MANAGING CORPORATE TAXATION

in Latin American Countries

AN OVERVIEW OF MAIN CORPORATE TAXES
IN SELECTED JURISDICTIONS **2019**

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES:

Corporate Income Tax:	30 %[1]
Capital Gains Tax (shares, bonds and other stock):	30%[2] (local corporations, branches and other business taxpayers) 5 or 15%[3] (local individual taxpayers) 5% or 15%[4] (foreign beneficiaries)
Gains Tax (other capital gains, such as interests):	30%[5] (local corporations, branches and other business taxpayers) 5 or 15 %[6] (local individual taxpayers)
Real Estate Profits:	30%[7] (local corporations, branches and other business taxpayers) 15%[8] (local individual taxpayers)
Branch Profits Tax:	30 %[9]

Withholding Taxes on:

- Interest:	15,05% / 35%
- Royalties:	21% / 28 %/ 31,5%
- Other Services:	31,5%
Tax losses carry-forward term:	5 years
Transfer Pricing Rules:	OECD like[10]
Tax-free Reorganizations:	i) mergers; ii) divisive reorganizations, and iii) sales and transfers within an economic group.
VAT on Sales:	21%[11]
VAT on Services:	21%
VAT on Imports:	21%

Custom Duties:	from 0% to 35%
Excise Taxes[12]:	0.1% to 75%
Bank Debits and Credits (Transfers) Tax Rate:	0.6%[13]
Personal Assets Tax:[14]	0.25% to 0.75

Local Level Tax Rates[15]:

Stamp (Documentary) Tax[16]:	1%
Gross Turnover Tax:	1% to 7%
Real Estate Tax:	1.8%

Treaty Taxation:

Countries	Interest	Dividends	Royalties
Australia	12%	10%[17]/ 15%	10% / 15%
Belgium	12%	10%[18] / 15%	3%/ 5%/ 10%/ 15%
Bolivia[19]	No limits	No limits	No limits
Brazil[20]	15%	10%[21] / 15%	10% / 15%
Canada	12.5%	10%[22]/15 %	3% / 5% / 10% / 15%
Chile[23]	4% / 12% / 15%[24]	10%[25]/ 15%	3% / 10% / 15%
China[26]	12%	10%[27]/ 15%	3% / 5% / 7% / 10%
Denmark	12%	10%[28]/ 15%	3% / 5% / 10% / 15%
Finland	15%	10%[29]/ 15%	3% / 5% / 10% / 15%
France	20%	15%	18%
Germany	10%[30] / 15%	15%	15%
Great Britain	12%	10%[31]/15%	3%/5%/10%/15%
Italy	20%	15%	10%/18%
Mexico[32]	12%	10% / 15%[33]	10% / 15%
Netherlands	12%	10%[34]/15%	3%/5%/10%/15%
Norway	12.5%	10%[35]/15%	3%/ 5%/ 10%/15%
Qatar[36]	12%	5%/10%/15%[37]	10%
Russia	15%	10%[38]/15%	15%
Spain[39]	12%	10%[40]/15%	3% / 5%/ 10%/15%
Sweden	12.5%	10%[41]/15%	0/3/5/10/15%
Switzerland	12%	10%[42]/15%	3%/5%/10%/15%
Turkey[43]	12%	10%[44]/15%	3%/5%/10%
United Arab Emirates[45]	12%	10%[46]/15%	10%

On December 23, 2016, Argentina and the United States of America signed an agreement for the exchange of tax information. The intention of the Agreement is to allow both countries to exchange the information that is relevant for the determination, assessment and collection of taxes, the recovery and enforcement of tax claims, as well as the investigation or prosecution of tax matters. It includes all federal taxes in the case of the United States, and all national taxes administered by the AFIP (Federal Administration of Public Revenue) in the case of Argentina, including any identical or substantially similar taxes that are imposed in either one or the other Contracting States, after the date of signature of this agreement.

The Exchange must initially be "upon request". Despite that fact, the information must be provided whether the requested party needs such information for its own tax purposes or whether the conduct being investigated would constitute a crime under the laws of such party.

Furthermore, the Agreement intends to avoid *"fishing expeditions"* and, hence, compliance guidelines are designed for the exchange of information, with clear instructions to provide the information with the greatest degree of specificity possible.

The entry into force occurred on November 13, 2017. However, the exchange must be about information regarding taxable periods beginning on January 1, 2018.

1. Law No. 27.430, published on the Official Gazette on December 29, 2017, established that the Income Tax rate for capital companies and permanent establishments will be 30 percent for fiscal years starting as of January 1, 2018 up to December 31, 2019, and it will be reduced up to 25 percent for subsequent fiscal years. In addition, Law No. 27.346, published on the Official Gazette on December, 27, 2016, introduced a specific tax rate (41,5%) for Income Tax in the case of rents deriving from gambling exploitations in casinos and bets done through electronic gambling machines and/or automatized bets and/or through digital platforms, even if it is obtained by individuals or companies. Also, the regime created (i) a specific tax on gambling through electronic gambling machines or automatic bets and (ii) an indirect tax on on-line bets through any kind of digital platform which uses internet, regardless of the servers' location.
2. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
3. Schedular tax: the applicable rate depends on the type of instrument, currency and the adjustment procedure. The results from sale, transfer or disposition of shares, securities representing shares and certificates of deposit of shares that are carried out through stock exchanges or stock markets authorized by the Argentine Securities and Exchange Commission will be exempt.
4. The applicable rate depends on the type of instrument, currency and the adjustment procedure. The 5 or 15 % rate is applied over a deemed net income of 90% of the transacted amount, amounting the final tax burden to 4.5% or 13.5% of the gross selling price. The results from sale, transfer or disposition of shares, securities representing shares and certificates of deposit of shares that are carried out through stock exchanges or stock markets authorized by the Argentine Securities and Exchange Commission will be exempt and so the results arising from investments in public securities, negotiable obligations, quotas of investment funds, debt securities of financial trusts and similar agreements.
5. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
6. Schedular tax: the applicable rate depends on the type of instrument, currency and the adjustment procedure.
7. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
8. A 15 percent capital gains tax rate is applied to the sale of real estate performed by individuals, properties acquired as of January 1, 2018.
9. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
10. Except for commodities, tested party rules and other set exceptions.
11. There are lower (10.5%) and higher (27%) differential rates.
12. Goods subject to excise taxes are: leaded and unleaded fuel (16%-63%); cigarettes (75%), alcoholic beverages (8%-26%), cars and certain engines (10-20%); insurances (0.1%-23%); mobile and satellite phone services (5%), among others.
13. An increased rate of 1.2% applies whenever there has been substitution for the use of a checking account. The tax withheld is partially creditable against other Federal Taxes.
14. This rate applies on the equity interest Argentine individuals and non-residents have in Argentine incorporated entities and local branches. The rate has been set by Law N° 27.260 (published on the Official Gazette on December, 23, 2016). Also, the new law modified the general tax rates for Argentine individual residents and foreign residents for FY 2017 (0, 5%), for FY 2018, onwards (0, 25%).
15. Reference is made to the most usual rates, but other rates may be applicable in certain jurisdictions.
16. Local Governments have assumed the commitment to eliminate this tax by 2023 ("Consenso Fiscal", signed on November 16, 2017 and September 13, 2018).
17. If they are franked, according to Australian income tax laws and subject to a maximum of 15% in other cases.
18. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
19. This treaty does not establish specific limits on the taxes but rather specifies which country has jurisdiction to impose taxes.
20. The Protocol of Amendment entered into force on July 29, 2018.
21. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.

22. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
23. The treaty entered into force on October 11, 2016, and became effective on January 1, 2017, for both annual tax burdens and withholding taxes triggered at the income payment source.
24. The 4% limit applies if the interests arise from sales of commercial or industrial equipment. The 12% limit applies if the interests arise from bank loans or from bonds or other negotiable securities regularly and substantially traded on known stock markets. The 15% limit applies in all other cases.
25. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
26. Negotiated. Not approved by domestic legislation yet.
27. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
28. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
29. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
30. The 10% limit applies if the interests arise from bank loans or from sales of commercial or industrial equipment. The 15% limit applies in all other cases.
31. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
32. The treaty entered into force on August 23, 2017, and became effective on January 1, 2018.
33. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
34. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
35. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
36. Negotiated. Not approved by domestic legislation yet.
37. The tax may not exceed: 5% of the dividends if the beneficial owner is one the Government of a Contracting State, or 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
38. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
39. After the unilateral repeal by Argentina of the 1994 Treaty in July 2012, a new treaty has been negotiated, executed and ratified by Law No. 26.918. According to its provisions, the agreement –which came into force on December 24th, 2013 will be enforced retroactively, from January 2,013, so as to avoid the lack of double taxation protection for Spanish companies investing in Argentina.
40. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
41. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
42. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
43. Negotiated. Not approved by domestic legislation yet.
44. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital (during a 365-day period that includes the day on which dividends are paid) and 15% in other cases.
45. The treaty entered into force on February 4, 2019 and shall apply as of January 1, 2020.
46. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.

OVERVIEW

1. INCOME TAX

1.1. General Aspects.

1.1.1. Income Tax Rate.

The general statutory corporate income tax rate for entities incorporated in Argentina, including branches or permanent establishments of foreign companies, is 30%[1].

1.1.2. Taxable Base.

All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income. The result is the Gross Taxable Income from which all expenses incurred in obtaining taxable income are deducted. The after-deductions result is the Net Taxable Income. The Exempted Items of Income are subtracted, resulting in the Taxable Base to which the 30% statutory corporate tax rate is applied. The result of applying the 30% tax rate is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the Income Tax Liability.

[+] Sum of All Revenues
[=] Gross Income
[–] Deductible Expenses
[–] Exempted Items of Income
[=] Net Taxable Income (Minimum Presumptive Income Tax)
[=] Taxable Base
[*] 30% Corporate Tax Rate
[=] Resulting Income Tax
[–] Tax Credits
[=] Income Tax Liability
[=] Income Tax Charge Payable

1.1.3 Deductions.

As a general rule, all costs and expenses incurred in obtaining taxable income may be deducted, including organization costs, taxes (other than income tax, except for the grossing up paid by a local resident on behalf of a foreign contracting party), and donations to certain entities, amongst others. The Argentine ITL includes thin capitalization rules which impose limits on the deduction of interest payments made to affiliated parties in the cross-border context. Expenses are generally allocated to the fiscal year in which they accrue.

The ITL allows for the deduction of the following concepts:

Extraordinary losses resulting from natural hazards, theft or force majeure are deductible to the extent that they are not included in insurance or otherwise indemnified, provided they involve assets which generate taxable income.

Losses arising from crimes committed by employees against business property that contributes to

1 The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.

the generation of taxable income are deductible to the extent they are not covered by insurance or otherwise indemnified.

Fees paid to resident directors are deductible to the higher of: 25% of the book earnings or the statutory amount. Fees to non-resident directors are deductible up to 12.5% of book earnings if all earnings have been distributed as dividends.

Representation expenses are deductible up to a maximum of 1.5% of the salaries paid during the calendar year.

The ITL sets limits to the deduction of depreciation and other expenses related to automobiles.

Payments for technical assistance from abroad are deductible up to 3% of sales on which the fees are based or 5% of the investment made as a result of the assistance.

Expenses incurred or contributions made to personnel for purposes of sanitation, education and cultural improvement are deductible. In general, all payments made for the benefit of employees are deductible (e.g. end of the year bonus payments).

Start up costs and expenses may be deducted as they are incurred, or capitalized and amortized over a five year period, at the taxpayer's option.

1.1.4 Depreciation.

Buildings used to generate taxable income may be deducted at a 2% annual rate calculated over the cost of such buildings. Other depreciation rates may be used if they are technically supported.

Annual depreciation of all other depreciable assets used to generate taxable income is determined by dividing the acquisition cost of the asset by its estimated years of useful life (straight line depreciation method). The ITL does not provide standard depreciation rates.

Other depreciation methods, such as those based on units of production or time of use, may be used if they are technically justified. Amortization of goodwill, trademarks and similar intangible assets is not deductible, except when they have a set useful life.

At the taxpayer's option, organization costs may be deducted either in the year in which they are incurred or capitalized, and then amortized over a period not exceeding five years.

1.1.5 Transfer Pricing.

Argentina has OECD like transfer pricing rules[2] applicable to: i) transactions with related companies, ii) transactions with parties located in tax havens[3]; iii) transactions between Argentine residents and their permanent establishments situated abroad; iv) transactions carried out by permanent establishments situated abroad (owned by Argentine residents) with companies incorporated in low tax jurisdictions.

Export and import operations channeled through an international intermediary are subject to additional scrutiny by tax authorities as the taxpayers must show that the intermediary´s margin is reasonable considering its functions, risks and assets. This additional scrutiny applies only where:

2 Except for transactions with commodities, tested party rules and other set exceptions.

3 "Low tax jurisdictions" and "non-cooperative jurisdictions" (concepts incorporated by Law no. 27.430)

(i) the intermediary is controlled by or related to the local entity; or (ii) the local entity and the final exporter/importer are related entities[4].

Under the OECD like transfer pricing rules, the Argentine party must keep and file supporting documentation with the tax authorities; it must also perform a transfer pricing study showing that its prices or profit margins on the transactions are within the comparable arm's-length prices or profit margins ranges for its activity and similar transactions.

Exports of commodities (and goods having listed prices) between related parties that are channeled through an international intermediary have specific rules as to its tax point. The legal framework requires the exporter to: (i) evidence that the margin charged for the intermediation is in accordance with the arm´s length standard; and (ii) register the export agreement with the Tax Authority. This registration must include relevant economic information as to the export agreement, as well as comparability standards vis a vis the relevant listed price on the shipping date.

Regulatory Decree No. 1170/2018, issued on December, 26 2018, further aggravated such standards, by providing for a long list of new requirements to file properly export agreements with the Tax Authority. In addition, it burdened commodity exporters subject to the previous registration with the additional need to evidence that the international trader´s transaction volume is commensurate to its assets, risks and functions. All these new, burdensome rules, are under review.

If the taxpayer does not comply with the mandatory registration, the Argentine source income will be determine based on the market price at the shipping date, rather than on the export agreement´s term; further and taking into account the necessary comparability adjustments and excluding the intermediary´s fee.

Law No. 11,683, as amended by Law 25,795, sets forth a wide range of penalties aimed at compelling taxpayers to comply with transfer pricing rules and regulations; be they compliance-type of provisions or substantive ones.

