestic WHT rates depend on the type of payments. For instance:

- Sale of goods: 2.5%
- Provision of services: 4%
- Lease of movable goods: 4%
- Fees from technical or professional services: 11%.

4.2. WHT on payments abroad, among others:

4.2.1. Absent of DTA, the following payments are subject to a 20% WHT:

4.2.1.1. Royalties

4.2.1.2. Leases

4.2.1.3. Exploitation of all kinds of industrial property or know-how,

4.2.1.4. Provision of services,

4.2.1.5. Benefits or royalties from literary, artistic and scientific property

4.2.1.6. Exploitation of software, among others.

4.2.1.7. Technical services whether they are rendered in Colombia or from abroad.

4.2.1.8. Technical assistance services whether they are rendered in Colombia or from abroad.

4.2.1.9. Consulting services whether they are rendered in Colombia or from abroad.

4.2.2. Absent of DTA, payments for management or direction services are subject to a 33% WHT.

4.2.3. Absent of DTA, interests from loans with a term equal or longer than 1 year: 15% WHT. Otherwise, 20%.

4.2.4. Above mentioned WHT is the final tax, so the foreign entity is not obliged to file an income tax return in Colombia.

4.2.5. In general, DTAs reduce the 20% rate to 10% and in some cases, technical assistance services and technical services are not subject to WHT.

4.2.6. Regarding capital gains, absent of DTA, the WHT rate is 15%. This WHT is not the final tax, so the foreign entity is obliged to file an income tax return in Colombia. This WHT is a tax credit against the income tax.

TRADING TAXES

Value Added Tax (VAT):

5.1.1. General Rules

5.1.1.1. VAT levies the following:

- Sale of movable assets, except those expressly excluded
- Sale or assignment of intangible assets related to industrial property;
- Provision of services in Colombia or from abroad (if the beneficiary is in Colombia), unless there is an exception available; and
- Import of assets or goods that have not been expressly excluded.

5.1.1.2. The general rate is 19%.

5.1.1.3. Importation for consumption in Colombia triggers customs taxes, that is, VAT and customs duties. The general VAT tariff is 19%, however, certain goods can have a differential VAT rate of 5% - 10%, or can be excepted or excluded from VAT.

5.1.1.4. Other importation modalities, such as temporary importation, either do not trigger VAT or allow for its deferral.

5.1.1.5. Input VAT is creditable against output VAT, even if input VAT was at higher rates than the output VAT. In case a balance in favor is accrued, this can be carried forward and compensated against future payable VAT.

5.1.1.6. In certain cases, credit balances by concept of VAT are eligible for being refunded upon request (provision of exempt services as those exported). In this case, the Colombian entity must be registered before the Tax Authority as an exporter.

5.1.2. Export of services

5.1.2.1. The exportation of services is taxable at 0% in Colombia when the exporter fulfils the law requirements (i.e., provided service fully used and consumed abroad). This figure allows the Colombian entity to request the refund of the VAT paid for purchases made to provide the services on a bimonthly basis.

5.1.3. Services from abroad

5.1.3.1. Regarding the provision of services from abroad, i.e., services where the beneficiary has its domicile, residence, permanent establishment, etc. in Colombia, if the Colombian contractor is a VAT agent ("responsable de IVA"), then it is required to reverse-charge VAT which implies that the Colombian entity assumes the VAT and declares it and pay it to the DIAN and no amount are subtracted from the payment abroad for this concept.

5.1.3.2. Otherwise, the foreign provider would be obliged to register in Colombia for VAT purposes and accrue, collect, declare, and pay the VAT collected to the Tax Authority.

5.1.3.3. Following digital services provided from abroad are taxed with the VAT which implies that the foreign provider must be registered in Colombia for VAT purposes and accrue, collect, declare, and pay the VAT collected to the Tax Authority:

- Audiovisual services (among others, music, videos, films and games of any kind, as well as the broadcasting of any type of event).
- Services provided through digital platforms.
- Online advertising services.
- Distance education or training.
- Provision of rights to use or exploit intangibles.
- Other electronic or digital services for users located in Colombia.

5.1.3.4. An alternative for the foreign provider is to apply for the alternative tax payment system that implies that credit and debit card issuers, prepaid card vendors, cash collectors by third parties, and others collect the VAT when the payment to foreign provider take place. This alternative does not currently apply because of the lack of regulation.

5.1.4. Special Import and Export Programs ("Vallejo Plan")

5.1.4.1. To promote foreign trade operations, Colombia has included in its customs regulation special import-export programs. Through these programs, goods such as capital goods, raw materials, inputs, and parts may be imported with certain tax and customs benefits as long as the final goods and/or services are exported. These special import-export programs include the following:

- Vallejo Plan for raw materials and inputs: This plan allows importing, with total or partial suspension of customs taxes, specific goods, essentially raw materials, for total or partial export within a certain period of time, after having undergone transformation, manufacture or repair (materials required for these types of operations are entitled to equal treatment as the specific goods). Under this modality of Vallejo Plan, the IOR is obliged to export 70% of the goods that incorporate the imported raw materials and inputs.
- Vallejo Plan for capital goods: This plan grants suspension of tariffs and deferral of VAT payments for the importation of capital goods, spare parts and intermediate goods.
- Vallejo Plan for the export of services: It allows the temporary importation (without customs taxes payment) of goods for the purpose of being used in a project for the exportation of services. Those having access to this program must export services for an amount equivalent to 150% of the FOB value of the imported capital goods and spare parts.
- Replacement Vallejo Plan: This Plan grants the exporter of goods the right to replace, through a new import exempted from additional customs duties, the raw materials or inputs that have been used in the production of such goods, when all customs duties were originally paid upon the initial importation. This reposition right must be requested within the 12 months following the shipment of exported goods.

5.1.5. Temporary Importations

5.1.5.1. This regime of temporary importation is defined as the importation of certain goods that must be exported in the same conditions in which they entered the National Customs Territory within a specific period. Under this type of importation, the applicable customs taxes (tariffs and VAT) are suspended or payable in installments. There are two types of temporary imports, namely:

5.1.5.2. Short-term:

5.1.5.3. Under this type of temporary importation, the maximum importation term will be 6 months, extendable for up to 3 additional months, and in exceptional situations for an additional 3 months period (prior authorization from the customs authority is required). The customs taxes (VAT and/or duties) on this type of temporary imports are suspended (no payments).

5.1.5.4. Additionally, under this type of temporary importation, the importer of record must grant a warranty equivalent to 100% of the suspended import taxes.

5.1.5.5. Long-Term:

5.1.5.6. Applies to the importation of capital goods and its accessories and/or spare parts, provided that they constitute one single shipment. The maximum term for these imports is 5 years. Customs taxes (VAT and/or duties) are deferred in semiannual installments, which must be paid while the goods are within the National Customs Territory. Additionally, under this type of temporary importation, the importer must grant a warranty equivalent to 150% of the customs taxes.

5.1.6. International Trading Companies (General Regime)

5.1.6.1. International Trading Companies are legal entities whose main corporate purpose is the marketing and sale of Colombian goods (purchased or manufactured) in foreign markets. Nonetheless, International Trading Companies may conduct other activities, provided that such activities are related to the company's main corporate purpose. Under the Customs Regulation, International Trading Companies benefit from:

- Purchasing domestic goods exempt from VAT under the terms of the Colombian Tax Code, as long as they are exported within the 6 months following the date of issuance of the relevant certificate to the supplier.
- Obtaining the Certificate of Tax Refund ("CERT") for export. Said Certificate must be agreed with the producer. CERT levels are currently at 0%; thus, this benefit is not applicable in practice. Still, in the future the National Government might activate this mechanism (i.e., for specific industries), as has happened in previous years.
- Not withholding tax on the International Trading Companies' purchase of goods aimed at being exported.

5.1.7. International Trading Companies (Small & Medium-sized Companies)

5.1.7.1. As in the case of the general regime, the main corporate purpose of these companies consists of the marketing and sale of Colombian goods abroad. However, in the specific case of International Trading regulated by Decree 1451 of 2017, these goods must be purchased in the Companies internal market from small and medium sized companies or must be manufactured by producers who are members of these companies.

- Under current Customs Regulation, these International Trading Companies enjoy the same benefits, which were explained under the general regime, and they also benefit from:
- No minimum net wealth required.
- Customs warranty reduced to 1% of the FOB value of exports performed during the year before the application.
- Access to services and support programs for companies, implemented by the Ministry of Trade, Industry and Tourism.
- Support from PROCOLOMBIA (Colombian entity that promotes international tourism, foreign investment, and non-traditional exports in Colombia) for the development of export capacities.
- Support from the Regional Productive Transformation Program (commonly known as "Colombia Productiva") in the identification of small and medium size enterprises that can offer their goods, especially when they are part of the value chains prioritized in the Productive Development Policy.[1]

1 Specialized Logistics Infrastructures (SLI) are delimited areas where activities related to logistics, transport, handling and distribution of merchandise, basic technical functions and value-added activities for national and international trade of goods are carried out by one or several operators.

5.2. International Logistics Distribution Centers

5.2.1. International Logistics Distribution Centers ("ILDC") are public deposits authorized by DIAN, located in ports, airports, and Specialized Logistics Infrastructures, in which it is possible to store foreign and national goods, as well as merchandise in the process of finalizing a temporary importation or of transformation and/or assembly.

5.2.2. ILDCs can only perform the following activities: storage, handling, packaging, repackaging, sorting, cleaning, laboratory analysis surveillance, labeling, marking, placement of commercial information, legends, package separation preparation for distribution and improvement or conditioning of the presentation, provided that the operation does not alter of modify the nature of the merchandise or does not affect the taxable base for the settlement of customs duties.

5.2.3. These centers allow users to distribute goods through re-shipment, import or export, which may remain in the ILDC for up to one (1) year from the date of arrival to the National Customs Territory. This period may be extended for an additional term of one (1) year.

5.2.4. Revenues that result from disposal of foreign goods owned by foreign companies or by persons without residence in the country, that have been introduced from abroad into an ILDC, located in international airports, seaports and river ports located in the departments of Guainía, Vaupés, Putumayo and Amazonas authorized by DIAN, are not subject to income tax. However, in cases in which foreign companies or persons without residence in the country, that own the merchandise have any economic link in Colombia, such tax relief will only operate if their economic affiliates in the country do not obtain any benefit from the disposal of the goods.

5.2.5. Foreign entities, as long as they are domiciled or legally represented in Colombia and have a Tax ID, as well as comply with the legal requirements established in Decree 1165/2019 and Resolution 046/2019, may request the qualification as an ILDC.

5.3. Free-Trade Zones System (FTZ):

5.3.1. General Aspects

5.3.1.1. Free Trade Zones are geographical areas within the Colombian Territory intended to develop highly productive and competitive industrial processes. Said areas are used by companies to develop projects to produce goods and/or services, or to perform commercial activities under special tax, customs, and international trade regulations.

5.3.1.2. Users of an FTZ are entitled to perform any type of economic activity, except for those expressly prohibited by law, namely:

- The FTZ status cannot be granted in geographical areas suitable for the exploitation or exploration of non-renewable resources.
- Financial services.
- Public utilities services, except in case of power generation companies or companies providing international long-distance telephone services.
- Activities to be performed under a state public concession contract.

5.3.1.3. Type of users

- Operator user: legal entity authorized to direct, administer, supervise, promote and develop FTZs, as well as to qualify its users.
- Industrial user of goods: legal entity located exclusively in one or more FTZs, authorized to produce, transform, or assemble goods by processing raw materials or semi-finished goods.
- Industrial user of services: legal entity authorized to develop, exclusively, the following activities: (i) Logistics, transportation, handling, distribution, packing, repacking, packaging, labeling or classification; (ii) Telecommunications, information technology systems for the capture, processing, storage and transmission of data, and organization, management or operation of databases; (iii) Scientific and technological research; (iv) Medical, dental and general health care; (v) Tourism; (vi) Repair, cleaning or quality testing of goods; (vii) Technical support, maintenance and repair of equipment, vessels, aircrafts or machinery; and (viii) Auditing, administration, brokerage, consulting or similar.
- Commercial users: legal entity authorized to develop marketing, commercialization, storage or conservation of goods in one FTZ.

5.3.1.4. Tax Benefits

- Differential tax rates apply:
  - 20% for income from exports of goods and/or services and a general 35% rate for income from local sales. The investor shall bear in mind that to access the 20% tax income rate, it shall have an Internationalization Plan arranged with the Ministry of Trade, Industry and Tourism. However, be aware that the Internationalization Plan requirement is pending regulation and is currently being reviewed by the judiciary.
  - Some FTZs regardless of whether they export or not have a 20% income tax rate, these are: offshore FTZs; industrial users of special permanent FTZs that offer port services, refinement of fuels derived from petroleum or industrial biofuels, services that provide specific logistic services established by law (Law 1004/2005), and operator users.
- VAT exemption for raw materials, inputs and finished goods sold from the National Customs Territory to or among Industrial Users to be used in the development of activities within their corporate purposes.
- Exports from the FTZ to the rest of the world are VAT exempted.

5.3.2. Main obligations

5.3.2.1. Any investor intending to carry out activities in Colombia within an FTZ can choose among Permanent FTZ, Single Company FTZ, and Transitory FTZ to perform its operations. Depending on the type of FTZ, different requirements must be fulfilled to benefit from this system.

5.3.2.2. Permanent FTZs:

5.3.2.3. These are limited to geographical areas where multiple companies are established to undertake industrial processes, render services or perform commercial activities.

5.3.2.4. General requirements to establish this type of FTZ as a new user are the following:

- Be a new company that has not carry out its corporate purpose.
- Request the reconnaissance or nominate someone as the operator user of the FTZ. This requires compliance with the requirements established for operator users.
- Develop a Master Plan, which includes economic and financial feasibility studies of the project.
- Indicate the location where the FTZ project will be developed, as well as the legal title of the territory.
- Commit to make a new investment and generate new jobs. At the end of the fifth year following the declaration of existence of the permanent FTZ, the zone must have at least 5 industrial users of goods and / or services and a new investment made by the industrial users of goods and / or services or the operator user, which all together most be equal to or greater than 46,000 Minimum Monthly Legal Wages ("MMLW"). Additionally, a minimum net worth of 23,000 MMLW must be accredited.

5.3.2.5. Single company FTZs:

5.3.2.6. These are authorized areas for one industrial user exclusively to undertake industrial activities. Contrary to the permanent FTZ, it allows one company to benefit from the FTZ regime and develop investment projects with high economic and social impact. In particular, the single company FTZ can be developed in the following sectors: dairy, services, ports, goods, agribusiness, and health services.

5.3.2.7. Specific requirements to establish a new special permanent FTZ for goods are the following:

- Comply with the general requirements to establish a permanent FTZ.
- Within three (3) years following the declaration, an investment for an amount equal to or greater than 150,000 MMLW must be made, and 150 new direct jobs must be created. For every 23,000 MMLW of additional new investment, the employment requirement may be reduced by 15, but in no case shall the total number of jobs be less than 50.

5.3.2.8. Specific requirements to establish a new special permanent FTZ for services are the following:

- Comply with the general requirements to establish a permanent FTZ.
- Within three (3) years of the declaration, met the following requirements for new investment and employment: for an investment of 10,000 MMLW, 500 direct jobs must be created; for an investment of 46,000 MMLW, 350 direct jobs must be created; and for an investment of 192,000 MMLW, 150 direct jobs must be created.

5.3.2.9. There are other much more specialized regimes that have different requirements to obtain the qualification as a special permanent FTZ, for example: clinics, ports, offshore hydrocarbon exploration and production, among others.

5.3.3. Liability Regime

5.3.3.1. In the FTZ context, the competent authority to initiate administrative sanctioning procedures against FTZ users is DIAN and the Ministry of Trade, Industry and Tourism, who may initiate administrative proceedings against the alleged infringer. Violating customs regulations related to FTZ functioning exposes FTZ Users to one or several preventive measures and/or sanctions provided by Decree 2147 of 2016 and/or Decree 920 of 2023.

5.3.3.2. This regulation establishes a series of measures aimed to guarantee compliance with FTZ laws. Failure to comply with these may imply the cancellation of the authorization as FTZ User, the imposition of fines or warnings issued by the competent authority.

5.3.3.3. These must be authorized by the competent authority, which is the Committee on Customs, Tariff and Foreign Trade Matters under the auspices of the Ministry of Trade, Industry and Tourism.

5.4. Customs Allowances:

5.4.1. Tariff Breakdown

5.4.1.1. Tariff Breakdown refers to the possibility to include in the customs schedule a new harmonized tariff code to identify a specific good, which may be requested by any customs user allowing them to identify a good more clearly under a specific sub-heading, which avoids using a classification that involves equivalent goods. It is crucial to be certain that the relevant good has differentiating characteristics. In some cases, and depending on the applicable code, customs taxes may be lower.

5.4.1.2. This request must be submitted before the Committee on Customs, Tariff and Foreign Trade Matters under the auspices of the Ministry of Trade, Industry and Tourism.

5.4.2. Tariff Deferral

5.4.2.1. Tariff deferral refers to the possibility of requesting a postponement of the application of the Common External Tariff ("CET") for a determined period. The CET is an instrument used by members of the Andean Community (CAN) to establish duties that must be applied to national tariffs when importing a good.

5.4.2.2. This must be authorized by the competent authority, which is the Committee on Customs, Tariff and Foreign Trade Matters with the support of the Ministry of Trade, Industry and Tourism.

5.4.3. Functional Units

5.4.3.1. A Functional Unit is the diverse set of components, equipment and machines of different nature that together are considered a single unit with a specific function different from each of its components. This allows that the importation of components that constitute the Functional Unit, which may arrive in different shipments under one or more transport documents, are declared under the single tariff subheading established for the Functional Unit.

5.4.3.2. This instrument must be authorized by the DIAN, through the issuance of a tariff classification resolution.

5.4.3.3. Functional units are not only favorable from a logistics perspective but also may represent savings as customs taxes for the whole unit correspond to the harmonized tariff code assigned to the main part of the unit.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

- MLI allows the modification of bilateral tax treaties (DTA) to implement measures developed by the BEPS actions.
- States can choose which DTA will be covered by the MLI and retain sovereignty to modify the CDIs through bilateral negotiations.
- Colombia decided to cover the following DTAs with the MLI: Canada, Chile, the Czech Republic, Spain, France, and India, Republic of Korea, Mexico, Portugal. Switzerland decided not to cover its DTA with Colombia so this would not be amended by the MLI.
- MLI is not in force yet in Colombia as the domestic procedures to approve it have not finished.
- MLI will produce different effects for each CDI since each country chose to apply different options (when available according to the MLI) or reserved the right to apply the modification (when available according to the MLI).

Tax Conventions for Avoiding Double Taxation:

- The following are the DTAs in forced based in the OECD model of tax treaty:

Country	
Chile	Spain
Switzerland	Canada
Mexico	India
Portugal	Czeck Republic
Republic of Korea	France
UK	Italy
Japan	United Arab Emirates (not enforceable)
Uruguay (not enforceable)	The Netherlands (not enforceable)
Brazil (not enforceable)	

- Colombia is a member of the Andean Pact and benefits from the Andean Pact Tax Directive 578 to avoid double income taxation. The countries that are member of this Pact are Colombia, Peru, Ecuador, and Bolivia.
- Colombia also has entered into income tax treaties to avoid double taxation on sea and air transportation activities with the United States of America, Argentina, Brazil, Chile, France, Germany, Italy, Panama, Chile and Venezuela.
- Colombia has also signed information exchange tax treaties with the United Arab Emirates, Barbados, and the United States of America.

Multilateral Assistance Convention (MAC):

Colombia has signed both the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA).

Common Reporting Standard (CRS):

- Colombia has also adopted the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Hence, Colombia will exchange tax information under the Common Reporting Standard ("CRS").
- Law 1661 of 2013 approved the Convention on Mutual Administrative Assistance in Tax Matters, and in its article 6 establishes the Automatic Exchange of Information. One of the types of automatic exchange of information is about financial accounts. The duty is in forced since Jan 1, 2016.
- In compliance with the Common Reporting Standard (CRS), the Tax Authority has issued several regulations regarding requirements to comply with this regulation (Resolution 119 of 2015, Resolution 031 of 2017, Resolution 078 of 2020).
- CRS applies to all Financial Institutions of the participating countries, that is, Banks, Stockbrokers, Trust Companies and other funds and investment vehicles.

- Colombian Financial Institutions must identify their clients, natural or legal persons, including the latter, partner-shareholders, and legal representatives, who have fiscal residences in countries other than Colombia, as well as the tax identification number in each one of them, through of the implementation of internal processes that allow compliance with due diligence and reporting of information to the DIAN.
- In general, the information to be submitted is:
  - Name and address.
  - Tax Identification Number(s) (TID) or equivalent and corresponding country.
  - Type and balance of the account.
  - Payments received during the year in the reportable account, such as: dividends, interest, gross profits and other types of income.
- CRS includes deposit accounts, investments (e.g., guaranteed investment certificates), custody (e.g., brokerage), as well as other financial accounts that have cash value (e.g., certain insurance contracts) or provide income payments to the client.

Controlled Foreign Corporation Rules (CFC):

- An entity will be considered a CFC if it is: (i) controlled by a Colombian entity; and (ii) considered as a non-resident for tax purposes in Colombia.
- CFC is defined as investment vehicles (such as corporations, regulated fiduciary arrangements, trusts, mutual funds, and other types of trusts) and business and private interest foundations that are incorporated or domiciled abroad, regardless of whether they have legal personality and/or whether they are transparent for tax purposes.
- If a Colombian company directly or indirectly own shares equal to or higher than 10% of: (i) the CFC's equity or (ii) its economic benefits, the foreign entity will be disregarded for tax purposes and thus the Colombian company shall include in its income tax return the passive income earned by such CFC.
- As per the regime, income, costs, and deductions relating to passive income obtained by the CFC are deemed accrued at the level of the Colombian residents that directly or indirectly control the CFC, in the same taxable year in which such income, costs, and deductions are accrued in the CFC.
- Income, costs, and deductions of the CFC are deemed to give rise to passive income when passive income represents 80% or more of the total revenues of the CFC. Likewise, income, costs, and deductions of the CFC are deemed to give rise to active income when active income represents 80% or more of the total revenues of the CFC.
- Passive income includes dividends, interests, royalties, rental income, gains from assets that generate passive income and the provision of certain services.
- Particularly, as per Colombian law passive income also includes:
  - Purchase or sale of goods from, to, or on behalf of a related entity if: (i) goods are produced, manufactured, or extracted in a different jurisdiction from the CHC domicile; and (ii) their use, consumption or disposal is done in a different jurisdiction from the CHC domicile.
  - Income earned from administrative and commercial activities for or on behalf of a related party located in a different jurisdiction from the CHC domicile.
  - Dividends distributed by other entities, unless such dividends correspond to the CFC's, its subordinated entities' or permanent establishments' active income, provided; (i) profits to be distributed derive from real economic activities of the CFC, its subordinated entities or permanent establishments in the jurisdiction of the CFC, its subordinated entities or permanent establishments; and (ii) in case of subordinated entities or permanent establishments, they are indirectly controlled by a Colombian tax resident.

Transfer Pricing Rules (TP):

- Colombia follows OECD guidelines.
- Taxpayers that carry out transactions with foreign associated parties or parties located in the Free Trade Zone are subject to the transfer pricing regime (arm´s length principle) and formal duties provided some thresholds are met:
- TP formal duties (TP return, supporting information, Master File and country by country report) must be meet if some income and/or equity thresholds are met. In any case, supporting documentation that proves that the arm's length is observed must be kept.
- Parties domiciled in tax havens are deemed as related parties.

Thin Capitalisation Rules (TC):

Interests generated from loans with local and foreign related parties are deductible only when the average amount of such interest in the year does not exceed twice the liquid worth of the Company in the previous year (2:1 debt: worth). All amounts paid by concept of interest that exceeds twice the liquid worth is not deductible.

Hybrid Structures Rules (HS):

No hybrid structures rules exist in the domestic regulation.

International Services rules:

These rules are explained in the chapter of income tax and of the VAT.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Special Economic and Social Zone (ZESE Regime)

- The Special Economic and Social Zone (ZESE) is a special tax regime whose purpose is to attract national and foreign investment, improve living conditions and generate employment in certain cities with high unemployment rates.
- It applies to companies incorporated in the ZESE, i.e., certain areas of Colombian territory (cities of Buenaventura and Barrancabermeja).
- The tax regime consists in income tax rate of 0% for the first 5 years and 50% of the tax rate for the following 5 years. This benefit applies in the same proportionality to the rate of withholding at source and self-withholding for income tax.
- Beneficiaries of the ZESE special tax regime must meet special requirements.