1.1.6 Inflationary Adjustments[5].

The deductibility of foreign exchange gains and losses was traditionally complemented (though working oppositely) by the inflationary adjustment norms. In this sense, taxpayers were conceptually allowed to net out differences incurred by foreign exchange differences with the inflationary adjustment. The current scenario reflects an anomalous situation in which, in order to optimize income, the government has maintained norms referred to foreign exchange gains and losses but has ceased to publish inflationary adjustment indexes, so that the adjustment is no longer effective. There are a number of judicial claims on this matter. In 2009 the Federal Supreme Court issued a ruling on this matter, establishing that the Congress had acted within its constitutional powers when it derogated all legal norms and statutes authorizing adjustments, cost variations and any other form of adjusting debts, taxes, prices, services, etc.; because of its authority to determine the value of the currency and

4 Since Law No. 27.430, taxpayers are not forced to use a specific transfer pricing method to validate the fee charged by the intermediary. Therefore, the most appropriate method rule applies to this fact pattern.

5 Under Law No. 27.430, Argentine residents can opt for a one-time "revaluation" of assets on which Argentine-sourced income arises. This permits the assignment of a new value to such assets by taking into account various criteria, such as market value, currency depreciation, and devaluations. The provision contemplates two types of revaluation (tax revaluation, and accounting revaluation), which are optional and not mutually exclusive. In addition, taxpayers who opt in to this regime will pay a special tax (at rates of 5 percent to 15 percent, depending on the goods involved), which is not deductible from income tax.

to legislate over taxes. The Judicial Branch, according to the Supreme Court, cannot argue over the merits taken into account by Congress when exercising its powers.

However, the limit that should be applied to Income Tax remains unresolved, given that the Supreme Court decided that the effective rate resulting from the ban on inflationary adjustments (62% or 55%) was confiscatory and therefore unconstitutional, but did not indicate where to draw the line between legality and illegality of the rate.

The majority of the Court found that the rate that was actually being charged to the plaintiff was absorbing a substantial portion of his profits and thus decided in his favor. Clear evidence of a confiscatory rate must be presented for this case law to be applicable. Note that in Argentina Supreme Court, rulings are not mandatory for lower courts and apply only to the case subject to analysis. Tax planning is of the essence to avoid pitfalls and to take advantages of circumstantial opportunities.

However, recently, Law No. 27.430, introduced the possibility for taxpayers to apply an "inflation adjustment" for income tax purposes when, in the 36 months prior to the close of the corresponding fiscal year, an increment above 100 percent in the Public Price Index occurs[6].

1.1.7 Tax Loss Carry-forward.

Argentine taxpayers may carry-forward tax losses for a maximum term of 5 fiscal years. There is no carry-back possibility.

Losses arising from the sale or disposal of stock or shares may only be computed against capital gains of the same nature. Furthermore, losses arising from activities not considered to be Argentine source income may only be set off against foreign source income.

Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations.

The Argentine Tax Law allows for three types of tax-free reorganizations:
i) statutory tax-free mergers;
ii) statutory tax-free divisive reorganizations, and
iii) sales or transfers within an economic group. In these cases, and provided that a number of statutory requirements are complied with (view 1.1.8 "Tax Free Reorganizations") the tax attributes of the target company are transferable to the surviving or resulting corporation.

A long standing interpretation of the Argentine Tax Authorities is that the associated tax incentives –i.e. transfer of fiscal attributes (e.g. NOLs) and no recognition of gain or loss- are only granted when business reasons are attached to the restructuring, such as the improvement of production, efficiency conditions or productivity, and to optimize the use of production factors. Accordingly, tax-driven reorganizations are not allowed on a tax free basis.

Additionally, in order for the NOLs to be transferred from one entity to another in the context of a tax-free reorganization, at least 80% of the equity of the predecessor companies should have been owned by the same persons for the two years preceding the reorganization date. This is the so-called

6 These provisions will be in force for tax periods beginning on or after January 1, 2018. With respect to the first, second and third fiscal years after their effective date, this procedure will be applicable in case the variation of the Public Price Index, calculated from beginning and until the closing of each one of those exercises, exceeds 55%, 30% and 15% for the first, second and third years of application, respectively.

Preexisting-Identity-of-Interest Requirement.

The carry-forward period is not refreshed by the occurrence of a tax-free reorganization.

1.1.8 Tax-Free Reorganizations.

In order to qualify for a tax free reorganization, requirements are as follows:

i. *Continuity of interest*: The majority of the shareholders of the companies subject to reorganization shall remain the same (i.e. a minimum of 80%), for at least two years subsequent to the reorganization date.
ii. *Identity of Activities*: At the time of reorganization, the predecessor companies must be effectively performing their corporate purpose (or have ceased to perform it within the last 18 months). The nature of the activities performed by the predecessor companies during the last 12 months prior to reorganization must be identical or related to the activities performed by the surviving company.
iii. *Continuity of Activities*: The reorganized company shall maintain the same or related activities of the predecessor companies, for a minimum period of two years as of the reorganization date (as defined below). The goods or services produced and/or rendered by the surviving company shall be substantially similar to the ones produced and/or rendered by the predecessor company. In fact, taking into account this requirement, the local IRS may reasonably understand that the activity to be maintained should be the one previously performed by the predecessor company.
iv. *Notification*: The reorganization must be notified to the local IRS within 180 days as of the reorganization date, computed as from the date in which the reorganized entity starts performing the activities of the predecessor.
v. *Compliance with the Corporate Law requirements:* the publication and registration requirements set forth by Law 19,550 must be observed.
vi. *Other requirements:* Additionally, in order for the NOLs *to be transferred* from one entity to another in the context of a tax-free reorganization, as stated above, according to the Preexisting-Identity-of-Interest Requirement, at least 80% of the equity of the predecessor companies should have been owned by the same persons for the two years preceding the reorganization date.

1.1.9 Leasing Tax Treatment.

Pursuant to the amended leasing law, assets which may be subject to leasing include: movables and immovable property, patents, brand names or software.

Income Tax treatment of assets subject to leasing ultimately depends on the type of leasing. The law provides for three different types of leasing, namely: i) contracts assimilated to financing operations; ii) contracts assimilated to renting operations; and iii) contracts assimilated to installment sales.

A contract is to have a financing operation tax treatment whenever the lessee is a financial entity, a financial trust or an enterprise whose main activity is the celebration of these types of contracts and the duration of the contract exceeds 50% of the useful life of the movable asset, 20% of the useful life of real estate property destined for living space or 10% of the useful life of real estate property with commercial purposes.

When a contract is deemed to have the tax treatment of a renting operation, the lessor may amortize the cost of the good, while lessee may deduct rental payments. Whenever the option to buy is exercised, the set amount will be computed as purchase cost for lessee and as sale price for lessor and subject to taxation.

A contract is deemed to have the tax treatment of a sale, whenever the price established for the sale is less than the adjusted basis of the asset for lessor at the time such option is exercised.

1.2. Foreign Exchange Gains and Losses.

Since transactions are to be valued in Argentine currency for income tax purposes, fluctuations in foreign exchange currencies generate foreign exchange gains or losses. Income Tax Law provisions that govern the tax treatment of foreign exchange differences do require Argentine resident companies to account both foreign exchange gains and losses on an annual basis, disregarding whether there has been realization or not of the underlying assets or liabilities that trigger such FX results[7]. The ITL Implementing Decree provides that taxpayers should account all FX results related to taxable transactions, as well as those resulting from credits that have been incurred to finance such business activities. Deposits, credits and debts are to be valued according to the applicable foreign exchange rate issued by the Banco de la Nación Argentina on the closing date of the fiscal year. The ITL Implementing Decree impedes FXs resulting from the mere conversion of a debt denominated in one currency to another one, unless there was either a novation or the FX results were triggered by the time of payment. The goal of this provision is to prevent taxpayers from artificially manipulating foreign exchange operations, thus triggering tax losses resulting from unsubstantiated transactions in different currencies.