Performing arts

  - Deduction of the 100% of the investment made in the necessary infrastructure for the performance.
  - Taxpayers that make investments or donations to cinematographic projects approved by the Ministry of Culture can deduct 165% of the amount of the investment or donation.

- Investments made in control, conservation and improvement of the environment grant a tax credit of the 25% of the investment made in the relevant taxable year, provided that some requirements are met.
- Investments made in research, technological development, or innovation provided grant a tax credit of the 35% of the value invested in said projects in the taxable period in which the investment was made provided that some requirements are met.
- Investments made by Micro, Small and Medium-sized companies in projects classified as Research, Technological Development and Innovation grant a tax credit of 50% of the investment made provided that some requirements are made.
- Donations made to non-profit entities that have been qualified in the special income tax regime are not deductible but grant a tax credit of 25% of the value donated in the taxable year or period, provided that some requirements are met.

Other Concessions by Industry/Market:

- Taxpayers receive a tax credit of the 30% of the amount invested in research, technological development and innovation projects approved by the National Council of Tax Benefits for Science, Technology, and Innovation.
- The same treatment is applicable to (i) donations to certain programs for scholarships and special credits for education; (ii) donations to certain funds designed for financing science, technology, and innovation programs; and (iii) certain donations to INNpulsa Colombia (National Government institution that supports and promotes extraordinary business growth and entrepreneurial projects, that is, business initiatives that can grow quickly, profitably and sustainably).
- Under some requirements, taxpayers that are investors in development of renewable energy projects have a 50% bonus depreciation or amortization deduction and an accelerated 5-year depreciation method.

Special Tax Regimes, Incentives or Subsidies:

Simple Taxation Regime

- The Simple Taxation Regime is an optional regime whose purpose is to reduce the formal and substantial burdens of some taxpayers, promote formality and facilitate compliance with tax obligations.
- This regime implies:
  - In a single annual return, the following taxes are paid, among others:
    - Simple (income tax substitute).
    - National consumption tax.
    - Industry and Commerce tax (municipal tax)
  - The following items are deductible:
    - Payments made by the employer to pensions
    - 0.5% of payments received by the taxpayer by electronic means.
  - They are not subject to withholdings at source, and they are not obliged to apply them, except regarding to:
    - Labor payments.
    - VAT withholdings.

Special Income Tax Regime

- The regime applies to all associations, foundations and corporations that carry out the qualification process before the DIAN, as long as they meet the following requirements: (i) Being legally incorporated, (ii) its purpose is of general interest in one or more of the meritorious activities to which the community should have Access, (iii) neither the contributions are reimbursed nor their surpluses are distributed directly or indirectly, neither during their existence, nor at the time of their dissolution and liquidation.
- Non-profit entities that belong to the Regime are taxed at an income tax rate of 20% upon the net profit. Under some requirements, the net profit will be exempted if it is used directly or indirectly for programs that develop the entity´s purpose and its meritorious activity.
- Non-profit entities classified in the Regime must annually update the information in within the first 6 months of each year.

Tax Exemptions:

- CIT exemption: Under some requirements, income from the sale of power generated from wind, biomass, and agricultural waste technologies is exempted from the CIT.
- CIT exemption: Under some requirements and limitations, income for the promotion of the development of social housing projects.
- VAT exemption: Under some requirements equipment imported by research or technological development centers recognized by "Colciencias" that are intended for the development of scientific, technological or innovation projects according to the criteria and conditions defined by the National Council of Tax Benefits in Science, Technology and Innovation, are VAT exempted.

VAT exemption: Under some requirements, certain services rendered in Colombia or abroad and the purchase of certain goods, equipment, and merchandise related to the investment and pre-investment in projects aiming at the generation or utilization of renewable energy, including green and blue hydrogen projects are excluded from VAT.

Costa Rica

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Vittoria Di Gioacchino, Director

The Costa Rican (CR) tax system is based on the "territoriality principle", whereby only income derived from CR sources should be subject to Income Tax. On this regard, article 1 of the Income Tax Law (ITL) establishes that Income Tax is imposed on occasional or continual revenues derived by legal entities or individuals within the national territory, regardless of the citizenship or residence of the recipient of such income.

Additionally, article 1 of the ITL defines CR source income as any income derived from services rendered, goods located, or investments made within the CR territory. Moreover, article 6, subsection ch) states that: "(…) *income generated in virtue of contracts, agreements or negotiations over goods or capitals located abroad, even if celebrated or executed totally or partially within the country*" is excluded from a taxpayer´s gross income; meaning, income derived from the execution of the above-mentioned contracts should not be taxable for CR Income Tax purposes.

Even so, please keep in consideration that the Tax Authorities have, in several opportunities, ignored the before mentioned article of the Law and have apply an extensive interpretation of the territoriality principle to tax extraterritorial activities. Furthermore, Congress is currently discussing a bill of law that would tax foreign passive income as if generated locally.

Based on the above, it may be concluded that in Costa Rica both legal entities and individuals are taxed based on the principle of territoriality, meaning that only income derived from CR sources should be subject to taxation, regardless of the citizenship or residence of the recipient of such income. In addition, foreign sourced income or assets located abroad should not be declared in the annual Income Tax return.

INCOME TAXES

Corporate Income Tax (CIT):

As established by the ITL, taxpayers are subject to a 30% corporate Income Tax. This tax is calculated over net earnings, resulting of subtracting the applicable deductible expenses to the gross income generated during the fiscal year.

The statutory tax year runs from January 1st to December 31st. Companies must file corporate income tax returns and pay taxes due within two months and fifteen days after the end of the tax year. Subsidiaries of foreign companies may request to file under its parent's tax year.

Advance income tax installment payments must be paid each quarter based on the prior year's income tax paid or the average of the last three years, whichever is higher. If, for any reason, a company did not file a return during the last three years, it computes its installment payments based on its last filed return. New companies must make quarterly payments based on their first-year projections, which must be filed with Tax Authorities on or before the last day of January. If no projections are filed, the Tax Authorities may determine the quarterly payments based on an imputed amount.

As above-mentioned Corporate Income Tax is assessed over net income, which is defined as gross income minus deductible expenses and costs. Companies may deduct from gross income all costs and expenses necessary to produce taxable income. Expenses incurred to obtain exempt income are not deductible. Nevertheless, Tax Authorities are empowered to deny the deduction of expenses if any of the following criteria apply:

- Not considered necessary to produce taxable income.
- Excessive or unreasonable.
- Pertain to a different tax year.
- Not supported by appropriate documentation.
- Not registered in the accounting records.

Proper income tax not withheld at source (if applicable).

Dividend Tax (DT):

Dividends are considered "movable" capital income. The ITL establish that movable capital income would be subject to a 15% flat tax.

Capital Gains Tax (CGT):

The Capital Gains tax was introduced to the Costa Rican tax legislation in 2019. Article 27 Ter, Section 3. (a) of the ITL defines a capital gain or loss as: "*any variation in the patrimony of the taxpayer*". This would imply that any change of the patrimony of the Client, derived from the sale of the Project, would be considered a capital gain or capital loss, depending on the result of the transaction.

Regarding the capital gains tax, the general tax rate would be 15% of the gain. However, one other change introduced by the Law, is the concept of "global income", and, to apply the capital gains tax, the seller should consider if the asset being sold is an asset that generated taxable income, meaning, if it was an asset used in the ordinary trade or business of the taxpayer. If this would be the case, then, the applicable tax would be the 30% Income Tax, and not the 15% Capital Gains Tax. Nevertheless, the Capital Gains Tax should be paid, and said payment would be considered a payment on account of the Income Tax at the end of year. If the asset was not involved in the commercial activity of the seller, then the applicable tax would be the 15% Capital Gains Tax, and this would be considered a final tax.

The Law includes another exception for assets and rights acquired before the law entered in force July 1st, 2019. This exception was included as a solution for assets with low book values, since in Costa Rica, the re-valuation of assets for tax purposes is not allowed, hence, most assets in company books have very low values, since the revaluation of assets is not allowed in Costa Rica for tax purposes, which means that, when the asset is being sold, the capital gain would be too high, disproportionate and not true to market standards. Consequently, the seller is entitled to choose between a 2.25% tax on the sale price or a 15% tax over the capital gain, whichever is more beneficial. However, this option is only available for assets that were acquired before July 1st, 2019, and that are not assets that generated taxable income.

In addition, when a non-resident (non-Costa Rican taxpayer) who owns a real estate asset in Costa Rica, sells the asset, the transaction would be subject to a 2.5% withholding tax. The buyer would be responsible to withhold, declare and pay the tax on behalf of the seller. If the tax has not been reported and paid to the Ministry of Treasury, the Costa Rican National Registry Office would not register the transfer of ownership of the asset. However, for those assets not subject to registration, such as shares, the 2,5% withholding tax would only apply if the buyer were a Costa Rican taxpayer.

Withholding Tax (WHT):

As established by article 52 of the ITL, remittances abroad of CR source income to non-domiciled entities or individuals are subject to withholding taxes. Said tax is assessed over the gross amount remitted with no deductions allowed. The taxpayer of the withholding tax is the non-domiciled beneficiary of the remittance; nevertheless, the local payer is for all legal purposes considered a "withholding agent" and, as such, is jointly and severely liable for the tax.

Article 59 of the ITL establishes the applicable tax rates for the Remittances Abroad Tax. The tax rate will depend on the nature of the payment. Dividends and interest are subject to a 15% withholding tax rate. Technical assistance services, professional services rendered in Costa Rica and royalties are subject to a 25% withholding tax rate.

TRADING TAXES

Value Added Tax (VAT):

The Value Added Tax is levied on (i) goods sold in national territory or those that are imported, and (ii) services provided that meet any of the following conditions:

a. That they are provided by taxpayers in national territory.

b. That the recipient is a taxpayer located in national territory, even if the service provider is abroad.

c. Those related to real estate, when the property is located in Costa Rica.

The tax is generated on the amount of the service and is charged at each stage of the production chain, ultimately borne by the final consumer. The ordinary rate is 13%.

It should be considered that the sales of goods or services for companies that operate under the free zone regime are exempt, therefore, the invoicing of said goods and services should not be taxed.

Free-Trade Zones System (FTZ):

The Free Trade Zone Regime (FTZ) is a set of incentives and benefits granted by the Costa Rican government. Eligible projects are new companies that make an investment in Costa Rica and comply with all the requirements established by the law.

New companies that are granted the FTZ regime are subject to the following benefits:

1. Exemption on Income Tax for several years, depending on the category granted. The exemption may be renewed with a new investment.
2. Exemption on VAT for assets that are purchased locally.
3. Exemption of remittances abroad withholding tax.
4. Exemption on all taxes related to dividend distribution.
5. Exemption of all importation duties on machinery, raw materials, equipment, office furniture and any assets required for its activities.
6. Exemption of Municipal Taxes for a period of 10 years.
7. Exemption of Property Transfer Tax for a period of 10 years.

The companies that are eligible to request the regime are the following:

1. Service Companies: that provide the services that within the list of authorized services determined by Costa Rican government.
2. Exporting Companies: non-manufacturing companies that either repack, re-distribute, goods and products for their exportation or re-exportation. These companies are limited from selling their goods to the local market.
3. Strategic Sector Manufacturing Companies: These companies will assemble and manufacture goods for their exportation and re-exportation from Costa Rica. To be eligible under this category, the companies' activities have to be covered by the list of strategic sectors approved by the Costa Rican government.
4. Companies Investing Outside the Costa Rica Great Metropolitan Area: Amendments to the free trade zone law have been approved which provide free trade zone benefits to projects that fall within the following categories and that will be located outside the Costa Rican Great Metropolitan Area:
   a. Sustainable Adventure Parks
   b. Suppliers Companies that supply free trade zone companies
   c. Human Health Services

OECD/INTERNATIONAL RULES

As of May 2021, Costa Rica became the 38th member of the OECD, after following a five year process. In order to be approved, Costa Rica underwent a thorough review by the OECD Committees, and had to introduce major reforms to adapt its legislation and policies to OECD standards.

Costa Rica is the fourth Latin American member, following Chile, Mexico and Colombia.

BEPS Multilateral Instrument (MLI):

The Multilateral Convention to apply measures for the prevention of the base erosion and profit shifting (BEPS), was enacted through Law N° 9751, and subscribed by Costa Rica on June 7, 2017.

Tax Conventions for Avoiding Double Taxation:

Costa Rica only has four double taxation treaties signed; Spain Germany, Mexico and United Arab Emirates. However, as an OECD member, Costa Rica should have a DTT with at least, every OECD country.

Multilateral Assistance Convention (MAC):

Costa Rica ratified the Convention on Mutual Administrative Assistance in Tax Matters through the approval of Law No. 9118 in February 2013. Furthermore, after the signing of the Declaration on the Automatic Exchange of Information in Matter Prosecutor of the OECD, Costa Rica implemented the Standard for the Automatic Exchange of Financial Information in Tax Matters as a mechanism to exchange information annually with other jurisdictions.

Common Reporting Standard (CRS):

Costa Rica did adopt the CRS rules, however, as of 2023 CRS has not been fully implemented.

Controlled Foreign Corporation Rules (CFC):

Costa Rica has no CFC rules.

Transfer Pricing Rules (TP):

Transfer pricing regulations are applicable in Costa Rica. This means that transactions between related companies (local or abroad) should comply with the arm's length principle and should follow the same conditions (including profit margin) as if executed with a third party. This margin should be documented through a transfer pricing study, which should be presented to the Tax Administration in case of an audit and should be carried out for each fiscal period under analysis. If the company does not have this report, then it could be subject to penalties.

Thin Capitalisation Rules (TC):

Costa Rican introduced thin capitalization rules in 2019. The ITL establishes a maximum deductibility for net interest expenses of twenty percent (20%) of the EBDITA for each tax period.

Hybrid Structures Rules (HS):

Hybrid structures rules were introduced to the CR legislation in 2019. The ITL establishes that expenses associated with hybrid structures made by the taxpayer with related parties abroad, will be considered non-deductible when such expenses do not generate taxable income or generate an exempt income for said related party, or when these expenses are also deductible for the related party domiciled abroad.

Ecuador

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INCOME TAXES

Corporate Income Tax (CIT):

The tax system in Ecuador is based on the principle of world income. Taxable income obtained by companies resident in Ecuador is subject to a 25% rate on their tax base. However, this tax rate increases by 3% (which adds up to 28%), in the following cases: a) When the company omits to inform the tax authorities or does not present complete information on its shareholding composition; and b) When within the shareholding chain, there is a holder resident or established in a tax haven, lower tax jurisdiction or preferential tax regime and the beneficial owner is a tax resident of Ecuador.

The addition of 3% to the company rate applies to the entire tax base of the company, when the shareholding percentage of those who incur in any of the aforementioned causes is equal to or greater than 50% of the capital stock. Otherwise, if it is less than 50%, the addition of 3% applies proportionally to the tax base. The taxable base of the income tax is constituted by the totality of the ordinary and extraordinary income taxed with the tax, less the returns, discounts, costs, expenses and deductions, attributable to such income.

Ecuador also maintains a tax regime for entrepreneurs and popular businesses called "RIMPE" which is applicable to natural persons and companies with gross annual income of up to US$ 300,000.00 that carry out economic activities that are not on the list of activities expressly excluded from this regime (such as capital income; professional services; construction; among others). Under this regime, income tax is applied according to a progressive table whose highest rate is 2%; taking taxable income as the tax base, less discounts and returns.

Dividend Tax (DT):

Dividends distributed by a company resident in Ecuador to another company resident in this country are exempt from income tax. Dividends distributed to non-residents in Ecuador are subject to this tax.

The taxable income is equal to forty percent (40%) of the dividend effectively distributed on which the 25% rate applies in dividends distributed to non-residents. For individuals residing in Ecuador, a progressive rate table of up to 25% applies. If the company that distributes dividends fails to comply with the obligation to report its shareholding composition, the applicable tax rate is 37% according to the rules established for this purpose.

Cash loans granted by a company to its beneficiaries of capital rights, or non-commercial loans granted to related parties are considered as payment of anticipated dividends, and therefore subject to income tax withholding.

Capital Gains Tax (CGT):

The profits or capital gains received by companies and natural persons, resident or not in Ecuador from the direct or indirect sale of shares, participations, rights representing capital or their similar; of companies domiciled or permanent establishments in Ecuador are taxed with a single income tax of 10%. The taxable income corresponds to the real value of the sale; The deductible cost is the higher of the following: i) acquisition value, ii) nominal value, or iii) proportional equity value of the shares as of December 31 of the year immediately prior to the transaction, less (-) retained earnings. Expenses directly related to the sale are also deductible.

Withholding Tax (WHT):

The taxable income of non-residents that is not attributable to permanent establishments in Ecuador, that are paid or credited to the account, directly, through compensation, or through the mediation of financial entities or other intermediaries, are subject to a 25% WHT. If the income is received by residents, integrated or located in tax havens or lower tax jurisdictions, or is subject to preferential tax regimes, the withholding at source is equivalent to the maximum rate provided for natural persons, that is, 37%.

In payments made to jurisdictions with which Ecuador has signed agreements to avoid double taxation, the withholding rates established in these agreements are applicable, according to the concept of each income.

In payments at the local level, the income tax withholding rate varies according to the nature of each payment or the type of taxpayer to whom it is made.

TRADING TAXES

Value Added Tax (VAT):

The Value Added Tax (VAT) is levied on the value of the transfer of ownership or the importation of movable property of a tangible nature, in all its stages of commercialization; copyright, industrial property and related rights; and the value of the services rendered.

The rate of this tax is 12%; however, the Ecuadorian tax regime establishes: (i) Transfers that are not subject to VAT; for example: contributions in kind to companies; the transfer of shares, social participations and other securities, among others; (ii) Transfers subject to a zero percent (0%) VAT rate, of certain goods and services, such as: the transfer of certain staple food products, not processed; the export of goods; the export of certain services that comply with the rules set forth in the regulations.

Free-Trade Zones System (FTZ):

The current tax regulation in Ecuador does not include a system of Free Zones; however, instead a regime called "Zonas Especiales de Desarrollo Económico" (ZEDE) was established, as customs destinations located in delimited spaces of the national territory for new investments to settle; with exclusive export orientation and strategic import substitution. For the location of these paces, conditions such as preservation, infrastructure, basic services and others are considered.

To establish a ZEDE, public sponsorship is required. The ZEDE can be of an industrial, logistic, technological and tourist type; and it is made up of subjects who fulfill roles of administrators; operators and support service providers.

Additionally, these special zones grant the following exemptions and tax waivers: i) exemption from payment of foreign trade taxes (except fees for customs services) for imports of foreign merchandise entering the ZEDE for authorized processes for administrators and operators; ii) tax credit for the VAT paid on the purchase of raw materials, inputs and services from the national territory that are incorporated into the productive process of the ZEDE operators and administrators. You can request a VAT refund under the conditions provided by the Tax Administration; iii) Exemption from Foreign Currency Outflow Tax (ISD) for payments abroad by ZEDE administrators and operators for imports of goods and services for authorized activities.

The Ecuadorian government in recent years has promoted bills that sought the creation of Free Zones; however, these were unsuccessful and were shelved. Currently in Ecuador, nine ZEDE have been established to date.

OECD/INTERNATIONAL RULES

To date Ecuador is not a member of the OECD

BEPS Multilateral Instrument (MLI):

To date, Ecuador has not signed the Multilateral Instrument (MLI) for Erosion of the Taxable Base and Transfer of Benefits (BEPS).

Tax Conventions for Avoiding Double Taxation:

Ecuador is part of several tax agreements to avoid double taxation; currently in force: Germany; Argentina (only applies to air transportation rentals); Belarus; Belgium; Brazil; Canada; Chili; China; Korea; United Arab Emirates; Spain; France; Italy; Japan; Mexico; Qatar; Romania; Russia; Singapore; Swiss; Uruguay. The international conventions currently in force are structured according to the guidelines of the OECD Convention.

In addition to these agreements, Ecuador signed Decision 578 of the "Comunidad Andina de Naciones" CAN to avoid double taxation. This treaty is applicable to the member countries of the Andean Community, such as: Bolivia, Colombia, Peru.

Multilateral Assistance Convention (MAC):

Ecuador signed the Multilateral Convention on Mutual Administrative Assistance on October 29, 2018 and ratified it on August 16, 2019. (*Decree No. 855 Presidency of the Republic published in the Supplement to the Official Gazette No.21 of August 20, 2019*).

Common Reporting Standard (CRS):

As of April 26, 2017, Ecuador is part of the Global Forum on Transparency and Exchange of Information for Fiscal Purposes; By virtue of this, as of February 2019, it adopted internal regulations to implement the rules related to the common standard of communication of information and due diligence (CRS). *(Resolution No. NAC-DGERCGC19-00000045, published in the Supplement to the Official Gazette No. 51, October 1, 2019).*

Controlled Foreign Corporation Rules (CFC):

Ecuador does not have a Regulation of Controlled Foreign Companies; however, it has adopted standards to inform the shareholding composition of companies, branches of foreign companies residing in the country and the permanent establishments of non-resident foreign companies.

Transfer Pricing Rules (TP):

Ecuadorian law maintains the transfer pricing regime aimed at regulating for tax purposes the transactions carried out between related parties, and that the considerations between them comply with the arm's length principle.

The methodology used to determine transfer prices can be consulted by taxpayers before the Tax Administration, through a Prior Valuation Consultation (CVP), presenting all the information, data and documentation necessary for the issuance of their acquittal; same that is binding for the current fiscal year, the previous one and the three following ones.

Taxpayers who carry out operations with related parties are exempt from the application of the transfer pricing regime provided that: i) They have a tax caused in excess of three percent of their taxable income; ii) They do not carry out operations with residents in tax havens or preferential tax regimes; and, iii) They do not maintain a contract with the State for the exploration and exploitation of non-renewable resources.

The law provides for the following transfer pricing methods:

1. Uncontrolled Comparable Price Method;
2. Resale Price Method;
3. Added Cost Method;
4. Profit Distribution Method; and,
5. Method of Transactional Margins of Operating Profit.

Thin Capitalisation Rules (TC):

Ecuadorian Law establishes a limit for the deduction of interest from financial loans granted by related parties. In order for the interest paid or accrued by banks, insurance companies, and financial sector entities to be deductible, for external credits granted directly or indirectly by related parties, the total amount of these cannot be greater than three hundred percent (300%) with regarding heritage.

In the case of other companies or natural persons, the total amount of net interest in operations carried out with related parties cannot exceed twenty percent (20%) of the profit before labor participation, plus interest, depreciation and amortization corresponding to the respective fiscal year.

Additionally, the Tax Code establishes as a general anti-avoidance rule, the "principle of economic reality", which is the guideline used in tax audit processes to give the legal acts declared by the taxpayer their true meaning, according to the economic essence. of the transactions made.

Hybrid Structures Rules (HS):

There are no specific rules.

International Services rules:

Income generated by non-residents of Ecuador can only be taxed in this country if it comes from an Ecuadorian source. In such case, the income tax withholding rate applicable to payments for services by Ecuadorian non-residents is 25%; however, if the payment is made to a tax haven or lower tax jurisdiction, the rate of 37% applies; without prejudice to the rules established in agreements to avoid double taxation signed by Ecuador, if applicable.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Until 2021, Ecuadorian law included specific tax deductions for new investments made in different types of industries. However, this regulation was repealed and, currently, they can take advantage of tax deductions with the signing of investment contracts.

Other Concessions by Industry/Market:

N/A

Special Tax Regimes, Incentives or Subsidies:

Reduction of the income tax rate to promote sports, culture and responsible and sustainable economic development of science, technology and innovation: Subjects who reinvest their profits, in Ecuador, in sports, cultural projects or programs , responsible scientific research or technological development accredited by the competent authority, are entitled to a ten percent (10%) reduction in programs or projects classified as priority by the governing bodies of sports, culture and higher education, science and technology and eight percent (8%) in the rest of the programs and projects.

Reduction of three percentage points (3%) of the income tax for the development of new investments: Applicable for companies that are incorporated as of November 30, 2021, and new investments of existing companies, which will enjoy a reduction of three percentage points (3%) over the applicable income tax rate, for up to 15 years, subject to conditions established for that purpose.

Special reduction of the Income Tax rate for the subscription of Investment Contracts: Applicable to companies that are incorporated as of November 30, 2021 and to new investments of existing companies, which will enjoy a special reduction of up to five percentage points (5%) over the income tax rate, subject to certain conditions established by law for that purpose.

Reduction of the tax rate for micro and small companies or habitual exporters: Applies to companies that have the status of micro and small companies, as well as those that have the conditions of habitual exporters; those that will have a reduction of three (3) percentage points in the income tax rate. For habitual exporters, this rate will be applied whenever employment is maintained or increased in the corresponding fiscal year.