1.3. Payment and Filing.

For any given fiscal year the corresponding income tax return must be filed before the beginning of the fifth month following the end of the taxpayer's fiscal year. Note that for corporations the tax year must not necessarily coincide with the calendar year as is the case with physical persons. Companies, in fact, do have a fiscal year that overlaps the financial statement's year.

Corporations and foreign company branches are required to make ten monthly prepayments, as from the sixth month of the fiscal year. Prepayment amounts are established on the basis of the tax paid in the preceding fiscal year.

1.4. Tax deficiencies

The differences on the payable tax which come from tax deficiencies (and its interests) will be deductible in the fiscal year in which the difference is enforceable[8].

1.5. Penalties on Unpaid Tax or Tax Paid Belatedly.

The Tax Procedure Law ("TPL") sets forth certain penalties for incompliance with formal requirements and for incompliance with substantial obligations.

Penalties for incompliance with formal requirements include not only different type of fines but also the close down of the business.

Amongst penalties for incompliance with substantial obligations: (i) tax omission is fined with a

7 In the case of individuals and undivided successions, foreign exchange gains coming from foreign source are no longer taxable, since the entry into force of Law No. 27.260 (Published on the Official Gazette on July, 22, 2016).

8 Reform introduced by Law No. 27.346, published on the Official Gazette on December 27, 2016, which also established amendments to the Income Tax and the Value Added Tax Laws, among others.

penalty of 100% of the omitted tax, whenever the omission is by means of: a) lack of presentation of sworn statement; b) when the sworn statement is inexact; c) withholding agents failing to act as such; and 200% of the omitted tax if the omission involves transactions with foreign individuals, companies or other entities; (ii) furthermore, the TPL sets the penalty for tax fraud at 2 to 6 times the amount of the evaded tax. The fine amounts may be reduced whenever the incompliance is not repeated and upon rectification or voluntary filing of the tax.

The Criminal Tax Law also sets forth that in the case of tax fraud, evasion or willful misconduct the taxpayers are subject to prison, depending on the evaded amount, the type of willful conduct and whether third parties or supposed exemptions were used to evade the tax.

Interest rates are 3 % monthly and punitive interest rates are 4 % monthly. From March 1, 2019 to March 31, 2019, those rates will be increased to 4,5% and 5,6 %, respectively. From April 1, 2019, the effective rate in each quarter will be the effective monthly equivalent to 1,2 (compensatory interest) and 1,5 (punitive interest) times the nominal annual rate of the electronic channel for fixed-term deposits in pesos at 180 days of the Argentine National Bank in force on the 20th of the month immediately before the start of the quarter. Each quarter will be published by the AFIP[9].

1.6. Dividends Tax / Branch Profits Tax.

Law No. 27.430[10], established that dividends paid by local companies and profit distribution from resident branches of foreign companies will be taxed at the rate of 13% (7% during 2018 and 2019) on net income. The equalization tax applicable on corporate income distributions made out of non-taxable gains has been repealed concerning dividends and profit distributions resulting from profits accrued by Argentine companies on fiscal years starting as of 1.1.18. Conversely, profits accrued previously will be subject to equalization tax upon distribution.

1.7. Cross-border Payments.

1.7.1. Withholding Taxes.

When Argentine source income is remitted abroad to a beneficiary that is a non-resident alien, individual, or entity, the payment should be subject to a withholding tax. In any of the cases set forth below, if the local payer assumes the obligation to pay the tax for the non-resident recipient, then the net amount must be grossed up in the amount of the tax. Note that the withholding rates set forth below are applicable in the absence of a pertinent double tax treaty.

1.7.1.1. Dividends. If

the corresponding profits were taxed at the corporate level then no income tax withholding applies. However, if such profits were not taxed a withholding of 35% applies on account of equalization tax[11].

Since January 1, 2018 a withholding of 7% (13% from 2020, onwards) applies.

1.7.1.2. Royalties. Royalty

9 According to AFIP (Federal Administration of Public Revenue) General Resolution No. 50/2019.

10 Published on the Official Gazette on December 29, 2017.

11 The equalization tax has been eliminated by means of Law No. 27.430 (as of January 1, 2018), but it still applies to accumulated profits, which have not been subjected to the Equalization Tax in previous fiscal years.

payments on account of agreements complying with the Copyright Law are subject to a 12.25%/ 13.96% (with grossing up) withholding tax.

1.7.1.3. Technical Assistance,

Engineering and Consulting Services. If the given contracts refer to services deemed unavailable in Argentina and provided that the contract is registered before the National Institute of Industrial Property ("INPI") according to Transfer of Technology Law, such agreements are subject to a withholding of 21% (26.58% with grossing up). If the contracts are registered pursuant to the Transfer of Technology Law but the given contract is not included amongst the above, then a withholding rate of 28% applies (38.89% with grossing up). Unregistered transfers of technology are subject to 31.5% withholding.

1.7.1.4. Interest on Loans obtained abroad.

Interest payments on loans obtained abroad are subject to a withholding rate of 35% (53.85% with grossing up). However, if the beneficiary is a bank or financial institution incorporated in a country not considered to be a low tax jurisdiction, or in a jurisdiction which signed agreements providing for the exchange of information and where bank secrecy or secrecy referring to stock exchange cannot be alleged upon request of information by the pertinent tax authorities, then the withholding rate is reduced to 15.05% (17.72% with grossing up).

1.7.1.5. Payments to non-resident individuals.

Payments to non-resident individuals working on a temporary basis in Argentina for a period not exceeding 6 months are subject to a withholding of 24.5% (32.45% with grossing up).

1.7.1.6. Rental Payments on moveable property.

They are subject to a withholding rate of 14% (16.28% with grossing up).

1.7.1.7. Rental Payments on real estate property.

They are subject to a withholding rate of 21% (26.58% with grossing up).

1.7.1.8, Proceeds from the sale of any type of property.

They are subject to a withholding rate of 17.5% (21.21% with grossing up).

1.7.1.9. Others.

The general withholding rate applicable to other cross-border payments not included within those mentioned above are subject to a general withholding rate of 31.5% (45.99% with grossing up).

2. VALUE ADDED TAX (VAT)

2.1 General Aspects.

2.1.1. Tax Rates.

The general VAT rate is 21%. There are reduced and increased rates for certain goods and services; e.g., a 10.5% rate applies on passenger transport services, health care and certain interest payments, amongst others, and an increased rate up to 27% applies on telecommunications, amongst others.

There are also some VAT exemptions for specific public entities of the national or local territorial level and for private schools, religious institutions, transportation for less than 100 km, and rent of hou-

sing for personal use and of land for agricultural purposes, amongst others.

2.1.2. Taxable Transactions.

Transactions subject to VAT are the sale of goods and the provision of services in Argentina and the importation of goods and digital services[12].

In some cases, services rendered outside Argentina are deemed as subject to VAT because they are effectively used or exploited in Argentina.

VAT is paid at each stage of the production or distribution of goods and services on the value added during each of the stages.

2.1.3. Withholding agent for foreign residents who render taxable services in Argentina.

In the case of foreign residents who render services in Argentina without having taxable presence in the country -i.e.: without having a permanent establishment-, and whose services are taxed by VAT, the feature of the withholding agent or "Substitute Taxpayer"applies[13].