Zonas Especiales de Desarrollo Económico ZEDE: These are customs destinations located in delimited spaces of the national territory for the settlement of new investments, subject to tax incentives, as indicated in preceding paragraphs.

Tax Exemptions:

Ecuadorian law grants tax exemptions in different segments; those that are applicable, according to the context of each tax.

El Salvador

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INCOME TAXES

Corporate Income Tax (CIT):

Legal entities determine their taxable income by deducting from their gross income (income from any source, received or accrued), their expenses, costs, depreciation, among others (art. 24, 25, and 28 to 32 LISR). Income tax will be applied to that taxable income, with a rate determined according to a threshold on taxable income of the business year (i.e., gross income minus excluded income and untaxed income). If it is lower than USD 150,000.00, the rate is 25%; if it exceeds that amount, the rate is 30% (art. 41 LISR).

Dividend Tax (DT):

Taxpayers that effectively pay dividends to their partners or shareholders, must withhold 5% of such amounts, as a final payment of the income tax of each partner or shareholder, whether domiciled in El Salvador or not; and in case the withholdings have not been made, each partner or shareholder must declare this income separately, and pay the 5% rate income tax (art. 72 LISR).

However, if dividends are paid to partners or shareholders resident or domiciled in a tax haven, the tax rate for those dividends will be 25%.

Capital Gains Tax (CGT):

Salvadoran tax law recognizes two types of capital gains: a) the non-habitual transfer of movable goods and real estate, and b) the transfer of shares, securities and financial instruments.

a. Non-habitual transfer of movable and immovable property: Applies to the net gain on the sale, exchange or any other form of negotiation of movable goods and real estate. The net gain is determined by subtracting from the value of the transaction (sale price), the basic cost of the good, the improvements made to preserve its value, and the necessary expenses of the transaction. If the result of this subtraction is positive, there will be a capital gain, whose tax rate is 10% applied on such result. If the result is negative, there will be a capital loss, which can be used within the next five years against future capital gains (art. 14 and 42 LISR).

b. Transfer of shares, securities and financial instruments: It applies to the net gain on the sale, swap or any other form of negotiation of shares, securities and financial instruments, unless Withholding taxes have been applied, as final tax payment (art. 158 to 159 LISR). The net gain is determined by subtracting from the value of the transaction (sale price, which may not be lower than its quoted price on the Stock Exchange, or otherwise from the issuer's books), the acquisition cost of the share or security and the necessary expenses of the transaction (art. 14-A LISR). If the result of this subtraction is positive, there will be a capital gain, whose tax rate is 10% applied on such result. If the result is negative, there will be a capital loss, which can be used within the next five years against future capital gains.

In the event that the time between the purchase of a movable good or real estate, share, security or financial instrument and its subsequent sale is less than 12 months, the capital gain will be taxed as ordinary income, being added to the income tax calculation (regardless of whether it is an individual or a legal entity).

When revenues come from foreign shares or securities by individual or legal entities domiciled in El Salvador, they will be treated as interests (art. 27 LISR).

Withholding Tax (WHT):

Taxpayers who pay to an entity not domiciled in El Salvador, either in cash or in goods, revenues for any kind of income obtained in El Salvador, must withhold as final payment of income tax, 20% of such amounts. Taxpayers benefited by the Free-Trade Zone Law (check "FTZ" below at the "Free-Trade Zone" entry) and the International Services Law (check -LSI- below at the "Special Promotions" section) are excepted (art. 158 LISR). There are other special cases with reduced rates.

If the receiver of these payments is resident or domiciled in a tax haven, the tax rate increases to 25% (art. 158-A LISR). However, there are still some exceptions.

The following taxable events are treated the same way as above: equity reduction of dividend reinvestments (art. 74 LISR); loans granted to partners and shareholders, entities resident or domiciled in tax havens, and parent companies (art. 74-A LISR), unless any the following circumstances are verified:

- The agreed interest rate is equal or higher than market value,
- The contract has been made between entities regulated by the Salvadoran SEC,
- The contract has been made between public or private entities that are habitually engaged in granting loans,
- The contract has been made between a mix of the previous two circumstances, or
- The borrower is the State, municipality, autonomous institution, funds or trusts constituted by them, as well as when it is a corporation or foundation of public law or public utility.

Regarding interests, there is a reduced tax rate of 10% for financing services to local tax payers lent by financial institutions not domiciled in El Salvador, that are supervised or registered at competent authorities of their country, and already qualified by the Salvadoran Central Reserve Bank.

Regarding revenues of shares and securities, distributed to foreign entities for those Salvadoran stock market investments, the Withholding tax has a 3% tax rate.

Regarding royalties for particular assets such as movies, music records or books, the Withholding tax applied has a 5% tax rate.

	Net Taxable Income		Applied Rate	Over The Excess	Plus The Quota
	From	To			
Segment I	$ 0.01	$ 4,064.00		Exempt	
Segment II	$ 4,064.01	$ 9,142.86	10%	$ 4,064.00	$ 212.12
Segment III	$ 9,142.87	$ 22,857.14	20%	$ 9,142.86	$ 720.00
Segment IV	$ 22.857.15	ONWARD	30%	$ 22,857.14	$ 3,462.86

Personal Income Tax (PIT):

Income tax applied to individuals for their revenues are taxed according to this progressive table:

Income that has already subject to final withholding income tax according to the previous rates. Regarding domiciled individuals, if their revenues come exclusively from salaries and/or wages and which have been subject to withholding for the payment of this tax are not required to file a tax return, unless those annual revenues exceed USD$60,000.00, or they have not been subject to withholding.

The only deductible expenses are listed on article 33 of the LISR, which are medical services and medicines, and primary, secondary, high and university education of their children until they reach 25 years old.

TRADING TAXES

Value Added Tax (VAT):

Any transfer of tangible movable goods, even for raffles, lotteries or free distribution for advertising purposes, whether or not they are part of the company's line of business; any importation of tangible movable goods and services; is taxed on the positive difference between the monthly purchases and sales of the taxpayer, at a rate of 13%.

The transfer of fixed assets, sold within a 4-year term since its acquisition, are taxed with VAT.

Also, LIVA includes some exemptions to the following imports done:

a. By diplomatic missions, according to international treaties;
b. By international organizations officials of which El Salvador is a member;
c. By passengers and crew of aircrafts, vessels and other vehicles, as long as they are submitted as traveler's luggage and are exonerated of customs; special exemptions said in the law on public health care, housing lease, education, among others
d. As offshore donations received by any Salvadoran public interest corporations or foundations;
e. According to donations agreed by El Salvador;
f. By municipalities, if they are made in benefit of the community;
g. As machinery by already registered as taxpayers, and appointed as fixed assets used directly on the provision of services not included in art. 46 LIVA (regarding special exemptions said in the law on public health care, housing lease, education, among others); and
h. As vehicles appointed for public transportation.

Regarding exports, they are taxed with VAT, but with a 0% tax rate (arts. 74 and 75 LIVA). This allows the taxpayer to deduct any tax credit accumulated against that tax debit, because exempt transfers are not deductible.

Regarding imports, the taxable base applicable to imports of tangible movable goods is the amount resulting from adding to the CIF value (customs value), the customs duties and specific consumption taxes that apply, without the addition of VAT to the taxable base.

Free-Trade Zones System (FTZ):

The Free-Trade Zones Law establishes special zones where leasers can operate with the free import of machinery, equipment, tools, spare parts and accessories, fuels, lubricants, packages, and other intermediate products. Also, includes the Inward Processing Warehouses (DPA), that among other benefits allows total exemptions on imports, being outside of the Free-Trade Zones, just registering the warehouse as such.

These benefits are granted differently between FTZ and DPA.

- **FTZ:** The law distinguishes between zones inside and outside the Metropolitan Area:
  - Inside the Metropolitan Area, the total exemption applies for 15 years since the publication of the executive decree of the Ministry of Economy. This term can be extended for another 5 years if the investment raises in 100%, or in microprocessors, vehicles parts or integrated circuits. If the industrial activity is declared as strategic by the Ministry of Economy, the additional term is for 5 years. The partial exemption starts after the first 15-year term, granting a 60% exemption on the CIT tax rate for the next 10 years, and after that, the CIT tax rate exemption is reduced to 40% for the next 10 years. On municipal taxes, the total exemption for the same next 15 years as above, and afterwards, the partial exemption goes at a 90% discount on the municipal tax rate for the next 10 years, and after that, the exemption goes at a 75% discount, permanently.
  - Outside the Metropolitan Area, the total exemption applies for 20 years since the same publication; the extensions for investment or strategic industrial activities are the same. The partial exemption (after the 20-year term), grants the same rates are applicable for a 15-year and 10-year term, respectively. On municipal taxes, the total exemption goes for a 20-year term, that can be extended for 5 more years on FTZ for microprocessors, vehicles parts or integrated circuits investment; or even 10 years if the industrial activity is declared strategic by the Ministry of Economy. The partial exemption afterwards goes for the next 15 years at a 90% discount, and after that, at a 75% discount henceforth.
  - Regarding DT, in the next 12 tax years, since the publication of the executive decree of the Ministry of Economy, the company and each shareholder are exempt using the same rates above, on dividends.
- **DPA:** Regarding import taxes, the exemption goes as long as the operations go on. Also, regarding these warehouse, the same rules of FTZ applies, but terms change as follows:
  - Inside the Metropolitan Area, the exemption goes for 10 years since the publication, adding other 5 years for microprocessors, vehicles parts or integrated circuits investment; and 10 years if the industry is declared strategic. The partial exemption starts after the first 10-year term, granting a 60% exemption on the CIT tax rate for the next 5 years, and after that, the CIT tax rate exemption is reduced to 40% for the next 10 years. On municipal taxes, the total exemption for the same next 10 years as above, and afterwards, the partial exemption goes at a 90% discount on the municipal tax rate for the next 5 years, and after that, the exemption goes at a 75% discount, permanently.
  - Outside the Metropolitan Area, the exemption goes for 15 years since the publication, adding other 5 years for microprocessors, vehicles parts or integrated circuits investment; and 10 years if the industry is declared strategic. The partial exemption starts after the first 15-year term, granting a 60% exemption on the CIT tax rate for the next 10 years, and after that, the CIT tax rate exemption is reduced to 40% for the next 10 years. On municipal taxes, the total exemption goes for a 15-year term, that can be extended for 5 more years on DPA for microprocessors, vehicles parts or integrated circuits investment; or even 10 years if the industrial activity is declared strategic by the Ministry of Economy. The partial exemption goes on a 90% discount in municipal taxes for the next 10 years, and a 75% henceforth.
  - Regarding DT, in the next 12 tax years, since the publication of the executive decree of the Ministry of Economy, the company and each shareholder are exempt using the same rates above, on dividends.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

El Salvador has not yet ratified the OECD MLI.

Tax Conventions for Avoiding Double Taxation:

El Salvador has signed only one of these treaties, with Spain.

The Tax Treaty establishes maximum rates of income tax withholding that may be applicable to income earned by residents of one State Party in the other State Party. Dividends, interest and royalties may be subject to the maximum rates of income tax that goes between 10% (interests, royalties, services) and 12% (dividends).

Regarding dividends, the Contracting State where the company paying the dividends is resident shall exempt the dividends from taxation, if the beneficial owner is a company which owns at least 50% of the company paying the dividends and the latter has been taxed in respect of the profits out of which the dividends are paid.

On interests, those arising in one Contracting State and paid to a resident of the other Contracting State may be taxed in that other State only if the recipient of the interest is its beneficial owner and meets certain requirements.

Regarding services and royalties, the 10% tax rate does not apply regarding permanent establishments.

Transfer Pricing Rules (TP):

Art. 62-A of the Tax Code establishes that, for tax purposes, taxpayers that enter into operations or transactions with related parties shall determine the prices of those transactions, considering the market prices used in transfers of goods or rendering of services of the same kind, between independent parties.

Likewise, taxpayers must determine at market prices the operations or transactions entered into with parties domiciled, incorporated or located in tax havens.

The determination of the market price shall be made using the procedures and technical methods contained in the Tax Code and in the Transfer Pricing Guidelines of the Organization for Economic Cooperation and Development (OECD), which is also applicable to the Tax Administration, when in the exercise of its powers, it determines market prices and makes the respective tax adjustments.

Article 199-C of the Tax Code establishes the following cases where the law recognizes the presence of related parties:

a. When there is direct control of the other, or owns, even indirectly, at least 25% of its capital stock or voting rights.
b. When five or fewer persons control both entities, or together own, even indirectly, at least 25% of the capital stock or voting rights of both entities.
c. When they are companies belonging to the same business group (if one of them is a partner or participant of the other and is related to the other in any of the following situations:
    - It holds the majority of the voting rights.
    - It has the power to appoint or dismiss the majority of the administration members.
    - May dispose, by virtue of agreements entered into with other shareholders, of the majority of the voting rights.
    - It has appointed exclusively with its votes the majority of the administration members.
    - The majority of the members of the administrative body of the dominated company are members or managers of the administrative body of the dominant company or of another company dominated by the latter.
d. For the purposes of the preceding paragraphs, a natural person is also considered to have a participation in the capital stock or voting rights when the ownership of the participation, directly or indirectly, corresponds to the spouse or person united by kinship in direct or collateral line, by consanguinity up to the fourth degree or by affinity up to the second degree.
e. In a joint venture, de facto partnership or business collaboration contract, when any of the contracting parties or associates participates directly or indirectly in more than 25% of the result or profit of the contract or of the activities derived from the association.
f. A person domiciled in the country and a distributor or exclusive agent of the same resident abroad.
g. A distributor or exclusive agent domiciled in the country of an entity domiciled abroad and the latter.
h. A person domiciled in the country and its supplier abroad, when the latter makes purchases from it, and the volume represents more than 50%.
i. A person domiciled in the country and its permanent establishments abroad.
j. A permanent establishment located in the country and its parent company resident abroad, its permanent establishment or a person related to it.

On 2012, the Tax Administration issued the Transfer Pricing Guideline (Guideline No. DG-001/2012), establishing guidelines for taxpayers to apply the proper tax treatment of transactions carried out with related parties and parties domiciled in tax havens.

Articles 199-A and 199-B CT recognize the Tax Administration's power to estimate the tax base if for any reason the transfer price of movable goods or the amount of remuneration for services is not reliable or is different from the current market price.

Finally, the tax system establishes formal obligations, related to Transfer Pricing, such as:

a. To report on transactions with related parties or parties domiciled, incorporated or located in tax havens, provided that such transactions either individually or jointly are equal to or greater than USD $571,429.00 (Art. 124-A CT).
b. For taxpayers obliged to file a tax report, said tax report must contain a section indicating that the operations between related parties or with parties domiciled, incorporated or located in tax havens comply with the tax regulations (Art. 135 literal f CT).
c. Keep for a period of 10 years, the documentation of the operations carried out with related parties or parties domiciled, incorporated or located in tax havens (Art. 147 literal e CT).

International Services rules:

Under the International Services Law, since 2007 companies dedicated to BPO, I+D, IT, international logistic operations, call centers, international financial services, aircraft maintenance and repair, among other services, have a special statute if they establish their operations inside "Service Parks". These are treated as "Special Promotions" in the "Tax exemptions" section.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Printing Law

The Printing Law seeks to incentivize printing, editing or publication of books or magazines of a cultural and scientific nature, or the import of photographs, books, films and engravings are exempted from all taxes levied on the import as well as on the sale of books, including VAT. It does not apply to customs rights.

Also, all royalties received by Salvadoran authors, illustrators and translators, or those domiciled in the country, for books published and printed in El Salvador or abroad, shall be exempt from income tax.

Green energies

Oriented to promote green energies investment in the country, the Law on Tax Incentives for the Promotion of Renewable Energies in Electricity Generation was created. The law includes:

Exemptions

a. A 10-year total exemption on customs for the importation of machinery, equipment, materials, intended for the construction or expansion of new electric generation centrals, substations, transmission lines and electric distribution centers.
b. 5-year income tax exemption on green energy generation revenues, for larger than 10 megawatt new projects, and a 10-year income tax exemption if the new project is equal or smaller than those 10-megawatt capacity.
c. Total income tax exemption on revenues on the *Reduced emission certificate* sales (according to the Kyoto Protocol) or other carbon markets.

Deductions

Regarding new geothermal facilities, any cost or expense spent for the reinjection of geothermal resources is deductible for a 10-year period. This deductions cannot surpass a 20% of the last annual gross income, and will be deducted via annual quotas up to 25% of each exercise annual revenue, until total amortization.

As regards VAT, the Tax Credit may be deducted in the case of pre-investment work and investment work in the construction of works necessary and integral to the process of electricity generation, including those carried out in real estate, either by adhesion or destination.

Tourism:

For a term of 5 years, any new investment of national tourist interest for an amount equal to or greater than USD $25,000.00, shall be entitled to:

- An exemption from the Real Estate Transfer Tax (ITBR) that affects the acquisition of the real estate or real estate that will be destined to the project;
- Exemption from customs duties on the importation of its goods, equipment and accessories, machinery, vehicles, aircraft or vessels for cabotage and construction materials for the buildings until the completion of the project; up to a maximum amount of 100% of the invested capital of the project in question;
- Exemption from the payment of income tax for a period of 10 years, counted from the beginning of operations.
- Partial exemption from municipal taxes for a period of 5 years, counted from the beginning of operations, related to tourism activities for up to 50% of its value.

Tax Exemptions:

International Services. Service Park Users and Owners have:

- Machinery, equipment, tools, accessories, spare parts, furniture and any other good needed to develop the service activity, have a free import statute;
- Income tax exemption on revenues coming from the service activity developed at the Service Park;
- Asset municipal tax exemption, as long as the service is provided in El Salvador;
- The mandatory Contribution for City Security is not applied; and
- Financial Operations Tax exemption.

Guatemala

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INCOME TAXES

Corporate Income Tax (CIT):

Guatemalan law mandates a territorial tax system, pursuant to which Guatemalan incomes, operations and transactions are taxable in Guatemala. Corporations incorporated under Guatemalan laws are considered Guatemalan Residents. As a Guatemalan Resident, corporations must be registered before the Tax Authority ("Superintendencia de Administración Tributaria"). Corporations must have a legal representative, an Accountant and a domicile registered with the Tax Authority.

Guatemalan Corporation are obligated to present and submit any information requested by the Tax Authority. This information may include documentation, explanations, materials and data (e.g., accounting books, agreements, invoices, receipts, proof of payment, bank deposits, bank accounts) pursuant to which the Tax Authority may verify fulfillment of tax obligations;

Guatemala Corporate Tax is governed by the Income Tax Law ("Ley del Impuesto Sobre la Renta") which is contained in Tax Update Law Congress Decree 10-2012. Guatemala has a territorial tax system, pursuant to which only acts linked with Guatemala are taxable in Guatemala.

Guatemalan sourced income generated by Guatemalan Residents or Non-Residents with permanent establishment trigger Income Tax. Income Tax is generated by profitable activities (i.e., income from trade and business activities, sales of goods and services rendered). Pursuant to Income Tax Law, taxpayers may select between two different Income Tax Law regimes: A so called "Optional Income Tax Regime" (5-7% of gross income over "profitable activities") or Net Profit Income Tax Regime (25% calculated over net income).

The Optional Income Tax Regime requires monthly declarations while the Net Profit Regime is declared quarterly and paid quarterly. A final yearly income tax return must be filed up until March of the following year; total yearly income is declared in a yearly income tax return and outstanding amounts are paid then. The tax year for settling the income tax starts January 1 and ends December 31 of each year and must be coincident with the accounting period of the taxpayer. Taxpayers under the Net Profit Regime are not subject to paying the Solidarity Tax equivalent to a 1% calculated over one fourth of the value of the net asset or of the gross income, whichever is higher. This tax applies when the corporation generates a 4% or higher gross margin.

Under the Net Profit Regime, taxpayers deduct costs and expenses from gross income (total income) resulting in the taxable income to which 25% rate is applicable. The general rule is that the only deductible expenses from income are costs and expenses necessary to generate taxable income. Deductible expenses must be supported by the corresponding legal documentation (i.e., authorized invoices, special invoices, invoices issued by non-resident entities, importation documents and receipts for payments of wages, among others.) The law for certain activities requires notarial documents and use of the local banking system.

The elected Income Tax regime may be changed. Prior to changing the Income Tax Regime, corporation must submit a written notice to the Tax Authority, coming into effect the next fiscal year.

Dividend Tax (DT):

Dividends payment are subject to a 5% Income Tax Withholding by the entity that distributes profits. Such Tax must be paid within the first ten days of the following month in which payment was made. A 5% dividend Income Tax Withholding is triggered by payment of profits from Guatemalan Residents and Non-Residents with permanent establishments; profits accrued by Guatemalan Tax Payers from Non-Residents without permanent establishments are not considered as taxable in Guatemala.

Capital Gains Tax (CGT):

Assets considered as Guatemalan Assets (e.g., assets located in Guatemala, Guatemalan Real Estate, securities issued by Guatemalan Residents or Non-Residents with Permanent Establishments, shares issued by Guatemalan Residents) transfer is subject to a Capital Gain Tax, if sold over book value or acquisition value. A 2013 amendment considers CGT for shares of non-domiciled entities with assets in Guatemala, this is subject to certain qualifications. If Capital Gain apply, a special Tax Return must be filed and 10% of such gain must be paid during the first ten days of the following month in which the payment was received.

Incomes deriving from assets considered as Guatemalan (e.g., interest, rents, royalties) are considered as an Income Tax Capital Gain and a rate of 10% of the profit will apply. If the payor does not withhold this tax, payee must file the corresponding tax return and pay it within the first ten days of the following month in which payment was received.

Capital Gains as Income Tax are applicable if in case there is a surplus for the transferee of a stock transfer. In order to determine if a capital gains tax is applicable, in the event that a surplus between the book value of the shares (determined by share issuer) or stock acquisition value and the transfer value exists.

Guatemalan Income Tax Law provides that Capital Gains apply to surpluses on transfer of stocks which provide ownership over Guatemalan assets (such as a Guatemalan Entity Stock). Pursuant to such provision, it could be argued by Guatemalan Tax Authorities that the Indirect Transfer of Stock is subject to Income Tax if there is a surplus on the transfer. This provision has not been strongly enforced by Guatemalan Tax Authority. It must be considered that under an Indirect Transfers, (unless specified) it would not be possible to determine specific values over the Guatemalan Entity Stock portion. An in-depth analysis of the specifics of a case is recommended to properly document the transaction in order to avoid unnecessary scrutiny over the transaction.

Withholding Tax (WHT):

Guatemalan sourced income (i.e., the payment is linked to an activity in Guatemala) obtained by Non-Residents without permanent establishments are subject to Withholding Tax in Guatemala. Withholding tax rate for non-resident payments is progressive (i.e., 5% to 25%) depending on the nature of the taxable event. Such Tax must be paid within the first ten days of the following month in which payment was done.

The Following Withholding rates are applicable:

- 3% applies to foreign news, movies, music etc.
- 5% to Dividends, air transport, cargo, reinsurance, voice and data transfer, electricity services.
- 10% on Interest, unless paid to foreign financial services companies (and multilateral organizations) or banks regulated by their country of origin, "in conformity with the Guatemalan Banking law". (The scope and constitutionality of this provisions is being increasingly questioned).
- 15% Commissions, salaries, bonuses, other than expense reimbursements. Payments to athletes, artists. Royalties. Fees. Consulting services.
- 25% Other undetermined income.

Income Tax might be directly paid by Non-Residents if withhold is not performed. Non tax registration is needed to perform direct payment.

TRADING TAXES

Value Added Tax (VAT):

Value Added Tax is triggered by the sale of goods, leases and services rendered within Guatemalan territory. Value Added Tax is also generated due to import of goods, donations, inventory destruction and/or lost and award of goods.

Sale of goods, leases and services rendered in Guatemala must be invoiced and such invoices must be previously authorized by the Tax Authority. Recently, it has been enforced Electronic Invoice and VAT tax payers must issue Electronic Invoices; also, is mandatory to include Tax ID on invoices issued on transactions over approximately US$ 300.00.

VAT formal obligations include keeping VAT record documentations. Tax payer must submit a request to the Tax Authority, in order for it to authorize the Book of Sales and Services Rendered as well as a Book of Purchases and Services Received. VAT tax payers are obliged to record its sales, services rendered, purchases and services received.

Payable Value Added Tax is determined using the difference between Value Added Tax Credit (i.e., generated due to the acquisition of goods and services related with its commercial activity) and Value Added Tax Debit (i.e., generated from Value Added Tax operations). Value Added Tax return shall be filed monthly (during the following month) and if there is a remainder of Value Added Tax Debit, 12% of said remainder must be paid as Value Added Tax.