Substitute taxpayers will determine and pay for VAT corresponding to the transaction, even in the cases in which it is impossible to withhold that tax from the foreign resident. Also, the tax paid will be considered as Tax Credit if in favor of the Substitute Taxpayer in its own affidavit.

2.1.4. Taxable Base.

The taxable base is the price or value of the consideration paid for the goods or services.

2.1.5. Creditable VAT.

As a general rule, the VAT taxpayer has a right to credit against payable VAT and all VAT indicated in the invoices of the suppliers of goods and services contracted by the taxpayers.

The VAT paid in the acquisition of goods that the company destines to exempt operations is not creditable against VAT. Acquisition of cars and services rendered by restaurants and hotels are not creditable against VAT either.

2.2. Selected VAT Incentives.

These are some VAT incentives selected among the many incentives available in the VAT law:

2.2.1. VAT Incentive for Purchase of New Capital Assets.

There is a special VAT regime applicable to the acquisition and import of capital assets. Law 24,402 provides a financing possibility for the payment of fiscal credit corresponding to the acquisition of capital assets whenever these are to be applied to the productive process destined to the sale in the external market. The applicable entity may receive a financing equivalent to the fiscal credit. The financing is received through a bank or financing entity, which is later repaid by the state in the appli-

12 By means of Law No. 27.430, a new taxable event has been introduced: the provision of digital services by individuals domiciled abroad whose use or effective exploitation is carried out in Argentina, as long as the customer is not subject to the tax for other taxable events and does not assume the quality of registered taxpayer.

13 In that sense, whoever "*are lessees, payees, representatives or intermediaries of foreign residents who render services taxed in Argentina, as Substitute taxpayers*" are subject to VAT. Additionally, Substitute taxpayers could be: National, Local and Municipal States, cooperatives, civil and sport associations, charities, administrators, legal agents, representatives, proxies and other intermediates.

cable amount. In 2008 new incentives were granted for the acquisition and import of capital assets for the industry as well as infrastructure projects.

2.2.2. Investments on Mining Activity.

Investments on physical infrastructure for the mining industry also benefit from the financing possibility set forth in Law 24,402 (later amended by Law 25,429).

2.2.3. Tax Credit Refund[14].

Tax credits originated in the purchase, construction, manufacture or definitive importation of capital assets -excepting automobiles- that after 6 consecutive fiscal periods, counted from the one in which its computation resulted, created a balance in favor will be refunded as established by the regulations.

2.3. Payment and Filing.

VAT returns must be filed on a per month basis. In the case of definitive imports, the tax is determined and paid along with custom duties.

3. OTHER TAXES

3.1. Minimum Presumptive Income Tax.

Law No. 27.260[15] abrogated the MPIT for the fiscal year starting on January 1, 2019.

This is a 1% tax levying company assets (liabilities cannot be deducted).

Some assets are tax-exempt, e.g. stocks and other capital share of other entities subject to taxation, or assets of mining companies. The acquisition of new fixed assets –except for automobiles- as well as investments in the construction of new buildings or refurbishing (for the first two years) is excluded from this tax.

IT determined for the same fiscal year is considered payment on account of MPIT provided the income tax obligation does not exceed the amount of the presumed minimum income tax. Otherwise the excess of income tax does not constitute a tax credit.

The excess minimum presumed income tax of a given year over the income tax liability may be carried forward to offset income taxes for ten years.

3.2.Gross Turnover Tax.

The Gross Turnover Tax is a local tax applicable on gross income. Although the rate varies from jurisdiction to jurisdiction, the general rate in the City of Buenos Aires is 3%, being burdensome tax rates on other activities, like financial intermediation. The different jurisdictions have signed an agreement (the "Multilateral Agreement") in order to avoid double taxation whenever activities subject to taxation have been carried out in more than one jurisdiction. The Multilateral Agreement sets forth a

14 Incorporated by Law No. 27.430 (published on the Official Gazette on December 29, 2017).

15 Published on the Official Gazette on July, 22, 2016.

formula in order to allocate income between the different provinces.

Some jurisdictions are pretending to collect this tax in case of services rendered outside Argentina but effectively used or exploited inside the jurisdiction, through the intervention of a local withholding agent.

3.3. Debits and Credits in Bank Accounts Tax.

This tax is a national level tax withheld by Argentine banks (and other savings institutions). It applies on any deposited funds that are either withdrawn or transferred from checking or savings account. The taxable base is the amount withdrawn or transferred. The tax rate is 6 per thousand. There are very limited exemptions. The tax rate gets doubled in set cases where the elusion of the use of banks accounts is deemed to take place. This tax is partially creditable against other Federal Taxes. Law 27,432 allows the Federal Executive to increase this credit up to 100% by year 2022.

3.4. Stamp Tax[16].

The Stamp Tax is a local tax levying the instrumentation of onerous contracts. In the City of Buenos Aires[17], the tax applies on all contracts and monetary operations as of 1.1.09. Although the rate may vary from jurisdiction to jurisdiction, the general rate is 1% (except in the sale of real estate property where the rate is increased in most jurisdictions to about 3.6%). The tax is paid by means of sworn statements or fiscal stamps. During 2004, several Federal Supreme Court rulings[18] have decreed the inapplicability of the tax whenever acceptance of the contract takes place through unwritten means (e.g. the written offer provides that the contract will be considered accepted if the party performs a certain activity).

3.5. Personal Assets Tax.

The Personal Assets Tax ("PAT") is a tax levied on the non-productive assets held by physical persons or undivided estates domiciled in Argentina by December 31, both within the country and abroad. The tax rates have been recently modified and, likewise, the non-taxable minimum [19]. Taxable assets include both assets held within the country and abroad. Foreign residents shall be subject to the same rates indicated for Argentine residents for all their assets held in Argentina. Non-resident aliens are subject to an annual 0.25% levy on the net-equity value of their participations in Argentine companies and branches of foreign entities. The same tax applies on Argentine resident individuals -other than local companies- who are required to exclude their equity participations in Argentine companies from their annual PAT tax returns. The companies, who issued the stock or shares, or the

16 Local Governments have assumed the commitment to eliminate this tax by 2023 ("Consenso Fiscal", signed on November 16, 2017 and September 13, 2018).

17 Note that the City of Buenos Aires is an autonomous jurisdiction with taxing powers similar to that of the provinces.

18 See CSJN, 15.04.2004, "Shell Compañía Argentina de Petróleo c/ Neuquén, Provincia de s/ acción de inconstitucionalidad", and CSJN, 15.04.2004, "Transportadora de Gas del Sur S.A. (TGS) c. Provincia de Santa Cruz".

19 Law No. 27.480, published on the Official Gazette on December 21, 2018 established that for FY 2019, if the value of the total assets is less or equal to ARS 2,000,000, they are non-taxable; still, if the value is higher, the rate will be of 0,25% on the value of the total assets that exceeds ARS 2,000,000 and up to AR$ 3,000,000. From AR$ 3,000.001 to AR$ 18,000,000, the taxpayer must pay a fixed amount of AR$ 7,500 plus the result of applying a 0,5% tax rate on the value of the total assets that exceeds AR$ 3,000,000. Finally, if the value of the total assets is equal to or greater than AR$ 18,000,001, the taxpayer must pay a fixed amount of AR$ 82,500 plus the result of applying a 0,5% tax rate on the value of the total assets that exceeds AR$ 3,000,000.

branches, as the case may be, are responsible to collect and pay the tax to the government. In turn, such withholding agents are entitled to a refund from the equity holders.

3.6. Tax on Donations and on Free Transfer of property in the Province of Buenos Aires.

Any increase in the assets of a person or company domiciled in Buenos Aires due to a free transfer of property is taxed at a rate of 4% to 6.3802% plus a fixed amount, depending on value of the assets transferred. Donations, legacies, inheritances, anticipated inheritance, are only a few examples of what the law considers a free transfer of property.

4. CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties.

Importation of goods and the rendering of services abroad which are effectively utilized in Argentina are subject to import VAT at a general rate of 21% plus 10.5% VAT withholding and 3% Income Tax withholding. In addition to import VAT, imports of goods are also subject to custom duties that range between 0% and 36% (i.e. standard ones), also depending on the type of asset imported, and except for assets with special treatment. The Ministry of Economic Affairs may alter rates and does so frequently. Other taxes include a statistics tax, established on the CIF value of the good and excise taxes.

Regulatory Decree No. 793/18, published in the Official Gazette on September 4, 2018, established until December 31, 2020, an export duty of 12% of the value of the merchandise or the official FOB price (free on board), to the export of all merchandise included in the tariff positions of the MERCOSUR COMMON NOMENCLATURE. Said 12% export duty may not exceed ARS 4 for each USD of the merchandise value or the official FOB price (free on board), as applicable. The constitutional validity of this export duty imposition appeared to be a controversial topic as it was established by the Argentine Executive and not by a law enacted by the national Congress, at least until its ratification by the 2019 Public Budget Law No. 27,467, published in the Official Gazette on December 4, 2018 and enforceable as of December 13, 2018.

Likewise, Regulatory Decree No. 1201/18, published in the Official Gazette on January 2, 2019, levied exports of services as defined in the Argentine Customs Code (Law No. 22,415), amended by the 2019 Public Budget Law No. 27,467 (i.e. services rendered in the country, effectively used or exploited abroad) with a 12% export duty as from January 1, 2019 to December 31, 2020. For such purposes, Decree No. 1201/2018 sets forth that the effective use or exploitation abroad takes place with the immediate use or the first act of disposal made by the borrower. As in the above mentioned case, this export duty is subject to an AR$ 4 cap for each USD 1 of the taxable base for the exported services, pursuant to the Customs Code regulations. Finally, General Resolutions Nos. 4400/2019 and 4401/2019 issued by the Federal Administration of Public Revenue (AFIP), regulated Decree No. 1201/2018, establishing the terms and conditions in order to assess and pay the export duty as well as a regime for issuing and storing original invoices among other commercial documents that support such transactions.

4.2. Taxable Base.

As a member of the WTO and having subscribed the Agreement for the Application of Section VII of the GATT, the value of the goods is established on account of the price paid. If this is not possible,

other methods of valuation and the corresponding adjustments are applied. Duties are computed on the CIF value of the goods.

4.3. Transfer Pricing.

Custom valuation rules are those of the GATT (1994) valuation code.

4.4. Filing and Payment.

An import return must be filed and the pertinent tax must be paid before the good is nationalized.

4.5. Selected Custom Duties Regimes Available.

There are several importation regimes applicable in Argentina:

4.5.1 Ordinary Importation Regime.

It applies to all goods that will remain permanently in Argentine territory without any use or jurisdictional restrictions. Full payment of custom duties and import VAT is required upon nationalization.

4.5.2. Temporary Importation Regime.

It applies to merchandise that is to remain in the country for a given set period of time and with a determined purpose. Once the finality has been fulfilled and the time span has passed, the asset must be re-exported.

The assets imported under the temporary regime may:

i. remain in the same state. In this case, the maximum term of the temporary import regime depends on the good, but in general is up to 3 years for capital assets and 3 or 8 months for other goods (this would have to be checked on a case by case basis); or
ii. be subject to an industrial process of transformation. In this case, the temporary import regime lasts for 1 year (which may be extended for an additional year).

Goods generally subject to this regime include: machinery and equipment for a trial period or for controlling purposes; machinery or equipment for expositions or congresses; vehicles for sporting events; vehicles and other assets to be used by non-residents in the country.

BOLIVIA CHAPTER

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HIGHLIGHTS

National Level Tax Rates:

Corporate Income Tax:	25%
Capital Gains Tax:	25%
Branch Profits Tax:	25%
Dividends Tax:	12,5%
Withholding Taxes on:	
Interest:	12,5%
Royalties:	12,5%
Technical Assistance:	12,5%
Technical Services:	12,5%
Other Services:	12,5%
Imports:	13%
Tax losses carry-forward term:	Three Years
Tax losses carry-back term:	Not applicable
Transfer Pricing Rules:	1.Comparable Uncontrolled Price Method. 2.Resale Price Method. 3.Cost Plus Method. 4.Profit Split Method. 5.Transactional Net Margin Method. 6.Publicly quoted Prices in Transparent Markets Method.
Tax Free Reorganizations:	Mergers, Spin offs and Transformations
VAT on Sales:	13%
VAT on Imports:	13%
Custom Duties: Net-worth (Assets)	from 5% to 30%
Tax: Stamp (Documentary)	None
Tax: Bank Debits (Transfers) Tax Rate:	0.30% when dealing with foreign currency.

Local Level Tax Rates:

Tax on Industrial Activities: None
Tax on Commercial Activities: None
Tax on Service Activities: None
Real Estate Tax: According to Periodical Charts issued by Municipal Governments
According to Periodical Charts issued by Municipal Governments.

Taxes on Other Property: None
Document Registration Tax: None
Excise Taxes: Taxed depending on the good.

Treaty Taxation:

Items of Income

Countries	Interest	Dividends	Royalties	Tech. Services	Tech. Assit
Andean Pact	12.5%	12.5%	12.5%	12.5%	12.5%
Argentina	12.5%	12.5%	12.5%	12.5%	12.5%
Spain	12.5%	12.5%[1]	12.5%	0%[3]	12.5%
Sweden	12.5%	0%[4]	12.5%	12.5%	12.5%
France	12.5%	12.5%	12.5%	12.5%	12.5%
United Kingdom	12.5%	12.5%	12.5%	12.5%	12.5%
Germany	12.5%	12.5%	12.5%	12.5%	12.5%

(*) Indicates *Source Taxation Only* under Andean Pact Multilateral Act to avoid international double taxation.'

1 A 10% rate applies in case the effective beneficiary owns 25% of the distributor's capital.

2 Andean Pact Commission, Multilateral Act No. 578 of 2004.

3 In case the service provider is a Spanish company.

4 In case the beneficiary owns 25% of the capital of the company paying the dividends.

OVERVIEW

1. INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate

The general statutory corporate income tax rate for Bolivian entities including Bolivian branches of foreign companies is 25%.

An additional rate of corporate income tax of 12.5% is applied on mining operations resulting from favorable prices in minerals and metals.

An additional aliquot (bracket) is applicable to any income obtained by those entities carrying out banking and/or financial intermediation activities in the country and that are currently under the regulation issued by the Banking Regulation Entity ("ASFI", by its acronym in Spanish). Consequently, any income obtained by a financial -banking or non-banking institution- that exceeds thirteen per cent (13%) of the profitable ratio with respect to the its net patrimony, beginning on the fiscal year of 2012, is taxed by an additional rate on the Corporate Income Tax of twelve point five per cent (12.5%). Such payment will not be able to be compensated with future monies owed pursuant to the Transaction Tax ("IT", by its acronym in Spanish).