Free-Trade Zones System (FTZ):

Guatemala Free-Trade Zone is Zona Libre Santo Tomas de Castilla-ZOLIC- which is a free trade zone where products can be internalized into Guatemala with a tax suspension until the products are effectively commercialized into Guatemala. Products might be imported, stored, transformed, transported, and commercialized into Guatemala or abroad by Free Trade Zone users.

ZOLIC is a decentralized and semi-autonomous entity of the Government of the Republic of Guatemala, created in 1973, by Decree 22-73 of the Congress of the Republic.

Free Trade users are subject to tax benefits including: Income Tax Exemption for a period of 10 years, Dividends Tax Exemption for 10 years, Exemption from Value Added Tax, customs duties and other charges applicable to the importation of merchandise entering the Free Zone, Value Added Tax exemption for transactions carried out within the Free Zone, Import Value Added Tax and Custom Allowances for raw materials, inputs, machinery and equipment entering the Free Zone, Exemption of Stamp Tax, on documents that contain acts or contracts in the Free Zone. Free Trade Zone users also are settled in the zone due to logistic strategy location of ZOLIC.

Recently, it has been issued regulation aiming to authorize Free Trade Zone branches authorization. The purpose of this Regulation is to develop the applicable provisions for the authorization, qualification and operation of the Public Special Economic Development Zones and the authorization and installation of the users that settle in them. Public Special Economic Development Zones operate as Free Trade Zones that might be managed by ZOLIC or a private third party.

Public Special Economic Development Zones have had a significant interest and have been installed multiple Public Special Economic Development Zones in different territories of Guatemala.

Custom Allowances:

Guatemala is part of the Central American Customs Union which is governed by CAUCA – Código Aduanero Uniforme Centroamericano (Uniform Customs Code for Central America and RECAUCA Reglamentos del Código Aduanero Uniforme Centroamerican (Regulations of the Uniform Customs Code for Central America). As a general rule, goods imported into Guatemala are subject to Custom Tariff (DAI – Derecho Arancelario de Importación) and Value Added Tax.

Certain goods are exempted from duties through special agreements and Guatemala has executed Free Trade Agreements pursuant to which-by-which preferential tariff treatment is provided to goods of origin from the signatory countries.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Guatemala is not a signatory to Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

Tax Conventions for Avoiding Double Taxation:

As of today, Guatemala as not subscribed any Tax Conventions for Avoiding Double Taxation.

Multilateral Assistance Convention (MAC):

In December 2012, Guatemala signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, allowing it to be removed from the list of countries that have not yet substantially implemented the internationally agreed tax standard. According to OECD, Guatemala is the second Central American country, after Costa Rica, to sign since the Convention was opened for signature to all countries in June 2011. With the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, Guatemala became de 54th member of OECD. Guatemala has ratified the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which entered into force for Guatemala on 1 October 2017.

Common Reporting Standard (CRS):

Currently Guatemala has not implemented Common Reporting Standard pursuant to OECD requirements.

Controlled Foreign Corporation Rules (CFC):

Guatemala is governed by a territorial tax system and therefore foreign-sourced income is not taxable nor relevant to Guatemala. Guatemala does not have CFC rules.

Transfer Pricing Rules (TP):

Following somewhat the OECD model, transfer pricing rules are introduced to the Income Tax legislation. A wide-ranging set of rules and reporting is introduced to determine related parties, including stock ownership, business groups, and control rules. Additionally, the definition of related parties is extended to distributors and exclusive agents. No limitations regarding amounts or periodicity of the transactions between related parties are contemplated.

Thin Capitalisation Rules (TC):

Thin Capitalization rules, at a 3:1 debt/net assets ratio are now included in the Income Tax law; net asset is defined as the average between net assets of previous fiscal year and net assets of current fiscal year (according to declarations made on Income Tax Returns). This limitation is not applicable to banks, financial institutions and savings and loans associations that operate under the supervision of the Banks Superintendency. The interest rate of any debt cannot exceed the annual rate set by the Guatemalan Central Bank Authority (Junta Monetaria) to be considered a deductible expense.

Hybrid Structures Rules (HS):

As of today, Guatemala has not issued rules regarding Hybrid mismatch arrangements.

International Services rules:

Guatemala is governed by a territorial tax system and therefore are taxable in Guatemala services rendered within the Guatemalan territory. Services rendered from Guatemala are subject to Income Tax, services used in Guatemala are subject to Value Added Tax and services exported from Guatemala are Value Added Tax exempted.

Services rendered by Non-Residents with no Permanent Establishment abroad to be used in Guatemala are subject to an Income Tax Withholding. Non-Residents providing services within Guatemalan territory on a continuous basis might be considered as having a Permanent Establishment in Guatemala by maintaining a fixed place of business in Guatemala Territory.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Guatemala has the following Tax Allowances by industry:

1. Renewable Source Energy Generators:
2. Textile manufacture:
3. Call Centers and Business Process outsourcing.

On General terms, the tax benefits include:

1. income tax exemption for up to ten years;
2. exemption or suspension (as applicable) of custom duties and import Value Added Tax on the importation of machinery and capital goods related to the activity;
3. exemption of stamp tax,
4. exemption of Solidarity Tax.

Guatemalan Political Constitution provides an absolute tax exemption to dully authorized Universities and exemption for education services from schools. Financial services provided by local banks are Value Added Tax exempted.

Other Concessions by Industry/Market:

Guatemala tax laws provide special tax concession to certain industries and market as below detailed:

a. Interest paid to Non-Resident banks and financial dully registered and authorized on its jurisdiction;
b. Dividends paid by entities forming a Financial Group that are no final beneficiaries;
c. Assignment of credits under factoring and discount transactions;
d. Value Added Tax on import and sale of generic drugs and HIV medicines; and

Value Added Tax on transaction between coops and its associates.

Special Tax Regimes, Incentives or Subsidies:

Guatemala has legal provision for special tax regimes of maquila industry (industria de maquila) and custom free zone (zonas francas). This special tax regimes aim to promote invest in Guatemala and generate source of employment and benefit industries dedicated to transformation of goods in Guatemala for export.

On General terms, the tax benefits for special tax regimes include:

1. income tax exemption for up to ten years;
2. exemption or suspension (as applicable) of custom duties and import Value Added Tax on the importation of machinery and capital goods related to the activity;
3. exemption of stamp tax,
4. exemption of Solidarity Tax.

Tax Exemptions:

Guatemalan Tax Law provide specific tax exemptions to specific taxable acts and entities. Tax exemptions must be declared by law. On general terms, tax exemptions are provided to Universities, Churches, humanitarian, charity and non-profitable operations. Also, tax exemption to Value Added Tax is legally provided to transaction performed by banks.

Honduras

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INCOME TAXES

Corporate Income Tax (CIT):

Corporations or any legal entity incorporated under Honduran Law or domiciled in Honduras is subject to a Corporate Income Tax of 25% calculated over the Net Taxable Income.

Additionally, a 5% Solidarity Contribution is charged over the Net Taxable Income of L.1 million (approx. $40,500.00).

Tax on Net Assets

Total Net Assets shall be understood as the difference resulting from the value of the assets appearing in the Balance Sheet, minus the reserves for receivable accounts and accumulated depreciations.

This tax will be one percent (1%) on the value of the total net assets determined in the Balance Sheet as of December 31 of the taxable year and must be declared and paid on the same date of payment of the income tax of each fiscal year. In the case of legal entities with special fiscal years, the declaration and payment of this tax shall be made within three (3) months of the end of the fiscal year. This tax is applicable to companies whose assets exceed 3 million lempiras.

If the amount paid in concept of Income Tax is equal or higher than the Net Assets Tax payable, it is understood that the obligation is fulfilled derived from the latter.

Minimum Income Tax

A minimum of 1% tax rate over the gross revenue of a company will be charge if after calculating the income tax per the rules contained in articles 11, 12 and 22 of the Income Tax Law, the resulting tax to be paid is less than 1% of the gross revenue. This tax will be applicable to those companies with gross revenues greater than 1000 million Lempiras (approx. USD$41,666,666.67).

Dividend Tax (DT):

The dividends or any other form of profit sharing received by legal entities domiciled in Honduras will be subject to a withholding tax of 10% calculated over the amount paid without any deductions, to be collected by the Company paying the dividends or sharing profit.

Capital Gains Tax (CGT):

A 10% Capital Gains Tax is paid by the Seller (a resident) over those transactions that are not part of its ordinary course of business. It is Calculated over the gain.

If the seller is non-resident, the buyer must withholding the capital gains tax, but the applicable tax rate is of 4% over the transaction price. The Buyer is obligated to withhold the tax when making the relevant payment, declaring and paying it to the tax authorities.

Withholding Tax (WHT):

Payments made to a non-resident are subject to a withholding tax of either a 10% or 25% calculated over the total amount paid, without any deductions. The payer is liable for the withholding of the tax. The applicable tax rate will depend on the concept of payment.

TRADING TAXES

Value Added Tax (VAT):

The sale of services and merchandise within Honduran Territory are subject to a 15% sales tax. The sales tax is also paid when importing goods. Tobacco, alcoholic beverages, and airplane tickets in Business/Executive class are subject to a 18% sales tax.

Production and Consumption Tax- (Excise Tax)

In our legislation we have a special tax (Excise tax), for the production and importation of some products such as Cigarettes, sodas and Alcoholic beverages. Which are as follow:

Cigarettes 350 Honduran lempira (HNL) per thousand (about 17 US dollars (USD). Alcoholic beverages and carbonated waters HNL0.6787 to HNL32.6725 per liter (about USD$0.0295 to USD$1.4205).

Ad valorem import Taxes

This tax is charged over specific goods contained in a list in Annex II of Decree 135-94 and its amendments. The applicable tax rate ranges from 10% up to a 60% calculated over the CIF Value of the goods imported plus the customs duties. This tax is paid on importation.

Custom Allowances

Merchandise other than luggage can be imported free of taxes up to a value of USD$500.00

Custom Duties

The duty assessed by the Honduran government at the time of customs clearance ranges between 0% and 15% for most items.

Products imported into Honduras from other central American countries that meet the rules of Origin are exempt of Customs Duties.

As well, Honduras is signatory of Free Trade Agreements with the following countries:

1. Central America-Dominican Republic-US FTA
2. Honduras-Canada FTA
3. Honduras-México FTA
4. Honduras-Guatemala-El Salvador – Colombia FTA
5. Central America – Chile FTA
6. Honduras – Peru FTA
7. Central America – Panama FTA
8. Honduras – El Salvador – Taiwan FTA
9. Central America – Korea FTA
10. Central America – European Union Association Agreement
11. Central America – UK FTA

Free-Trade Zones System (FTZ):

In Honduras we have the Free Trade Zones regulated under the Unified Central American Customs Code, and the Free Trade Zones regulated under the Free Trade Zone Law (ZOLI).

ZOLI are the most commonly used since companies operating under this regime are also exempt from the Income Tax (please more information below).

OECD/INTERNATIONAL RULES

Tax Conventions for Avoiding Double Taxation:

As of this date, Honduras has not entered into any Tax Convention for Avoiding Double Taxation with any jurisdiction.

Multilateral Assistance Convention (MAC):

Honduras signed the Amended Convention on July 11, 2022. However, it still pending ratification, hence it has not entered into force.

Common Reporting Standard (CRS):

To this date Honduras has not signed nor agreed to implement the Common Reporting Standard for the Automatic Exchange of Information. Nonetheless, Honduras is signatory and has implemented the US Foreign Account Tax Compliance Act (FATCA).

Transfer Pricing Rules (TP):

Honduras has regulations regarding Transfer Pricing, which enter into force in 2014. This Law, regulates commercial and financial transactions carried out between related companies, valued in accordance with the arm's length principle.

The Transfer Pricing Law establishes that its provisions apply to transactions between domiciled or resident individuals or legal entities related to non-resident or non-domiciled individuals or legal entities, and those covered by special regimes that enjoy tax benefits. Two or more individuals or legal entities, domiciled or non-domiciled, are considered to be related parties when:

a. A natural or juridical person participates directly or indirectly in the management, control or in the capital of another duly documented and legalized;

b. The same natural or juridical persons participate directly or indirectly in the management, control or in the capital of another duly documented and legalized;

c. They are companies that individually constitute a decision making unit;

d. Direct or indirect commercial and financial operations are carried out, being understood as indirect those that have the purpose of reducing the taxable base of the Income Tax, between resident taxpayers domiciled in the national territory and persons located in another jurisdiction qualified as a tax haven;

e. An individual or legal entity resident in the country has permanent establishments abroad; and,

f. It is a company related to another company with the same directors or administrators.

Article 5, of said Law states that income taxpayers that are related parties and carry out commercial and financial transactions among themselves, are required to determine for tax purposes, their income, costs, and deductions, applying to such transactions and operating results, the prices and profit margins that would have been used in comparable commercial and financial transactions.

For the auditing and training processes of the personnel, Honduran Tax Administration uses both national and international legislation; in addition to national legislation mentioned above, they also use the OECD Guidelines applicable to transfer pricing for multinational companies and tax administrations, specifically Chapters I and III.

SPECIAL PROMOTIONS

Other Concessions by Industry/Market:

Renewable Energy Generators whose contracts with the Honduran Public Electric Company were approved under Decree 70-2007 are exempt from Income Tax.

Special Tax Regimes, Incentives or Subsidies:

Temporary Importation Regime, companies incorporated under this Regime are exempt of the Sales Tax in the importation of raw materials and equipment necessary for the production of the products to be exported. This regime does not grant an Income Tax exemption.

Free Trade Zones (ZOLI)

- Customs Exemptions.

1. The introduction of goods into the Free Zone is exempt from the payment of customs duties, charges, surcharges, consular fees, internal taxes, excise taxes and other taxes and levies that are directly or indirectly related to import and export customs operations.
2. The goods that have been introduced into the Free Zone, and that have not been subjected within it to any industrial process of transformation or manufacture may be re-exported free of taxes, duties and other fiscal, municipal or district taxes.
3. Goods in transit through the Free Zone shall enjoy tax exemption for their re-exportation, subject to the international regulations governing the matter and in application of the principle of reciprocity.
4. Tax exemptions
5. The sales and productions carried out within the Free Zone shall be exonerated from the Sales Tax (I.S.V.), and the real estate and commercial and industrial establishments of the same shall be exonerated from the payment of all kinds of taxes and municipal contributions, without prejudice of the sales to the national market that are carried out.
6. The profits obtained in their operations in the Free Zone by the companies established therein are exonerated from the payment of the Income Tax (I.S.R.) for fifteen (15) years and before this term comes to an end, it will be possible to request an extension of ten years.
7. The merchandise that have been introduced to the Free Zone, and that have not been submitted within it to any industrial process of transformation or manufacture may be re-exported free of taxes, levies and other fiscal, municipal or district contributions.
8. The national merchandise that have been introduced to the Free Zone and that have not been submitted to any industrial process of transformation or manufacture within the Free Zone, may be exported as long as all the requirements and formalities established in the customs legislation and other applicable laws or regulations are complied with.
9. Exemption of any municipal taxes.

Call Centers and BPOs

Custom Exemptions

Total exemption from the payment of customs duties, charges, surcharges, consular duties, internal taxes, excise taxes and other taxes levied on the importation of equipment, tools, spare parts, accessories, office furniture and equipment and other goods directly related to the operations and execution of the incentivized activity.

Tax Exemptions

Income tax exemption exclusively for income derived from the incentivized activity. It is not established in the law the regulates the regime how many years they can benefit from this exemption.

Tourism

Customs Exemptions.

Exemption of the payment of the Customs Import Duties (DAI). Selective Consumption Tax and tariffs, rates, surcharges, duties, general and special contributions and other customs taxes on the importation and local purchase of inputs, goods, materials and equipment directly related to the development, installation, construction, equipment, repair, replacement and maintenance of the Tourism Project for a period of up to ten (10) years. This exoneration does not include the fees for electronic second or modernization services to be paid for the services and controls provided by the Customs Administration.

Tax Exemptions

1. Exemption from the payment of Income Tax, Net Assets Tax and Solidarity Contribution and their Solidarity and Related Taxes, for a non-extendable period of fifteen (15) years.
2. Exemption from Income Tax and any of its withholdings on the payment of services or fees contracted with national and foreign individuals or legal entities, indispensable for the studies, installation, implementation, engineering, construction and monitoring of the project for a period of up to five (5) years.
3. Exemption from payment of Sales Tax on local purchases of goods and services directly related to - construction, renovation, restoration, new infrastructure. Complementary investments or new investments in the tourist activity qualified by the Honduran Institute of Tourism (IHT) for an unforeseeable period of ten (10) years.

   Article 15 of the Sales Tax Law, contains a list of goods and services exempt from the Sales Tax. Nonetheless, this list needs to be approved by the Honduran Institute of Tourism.

Non- Profit Organizations: are exempt from Income Tax, however, only those whose activities are related to education, health and development are exempt from sales tax on importation of goods or local purchases.

Mexico

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INCOME TAXES

Corporate Income Tax (CIT):

Mexican resident legal entities are required to pay income tax on their worldwide income. Mexico does not have any corporations deemed as *transparent* for tax purposes; therefore, all corporate taxation is the same for commercial entities, regardless their internal structure.

Even, under the Mexican Income Tax Law, fiscally transparent foreign entities and foreign legal vehicles may be considered as Mexican tax residents if their main administration of the business or the headquarters of their effective management is established in Mexico.

In case of foreign residents, they are bound to pay income tax in Mexico whenever they have a permanent establishment (*which generally follows the same corporate taxation as companies*) or when Mexico is their source of income.

Companies are subject to income tax on their profits at the 30% rate. Profits shall be obtained by reducing from their global gross income, the allowed deductions, the employees' profit sharing and tax loss carry forwards. The fiscal year runs from January 1 to December 31. In addition, they are required to make monthly estimated payments based on a ratio of the income obtained in previous fiscal years.

Tax losses may be carried forward up to ten years to offset profits of following years but, no carry back is allowed.

Gross income includes all types of income received in cash, in kind, in services, in credit, or in any other form, earned during the corresponding fiscal year. Only certain expressly items of income are not regarded as includable in gross income, such as capital contributions, dividends received from another Mexican company, revaluation of assets, among others.

In regard to allowable deductions, taxpayers may deduct only expenses (*supported by electronic invoices and other evidence*) which are strictly necessary for fulfilling its corporate purpose. The deductible items includible business expenses, depreciation of assets, interest paid, cost of sales, certain local taxes, social security contributions, among others.

Non-deductible items are, among others: (i) non-deductible or capped investments (*i.e. automobiles and airplanes*); (ii) capped travel expenses, restaurant expenses; (iii) payment of damages and losses (*liabilities paid by the Mexican resident*); (iv) 47% of salaries and fringe benefits that are exempt for the employees; (v) prorated expenses allocated between the Mexican residents and other companies of the group; (vi) payments made to related parties that are resident of preferential tax regimes (*CFC rules*), etc.

Dividend Tax (DT):

Until 2013, the Mexican tax system did not tax in general profit distributions on earnings that companies had already paid taxes.

From 2014 onwards, that tax system changed and profit distributions to individuals or foreign residents became subject to a 10% rate on profits and refunds. Nevertheless, by exclusion, distributions to companies residing in Mexico are not taxed when they already paid taxes.

To reflect the preceding principal, Article 77 of the MITL obligates companies to keep a record of the taxable income that has already been taxed in the so-called net taxable profit account (also known as "CUFIN" for its acronym in Spanish).

CUFIN is comprised by the additions to the net taxable profit of the company for each fiscal year, which means the amount resulting from subtracting the income tax paid, the amount of non-deductible items and the employees' share of the company's profits for the corporate year in question from the fiscal result for the fiscal year1.

When the distributed profit does not originate from CUFIN, the companies distributing said profit shall incur and pay income tax by applying to said profit the general income tax rate for companies (currently 30%).

1 Taxable earnings = taxable income - employee profit sharing - tax loss carryforwards for the year.

However, since 2014, Article 9 (XXX) of the Transitory Provisions of the ITL state that companies residing in Mexico should keep an additional account to control the distributions corresponding to:

a. non-taxed distributions of profits or dividends, i.e., from profits prior to 2014; and

b. taxable distributions of income or dividends since 2014.

In the case of companies residing in Mexico, Article 17 of the MITL provides that income from dividends or profits will not be taxable for said taxpayers earning from other companies residing in Mexico. Therefore, distributions will not affect income tax.

With respect to individuals, their income earned from dividends or profits will be taxable; however, they may accredit the tax paid by the company that distributed the corresponding dividends or profits once the company provides them with a certificate stating that these originate from CUFIN or, alternatively, that the company paid the corresponding tax.

However, in the case of shareholders residing abroad without a permanent establishment in Mexico, the MITL establishes that companies that distribute dividends or profits must withhold 10% tax on dividends and provide the persons making the payments with the receipt for the tax withholding.

Nevertheless, Tax Treaties signed and ratified by Mexico could limit the tax on dividends to lower rate if the beneficial owner is the receptor of the dividends and participation requirement are met.

Capital Gains Tax (CGT):

The MITL provides those foreign residents with no permanent establishment or even with a permanent establishment but not related to said income, are taxed in Mexico on their Mexican sourced income. Specifically, article 161 of the MITL provides that regarding the transfer of shares or securities that represent the ownership of assets (partnership interest), the source of wealth will be considered to be located in Mexico whenever:

a. The person who issued the shares is a Mexican resident; or

b. More than 50% of the accounting value of said shares or securities derives directly or indirectly from real estate located within Mexico.

The taxation of capital gains is as follows:

General rule: In general terms, transfer of shares is subject to a 25% tax on the gross value of the transaction (or in the absence of consideration, the fair market value of the relevant shares). The buyer shall withhold the tax if it is a Mexican resident. In case of foreign residents with no PE in Mexico, seller must pay the tax through a return filed within the next fifteen days after obtaining the revenue.

35% on the Gain Alternative: The seller may elect to apply a 35% tax on the gain derived from the transaction, provided that certain requirements are met. For example: the appointment of a legal representative for tax purposes in Mexico and to file an auditor's opinion stating that the calculation of the gain was made in accordance with the Mexican Law.

It is important to note that one of the requirements for choosing to calculate the capital gains tax is to appoint a legal representative in Mexico with sufficient solvency to be liable for the tax payment. To fulfill this requirement, among others, it is necessary to grant them a power of attorney for acts of ownership.

Please be advised that the above tax treatments could be modified by virtue of tax treaties, which in turn could mean a reduction in the tax rate or even elimination.

Withholding Tax (WHT):

Income obtained by foreign tax residents with no Permanent Establishment in Mexico will be taxable in the country whenever such income is deemed sourced in Mexico, which is determined under special rules established in the MITL for certain specific types of income. The main items taxed in Mexico as sourced income are, among others, the following:

a. *Interests:* Interest payments are taxed in Mexico at a general 35% tax rate, without any deductions, whenever the principal is situated or invested in the country, or the payment is made by a Mexican resident or a foreign resident with a permanent establishment in Mexico;

b. *Dividends:* The distribution of profits generated as of 2014 are subject to a new 10% tax, as previously explained;

c. *Shares and securities (capital gains):* The transfer of shares or securities representing goods issued by Mexican residents, or whose value derives directly or indirectly in more than 50% from real estate located in Mexico, are taxable at 25% tax rate over gross value of the transaction, without any deductions. However, taxpayer may elect to apply the 35% tax rate on the gain if certain requirements are met.

d. *Real Estate:* Income from the transfer of real estate located in Mexico is taxable at a 25% rate over the gross income obtained, without any deductions or the taxpayer may elect to apply the 35% on the gain if certain requirements are met.

e. *Royalties:* Royalty income is taxed at the general rate of 25%, without any deductions, whenever the goods or rights for which royalties are paid are exploited in Mexico, or when payment is made by a Mexican resident or a foreign resident with a permanent establishment in Mexico.

In addition, the taxable base or the applicable tariff could be reduced or even exempt under the relevant tax treaty.

TRADING TAXES

Value Added Tax (VAT):

Imports into Mexico are subject to a 16% VAT rate. However, the VAT paid on imports may be credited against the VAT charged on a subsequent sale of the goods in Mexico or requested as a refund (Certain exemptions might apply).

On the other hand, when a company has manufacturing operations using and IMMEX license, they can apply for a VAT and Tax Excise Certification.

The VAT and Tax Excise Certification is an accreditation that allows IMMEX companies to take a credit of 100% of VAT and Excise on temporary imports.

This would be translated to the benefit of not paying the 16% VAT on the temporary imports of raw material and Machinery and Equipment.

The VAT certification will depend on for how long the company has been operating in Mexico, the number people employed, and what percentage of temporary importations are exported, for instances. These particulars determine what benefits a company receives, as well as the term of the certification.

A three- tier rating system (A, AA and AAA) is used to assess maquiladoras' controls and overall tax and customs compliance.

Benefits

Some of the benefits:

- "A" Certification Benefits
  - Immediate credit for VAT on temporary imports.
  - Expedited common VAT refunds within 20 business days from request date.
  - Certification will be valid for one year. Renewal possible with continued compliance and by filing notice of renewal prior to expiration of certification.
- "AA" Certification Benefits
  - Immediate credit for VAT on temporary imports.
  - Expedited common VAT refunds within 15 business days from request date.
  - Thirty days for correction of any irregularities in tax or customs declarations.
  - Certification will be valid for two years. Renewal is automatic with continued compliance and by filing notice of renewal prior to expiration of certification.
- "AAA" Certification Benefits
  - Immediate credit for VAT on temporary imports.
  - Expedited common VAT refunds within 10 business days from request date.
  - Sixty days for correction of any irregularities in tax or customs declarations.
  - If any tax and duty liability has been omitted from declarations, customs authorities will send the maquiladora notice in the form of an "invitation letter" for a voluntary correction, rather than initiate an automatic audit.
  - Allowed to file consolidated pedimentos (customs returns) on a monthly basis.
  - Customs clearance available from domicile.
  - Certification will be valid for three years. Renewal is automatic with continued compliance and by filing notice of renewal prior to expiration of certification.

As in the case of the IMMEX, it is important to verify the sourcing, operational business model and other factor to determine if the VAT Certification would be feasible.

Free-Trade Zones System (FTZ):

Mexico does not have an FTZ per se, although there are certain governmental authorizations intended for manufacturing purposes, the most common is the IMMEX Program:

IMMEX is an authorization granted by the Ministry of Economy that allows companies to import good on a temporary basis to use them on their manufacturing process in Mexico and then export the finish goods.

Companies that operate under an IMMEX authorization as mentioned can import raw material on a temporary basis and then, they must export those goods within a certain time frame out of Mexico or "transfer" those goods to another IMMEX company within Mexico or change the status of "temporarily" imported goods to a "definitive" status.

To obtain the incentive a Mexican company must be in the business of directly or indirectly producing goods which are subsequently exported.

Being a registered IMMEX company and enjoying its benefits requires certain recordkeeping and inventory controls for traceability in case of regulatory audits.

The key benefits available to IMMEX companies include:

- Option to defer the payment of import duties which varies by industry and goods/materials. (Only for raw material, and subject to export all production).
- Reduce Customs fee (DTA) from 8% to 1.76% of the value for machinery and a flat fixed fee of $240.00 Mexican pesos for raw material.
- Avoid payment of VAT in some cases on domestic purchases (which will be incorporated to the goods exported).
- Ability to create virtual customs entries (also known as import/export declarations) between companies registered in the IMMEX program.

- Ability to create consolidated Import entries.
- Ability to use Sectorial Benefits Program (PROSEC) which allows the import of machinery, equipment and spare parts by services companies.

Also, it is important to verify the sourcing, operational business model and other factor to determine if the IMMEX program would be feasible for the Company.

Custom Allowances:

As a general rule, any person or Company who will be engaged in foreign trade transactions and

seeks to import assets, goods, materials or supplies for its operation, will require an Importers Registry authorized by the Mexican Tax Authority. In addition to the Importers Registry, when the Company uses materials such as steel products, iron and steel products, chemical products, among other type of products considered as "sensitive" by the Mexican Authorities in its productive process, would require applying to a Sectoral Importers Registry.

Aside the Importers Registry application, the Company must engage an authorized Customs Broker to carry out their import operations into the Country. In Mexico, Customs Brokers are limited to operate on 4 customs ports so if the Company intends to have a multi-port sourcing operation, this needs to be taken into consideration.

Regarding the imports as well, Mexico is part of the Harmonized Commodity Description and Coding System, also known as Harmonized System (HS). As part of the import process, the importer must comply with the specific tariff (duties) and non-tariff regulations (import permits, Mexican Official Standards) etc. (when applicable), in accordance with the tariff item classification of the good to be imported.

Mexico is currently a signatory to the US-Mexico-Canada Agreement (USMCA). USMCA eliminate most tariffs and non-tariff barriers on the trade of goods between the US and Mexico, and if the goods are imported from US and Canada, they can apply to special tariffs (duties) or benefits. Also, Mexico has FTZ entered with more than 50 countries.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

On 1 July 2023, the MLI entered into force in respect of Mexico and will be effective for all Mexican tax purposes on January 1, 2024. Mexico signed the convention on 7 June 2017 and deposited its final MLI Position on 15 March 2023, including the 61 tax treaties that it wishes to be covered by the MLI.

It is important to mention that the main commercial partnership (United States of America) does not sign the MLI therefore, that double tax treaty would not be modified by virtue of the MLI.

The most relevant provisions adopted by Mexico are the PPT and simplified LOB and the PE anti abuse provisions. Mexico does not adopt apply mandatory binding arbitration in Mutual Agreement Procedure (MAP).

Tax Conventions for Avoiding Double Taxation:

Mexico has a network of over 60 double tax treaties currently in force, including with the United States of America, that entitle foreign residents to several tax benefits, such as a reduction of withholding taxes, including on dividends, royalties, and interests.

In order to apply tax treaty benefits, certain requirement must be satisfied such as evidencing of the tax residence of the recipient, among others.

Multilateral Assistance Convention (MAC):

The MAC entered into force in Mexico on September 1, 2012, and it allows Mexico to effectively implement the automatic exchange of information (AEOI), the exchange of information on request (EOIR) and the spontaneous exchange of information (SEOI).

The MAC also includes provisions regards simultaneous tax examinations, the service of documents, joint audit facilities, assistance in tax collection, and assistance in recovery. It also provides protections for taxpayers' rights.

Common Reporting Standard (CRS):

The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the "CRS MCAA") for the automatic exchange of financial account information pursuant to the CRS, have been developed under Article 6 of the MAC, which requires the competent authorities of the parties to the Convention to mutually agree on the scope of the AEOI and the procedure to be complied with.

Mexico implements CRS from 1 January 2016. This means that Mexico started exchanging information by the end of September 2017 based on information possessed by the financial institutions during the calendar year 2016.

Controlled Foreign Corporation Rules (CFC):

Mexico has controlled foreign corporation rules (*CFC rules*), whereas income derived from foreign investments made on foreign entities must be taxed in Mexico when accrued in the foreign jurisdiction even if it has not been distributed to the investor. The foregoing applies where income is not subject to tax or subject to an income tax lower than 75% of the income tax that would be due and paid in Mexico by the taxpayer.

All income taxes paid by a foreign entity shall be considered even if they are paid in a country or jurisdiction other than that of their residence or if they are paid to different levels of government.

Instead of comparing the tax paid by a foreign entity vis-a-vis the tax that would be triggered and paid in Mexico, taxpayers may compare the statutory income tax rate in the country or jurisdiction of tax residence with the rate set forth in the MITL for corporations (30%) or individuals (35%).

Investments falling under the CFC rules must also meet special reporting obligations, which have certain exceptions for indirect participations in investments or when the Mexican Resident do not have control over investment.

Transfer Pricing Rules (TP):

Mexican rules transfer pricing rules apply to business transactions entered by and among related parties. Said provisions are based on the arm's-length standard, as Mexico has adopted most of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations rules.

Mexico has adopted the transfer pricing reports consistently with the OECD's BEPS Action Plan 13. Taxpayers are required to file a master information return (Master file), local information return (Local file), and CbC report on a calendar-year basis,

As of 2023, the transfer pricing analysis must complain with new regulations as follows:

- The functional analysis shall be made in dual basis, including the functions, assets and risks of the counterparty of the analyzed transaction.
- The financial information of the comparable companies shall correspond to the fiscal year under analysis.
- Only be used the interquartile statistical method to determinate the arm´s length range.

Foreign residents who earn income from a Mexican source are also obligated to determine their revenues in accordance with the arm's length standard. This is particularly relevant in the case of selling shares with income sourced in Mexico, especially when the foreign resident chooses to pay taxes on the capital gain. In such cases, the accountant responsible for calculating the tax cost of the shares sold must include in their report a transfer pricing analysis of the sale price.

Thin Capitalisation Rules (TC):

Thin capitalization rules apply to any debt incurred with a foreign-related party. The threshold is 3:1 debt-to-net equity ratio otherwise, interest associated to the excess is not deductible. That ratio may be grater if taxpayers request an Advance Pricing Agreement (APA).

Certain debts incurred for construction, operation, or maintenance of productive infrastructure associated with Mexico's strategic areas or to generate electricity may be excluded from the computation as well those assumed by the members of the financial system when performing transactions related to their purpose.

Furthermore, interest paid by Mexican companies to related parties may be treated as dividends in certain circumstances (*i.e., back-to-back loans, interest not paid under arm's length conditions, interest conditioned on profit, etc.*).

Hybrid Structures Rules (HS):

In 2020 Mexico amended its Income Tax Law to address some of the BEPS actions recommended by the OECD, including Action 2 which relates to the neutralization of hybrid mismatch arrangements (Hybrid Rules).

While the Hybrid Rules address cases where a taxpayer is entitled to a deduction but the counterparty does not recognize an income (Deduction/No Income or D/NI), the rules incorporated in the MITL extended its scope to payments where the counterpart is located in a low tax jurisdiction, except if the payment (i) derives from the recipient's business activity; and (ii) is resident in a country with an exchange of information agreement.

The scope of the rule introduced by Mexico to avoid D/NI arising from hybrid mechanism, is broader than the original form of Action 2 of the Final Report since, contrary to what Action 2 Final Report recommended, Article 28(XXIII) of the MITL provides a prohibition to deduct, besides payments related to structured agreements, any payment made to related parties when the counterparty's income is subject to a preferential tax regime.

CFC provisions are applicable to determine if the payments made to related parties or through structured agreements are subject to a preferential low tax regime.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Inter-Oceanic Corridor of the Isthmus of Tehuantepec

On June 5, 2023, the Mexican government granted tax incentives to companies that carry out productive economic activities, such as electrical and electronics, semiconductors, automotive, medical devices, pharmaceutical, agro-industrial, information technology, petrochemicals, among others, within the Inter-Oceanic Corridor.

Tax incentives will be granted to companies who obtain a certificate of compliance with the requirements and consist in the following:

- 100% income tax credit during the three first years of operation. 50% will be granted in the following three years; however, if the taxpayer exceeds the employees goals the discount may be up to 90%.
- Accelerated depreciation of investments during the first six years of operation.
- VAT exemption on transactions within the region (the isthmus) for four years and recovery of the VAT paid on purchases made outside.

Primary industries

Taxpayers who are exclusively involved in agriculture, livestock, or forestry activities may be eligible for a specific tax treatment that includes an income exemption and a reduction in their tax liabilities.

Other Concessions by Industry/Market:

Mexico has implemented promotion programs to increase the competitiveness of companies by reducing import duties for raw materials, parts, and components to be incorporated into a good that will be produces in Mexico, as well as the simplification of administrative procedures by the Mexican government.

The Ministry of Economy, has Sector Promotion Programs (hereinafter "PROSEC" for its acronym in Spanish) whose purpose is to allow Companies, who produce or manufacture the goods contained in the sectors established in the PROSEC Decree, to import goods, machinery and/or equipment with a preferential ad-valorem tariff or duty, to be incorporated or used in their productive process, regardless of whether the finished goods are destined for export or national market.

There is a specific PROSEC in accordance with the productive process and industry.

Special Tax Regimes, Incentives or Subsidies:

State and Municipal governments tend to grant tax incentives on property and payroll taxes that are due per the operation of the Mexican entity in a given State or Municipality, as well as financially assist with the installation costs associated with the operation startup (e.g., street pavement, water and electricity installation, discounts upon the purchase of government property, etc.).

Recently, the Mexican government approved several CIT and VAT incentives for Mexican entities operating in the norther border region on Mexico, which is a strategic location for cross-border transactions with the United States. The mentioned tax incentives involve the reduction of the CIT from 30% to 20% and the VAT from 16% to 8%, subject to certain conditions being met.

Tax Exemptions:

Non-profit organizations are exempt from income tax if certain conditions are met.

Nicaragua

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INCOME TAXES

Corporate Income Tax (CIT):

According to article 52 of Law No. 822 "Tax Concertation Law", the Corporate Income Tax is levied at a rate of 30% on the net income for the fiscal period.

Additionally, the tax legislation establishes the obligation of the "Definitive Minimum Payment", which consists of monthly advances, the taxpayers of the "Corporate Income Tax" are subject to a minimum definitive payment resulting from applying a rate of 3% for large taxpayers; 2% for major taxpayers and 1% for other taxpayers to the monthly gross taxable income. At the end of the tax period, the Corporate Tax payable will be the higher amount resulting from comparing the 30% tax (Corporate Tax) to the minimum definitive payment.

Dividend Tax (DT):

According to the "Regulations of the Tax Concertation Law", dividends are classified as income from movable incorporeal capital, therefore these are subject to the Capital Income Tax. Article 87, paragraph 2 establishes a 15% tax rate applicable to capital income obtained by residents and non-residents.

Capital Gains Tax (CGT):

Article 87, paragraph 2 of "Tax Concertation Law" establishes that the tax rates applicable to the Capital, gains and losses Income Tax are:

1. 10% for income generated by financing granted by international investment grade banks, in accordance with the regulations defined by the competent authority (SIBOIF);
2. 15% for residents and non-residents, including trusts.
3. 30% for operations with tax havens.

Withholding Tax (WHT):

The Tax Code establishes the figure of the "Withholding agents", these are those taxpayers' that when paying or crediting certain amounts to third parties, are in the obligation to apply a withholding tax, and must declare and pay it to the Tax Administration in the form and terms established by law. It is important to note that withholding agents are jointly and severally liable for the tax obligation. Our tax legislation determines several taxes that are subject to a Withholding, such as:

1. Labor income tax for non-residents (20%).
2. Definitive withholding taxes to non-residents on economic activities carried out in Nicaragua (20%).
3. Withholding to non-residents for: Reinsurance (1.5%); insurance premiums and bonds of any kind (3%); maritime and air transportation of cargo and passengers, as well as international land transportation of passengers (3%) and international telephone and internet communications (3%).
4. Capital and capital gains and losses income tax (15%).

TRADING TAXES

Value Added Tax (VAT):

The Tax Concertation Law establishes that the Value Added Tax (VAT) applies to the acts carried out in the Nicaraguan territory on the following activities: 1. Disposal of goods; 2. Import and internment of goods; 3. Exportation of goods and services; and 4) Rendering of services and use or enjoyment of assets. The applicable tax will be 15% on the value of the transaction price. However, the applicable rate for the export of goods and services will be 0%.

Free-Trade Zones System (FTZ):

Law No. 917 "Export Free Zones Law" regulates the legal regime of the export free zones. All free-trade zone company must be constituted as a mercantile company with a unique purpose in accordance with the current Nicaraguan legislation.

According to article 16, the free zone operating companies must be qualified and approved by the National Commission of Free Zones to enjoy the following tax benefits:

1. Exemption of 100% of the Income Tax generated by the operations of The Zone, for a period of fifteen years from the beginning of its operation, which may be extended only once, for an equal period prior authorization of the National Commission of Free Zones.
2. Total exemption from the payment of tax on the importation of machinery, equipment, tools, spare parts and other implements necessary for the functioning and operation of the Zone.
3. Exemption of the payment of tax for incorporation, transformation, merger, and reform of the company, as well as of the Tax of Fiscal Stamps.
4. Total exemption of the payment of taxes on the transfer of real estate property assigned to the Zone.
5. Total exemption from indirect taxes, sales, or selective consumption taxes.
6. Total exemption of municipal taxes.

According to article 20, the free zone user companies must be qualified and approved by the National Commission of Free Zones to enjoy the following tax benefits:

1. Exemption of 100% during the first ten years of operation and 60% from the eleventh year onwards, of the payment of the Income Tax generated by its activities in The Zone. The initial period of 10 years of exemption of 100% of the payment of the Income Tax generated by its activities in The Zone may be extended only once, for an equal period with the previous authorization of the National Commission of Free Zones. This exemption does not include taxes on personal income, salaries, wages or emoluments paid to Nicaraguan or foreign personnel working in the company established in The Zone, but it does include payments to non-resident foreigners for interest on loans, commissions, fees and remittances for legal services abroad or in Nicaragua and those of promotion, marketing, consulting and related; payments for which these companies will not have to make any withholding.
2. Exemption from the payment of taxes on the alienation of real estate in any title, including the Capital Gains Tax, if applicable, as long as the company is closing its operations in the Zone and the real estate continues to be subject to the Free Zone regime.
3. Exemption from the payment of taxes for incorporation, transformation, merger and reform of the company, as well as the Stamp Tax.
4. Exemption of all taxes, customs and consumption duties related to imports, applicable to the introduction into the country of raw materials, materials, equipment, machinery, dies, parts or spare parts, samples, molds and accessories destined to enable the Company for its operations in the Zone; as well as the taxes applicable to the equipment necessary for the installation and operation of economic dining rooms, health services, medical assistance, day care centers, recreational areas and any other type of goods that tend to satisfy the needs of the personnel of the company that works in the Zone.
5. Exemption from customs duties on transportation equipment, whether cargo, passenger, or service vehicles, destined for the normal use of the company in the Zone. In case of alienation of these vehicles to purchasers outside The Zone, the customs taxes will be charged, with the reductions that are applied due to the time of use to similar alienations made by Diplomatic Missions or International Organizations.

6. Total exemption of indirect, sales or selective consumption taxes (such as VAT).
7. Total exemption of municipal taxes.
8. Total exemption of export taxes on products manufactured in the Zone.
9. Exemption of fiscal and municipal taxes on local purchases.

In order to enjoy the tax benefits aforementioned, the Free Zone User Company must maintain a reasonable number of workers according to what was manifested when presenting its application for admission, it also must maintain reasonably the same salaries and social benefits that it offered.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

As of this date, Nicaragua has not ratified any Base Erosion and Profit Shifting (BEPS) Multilateral Instruments (MLI).

Tax Conventions for Avoiding Double Taxation:

As of this date, Nicaragua has not ratified any Tax Convention for Avoiding Double Taxation.

Multilateral Assistance Convention (MAC):

As of this date, Nicaragua has not ratified the OECD'S Multilateral Assistance Convention (MAC).

Common Reporting Standard (CRS):

As of this date, Nicaragua has not ratified the Common Reporting Standard (CRS) and does not automatically exchange information with other jurisdictions on an annual basis.

Controlled Foreign Corporation Rules (CFC):

As of this date, Nicaragua does not have a Controlled Foreign Corporation Regulation.

Transfer Pricing Rules (TP):

As of July 01, 2017, the transfer pricing rules came into force in Nicaragua, these regulations apply to transactions between related parties. In this regard, article 96 of the Tax Concertation Law establishes that "Transactions carried out between related parties shall be valued at the price or amount that would have been agreed upon by independent parties in comparable transactions under arm's length conditions, even when they derive from capital income and capital gains and losses. The value thus determined shall be reflected in the books and accounting records of the taxpayer".

Transfer pricing regulations apply to any transaction carried out between related parties, between a resident and a nonresident, and between a resident and those operating in a free zone regime and have effects on the determination of taxable income for the tax period in which the transaction is carried out or in the following periods.

In accordance with current tax legislation, they are considered related parties:

1. When one of them directs or controls the other, or owns, directly or indirectly, at least forty percent (40%) of its capital stock or of its voting rights;
2. When five or fewer persons direct or control these two persons, or hold together, directly or indirectly, at least forty percent (40%) of participation in the capital stock or voting rights of both persons;
3. When they are companies belonging to the same decision-making unit. It shall be understood that two companies are part of the same decision-making unit if one of them is a partner or participant of the other and is in relation to it in any of the following situations:
    a. It holds the majority of the voting rights;
    b. It has the power to appoint or dismiss the majority of the members of the administrative body;
    c. May dispose, by virtue of agreements entered into with other partners, of the majority of the voting rights;
    d. The majority of the members of the administrative body have been appointed exclusively with their votes; and v. The majority of the members of the administrative body have been appointed exclusively with their votes; and
    e. The majority of the members of the administrative body of the dominated company are members of the administrative body or senior executives of the dominant company or of another company dominated by the latter.
4. When two companies each form part of a decision-making unit with respect to a third company all these companies shall form a decision-making unit.
5. A natural person is considered to hold a share in the capital stock or voting rights when the ownership of the shareholding, directly or indirectly, corresponds to the spouse or a person related by direct or collateral kinship, by blood up to the fourth degree or by affinity up to the second degree.

The following are also considered related parties:

1. In a business collaboration contract or a joint venture contract when any of the contracting parties or associates participates directly or indirectly in more than forty percent (40%) in the result or profit of the contract or of the activities derived from the association;
2. A person resident in the country and a distributor or exclusive agent of the same resident abroad;
3. A distributor or exclusive agent resident in the country of an entity resident abroad and the latter;
4. A person resident in the country and its permanent establishments abroad; and
5. A permanent establishment located in the country and its parent company resident abroad or another permanent establishment of the same or a person related to it.

Taxpayers are required to have the necessary documentation and information to value their transactions with related parties at the time of filing their annual income tax return; therefore, they must have a transfer pricing study in force that complies with the methods for determining the value of the transactions established in current legislation. The tax authorities may audit compliance with these obligations, make tax adjustments and impose fines for noncompliance.

Thin Capitalization Rules (TC):

Nicaragua does not have an express tax regulation on Thin Capitalization Rules (TCD).

Hybrid Structures Rules (HS):

Nicaragua does not have an express tax regulation on Hybrid structures Rules (HS).

International Services rules:

In regard to the international services rules, the Tax Concertation Law establishes the following special tax regulations:

1. According to article 53, for purposes of the Corporate Income Tax, a 20% tax rate is established on economic activities rendered by non-residents in the Nicaraguan territory.
2. According to article 87, the tax on capital income and capital gains and losses will have a 30% rate when the operation is with tax havens.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Article 39 of Law No. 822 "Tax Concertation Law" establishes that deductible expenses are those paid and caused during the taxable year in any business or activity affected by the tax. The costs and expenses incurred, general, necessary, and normal to produce the taxable income and to maintain its existence and maintenance are deductible, provided that such costs and expenses are recorded and supported by the corresponding receipts. Among others, the requirements that costs and expenses must meet in order to be deductible are the following:

1. That having made the withholding, the payment has not been reported to the Tax Administration, the expense will be deductible in the fiscal period in which the payment of the withholdings or contributions is fulfilled; and
2. That they have the supporting documents.

Some of the deductible expenses and costs established in the current legislation are:

Special tax regimes, incentives, or subsidies:

Some special tax regimes are the Free Trade Zones Regimes whose tax incentives were previously described. As well as the temporary admission regime for the improvement of assets, which allows the entry of goods into the Nicaraguan territory and the local purchase of the same without the payment of all kinds of duties and taxes, provided that such goods are re-exported or exempted after being subjected to a process of transformation, processing or repair. Other special regimes include incentives in Tourism and Forestry sectors.

Finally, for small taxpayers, they may register before the Tax Administration under the simple fee regime, if these receive a monthly income less than or equal to one hundred thousand cordobas (C$100,000.00) and have an inventory of merchandise with a cost of no more than five hundred thousand cordobas (C$500,000.00). This regime allows the taxpayer to have a simplified accounting and pay a single fee for VAT and income tax on the sale of goods and rendering of services. Taxpayers under this regime will not be obliged to file declarations before the Tax Administration, except for the withholdings made by other taxpayers, which will be accreditable to its single fee.

Tax Exemptions:

Tax exemptions are contemplated by law and allow a taxpayer not to pay all or part of a tax. it is important to consider that tax exemptions are personal and cannot be transferred to third parties, and do not release taxpayers from their formal obligations to file tax returns before the tax authorities. In general terms, each tax has regulated objective and subjective exemptions, so there is a wide variety of these in our legislation and even this right is contemplated in the Political Constitution.

Due to the variety of exemptions regulated in the law for each type of tax, we will mention some for the main taxes, such as the Value Added Tax, for which the Tax Agreement Law regulates the subjective exemptions and determines that they will be exempt from VAT:

1. Universities and Centers of Higher Technical Education.
2. The Branches of the State, with respect to donations they receive.
3. The municipal governments, and regional governments, with respect to machinery and equipment, asphalt, cement, paving stones, and vehicles used in the construction and maintenance of highways, roads, streets and public cleaning.
4. The Army of Nicaragua and the National Police.
5. The Nicaraguan Fire Department and the Nicaraguan Red Cross.
6. The churches, denominations, religious confessions constituted as associations and religious foundations that have juridical personality, with respect to the assets destined exclusively to their religious purposes.
7. Transportation cooperatives, as to transportation equipment, new tires, supplies and spare parts, used to provide public transportation services.
8. Diplomatic and consular representations, and their representatives, provided there is reciprocity, except for nationals rendering services in such representations.
9. Missions and international organizations, as well as their representatives, except for nationals rendering services in such representations.