A surtax of 25% is applied to entities carrying out extraction of non-renewable resources after the following deductions: i) a percentage of up to 33% of the accumulated investments in exploration, developments, exploitation, benefit and environmental protection; ii) 45% of the net income derived from non-renewable natural resource extractive activities.

1.1.2. Taxable Base

All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income, i.e., the sum of All Items of Income realized by the taxpayer. The result is the Gross Taxable Income from which Costs and Expenses are deducted. The after- deductions result is the Net Taxable Income to which a 25% tax rate is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the Income Tax Liability.

1.1.3. Minimum Taxable Income

There is no minimum Net Taxable Income.

1.1.4. Deductions

As a general rule all costs and expenses are deductible provided that they are related to the income producing activity. Any costs or expenses related to Excluded and/or Exempted Items of Income are not deductible. Some costs and expenses are limited or forbidden, depending on the facts and circumstances of each case, e.g., related party charges (interests), commissions, among others.

I.1.5. Depreciation

Tangible fixed assets' depreciation is deductible. Depreciation term varies depending on the nature of the asset; 20 years for real estate, 10 years for all other tangible fixed assets, except for motor vehicles and computers for which regulations establish a 5-year term. Intangibles with a fixed cost may also be depreciated in five years. Globally used methods are generally accepted in Bolivia for tax purposes, e.g., straight-line method, declining balance method, etc.

I.1.6. Transfer Pricing

Bolivia has issued Transfer Pricing rules by means of Law 549, dated July 21, 2014. In order to regulate the above-mentioned law, Supreme Decree No. 2227 was issued on December 31, 2014. Specific administrative regulations are being developed by the Tax Administration in order to norm the previous regulations and therefore specifically determine the taxpayer's obligations with regards to the new regulations recently enacted.

The law basically sets forth that in order to readjust or revalue transaction's values between related parties, any of the following methods could be used:

i. Comparable Uncontrolled Price Method.
ii. Resale Price Method.
iii. Cost Plus Method.
iv. Profit Split Method.
v. Transactional Net Margin Method.
vi. Publicly quoted Prices in Transparent Markets Method.

In case it is not possible to determine the value of the transaction using any of the previous methods, a different method may be applicable pursuant to the nature and economic reality of the operation.

I.1.7. Tax Losses Carry-forward / Carry-back

A Bolivian taxpayer can carry-forward tax losses for a period of three (3) years. Losses will not be updated pursuant to inflation adjustments. Companies in the oil and mining production sector and new productive enterprises with a minimum capital of One Million Bolivianos may carry-forward tax losses for a period of five (5) years. This also applies to Hydrocarbon and mining enterprises. Losses will not be updated. Losses generated until the year 2010 will not be carried forward by financial and/or banking entities; losses accumulated beginning on the year 2011 will be carried forward for a period of three (3) years.
There is no carry-back possibility.

Tax losses can be credited towards (and are capped by) the taxpayer's net income for the deduction's taxable year. Therefore, a tax loss deduction cannot generate further tax losses.

Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations. There are three types of tax-free reorganizations authorized by Bolivian law (statutory tax-free mergers, statutory tax-free spin offs and statutory tax-free transformations). In all cases, the tax attributes of the target company are transferable to the surviving or resulting corporation. In the case of tax-free mergers, the above-mentioned general limitations still apply. Nonetheless, in this case tax losses are transferable to the new or surviving entity. For tax-free spin-offs part of the tax losses of the target entity are transferred to the resulting entities. A limitation was set forth by a

decree supreme limiting the carry forward of losses resulting from any of the previous reorganizations in a period of four years. In light of the previous limitation, and taking into account that the law sets forth no limitation whatsoever on the carry forward of losses, it is highly likely to have a favorable ruling in case the supreme decree is challenged

1.1.8. Tax-Free Reorganizations

In general, operations involving statutory tax-free mergers, statutory tax-free spin offs and statutory tax-free transformations are not taxed with the Corporate Income Tax, the Value Added Tax and the Tax on Transactions. Some local jurisdictions (municipal governments) have issued local regulations limiting the aforementioned exclusion by taxing the transference of real estate goods and vehicles regardless if such conveyance is carried out as a result of a reorganization procedure.

1.2. Payment and Filing.

For any given taxable year, the corresponding income tax return and tax liability must be filed and paid within 120 days following the closing of the fiscal year. The closing of the fiscal year varies depending on the type of enterprise and the line of business, as detailed below.

March 31	- Industrial and oil and gas companies.
June 30	- Agricultural, agroindustry and cattle companies.
September 30	- Mining companies.
December 31	- Banking, insurance, commercial, services companies and others

1.3. Penalties on Unpaid Tax or Tax Paid Belatedly

Unpaid taxes are subject to lateness interest that should be assessed at the official rate fixed by the corresponding regulations.

The Tributary Debt (DT) is the total amount to be paid once the term for the payment of the tributary obligation is due. The DT is constituted by the Omitted Tribute (TO) plus interests, expressed in U.F.V's (Housing Promotion Unit, a referential index), pursuant to the following formula:

DT = TO + I where I = TO * ((1+r/360) n-1)

The interest rate may vary depending on the days/years delinquent: Four per cent (4%) up to four (4) years; six per cent (6%) from five (5) to seven (7) years and ten per cent (10%) from the eighth (8th.) year. Other penalties apply for non-filing or inaccurate filing, which may range from fixed fines determined by regulations applicable to individual or legal entities, and depending on the facts and circumstances of each case.

1.4. Dividends Tax / Branch Profits Tax.

There is a 12.5% remittance tax on dividends and branch profits remitted abroad to non-resident alien entities or individuals. It applies only on all dividends remitted abroad, and on all branch profits realized on the taxable year whether they are remitted abroad or not. If the dividends or profits are reinvested, the tax still applies.

1.5. Cross-border Payments

1.5.1. Withholding Taxes

When Bolivian sourced income is paid, credited and remitted abroad to a beneficiary that is a nonresident alien individual or entity, the payment should be subject to a withholding tax.

1.5.1.1. Dividends

Apart from the corresponding profits taxed at the corporate level, a withholding tax of 12.5% is applicable.

1.5.1.2. Royalties

Royalty payments are subject to an effective 12.5% withholding tax for income and remittance taxes.

1.5.1.3. Technical Services, Technical Assistance and Consulting Services

Whether rendered in Bolivia or abroad by a non-resident, technical services and technical assistance payments are subject to 12.5% withholding for income and remittance taxes.

1.5.1.4. Other Services

Payments for services rendered from abroad (no matter their nature) are subject to a 12.5% withholding tax.

1.5.1.5. Interest and Leasing Payments

As a general rule, payments performed pursuant to foreign debt agreements and cross-border leasing agreements are subject to a 12.5% effective withholding for income and remittance taxes.

1.5.1.6. Equity Reimbursements

Equity reimbursements not corresponding to dividend or profit distributions are not taxable items of income for the foreign shareholder. Therefore, no withholding taxes should apply.

1.5.1.7. Tax Havens

For Transfer Pricing purposes and when dealing with related entities, current tax laws call for the Tax Administration to determine which jurisdictions are deemed to be of none or low taxation. The latest update was made in the year 2018 and currently details 82 countries (From *Alderney* to *Yemen*)

1.5.2

Limitations for Costs and Expenses Incurred Abroad by Bolivian Taxpayers Costs and expenses incurred abroad may be deducted as long as they are related to the company's activities and are properly documented.