In this sense, the income tax on capital gains and losses regulates a series of subjective exemptions for:

1. Universities and Higher Technical Education Centers in accordance with Article 125 of the Political Constitution of the Republic of Nicaragua.
2. The Branches of the State, ministries, municipalities, regional and autonomous councils and governments, autonomous and decentralized entities and other state agencies, with respect to their income derived from their activities of authority or of public law; and
3. Diplomatic and consular representations provided there is reciprocity, as well as international missions and organizations.

In summary, each tax regulated by law has a section on exemptions and exonerations which establishes the acts or persons that are exempt or can access a partial or total exemption from the tax. Likewise, our legislation contemplates tax benefits for different commercial sectors, such as the tourism sector, renewable energies, free trade zones, etc.

Panama

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INCOME TAXES

Corporate Income Tax (CIT):

Legal entities pay income tax on the net taxable income calculated according to the traditional method at the following general rate: 25%.

Legal entities whose taxable income exceeds one million five hundred thousand balboas (USD 1,500,000.00) per year, shall pay Income Tax at the rate that corresponds according to the legal entity in question, the greater amount resulting between:

1. The taxable net income calculated by the traditional method, or
2. The net taxable income resulting from applying to the total taxable income four point sixty seven percent (4.67%).

The total taxable income for tax purposes is the amount resulting from subtracting from the total income of the taxpayer the exempt and/or non-taxable income, and foreign source income.

Dividend Tax (DT):

As a general rule, except for special tax regulation, those legal entities that require an Operations Notice to carry out commercial and industrial operations within the national territory, or that require an Operation Key to operate in the Colon Free Zone, or that operate in a Petroleum Free Zone or any other free zones or a special economic area, or that generate taxable income in the Republic of Panama, are obliged to withhold the dividend tax or participation fee of 10% of the profits they distribute to their shareholders or partners when these are of Panamanian source and 5% in the case of the distribution of profits from income exempt from income tax as well as income from foreign source and/or exportation.

Capital Gains Tax (CGT):

Gains obtained from the alienation of bonds, shares, participation quotas and other securities issued by legal entities are taxable, as well as those obtained from the alienation of other personal property which will be subject to a capital gains treatment and, consequently, Income Tax will be calculated on the profits obtained at a fixed rate of ten percent (10%). The buyer shall be obliged to withhold from the seller a sum equivalent to five percent (5%) of the total value of the sale, as an advance payment of Income Tax on the capital gain. The buyer shall have the obligation to remit to the Treasury the amount withheld, within ten (10) days following the date on which the obligation to pay arose.

Withholding Tax (WHT):

As a general rule, the income received by natural or juridical persons whose domicile is outside the Republic of Panama as a result of any service or act, documented or not, that benefits natural or juridical persons, national or foreign, located within the Republic of Panama, which includes, but is not limited to fees and income from copyrights, royalties, key rights, trademarks or commercial brands, patents of invention, know-how, technological and scientific knowledge, industrial or commercial secrets, to the extent that such services affect the production of Panamanian source income or the conservation thereof and their disbursement has been considered as deductible expenses by the person who received them is subject to income tax and consequently is subject to withholding. The natural or juridical person, national or foreign, located in the territory of the Republic of Panama that benefits from the service or act in question, must apply the general income tax rates established on 50% of the amount to be remitted.

TRADING TAXES

Value Added Tax (VAT):

The rate of this tax shall be seven percent (7%) on the transfer of movable assets and services.

The following rates apply on these special situations:

1. The importation, wholesale and retail sale of alcoholic beverages, which is ten percent (10%).
2. The importation, wholesale and retail sale of tobacco products, such as cigarettes, cigars, cigars, among others, which is fifteen percent (15%).
3. The lodging or accommodation service in all modalities of public establishments is ten percent (10%).

The determination of this tax results from applying the respective percentage to the corresponding taxable base, according to the taxable event in question.

Free-Trade Zones System (FTZ):

There are several special commercial regimes such as City of Knowledge, Colon Free Zone, Panama Pacific Special Economic Area, Free Trade Zones, Petroleum free Zone, Multiregional Headquarters´ Regime, Multiregional Headquarter Manufacturing Regime to mention the main ones, each with special requisites to comply with and special tax regimes as well based on a specific Law.

	Panama Pacific Special Economic Area	City of Knowledge	Free Trade Zone
Permitted Activity/ Operation **Defined according to the special regime**	All types of activities of any kind (Art 1 Law 41 of 2004 and its amendments). Definition 21 Office administration services: electronic processing of activities, including operations consolidations and operation of networks and data processing; technical services, including support and assistance to third parties that have acquired products or services provided by the client of the Company rendering the service. (Art 1 Law 41 of 2004 and its amendments) Research and innovation centers in the scientific, technological, humanistic and cultural fields, transferring knowledge for use in productive activities and programs, seeking levels of excellence in each branch of activity (clause 1 Decree Law 6 of February 10, 1998).	Research and innovation centers in the scientific, technological, humanistic and cultural fields, for the transfer of knowledge for use in productive activities and programs, seeking levels of excellence in each branch of activity. (Clause 1 Decree Law 6 of February 10, 1998). Innovative companies that in technology parks produce, assemble, process high technology goods or provide services of the same characteristics that may be destined for sale in the local or international market (clause 5.e Decree Law 6 of February 10, 1998 and its amendments).	High technology company. General services company (article 1 Law 32 of 2011). Production of goods, services, logistics services, higher education, scientific research, high technology (article 24 Law 32 of 2011). High-tech enterprise: the one dedicated to the production of high technology that develops goods and services of high added value, such as hardware, software, supplies and data processing and storage centers (data center) protected by intellectual property regulations (Art 24.4 Law 32 of 2011). Service company: the one dedicated to provide services to users abroad, in other free zones or within the same zone Article 24.7 Law 32 of 2011) It includes international services commonly known as offshore transactions covering international marketing and commercialization, insurance, reinsurance, banking, finance, auditing, administration, brokerage, accounting, diamond exchange and consulting and the like. General service company. The one dedicated to the provision of personal services to workers or visitors who require this service such as restaurants, laundries, pharmacies, beauty salons, gym, banks and others of similar nature. (24.9 Law 32 of 2011).

Custom Allowances:

Panama has negotiated several Free Trade Agreements which provide specific customs exemptions and allowances. Main countries under the agreements are: Central America, Taiwan, Singapore, Chile, Peru, USA, Canada, AELC (Iceland, Liechtenstein, Norway and Switzerland) Dominican Republic.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Panama is committed to comply with MLI since fiscal year 2016

Tax Conventions for Avoiding Double Taxation:

Panama has negotiated Double Taxation Treaties with: Mexico, Barbados, Portugal, Qatar, Luxembourg, Spain, The Netherlands, Singapore, Korea, Italy, France, Ireland, Czech Republic, United Arab Emirates, Israel, United Kingdom and Vietnam.

Multilateral Assistance Convention (MAC):

Panama is committed to comply with MAC since fiscal year 2016.

Common Reporting Standard (CRS):

Panama is committed to comply with CRS since fiscal year 2018.

Controlled Foreign Corporation Rules (CFC):

Panama does not have CFC rules.

Transfer Pricing Rules (TP):

The transactions carried out by taxpayers with related parties must be valued in accordance with the arm's length principle, i.e., the ordinary and extraordinary income and the costs and deductions necessary to carry out such transactions must be determined considering the price or amount that would have been agreed upon by independent parties under similar circumstances under arm's length conditions. The value thus determined must be reflected for tax purposes in the tax returns filed by the taxpayer, following one of three methods:

1. Uncontrolled comparable price method. This consists of valuing the price of the good or service in a transaction between related persons at the price of the identical good or service or of similar characteristics in a transaction between independent persons in comparable circumstances, making, if necessary, the necessary corrections to obtain equivalence, considering the particularities of the transaction.

2. Cost plus method. It consists of increasing the acquisition value or production cost of a good or service by the usual margin obtained by the taxpayer in identical or similar transactions with independent persons or entities or, failing that, by the margin that independent persons or entities apply to comparable transactions, making, if necessary, the necessary corrections to obtain the equivalence, considering the particularities of the transaction. The usual margin is considered to be the percentage that the gross profit represents with respect to the cost of sales.

3. Resale price method. It consists of subtracting from the sales price of a good or service, the margin applied by the reseller itself in identical or similar operations with independent persons or entities or, failing that, the margin applied by independent persons or entities to comparable operations, making, if necessary, the necessary corrections to obtain the equivalence, considering the particularities of the operation. The usual margin is considered to be the percentage that the gross profit represents with respect to net sales.

Thin Capitalisation Rules (TC):

Panama does not have thin capitalization rules.

Hybrid Structures Rules (HS):

Panama does not have hybrid structure rules.

International Services rules:

International Services may be subject to the Territoriality Tax Principle where solely the income generated in Panama is considered as a taxable event with seldom exceptions.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

There are several activities enjoying tax breaks such as Manufacturing, Tourism, Agroindustry, Clean Energy Production, to mention the main ones.

Special Tax Regimes, Incentives or Subsidies:

As seen previously all free zone related activities enjoy special tax rules and there are a number of activities related with tourism, manufacturing, agrobusiness and clean energy production enjoying tax breaks.

Tax Exemptions:

As a general rule and based on the territoriality tax principle the events taking place in Panama may be considered as a taxable event and therefore most foreign transactions carried on from Panama are tax exempted.

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INCOME TAXES

Corporate Income Tax (CIT):

The Paraguayan Corporate Income Tax ("IRE" per its Spanish acronym), which taxes all Paraguayan income, profits or earnings that come from all types of economic, primary, secondary, and tertiary activities, including agricultural, commercial, industrial or services, excluding income taxed by the IRP, at a 10% applied to the net income of the fiscal year.

The income generated by the assets, rights, obligations, as well as the acts of disposition of these, and any increase in the taxpayer's assets will also constitute a taxable event. Certain tax exonerations are contemplated in the law.

Taxpayers of IRE with fiscal losses from the fiscal year 2020 onwards, can carry forwards these losses within a term of five (5) years, in a limit of 20% of the net revenue of the fiscal year which is being assessed.

Furthermore, transfer pricing rules are applied to controlled transactions of IRE taxpayers. In this regard, the rules established in Law No. 6380/19 (the "Tax Law") generally follow the guidelines provided by the Organization for Economic Cooperation and Development (OECD) for transfer pricing.

Dividend Tax (DT):

The Tax on Dividends and Profits ("IDU") is levied on income from profits, dividends or yields generated by sole proprietorships that are under the general regime of IRE, corporations, and other legal entities, incorporated in the country, as well as permanent establishments of foreign entities.

IDU taxpayers are the legal entities and other entities residing in the country or abroad, which receive dividends or profits in the nature of dividends, profits or yields, in their capacity as owners, consortium members, partners or shareholders of sole proprietorships, corporations, limited liability companies, joint stock companies, limited partnerships, industrial and capital companies, consortiums formed for the execution of a public works and other private companies or entities of similar nature.

The established rates will be applied to the recipient of the dividends, profits or yields according to the following: a) rate of 8%, when the recipient is a natural person, legal entity or entity with fiscal residence in the country; b) rate of 15%, when the recipient is an individual, legal entity or an entity without fiscal residence in the country, including those obtained by the parent company abroad. The legal entity that is making the dividend distribution is obliged to make the IDU withholdings.

Capital Gains Tax (CGT):

Companies and legal entities incorporated in Paraguay are taxed through IRE for capital gains obtained in their operations. To determine the net revenue in the transfer of an asset, the general rule is that local companies must consider the difference between sale price and cost of acquisition, minus amortizations and depreciations fiscally admitted.

Withholding Tax (WHT):

The Withholding Tax on Income obtained by Non-Residents ("INR") is levied, at a rate of up to 15%, on income derived from profits obtained by individuals, legal entities and other entities with no fiscal residence in Paraguay, included within personal and corporate income.

In order to assess the fiscal obligation, the 15% general INR tax rate is applied over a legally determined net income. Depending on the type of activity from which the revenue is derived, the Tax Law establishes a legally determined net profit, over which, the general 15% INR tax rate is applied.

Thus, if the non-resident obtains revenue from Paraguayan source derived from loans granted to Paraguayan IRE taxpayers, the 30% of the interests paid will be considered as net revenue, over which, the 15% INR tax rate will apply, resulting in an effective tax rate of 4.5% (30% * 15%).

The Paraguayan IRE taxpayer making the payment to the non-resident, is obliged to make the INR withholding and is jointly liable for this fiscal obligation. In addition to INR, the withholding agent must also withhold VAT.

TRADING TAXES

Value Added Tax (VAT):

The VAT levies the transfer and supply of goods and services, and the import of taxable goods and services. The standard rate is 10%. Lease agreements and in general the transfer of the right to use goods or immovable property, sale of basic food products, pharmaceutical products, interest and commissions on loans are levied a lower 5% rate.

Notwithstanding special provisions, transfers and services rendered within the country are subject to tax, regardless of where the agreement is entered into or the domicile, residency or nationality of the parties engaging in the operations, as well as who receives them and where the payment is made. Technical assistance and other services, as well as the assignment of the use of goods and rights, are considered performed within the country when used or exploited in therein.

Exports of goods and services, foreign currency, interests of public and private securities, among other, are exonerated.

All companies and unincorporated businesses that have fiscal residence and provide services in Paraguay are required to register for the VAT. VAT must be filed and paid on a monthly, with the due date determined according to the taxpayer's registration number.

Free-Trade Zones System (FTZ):

Per the provisions of Law No. 523/1995 (the "Tax-Free Zone Law"), the tax-free zone is a territory authorized by the Executive Branch, in which, the introduction and exit of foreign goods are not subject to customs duties and taxes on import, as long as they are kept in the tax-free zone, under the conditions provided by the Tax-Free Zone Law. The sale of goods from a tax-free zone into Paraguay is considered as an import; on the other hand, the sale of goods from the tax-free zone into other countries is considered as an export.

The concessionaire is the entity authorized by the Executive Branch to administer a tax-free zone. In order for a company to become a user of the tax-free zone, it must be incorporated in Paraguay, conclude a user agreement with the concessionaire and comply with the legal norms established for merchants.

The operations conducted inside the tax-free zone by the users are tax-exempt; this includes the transfer of goods or provision of services between users of the tax-free zone. The exemption is also applied to IDU for the remission of dividends from the user companies to share or quota holders who reside outside Paraguay.

Also, the tax exemption to the users of the tax-free zone is applied regarding the withholdings of INR and VAT for the payments to nonresidents of: (i) royalties; (ii) commissions; (iii) service fees; (iv) interests; (v) technical assistance; (vi) transfer of technology; (vii) loans and financing; (viii) leasing of equipment; and, (ix) any other type of service rendered from abroad to users of the tax-free zone.

The export of goods from the tax-free zones into other countries conducted by users is subject to the tax of the tax-free zone at an effective rate of 0.5%, applied over the gross income obtained through this operation.

The assessment and payment of this tax arises when every export dispatch is formalized. The user can import the goods stored in the tax-free zone into Paraguay, applying the customs taxes and duties. Also, the users will be liable for the IRE obligation, over the revenue obtained from these import operations.

Custom Allowances:

The following custom duties are assessed over the custom value of the imported goods:

1. Custom tariff, depending on the tariff code of the goods imported: 0 to 35%
2. VAT: 5% or 10% over the custom value of the goods imported
3. Payment in advance of the IRE: 0.4%
4. Fees for Custom valuation services: 0.5%

These custom duties are suspended under special regimes, such as the free trade zone or the maquila regime, under certain conditions.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

N/A

Tax Conventions for Avoiding Double Taxation:

Paraguay has treaties to avoid double taxation with Uruguay, Chile, Taiwan, Qatar, United Arab Emirates, and has currently signed a treaty with Spain, that is yet to be incorporated into the legal systems of Paraguay and Spain.

Paraguay mainly follows the United Nation's model to conclude tax treaties in its negotiations. Furthermore, the ordinary credit method is usually applied in tax treaties concluded by Paraguay to avoid international double taxation.

Multilateral Assistance Convention (MAC):

Paraguay has adhered to the Convention on Mutual Administrative Assistance in Tax Matters ("MAAC") and thus, can exchange fiscal information with other countries that participate in the treaty, from fiscal periods that start on January 2022 onwards. In this context, Paraguay has not yet adhered to any automatic exchange of information agreement.

Common Reporting Standard (CRS):

N/A

Controlled Foreign Corporation Rules (CFC):

N/A

Transfer Pricing Rules (TP):

Transfer pricing rules are applied to controlled transactions of IRE taxpayers. In this regard, the rules established in the Tax Law generally follow the guidelines provided by the Organization for Economic Cooperation and Development (OECD) for transfer pricing.

In addition, two special methods are designated in view of the particular economic circumstances of Paraguay. These special methods are the residual profit split and the method applied to the export of certain commodities.

Thin Capitalisation Rules (TC):

IRE taxpayers that pay interests to related entities will have to observe the limits established in the Tax Law for the assessment of IRE obligation to deduct these payments. In this regard, IRE taxpayers will be able to deduct an amount equivalent to 30% of the net income of the fiscal year which is being assessed, for the payments of interest, royalties, and services to the related entity. The amounts that surpass this limit, will not be deductible expenses in the yearly assessment of IRE. In order to assess this limit, two levels of net income need to be calculated, the first level will not consider the payments of interests (in order to assess the 30% limit), royalties and fees for technical assistance to related entities and the second level will consider these concepts.

The aforementioned threshold will also apply for the assessment of the deductibility of royalties and technical assistance. Thereby, if IRE taxpayers also pay royalties and technical assistance to related entities -in addition to interests-, the 30% deductibility threshold needs to be calculated before these expenses and interests. This implies that the first level of net income will not consider royalties, interests nor technical assistance paid from the IRE taxpayer to the related entity, and the threshold of 30% will consider all these items of expense.

Hybrid Structures Rules (HS):

N/A

International Services rules:

N/A

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

Investment funds that are incorporated in the local capital market are fully exempt from income taxes on every level, at the level of the fund itself and at the level of the beneficiaries. Furthermore, transactions conducted through capital markets have extensive exemptions that apply both to passive revenue as well as to capital gains.

Other Concessions by Industry/Market:

Holders of mining rights are exempt from paying any taxes whatsoever during the prospecting and exploration phases. Likewise, all machinery, vehicles, tools, supplies, installments and materials that aren't manufactured in the country and are necessary for prospecting and exploration are exempt from import rights, VAT and all other taxes currently in force or yet to be created. They must, however, pay the tariffs for services effectively rendered.

This tax exemption does not apply in the mining production phase, in which the mining claim holder must pay the corresponding taxes. The claim holders must pay one fee per year or through installments, according to a scale foreseen in the law, different for each stage, taking into account the surface that is being prospected, explored or produced.

When an extension/deferral is requested, the fee shall increase 30% over the fee that corresponds to the surface that is still under stages of prospecting, exploration or production. The law establishes a 30% reduction of fees for licenses and claims regarding nonmetallic minerals and mineral gems, with the exception of diamonds. The Ministry of Public Works and Communications decides whether a certain mineral is metallic or not. One of the causes of the lapsing of mining licenses and claims is the lack of payment of fees and royalties within the time frames set forth in the Law.

Special Tax Regimes, Incentives or Subsidies:

Law No. 60/1990 provides for special exemptions. For certain investments, filed prior to their commencement, this law permits nationals and foreigners to request tax exemptions. Investment can be money; financing; supplier credit or other financial instruments; capital goods; raw materials or instruments for local industries in order to produce capital goods established in the investment project; trademarks, designs, models, industrial processes, and other forms of technology transfer subject to licensing; leasing of capital goods; and any other form established by the executive branch.

Approved investment projects can enjoy the following exemptions:

a. Total exemption from fiscal and municipal taxes levied on the incorporation, registration, and recording of companies and enterprises;

b. Total exemption from customs duties and others with equivalent effects, including internal taxes for specific application on capital goods import, raw materials and supplies for the local industry under the investment project;

c. Release of the requirement of any banking reserve or special deposit for the importation of capital goods;

d. When the amount of funding from abroad intended to promote the investment activity is at least US$ 13,000,000, it is exempted from the payment of taxes levied on remittances and payments abroad as interest, commissions and capital of the same, for an agreed period, provided that the borrower was a bank or financial institution or other lending institution with a distinguished record in the financial markets and multilateral lending agencies located abroad.

Total exemption of taxes that impact dividends and profits from approved investment projects for a term of ten years counted from when the investment project began; where the investment must be at least US$ 13,000,000. To apply this benefit, Paraguayan taxes of such dividends and profits should not represent a fiscal credit to the investor in the country from which the investment originated. In addition, the investment must not come from a country that qualifies as a low or no tax jurisdiction.

Furthermore, under the Maquila regime, Investors may bring goods, products, or services into the country, for the purpose of assembly, repair, or improvement, worked or processed for subsequent export, once the aggregated value is added. Foreign businesses seeking to create a Maquila program can create any type of business entity recognized by national law. There are no restrictions or limitations on the necessary domestic or foreign capital needed to start a Maquila program.

Maquila entities can temporarily import raw materials and supplies needed to begin production and later exportation, sample equipment and products for quality control testing, equipment and accessories. This exemption cannot exceed a period of six months. Extensions of this period of exemption will only be granted when properly justified.

Maquila programs can sell a portion of their production in the domestic market. This amount cannot exceed 10% of the total volume of the product exported in the past year.

A Maquila program is limited to a single tax of 1% on the value added to the product in the country or 1% of the value quoted on the invoice in respect to the costs to create the product, whichever is greater. The exportations pursued by Maquila entities are VAT exempted.

Tax Exemptions:

Tax exemptions are applied in the context of each tax.

In general terms, export of goods and freight services employed in export operations are exempt from VAT. Furthermore, interests paid by Ministry of Finance based on public debt are also exempt from income taxes in Paraguay.

Peru

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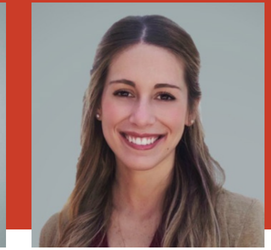
Daniela Rizo Patrón, Associate

INCOME TAXES

Corporate Income Tax (CIT):

Peruvian companies are subject to CIT for their worldwide income. To determine said tax, they must apply a 29.5% rate on their net income (gross income minus costs and expenses). Foreign source income can only be offset with costs and expenses from that same source.

In the case of non-resident companies, these are subject to Peruvian CIT only for their Peruvian source income. The applicable rates depend on the type of income generated, as can be seen from the table included below in the section related to Withholding Tax.

The branch and permanent establishment of a non-resident entity are also only subject to taxation on their Peruvian sourced income, at a 29.5% rate.

However, there is a branch tax (rate of 5%) that is applied on the retained profits once the term to file the Annual Tax Return has expired, even when such amounts are not distributed to the foreign beneficiary.

Dividend Tax (DT):

Only dividends distributed in favor of individuals (resident or non-resident) and non-resident entities are taxed in Peru, with a rate of 5%.

The Peruvian company that distributes the dividends must withhold and pay SUNAT the corresponding tax. If the dividends are distributed by a non-resident company in favor of a domiciled individual, the latter must pay the tax directly.

Capital Gains Tax (CGT):

As a general rule, capital gains generated by individuals domiciled in Peru from the sale of Peruvian securities are subject to the Peruvian Income Tax at a 5% effective tax rate.

For non-resident individuals, capital gains derived from the sale of Peruvian securities are subject to an Income Tax rate of 5% if the Peruvian shares are listed and sold or transferred through the Lima Stock Exchange. Otherwise, the applicable tax rate is 30%.

However, based on a benefit that will be in force until December 31, 2023, capital gains obtained by individuals, either domiciled or non-domiciled in Peru, will be tax exempt to the extent that: (i) the securities are sold or transferred through the Lima Stock Exchange; (ii) the securities sold or transferred by the taxpayer - including its related parties (if any) within any twelve month period, does not represent 10% (or more) of the total securities issued by the target company; and (iii) the securities have "market presence" (presencia bursátil). It should be noted that the exemption applies only to capital gains up to an amount equivalent to 100 Tax Units (UIT) per tax year.

Withholding Tax (WHT):

Non-resident individuals are subject to a withholding Income Tax (WIT) on their Peruvian source income, on a gross basis. The applicable tax rates are the following:

Income	Withholding tax rate
Interests	4.99% (as long as certain requirements are fulfilled) 30% (all others)
Capital gains	30% (sale of securities outside the country) 5% (all others)
Dividends	5%
Royalties	30%
Services	15% (income earned by artists for live shows performed in Peru) 30% (all others, including work income)
Other income	30%

Non-resident companies are subject to a withholding Income Tax (WIT) on their Peruvian source income, on a gross basis. The applicable tax rates are the following:

Income	Withholding tax rate
Interest	4.99% (as long as certain requirements are fulfilled) 30% (all others)
Dividends	5%
Royalties	30%
Services fees	30% (general and digital services) 15% (technical assistance, provided certain conditions are met)
Other income	30%

TRADING TAXES

Value Added Tax (VAT):

The Peruvian VAT levies the following operations at a rate of 18%: (i) sale of movable property in Peru; (ii) provision or use of services in the country; (iii) construction contracts; (iv) first sale of immovable property made by their builders; and (v) import of goods.

A service is provided in the country when the person who renders it is a Peruvian tax resident; and it is used in the country when it is provided by a non-resident but consumed or employed in Peruvian territory, regardless of the place where the agreement was signed or the payment was made.

The input VAT generated from the acquisition of goods and services may be used to offset the output VAT, as long as certain requirements established in the Peruvian VAT Law are met.

Free-Trade Zones System (FTZ):

In Peru there are currently 4 Special Economic Zones (SEZ) in operation: Zofratacna (Tacna), Zed Paita (Piura), Zed Ilo (Moquegua) and Zed Matarani (Arequipa).

SEZ users have access to a series of tax benefits and customs advantages, such as the following:

- They are exempt from Peruvian Income Tax, Value Added Tax, Municipal Promotion Tax and Excise Tax.
- They are exempt from the Ad/Valorem Tariff when importing merchandise.
- They are exempt from all taxes from the Central, Regional or Municipal Government to be created, except contributions to ESSALUD and fees.
- The entry of machinery, equipment, raw materials and inputs from abroad enjoys the suspension of the payment of import duties and taxes.
- Goods can remain indefinitely within the SEZ.
- Products manufactured in the SEZ can be exported directly without having to undergo a customs nationalization regime.
- Products manufactured in the SEZ can be entered into the national territory under international agreements and conventions.
- The entry of goods to the SEZs is direct and does not require prior storage.

Custom Allowances:

The General Customs Law establishes the legal framework applicable to the entry and exit of goods to and from Peru.

Import

Only domiciled entities or individuals may act as importers of foreign goods to be used or consumed in the country. As a general rule, there are no restrictions to the import of goods, but some restrictions based on specific regulations (regarding matters like health, safety, security, environment, etc.) may apply. In such cases, importation is conditioned on the approval of the corresponding authorities.

Import of goods is subject to the following duties and taxes: Ad Valorem Duties (four applicable rates of 0%, 4%, 6% or 11%), Value Added Tax (16%), Municipal Promotion Tax (2%); Excise Tax (rates vary depending on the applicable system), among others.

Additional variable duties apply only to certain agricultural products. The rate will depend on the type of merchandise and the reference price established at the time of import.

Temporary Imports:

Temporary import of goods is also allowed. These can be of two types: (i) for internal use and subsequent export (applicable to specific equipment and machinery included in a closed list of goods approved for this purpose); and (ii) for transformation and subsequent export of the final product obtained (applicable to raw materials). In both cases the payment of customs duties and import taxes can be suspended by submitting a guarantee that covers the amount of such duties and taxes, plus interests.

Export

Export operations are tax-free.

As a general rule, exports are not subject to any restrictions. However, this general rule does not apply to the export of certain goods, such as endangered animals, vegetable species, and archeological findings, among others, which are subject to certain prohibitions or restrictions.

Temporary Exports:

Temporary exports of goods are also allowed and can be of two types: (i) to be used abroad and returned to the country in the same condition as they were when exported; and (ii) to be transformed, repaired or replaced abroad. In these cases, the re-import of the goods is subject to special tax regulations.

Drawback

Peruvian regulations allow the refund of duties upon import of raw materials required for the production of exported goods. From January 1, 2019, this refund is equivalent to 3% of the FOB export value, up to a cap of 50% of its production value.

Only companies that manufacture or produce goods in the country (by themselves or by hiring third parties) using imported raw materials can obtain this benefit after said goods have been exported. Specific conditions and requirements provided by applicable regulations must be fulfilled to obtain a restitution of the duties.

International Trade Agreements

Peru has entered into several trade agreements that establish the reduction of customs duties and facilitate the trade of goods with countries in Asia, the Pacific Basin, Europe and South America. The agreements that are currently in force are the following:

- Pacific Alliance
- European Free Trade Association (EFTA)
- APEC
- Canada
- Chile
- Andean Community
- South Korea
- Costa Rica
- Cuba
- United States
- Honduras
- United Kingdom
- Japan
- Southern Common Market
- Mexico
- World Trade Organization (WTO)
- Panama
- People's Republic of China
- Singapore
- Thailand
- European Union
- Venezuela
- Australia
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

Also, the following agreements will enter into force soon:

- Guatemala
- Brazil (Economic and Commercial Deepening Agreement)

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Although Peru has not yet become a member of the OECD, its tax authorities have been participating actively in the discussions on the post-BEPS world and have been keen in proposing legislation that suits the recommendations made by the OECD.

Over the past few years, Peru has been adapting its legislation to some of the measures proposed under the OECD BEPS action plans. For example, to date, Peruvian legislation sets forth a wide range of anti-abuse rules, which are in line with OECD BEPS principles (e.g., limitation on interest deduction, CFC rules, among others). Also, Peru has joined the "Statement on a Two Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy" and has recently received an invitation from OECD to start its accession process to said organization.

Tax Conventions for Avoiding Double Taxation:

Peru has signed Double Taxation Treaties with the following countries, all of which are currently in force: Brazil, Canada, Chile, the Andean Community (Bolivia, Colombia and Ecuador), Japan, South Korea, Mexico, Portugal and Switzerland.

Multilateral Assistance Convention (MAC):

Peru has signed the "Convention on Mutual Administrative Assistance in Fiscal Matters" (the Convention), in which 147 jurisdictions currently participate. This Convention is in force since September 1, 2018.

The Convention allows the automatic exchange of financial and tax information between its signatory jurisdictions, provided that two or more parties mutually agree to such exchange. In this context, the following agreements have been developed: Multilateral Agreement between Competent Authorities on Exchange of CbC Reports (the "AMAC CbC"), for the automatic exchange of Country-by-Country Reports, and the Multilateral Agreement between Competent Authorities on Automatic Exchange of Financial Account Information (the "AMAC CRS"), for the automatic exchange of financial account information in accordance with the CRS.

The exchange relationships under the Convention may be reciprocal (both jurisdictions deliver and receive information) or non-reciprocal (one of the jurisdictions will deliver information without receiving information from its counterpart). In the case of Peru, it is authorized to carry out the automatic exchange of financial information reciprocally with the following jurisdictions: Belgium, Cyprus, Estonia, Guernsey, Ireland, Japan, Jersey, Liechtenstein, the Netherlands, New Zealand, Norway, Slovenia, South Africa, Spain and Switzerland. Likewise, Peru may receive financial information from accounts in the Cayman Islands and Saint Vincent and the Grenadines under the non-reciprocal information exchange scheme.

Common Reporting Standard (CRS):

Peru has subscribed to this model and, locally, has issued Supreme Decree No. 256-2018-EF, which obliges financial institutions of the CRS countries to implement an affidavit to be signed by their clients, identifying the tax residence of the persons who own or control the financial accounts. This information may be sent by the financial entity to the local or foreign tax authorities and, subsequently, can be exchanged automatically with the other countries covered by the CRS.

Controlled Foreign Corporation Rules (CFC):

The Peruvian Income Tax Law provides that passive income obtained by domiciled persons through a controlled foreign entity are deemed to be allocated to those persons at the end of the fiscal year of their accrual. For these purposes, a controlled foreign entity is defined as any entity that resides in countries or territories of low or null taxation, of non-cooperative jurisdictions, or that are levied with a tax rate which is less than 75% of the applicable tax rate in Peru on the same income, in respect of which the domiciled person has a share of at least 50% of its profits.

Transfer Pricing Rules (TP):

In the cases of sales, contributions of goods and other transfers of property, as well as in the provision of services, for tax purposes the relevant transaction will always be deemed as made at its corresponding "fair market" value. If value assigned by the parties differs from the "fair market" value, the Tax Administration will make the necessary adjustments to the involved parties.

For transactions entered into between related parties or carried out from, to or through non-cooperative or low or no taxation countries or territories (i.e., "tax havens"), or with subjects whose income, revenues or profits are subject to a preferential tax regime, the market value will be equivalent to the consideration that would have been agreed with or between independent parties in similar transactions, under identical or similar conditions, following the local rules on transfer pricing.

For the interpretation of Peruvian transfer pricing rules, the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations approved by OECD Council must be applied, as long as they do not oppose the mentioned Peruvian legislation with character of law. Taxpayers subject to the scope of application of the regime and who meet certain conditions must submit to the Peruvian Tax Administration the following informative declarations, as applicable: (i) Local Report; (ii) Master Report; and (iii) Country-by-Country Report. Failure to comply with these obligations generates tax penalties.

Thin Capitalisation Rules (TC):

In order to adapt to Action 4 of the OECD BEPS Plan, Peru has implemented - as of January 1, 2021 - a new thin capitalization rule, according to which only interests that do not exceed 30% of the EBITDA of the previous year are deductible. Interests that exceed said percentage may be carried forward for up to four additional years, but always being subject to the 30% limit.

Hybrid Structures Rules (HS):

Not applicable.

International Services rules:

Not applicable.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

1. **Mining Industry**

   a. Special deduction rules in mining activities

   According to the General Mining Law (GML), the acquisition value of mining concessions shall be amortized as of the year in which the minimum production obligation must be met (regardless of the start of actual production), within a term that must be determined by the holder of the mining activity based on the probable life of the mine site.

   The acquisition value of each mining concession includes the price paid or the registration rights (if applicable), as well as the prospecting and exploration expenses incurred up to the date on which, according to law, compliance with the minimum production is required.

   Prospecting and exploration expenses may be amortized as part of the acquisition value of the mining concession or fully deducted in the year in which they are incurred, at the taxpayer's option.

   If the mining concession is abandoned or declared expired before meeting the minimum production levels established by the applicable law, the acquisition value may be fully amortized in the fiscal year in which any of said events occurs.

   Development and preparation expenses that allow the exploitation of the mining concession for more than one year may be fully deducted in the fiscal year in which they are incurred, or amortized within said term and in two additional years (that is, a total amortization period of three years).

   b. Tax benefits for public infrastructure investments

   Investments made by mining companies in public infrastructure projects (related to roads, seaports, airports, environmental sanitation works, energy, telecommunication, education and health infrastructure, public facilities for recreation, among others) can be deducted as expenses for Income Tax purposes. These investments must be approved by the competent authority (i.e., in the case of roads, the Ministry of Transport and Communication).

   The amount of the investment that may be deducted from this benefit will only be the portion equivalent to the work qualified as a public service, according to the percentage indicated in the approval resolution.

   c. VAT definitive recovery regime for mining activities - Law No. 27623

   This regime allows holders of mining concessions that carry out mining exploration activities still in a pre-productive stage and that sign an Exploration Investment Contract with the Peruvian State, to recover the VAT paid on imports or local purchases of certain goods and on the acquisition of certain services and construction contracts related to said activities, provided that the requirements and formalities established in the applicable regulations are met. This regime will be in force until December 31, 2027.

2. **Electrical Power Industry**

   a. Accelerated depreciation regime

   Under this regime, machinery, equipment, and civil works that are necessary for the installation and operation of electric power generating stations (based on water resources and other renewable resources, such as wind, solar, geothermal, biomass or tidal) can be depreciated for tax purposes at a maximum annual depreciation rate of 20%. This benefit has been extended until December 31, 2025, by Law No. 30327.

3. **Agricultural Sector**
Individuals and companies that mainly carry out cultivation, breeding, or agro-industrial activities, may enjoy a series of tax benefits, such as the following:
   - Accelerated depreciation (20% per year) regarding investments in hydraulic and irrigation infrastructure.
   - Early recovery of the VAT.
   - Reduced Income Tax rates, which vary according to the amount of income generated.
4. **Others**
   a. Tax benefits for public investment projects – Law No. 29230

   Companies may enter into agreements with Regional and Local Governments to finance or carry out public investment projects listed in ProInversion's portfolio. Investors are paid by the Peruvian Government with "Regional and Local Public Investment Certificates" (CIPRL), which may be used to offset their monthly and annual Income Tax payments for the respective year, up to an amount equal to 80% of the Income Tax of the previous fiscal year. If the certificates are not used due to the 80% limitation, the Peruvian Government will issue new certificates, adding a 2% annual credit to the amount included in the previous certificates. If the certificates are not used within a period of ten years, the company may request a reimbursement from SUNAT.

   This tax benefit has been extended by Legislative Order No. 1238 to companies entering into investment agreements with the Peruvian Government to develop public projects related to health, education, tourism, agriculture and irrigation, public order and security, culture, sanitation, rural electrification, fishing, sports, environment, urban development, social protection and development, transportation, communications and justice, including its maintenance, provided they are registered on the list of priority projects issued by the competent Public Institution. In these cases, the Peruvian Government will issue "Peruvian Government – Public Treasury Investment Certificates" (CIPGN, for its Spanish acronym) to pay the company the amount it invested. CIPGN are subject to the same rules as CIPRL.

   b. Special depreciation regime - Law No. 31652

   As of fiscal year 2023, for income tax purposes:
   - Buildings and constructions may be depreciated at a maximum annual rate of 33. 33% (compared to general annual depreciation rate of 5%) provided that such assets are used exclusively for business development and the following conditions are met: (i) the construction has been started as from January 1, 2023; and, (ii) until December 31, 2024, the construction has a work progress of at least 80%. This regime is also applicable to taxpayers that during 2023 and 2024 acquire in immovable property that comply with these conditions.
   - Hybrid or electric land transportation vehicles (except railroads), acquired in fiscal years 2023 and 2024, may be depreciated with a maximum of 50% per year.

   These regimes do not apply to investments included in the legal stability agreements subscribed under Legislative Decrees No. 662 and 757, and in other contracts subscribed with tax stability clauses.

   c. Special regime for anticipated recovery of the VAT

   This regime allows companies to obtain an early refund of the VAT paid for the acquisition of goods and services, as well as for construction contracts, carried out during the entire pre-operational stage of an investment project.

   This benefit is applicable regardless of the economic sector to which the project belongs. However, to be able to enjoy it, companies must meet the following requirements: (i) have a pre-operational project that will generate corporate income; (ii) have a preoperative stage equal to or greater than two years; and (iii) have an investment commitment of not less than US$5 million, except in the case of agricultural projects where this amount may be lower.

   d. Accelerated depreciation applicable to financial lease agreements - Legislative Decree No. 299

   As a general rule, fixed assets can be depreciated for tax purposes to compensate for their wear or depletion under the straight-line method and applying, on their value, the maximum depreciation rates established by the Regulations of the Peruvian Income Tax Law.

   However, exceptionally, these assets may be depreciated for tax purposes under the accelerated depreciation regime, which provides for the application of a maximum annual depreciation rate determined linearly over the number of years covered by the financial lease agreement.

   This regime is only applicable to the extent that the following requirements are met:
   1. The sole purpose of the financial lease agreement must be the transfer of use of movable or immovable property considered as a cost or expense for Peruvian Income Tax purposes.
   2. The lessee must use the leased assets exclusively for the development of his business activity.
   3. The agreement's minimum duration must be two (2) years, in the case of movable property, or five (5) years, in the case of immovable property.
   4. The purchase option may only be exercised at the end of the agreement.

Other Concessions by Industry/Market:
It should be analyzed in each specific case.

Special Tax Regimes, Incentives or Subsidies:
Stability Agreements

Investors may enter into stability agreements with the Government, either under the general regime or specific regimes (i.e., mining and petroleum).

1. Legal Stability Agreements (CEJs)

   Legal Stability Agreements are investment promotion instruments through which the Peruvian Government stabilizes the tax regime and benefits applicable to an investor or to a company receiving the investment, as appropriate, for a given term.

   In order to enjoy this benefit, companies must commit to making a minimum investment of US$ 10 million, for the mining and hydrocarbon sectors; and US$ 5 million, for other economic activities.

   These agreements can be entered into for a maximum term of 10 years, except in the case of concessions, where term of the agreement must be subject to the term of validity of the concession.

   The rights guaranteed under CEJs are the following:
   - For foreign investors:

     Legal Stability Agreement's guarantee, for the entire term of the agreement and in connection with the amount of the corresponding investment commitment, legal stability of the regulations governing the following regimes and rights:
     - Income tax regime: Dividends and any other form of profit-sharing in profits to which foreign investors are entitled will not be affected by modifications or new taxes arising during the period of validity of the CEJ.
     - The right to free availability of foreign currency (only for foreign investors).
     - The right to freely remit funds, profits, dividends and royalties abroad, without any limitations or restrictions (only for foreign investors).
     - The right to use the best exchange rate available on the market.
     - The right to non-discrimination.

- For foreign investors:

  Legal Stability Agreement's guarantee, for the entire term of the agreement, legal stability of the regulations governing the following regimes and rights:

  - Income Tax system, which implies that (i) any amendment to the stabilized regime regarding rates, deductions or calculation of the local company's taxable income will not apply thereto; and (ii) the local company will be subject to Income Tax with the rate in force at the time of entering into the relevant agreement; plus, additional 2 points (i.e., currently 29.5% + 2%).
  - Employment system.
  - Export promotion system.

2. Mining Stability Agreements (MSAs)

   Under the mining regime, local mining companies may enter into stability agreements of guarantees and investment promotion measures.

   The aspects covered by the stabilization regime under the MSAs involve: (i) the tax regime; (ii) the administrative mining regime; (iii) the exchange regime; and, (iv) certain material principles and guarantees (such as non-discrimination, free remittance of funds abroad, free disposal and commercialization of mining production, among others).

   Currently, under the General Mining Law, there are three (3) different types of MSAs: (i) 10 years vs US $ 20 M of investment; (ii) 12 years vs US $ 100 M of investment; and (iii) 15 years vs US $ 500 M of investment.

   The rights guaranteed under MSAs are the following:

   - Tax stability: Stability of the overall tax regime. The Income Tax rate will be the rate in force at the time of entering into the relevant agreement; plus, additional, 2 points (i.e., currently 29.5% + 2%). Regarding the Value Added Tax (VAT) and similar taxes, the stability guarantee is only related to the possibility of passing on the economic effect of the same to purchasers of the company's production (i.e., regarding its "naturaleza trasladable").
   - Administrative Stability, which includes: the validity fee to be paid for holding mining concessions, the Mining Royalty, penalties, fees.
   - Free disposal within the country and remittance abroad of foreign currency generated by exports covered by the agreement.
   - For 12- and 15-year MSAs, the local company could keep accounting in foreign currency.
   - For 15-year MSAs, the local mining company has the right to apply an annual depreciation rate on machinery, equipment, and capital assets, up to a maximum global rate of 20%. Likewise, edification and constructions are granted the possibility of being depreciated at a maximum global rate of 5% per year.
   - No exchange rate discrimination.
   - Access to foreign currency.
   - Free trade of products.

Tax Exemptions:

Article 18° of the Peruvian Income Tax Law establishes a general exemption from Income Tax for the following entities:

- The National Public Sector, except the entities that carry out the business activity of the State.
- Legally established foundations, whose constitution instrument exclusively includes one or several of the following purposes: culture, higher research, charity, social and hospital assistance, and social benefits for company employees.
- Mutual aid entities.
- Peasant communities.
- Native communities.

Also, Article 19° of the Peruvian Income Tax Law establishes a series of additional exemptions applicable until December 31, 2026 (which may be extended).

Uruguay

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INCOME TAXES

Corporate Income Tax (CIT):

The structure of income tax in Uruguay is based on the following:

1. Corporate income tax imposed by the Business Activities Income Tax (IRAE for its acronym in Spanish),
2. Income tax on physical persons, imposed by the Physical Persons Income Tax (IRPF for its acronym in Spanish),
3. Non-Resident Persons Income Tax (IRNR for its acronym in Spanish).

The general principle of territorial source is preserved in the taxation of income, according to which taxation is applied exclusively to income deriving from activities undertaken, or assets located, or economic rights exercised, within the country.

However, there are some exemptions to the territorial principle. Most relevant are passive income obtained abroad for corporations belonging to a Multinational Group with no substance in Uruguay and income obtained by Uruguayan residents derived from capital factor, originated in deposit, loans, and in any placement of capital or credit of any nature, if those income come from foreign entities.

Business Activities Income Tax (IRAE)

The tax base for this tax is 25% on net fiscal income duly adjusted. To establish net income, expenses accrued in the year necessary to obtain and retain the duly documented taxable income shall be deducted from gross income. Only those expenses that constitute income for the counterparty taxed by IRAE, IRPF, IRNR or by an effective tax on income abroad may be deducted.

Physical Persons Income Tax (IRPF)

This tax is a variation of the system known as dual taxation. The main characteristic of this system is the differential treatment afforded to income derived from labor in relation to income derived from capital. It is designed to cover all income derived from Uruguayan sources, whatever its origin (category), plus dividends and interests obtained abroad.

d. *Category I: Capital Income*. This is generated by all income originating in this area, such as interest, rents, bonuses, distribution of dividends, capital profits and other similar sources. The general proportional rate is 12%. However, certain interests derived from local deposits may have a rate of 7%. Interest and dividends obtained from abroad are taxed at 12%. Public debt bonds and income from provisional savings funds are exempt.

   - Furthermore, dividends distributions by IRAE taxpayers with income taxed by IRAE, are levied to a withholding tax of 7%. Besides, there is a deemed dividend for those income with more than three years which were not distributed, unless they were reinvested in the company (same applies for IRNR).

e. *Category II: Income from Labour*. Unlike capital income, in this category a system of progressive rates is used, applicable to every stage of income, with an individual non-taxable minimum, and specific admissible deductions. Rates go from 0 to 36%.

Non-Residents Income Tax (IRNR)

Income taxed by this tax are those derived from activities carried out, goods located or rights economically used in Uruguayan territory. In addition, the income obtained from advertising and propaganda services and technical services rendered from abroad to taxpayers of IRAE will be considered to be of Uruguayan source, provided that they are linked to obtaining income under this tax. Technical services mean those provided outside the dependency relationship, in the fields of management, technical, administration or advice of any kind.

IRNR taxpayers are non-resident individuals or legal entities not acting in Uruguay through a permanent establishment. In order to be included in the definition of non-resident, none of the following assumptions should be met (among others):

That the person stays more than 183 days during a calendar year in Uruguayan territory. Occasional absences will be considered, unless the person justifies having tax residence in another country. That the economic activities or individual interests of the person are located in Uruguay, directly or indirectly. It is presumed that an individual has his/her residence in our country, if his/her spouse and minor dependent children have a permanent residence in Uruguay.

The general IRNR rate is 12%, but for dividends paid by IRAE taxpayers is 7%.

Please note that interest on loans granted to IRAE taxpayers whose assets allocated to obtaining income not taxed by that tax exceed 90% of their total assets valued under tax rules are exempt from IRNR.

On the other hand, the disposal of shares, whether registered or bearer, is taxed by IRNR, considering as taxable income 20% of the sale price, with which the effective rate is 2.4%. Differences in taxation may exist depending on whether the non-resident is a resident of a jurisdiction with which Uruguay has a Double Taxation Agreement or is a Low or No Taxation jurisdiction.

Dividend Tax (DT):

As a general principle, dividends and profits connected to income non-taxed by IRAE are exempted from IRPF/IRNR, while dividends distributed by IRAE taxpayers who obtain taxed and non-taxed income (for example income of foreign source or exempted) shall be partially exempted, in which case the taxed amount shall be determined considering the composition of income of the fiscal year where they were generated. However, in case of IRPF, dividends distributed by companies connected to income originated in deposit, loans, and in any placement of capital or credit located abroad, are always taxed at a rate of 12%

In case of dividends, the tax rate applicable is 7%, and this percentage is not under revision. Under the DTTs signed by Uruguay, this rate could remain unchanged or be reduced to 5% (most of the cases) or 0%.

Furthermore, accrued results of more than 3 years, which are not distributed nor reinvested, will be considered as distributed. Therefore, during the third month after the end of the fiscal year in which the 3 years period has been reached, the IRPF/IRNR will be due, although there has not been any dividend actually distributed to the shareholder. It is known as "Deemed dividend".

Capital Gains Tax (CGT):

Income from capital gains are those arising from the transfer of tangible assets (e.g., real estate, motor vehicles) and intangible assets (e.g., rights), from any legal transaction that is a valid title to transfer ownership and its dismemberment (e.g., purchase and sale, donation, exchange, dation in payment, etc.) and in general all transactions by which rights are attributed or confirmed to third parties, not classified by law as income from yield.

In the IRAE capital gains are determined as 25% over the net income. In some cases, it can be determined on a theoretical basis at a rate of 12% over selling price.

In the IRPF/IRNR the rate is 12%. The taxable amount can be determined on a real basis only for certain assets: real estate properties, vehicles, *quotas* of personal limited liability companies and participations listed in Uruguay. For rest of assets the taxable amount is determined as 20% of selling price, arising to an effective tax rate of 2,4%.

Withholding Tax (WHT):

Uruguayan corporations have been appointed as withholding agents in several cases. We present as follows the most common withholdings that must be performed by a Uruguayan company.

<u>Income Tax on Non-Residents (IRNR):</u> Incomes levied by this tax shall be those arising from activities performed, goods located at or rights economically exercised in the Uruguayan territory. Furthermore, income derived from advertising and propaganda services and technical services rendered from abroad, out of a dependent relationship to IRAE taxpayers, shall be deemed as coming from Uruguayan source provided, they are related to obtaining income taxable by this tax. Technical services shall be those rendered in all kinds of management, technical, administration or advisory areas. The general rate of the IRNR is 12%. In case of a DTT such rate could be lower, even 0%.

Payment of dividends: One of the exemptions to this general tax rate is regarding the dividend distribution. As a general principle, dividends and profits connected to income non-taxed by IRAE are exempted from IRNR, while dividends distributed by IRAE taxpayers who obtain taxed and non-taxed income (for example income of foreign source or exempted) shall be partially exempted, in which case the taxed amount shall be determined considering the composition of income of the fiscal year where they were generated. In case of dividends, the tax rate applicable is 7%, and this percentage is not under revision. Therefore, this rate will be maintained even in the case the shareholder were a LONT entity. Under the DTTs signed by Uruguay, this rate could remain unchanged or be reduced to 5% (most of the cases) or 0%. Furthermore, currently, only dividends effectively distributed were taxable under IRNR. However, accrued results of more than 3 years, which are not distributed nor reinvested, will be considered as distributed. Therefore, during the third month after the end of the fiscal year in which the 4 years period has been reached, the IRNR will be due, although there has not been any dividend actually distributed to the shareholder. It is known as "Deemed dividend".

Payment of interests: Interests on loans granted to IRAE taxpayers are taxable under the general rate of 12%. There is an exemption in the payment of interest abroad which applies if the loan was granted to a Uruguayan company whose assets destined to obtain non-taxable income exceed 90% of the total assets assessed under the taxation laws. In such case, the payment of interests shall be exempted from the IRNR. A reduction in the IRNR applicable to interests may apply if a DTT is in place (in general, the rate is reduced to 10%).

Sale of shares: The sale of shares of an Uruguayan company is levied by IRNR. Regulation does not admit the determination of the income as the difference between the sale price and the cost. On the contrary, it establishes that 20% of the sale price shall be considered as a notional taxable income, and over such notional taxable income the general tax rate of 12% must be applied. This implies an IRNR effective rate of 2.4% over the sale price. In some particular cases, depending on the assets that the Uruguayan company has, this rate could be 0% under the application of a DTT.

Income Tax on Residents (IRPF): The Income Tax on Residents is levied annually on income of Uruguayan source obtained by individual tax residents. A dual system is established; one on Capital income – Category I and one on Labor income – Category II (in both cases with its own rules and deductions). Regarding Income Tax of Category I (Capital income), IRAE taxpayers included in a category named by the DGI as "CEDE" (medium taxpayers) or "*Grandes contribuyentes*" (mayor taxpayers) have been designated as withholding agents. Only in the case of dividends or some other return on moveable assets any IRAE taxpayer was designated as a withholding agent.

Regarding Income Tax of Category II (Labor Income), employers and IRAE taxpayers have been designated as withholding agents. The withholding rates are the following:

a. Leasing of Real Estates – The withholding will be done when the payment or credit takes place. The rate of 10.5% will be applied to the amount credited or received by the holder of the income plus the correspondent withholding amount.
b. Other return on capital (other leasing, interests, royalties, brands, patents, and author's rights) – In this case the rate is 12%.
c. Dividends – The withholding tax is 7%.
d. Services rendered in a non-dependent work relationship – The withholding rate is 7%.
e. Services rendered in a dependent work relationship – The withholding rate varies from 0% to 30%, depending on the salary, and the rates are applicable in a progressive way. Under a bill currently in Parliament, new rates will be from 0% to 36%.

TRADING TAXES

In those cases where the combination of capital and labor is not fully completed in Uruguay there is an international income, and it must be determined which part of the income generated is from Uruguayan source and which part of the income generated is from foreign source. Taking into account this situation, Tax Authority published Resolution N° 51/97, which allows to determine in an objective and simple way the net income obtained by a company that carries out intermediation activities in the purchase and sale of goods located abroad, that do not have Uruguayan territory as their origin or destination. This intermediation activity must be carried out from Uruguayan territory but without the goods entering the country.

This regime is not established in a Law or Executive Decree, but in a resolution of Tax Authority, which at the legal level does not provide guarantees to taxpayers. However, it is a regime well accepted by Tax Authority, scholarly legal opinion and the taxpayers and has been applied systematically, since its validity in the year 1997, without major disadvantages by Uruguayan trading companies in different lines of business.

The resolution establishes a simplified regime where the net income from Uruguayan sources for the purposes of the IRAE determination is set at 3% of the difference between the selling price and the purchase price of the goods traded.

Value Added Tax (VAT):

This tax is applicable to transactions for valuable consideration consisting of the internal circulation of assets, the rendering of services within the national territory, the introduction of assets to the country and the aggregation of value on real estate under management by non-IRAE taxpayers.

The general rate is 22%. The assets that make up the basic household basket and certain services such as health services will be taxed at the minimum rate of 10%. Some assets or services are exempt.

VAT operates according to the tax-against-tax scheme, so the tax payable will be the difference between the VAT defined in the previous paragraph and the VAT included in the purchases of assets and services. The export of goods and certain services is not subject to this tax and generates credit for the VAT included in purchases of assets and services directly related to the export. The same VAT credit applies for agricultural activities which have no VAT on sales.

Free-Trade Zones System (FTZ):

Free Zone users are exempt from the payment of all taxes in relation to the activities carried out within those zones. Income arising from the exploitation of intellectual property rights and other intangible property of a similar nature will be exempt provided that they are originated from research and development activities carried out within the free zone and inasmuch as they are registered under the law. They shall be exempted exclusively for the amount corresponding to the relationship of the direct expenses or costs incurred to develop such assets increased by 30% (thirty percent), over the total expenses or costs incurred to develop them.

Custom Allowances:

There is a customs tariff applicable to the importation of goods into Uruguay, which is calculated according to a scheduled scale. The tariffs go from USD 0 to a maximum of USD 600 depending on the CIF value.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

February 6, 2020, Uruguay deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Convention or MLI), thus underlining its strong commitment to prevent the abuse of tax treaties and base erosion and profit shifting (BEPS) by multinational enterprises. For Uruguay, the MLI entered into force on 1 June 2020, after being approved by law 19,814 of September 2019.

Multilateral Assistance Convention (MAC):

It is approved in Uruguay by Law No. 19.428 of 2016 in Uruguay. The Convention covers the exchange of information in its different forms (upon request, spontaneous and automatic), tax audits abroad, assistance in collection, precautionary measures and service of documents. The standard of "foreseeable relevance" for the administration or enforcement of its domestic legislation with respect to the taxes covered by the Convention is provided for with respect to the exchange on request. According to the Convention, the exchange of information is foreseen with respect to the IRAE, IRPF, IRNR, Social Security Assistance Tax (IASS) and Wealth Tax (IP), Value Added Tax ("VAT") and Specific Internal Tax ("IMESI").

Common Reporting Standard (CRS):

Uruguay subscribed to the Multilateral Competent Authority Agreement on automatic exchange of financial account information. To this effect, obliged parties must inform the General Tax Directorate of certain information on the accounts of both tax residents and non-residents. It is clarified that for the purposes of compliance with the approved law, the obligation of confidentiality established in the Financial Intermediation Law (art. 25 of Decree Law 15. 322, banking secrecy), nor the duties of secrecy, reserve or confidentiality established in regulations governing Registrants, Securities Intermediaries, Securities Custody, Clearing and Settlement Entities, State Insurance Bank, Trustees and Investment Fund Management Companies, nor the limitations provided for in the Law on Personal Data Protection (No. 18. 331)Uruguay reports information to 76 countries, including Argentina, Australia, Canada, Colombia, Croatia, Denmark, Germany, Ireland, Malaysia, Mexico, Netherlands, Poland, Singapore, Switzerland, United Kingdom, et al.

Transfer Pricing Rules (TP):

The transactions carried out by the IRAE taxpayer with related persons or entities shall be considered for all purposes as concluded between independent parties when their benefits and conditions conform to normal market practices between independent entities, without prejudice to cases where limitations have been established on the deduction of expenses in order to determine net income. The relation, for this purpose, shall be:

- When an IRAE taxpayer conducts business with a non-resident and provided that both parties are subject, directly or indirectly, to the same direction or control, whether by their equity interest, the level of their credit rights, their functional or other influences, whether contractual or not, have decision-making power to guide or define the activities or activities of the above-mentioned taxpayers.
- When an IRAE taxpayer trades with persons domiciled in low- or zero-tax countries, or with entities operating in customs exclaves under zero or low-tax regime. In such cases, the adjustment methods that are most appropriate for the transaction should be used.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

- **Investment Law N° 16.906:** The promotion and protection of investments made by national and foreign investors in the national territory is declared of national interest. There are two types of tax benefits:
- Automatic Tax Benefits. Apply to taxpayers of IRAE who carry out industrial or agro-industrial activities. Investment is defined as the acquisition of the following items which are part of the fixed assets or the intangible assets: (i) Chattels assigned directly to the productive cycle (including industrial equipment, industrial installations, agricultural equipment and utilitarian vehicles); (ii) Equipment for data processing (excluding software). General and automatic fiscal benefits are the following: (i) Exemption from IP of the above mentioned assets. Such assets are considered as levied for deduction of liabilities; (ii) Exemption from VAT and IMESI corresponding to the imports of the above mentioned goods and recovery of VAT included in their local acquisition. Law 17.283 entitles the Executive Power to include among the exemptions those chattels destined to the elimination or reduction of negative environmental consequences, or those that attempt to repair the affected environmental conditions, and the fixed improvements used for the treatment of the environmental effects of industrial and agricultural activities.
- Tax benefits regarding investments in specific activities of promoted companies. Companies operating in any sector of activity that produce an investment project which is further promoted by the Executive Branch will be eligible for benefits. These benefits are:
  - Exemption of Net Worth Tax of movable fixed assets, that were not promoted through other regulations, for their entire useful life. Exemption of Net Worth Tax of civil works for up to 8 years if the project is located in Montevideo or 10 years if it is located elsewhere in Uruguay.
  - Exemption of import duties or taxes, including VAT, on movable fixed assets and materials for civil works, that were not promoted through other regulations and which are not competitive with national industry.
  - Reimbursement of Value-Added Tax on the local purchases of materials and services for civil works.
  - Exemption of Income Tax. The term for which the company will benefit from Income Tax exemption is determined according to a predefined formula that jointly considers the investment amount and score attained in the indicators matrix. Furthermore, time period will be computed from the first fiscal year in which profits arise from the project. If the project does not bring profit during the first four fiscal years as from the promotion date, computation will start at the beginning of the fifth year, regardless of profit or loss.
- **Forestry Law:** declares the defense, improvement, expansion, creation of forestry sources, development of forestry industries, and the forestry economy in general to be of national interest. Forests declared to be protectors or those of performance in the forestry priority zones, as well as the lands where the same are located or affected directly to them, have the following tax benefits: (i) Exemption from all kinds of national tax on the rural real estate (ii) Income derived from exploitation of forests is not considered for calculating Income Tax. This exemption will not apply for the artificial performance forests implanted after July 1, 2007, except those forests that are included in the projects of quality wood defined by the MGAP.
- **The Software Law** differentiates the activities subject to exemption into two large groups: a) the production of software under the rules of protection and registration of intellectual property rights, developed in national territory, that may finish in assets registered according to Law No. 9739 on Copyright, and b) software development services and related services.

Special Tax Regimes, Incentives or Subsidies:

Holding Companies: In general, the Uruguayan tax system is based on the territorial source criterion, taxing only Uruguayan source income and assets located in Uruguayan territory. Therefore, Uruguayan holding companies investing in foreign companies will benefit from our tax system. Assets located abroad and income generated by such assets will not be subject to Income Tax or Wealth Tax. However, for companies that are part of a Multinational Group, in order to not be taxed by IRAE, the Uruguay holding company must be a qualified company having substance in Uruguay.

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INCOME TAXES

Corporate Income Tax (CIT):

Generally, all corporate forms are subject to the same taxation system. In Venezuela there is no "tax ruling" procedure. Only a "consultation procedure" to determine if the interpretation and application of some tax rule applied or to be applied by the taxpayer is correct, exists. In case the Tax administration does not answer the "consultation", the taxpayer cannot be sanctioned, in case they would apply the interpretation exposed in the consultation. This does not imply the faculty of tax administration to request the tax difference in case it will not agree with the taxpayer's position, in any time, until the statute of limitations of the tax obligation expires.

Regarding the general anti-tax avoidance system, there is only a prevision in Article 16 of the Organic Tax Code and Article 92 of the Venezuelan Income Tax law that contains a general anti-elusive tax rule that recognizes the faculty of the Venezuelan Authorities to disregard any forms or structures, contracts, and any other juridical procedures or acts, in case they considered that these negotiations or structures have been made for the purpose of avoiding or reducing the tax effects of the business. The decisions of tax authorities based on this faculty will only affect tax implications.

Taxes are calculated on the basis of a referential unit called Tax Unit (TU). One TU equals VES 0,40, which is approximately 0.016 USD at the official exchange rate and its value is updated yearly.

Income tax rates/bands

Residents are subject to a progressive income tax rate that ranges from a minimum of 6% for an annual taxable income of up to 1,000 fiscal units to a maximum of 34% for an annual taxable income of over 6,000 fiscal units. Non-residents are taxed with a proportional rate of 34% of their gross income. They are not municipal or regional or state tax rates on income for residents or non-residents.

Tax residency

The Tax administration establishes that those who have remained in the country for more than 183 days (continuous) in one year are tax residents. Individuals who exercise public representation functions will also be considered domiciled in the country.

For tax purposes, residence of the individuals is the place where they develop their main civil or commercial activities, also the place where the taxable event takes place. Where there is more than one residence, the tax residence will be chosen by the Tax administration.

Various aspects are considered to determine the tax residency of corporations, such as the address, the place of administration, the main activity or the place of the taxable event. In the case of an entity with a foreign address, the residence of the entity's representative in the country or the place of the main activity, business, or permanent establishment can be deemed as the tax residence.

Any resident entity is subject to taxes on a worldwide basis. Foreign entities performing business activities in Venezuela through a permanent establishment is considered a tax resident.

Not domiciled foreign entities are subject to taxes on the territorial source income. The corporation is subject to tax on its worldwide income. The income obtained in the country as well as the income obtained abroad is subject to taxation if the corporation is incorporated or domiciled in Venezuela. Non-domiciled entities with a permanent establishment in Venezuela must pay taxes based on the profits from territorial or extraterritorial sources from such permanent establishments.

Dividend Tax (DT):

Only dividend originated in financial net income exceeding from taxed net income is subject to 34% dividend tax.

Capital Gains Tax (CGT):

Capital gains are subject to income tax in Venezuela as part of the taxable net income, unless a DTT applies. Capital gains obtained by tax resident corporations are taxed as ordinary income. However, capital gains produced by the sale of shares registered in the CNV, with have been traded in the VSE are subject to a flat tax equivalent to 1% of the sale price. The applicable rate is 34%.

There are no municipal or local taxes on capital gains. There is a municipal tax on economic activities that is calculated over gross income obtained for carrying out business or service activities within a municipal territory and is applicable only over ordinary income related to the business activity.

Withholding Tax (WHT):

Dividends are subject to a 34% tax, royalties are subject to 34%, over 90% of gross income and interests are subject to a 34% rate or 5% in the case of financial institutions, unless a Double Taxation Treaty (DTT) applies.

TRADING TAXES

Value Added Tax (VAT):

Value added tax (VAT) is based on the price for the sales of import of goods and services. The input tax is creditable against the output tax. "Tax debit" (output VAT)) invoiced by the taxpayer within the tax period will be reduced by subtracting "Tax credits" (input VAT). When the taxpayer carries out exempted and taxed activities, "Tax credits" will be proportionally creditable to obtain the amount payable.

The rate is set out in each year's Budget Law, which is approved before December 15th of each year based about public finances, and ranges from 8% to 16.5% of the sales price; currently the rate is 16%. The sales and imports of essential goods for human consumption, determined by the government by decree, are exempt (food, vehicles destined for public transportation, medicines, health services, educational services). VAT is determined monthly; tax return will include taxed and exempted activities. Export activities are taxed at 0%.

The filing and payment of VAT must be done in the formats duly authorized by Tax Administrations Authorities, through the mechanisms and systems created by tax authorities. Online procedure to filling and paying VAT and to file and paid withheld VAT is available to some categories of taxpayers.

Free-Trade Zones System (FTZ):

The regulations governing the Free Trade Zones establish that they are delimited spaces of the territory, in which a special tax regime will be applied in which legal persons authorized to operate may carry out production and marketing activities of goods for export and the provision of services related to international trade. These zones may be industrial, service, and commercial, as well as may develop these activities simultaneously. Free zones are controlled by the Customs Authority of the jurisdiction.

The regulations on free zones establish a special tax treatment, which may vary in each zone, according to the parameters of the regulations and their respective Decrees of creation, however, in general, the benefits may be:

In the case of the entry of goods into free zones, no customs duties or internal taxes, VAT, among others, will be caused; The customs fee will not be charged, and the goods will be free from tariff restrictions, except those of a sanitary nature and those that tend to safeguard the security of the nation. To enjoy these benefits, legal entities must be legally authorized to operate in the free zone and comply with the obligations established in customs regulations, to name a few.

There is a special regime of exemption from to income tax in relation to: (i) enrichment obtained by legal persons established there, derived from the placement of their products outside the country; (ii) enrichment derived from interest and capital intended for the financing of industrial, commercial and industrial investments within the free zone; and (iii) enrichment derived from legal acts directly linked to the respective free zone, in the cases and modalities determined by the National Executive.

Currently, the rules for the creation and operation of the Paraguaná Industrial, Commercial and Services Free Trade Zone, located in the State of Falcón, created in 1973, are in force; and the Industrial, Commercial and Services Free Zone ATUJA, located in the city of Maracaibo, Zulia state, which was created in 1996.

Custom Allowances:

The introduction or extraction of goods, for their use and final consumption in the national or international market, respectively, will be subject to compliance with the formalities and obligations established in customs and tariff regulations; as well as the payment of customs duties, taxes and other legally enforceable amounts.

The tariff and legal regime applicable to the import and export of goods is established in the Venezuelan Customs Tariff. The ad valorem tariff (import tax) applicable to imported products - depending on the product and its tariff code - ranges from 0% to 35% (being the highest rate), calculated on the customs value of the goods. In the case of exports, the Customs Tariff establishes that they will not be taxed by the ad valorem tariff.

As for the fee for determining the customs regime, it is levied only on the entry of goods into the country and corresponds to 1% of the customs value.

In relation to the rate of Value Added Tax (VAT) applicable to imports of goods, it is currently 16%, which is calculated based on the customs value, plus the result of the Import Tax, plus the result of the fee. However, in the case of certain foods and medicines, they enjoy VAT exemption, provided that the importer has the Certificate of No National Production or Insufficient Production (CNP or CNPI) and expresses his intention to benefit from the benefit at the time of registration of the customs declaration (DUA). In the case of exports, the VAT is 0%.

OECD/INTERNATIONAL RULES

BEPS Multilateral Instrument (MLI):

Venezuela is not part of OCDE, therefore, has no implemented neither BEPS nor MLI.

Tax Conventions for Avoiding Double Taxation:

The first DTT signed by Venezuela dates back to 1988 with the Kingdom of Sweden. In 1993 it signed a treaty with the Republic of Italy. In 1997 the Republic signed treaties with Germany, Portugal, Czech Republic, Switzerland and Trinidad and Tobago on income tax, wealth, tax evasion and tax fraud. In 1998 Venezuela signed treaties with the United Kingdom, Norway and Belgium. More recently, it signed treaties with the United States (2000), Barbados (2000), Indonesia (2003), China (2004), Canada (2004), Cuba (2004), Spain (2004), Iran (2005), Kuwait (2005), Russia (2006), Qatar (2007), Korea (2007), Austria (2007), Malaysia (2008), Vietnam (2009), Belarus (2009) and UAE (2011).

When there are no Treaties subscribed by Venezuela with a given country, the Income Tax Law provides all the mechanisms to be applied. The general anti elusive tax rule entitles the Venezuelan Authorities to disregard any forms or structures, contracts and any other juridical procedures or acts, in case they considered that this negotiations or structures have been made for the purposes to avoid or reduce the tax effects of the business. The decisions of tax authorities based on this faculty will only have tax implications.

Multilateral Assistance Convention (MAC):

Venezuela has not signed the MAC.

Common Reporting Standard (CRS):

Venezuela is not part of OCDE and therefore is not part of CRS.

Controlled Foreign Corporation Rules (CFC):

Venezuelan legal tax frame has not CFC rules.

Transfer Pricing Rules (TP):

Related parties operations are subject to transfer pricing rules. Venezuelan tax act sets forth the OCDE methods as transfer pricing rules.

Thin Capitalisation Rules (TC):

Venezuelan tax act sets forth a 1:1 thin capitalization ratio.

Hybrid Structures Rules (HS):

There are no HS rules.

International Services rules:

There are no international services rules.

SPECIAL PROMOTIONS

Tax Allowances by Industry/Market

There are no industry allowances regimes.

Other Concessions by Industry/Market:

There are no concessions by industry/ market.

Special Tax Regimes, Incentives or Subsidies:

Currently there are no tax incentives to promote specific sectors.

Nevertheless, the recently enacted Law of Special Economic Zones (LZEE), sets forth incentives to new investments established in said territories. Among the sectors that the LZEE intends to develop, is the industrial and within this the energy, in any of its categories. In this sense, with regard to incentives for investment in the SEZs, only legal entities that effectively execute projects in the SEZs and that have signed the respective economic activity agreement may be beneficiaries.

In general, the incentives provided by the LZEE for the people who operate in them are:

a. Tax refunds in matters of national taxes, in accordance with the parameters established by the National Executive through the Decree creating the respective EEZ.
b. Drawback of import tax, in accordance with the criteria also determined by the National Executive in the Decree creating the EEZ and whose procedure for determination, payment, among other aspects, will be governed by the applicable customs regulations.
c. The management of procedures through the single window for the SEZs, which will be integrated into the Single Window for Foreign Trade (VUCE), and whose purpose will be the simplification and automation of procedures.
d. Users of the EEZ who intend to use the special customs regime of Temporary Admission for Inward Processing when importing raw materials, parts or pieces, inputs, etc., necessary to achieve the execution of a project, will obtain the best advantages offered by customs regulations in this matter.
e. The economic activities carried out in the EEZ shall be governed by a system of free convertibility; as well as, for the financing plans offered by banking institutions, in accordance with the rules issued by the Central Bank of Venezuela and the Ministry of Economy, Finance and Foreign Trade.

Tax Exemptions:

Tax exemptions have always been established as fiscal policy to eliminate taxation either to incentive specific activities and/or reduce the tax burden for social reasons.

From an income tax perspective, there are different exemptions in the income tax act which benefit individuals and corporations. such us: general exemption of public entities, foreign diplomats carrying out official activities in Venezuela regarding the payments made by their local governments, NGOs dedicated to beneficiary activities with previous qualification by tax authorities, some agricultural activities, labor immunities, retirement pensions, among other income.

From a VAT perspective, Venezuelan VAT act set forth exemptions on the trade of essential goods and services, different types of imports, such as those made by diplomats, those carried out by public entities, and those made by travelers as long as they are considered personal luggage, among others. Also, tax exemptions are granted on medicine, health and personal care goods considered essential for a living, some food, vehicles for persons with disabilities, products used by publishers, among others.

TAX GROUP

LATAM Tax Group

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For additional questions or to schedule a call with a WSG Executive Team Member, please contact us.

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