1.5.3 Tax Treaties

Bolivia has entered into the following tax treaties to avoid double taxation:

- Andean Pact Countries, Directive 578.
- Republic of Argentina (October 30, 1976).
- Federal Republic of Germany (September 30, 1992).
- Kingdom of Sweden (January 14, 1994).
- United Kingdom of Great Britain and Northern Ireland (November 3, 1994).

- Republic of France (December 15, 1994).
- Kingdom of Spain (May 30, 1997).

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1. Tax Rates

VAT's general rate is 13%.

2.1.2. Taxable Transactions

Sale, lease or importation of movable tangible property. Services rendered in Bolivia.

2.1.3. Taxable Base

As a general rule, the taxable base is the price or value of the consideration paid for the goods and/or the services rendered.

2.1.4. Creditable VAT

As a general rule, is creditable all VAT paid to providers for tangible movable property leased, bought or imported and for services hired, provided that they constitute a cost or expense of the taxpayer's income producing activity, hence related to its core business.

Tax credits may not be credited in full when dealing with specific purchases (such as gas or diesel purchase, where only 70% of the invoice may be credited).

2.2. Selected VAT Incentives.

The temporary importation of goods is not subject to import VAT. Among others, the following transactions are VAT exempted: Interests generated from banking operations. Transfer of shares, debentures and other securities Transfer of goods resulting of a securitization process. Assignment of banking, insurance and pension fund portfolios. Cultural activities rendered by Bolivian artists. Several incentives exist for tourism activities in the country.

2.3. Payment and Filing

VAT has a one-month taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT tax return must be filed and paid in full on the filing dates scheduled by the tax authorities for these purposes, which are usually every fifteenth day following the corresponding monthly period's end.

3. OTHER TAXES

3.1. Transactions Tax.

Levies the exercise -in the Bolivian territory- of commerce, industry, profession, occupation, business, rental of goods, services, or any other activity –remunerated or not- notwithstanding the nature of the individual who exercises any of the detailed activities. The tax base is the gross income obtained during a fiscal period resulting from the taxed activity at a rate of 3%.

3.2. Tax on Windfalls

This is a national level tax. It taxes the receiver of any windfall depending on his/ her relationship with the donor. Depending on said relationship, the tax rate ranges from 1% to 20%.

3.3. Property Taxes

There are municipal (local territorial level) taxes on real estate and vehicles. The rate for these taxes is set in municipal ordinances adopted by each locality annually, therefore they may vary.

3.4. Financial Transactions Tax

This tax is a national level tax. It was created to tax any credit or debit in the taxpayers account and it is withheld by Bolivian banks (and other savings institutions). It applies on any deposited funds that are either withdrawn or transferred from checking or savings account. The taxable base is the amount withdrawn or transferred. The tax rate is 0.30 per thousand. There are very limited exemptions. It is an important tax to keep in mind when structuring transactions cash-flow. Although the tax was created with a two-year term limit, law 1135 (dated December 20, 2018) extended this term for another term (until the year 2023), beginning on January 1, 2019.

3.5. Excise Tax

This tax is applicable to the sale or definitive importation of certain luxury goods (e.g. cigarettes, Vehicles, alcoholic drinks, etc.).

3.6. Tax on Games.

Taxes gaming and gambling activities and commercial participations carried out by legal entities in general. Those legal entities providing gaming and gambling activities or entertainment are taxed at a rate of 30% over the gross income obtained pursuant to the prices determined, minus VAT. The tax also taxes individuals participating in gaming activities or commercial participations with a 15% over the sale price, minus VAT.

4. CUSTOMS REGIME GENERAL ASPECTS

4.1. Custom Duties

Importation of goods is subject to import VAT at a general rate of 13%. In addition to import VAT, imports are also subject to custom duties (GA) that range between 5% and 30%, also depending on

the type of M&E being imported. It is important to point out that Bolivia has entered into Preferred Custom Duties Agreement (PCDA) with many countries, reducing the applicable custom duties for certain M&E from a certified origin.
Zero-rated custom duties regimes are available for some activities or importers. These must be checked further on case-by-case basis.

4.2. Taxable Base

Custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties. Custom valuation rules in place in Bolivia are those of the GATT (1994) valuation code, which are similar to the current WTO valuation rules. For valuation purposes, the Andean Pact valuation rules in Decisions 378 and 379 apply. These rules are also similar to the first mentioned rules.

4.3. Transfer Pricing

Bolivia has issued Transfer Pricing rules by means of Law 549, dated July 21, 2014. In order to regulate the above-mentioned law, Supreme Decree No. 2227 was issued on December 31, 2014. Specific administrative regulations are being developed by the Tax Administration in order to norm the previous regulations and therefore specifically determine the taxpayer's obligations with regards to the new regulations recently enacted.

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3. Cost Plus Method.
4. Profit Split Method.
5. Transactional Net Margin Method.
6. Publicly quoted Prices in Transparent Markets Method.

In case it is not possible to determine the value of the transaction using any of the previous methods, a different method may be applicable pursuant to the nature and economic reality of the operation.

4.4. Filing and Payment

As a minimum requirement, an importation tax return must be filed upon nationalization of the goods.

4.5. Selected Custom Duties

Regimes Available

Importation of M&E can be performed through a variety of customs regimes different to the ordinary importation regime. Each of these special custom duties regimes has a different customs duties and import VAT treatment.

4.5.1. Ordinary Importation Regime

It applies to all goods that will remain permanently in Bolivian territory without any use or jurisdictional restrictions. Full payment of custom duties and import VAT is required upon nationalization.

4.5.2. Temporary Importation Regime

It applies to M&E and spare parts listed by the applicable regulations as capital goods. This regime is used whenever the goods are expected to remain in Bolivia for 90 days extendable to other 90 days. During this time, payment of custom duties and import VAT will be suspended.

4.5.3. Temporary Importation

Regime for Leased Equipment

The rules of this regime are similar to the above-explained rules.

4.5.4. Free Trade Zone Regime

Bolivia has a convenient industrial Free Trade Zone regime that should be carefully explored by importers and other parties with business interest or permanent operations in Bolivia.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Payroll withholding tax

Employers should withhold an amount equal to 13% of the amount paid a salary to each employee, unless said employees are able to offset said tax with all the VAT credit resulting from goods and services obtained.

5.2. Retirement Contributions

The contribution to private funds made by the employee is equal to at least 12.71% of the employee's wage. Employers are responsible for withholding such contributions from employees' wage. Depending on the employee´s salary, he/she may need to make further contributions ranging from 1% to 10% of his/her salary.

5.3. Health Contributions

The employee must be affiliated to any Health Administering Entity (HAE) approved by the National Health System. Contributions to the HAE by the employer are equal to 10% of the employee's wage.

5.4. Other Contributions

The employer must also fund amounts equal to 1.71% of the worker's salary for a professional risk insurance of the employee, 2% corresponding to the Social Housing Plan and 3% pursuant to a solidary contribution.

BRAZIL CHAPTER
MACHADO ASSOCIADOS ADVOGADOS E CONSULTORES

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax (IRPJ)	25%[1]
Social Contribution on Net Profit (CSLL)	9%[2]
Capital Gains Tax	up to 34%
Branch Profits Tax	up to 34%
Dividends Tax	0%[3]
Withholding Income Tax (WHT) on	
- Interest	15%
- Royalties	15%
- Technical Assistance	15%
- Technical Services	15%[4]
- Administrative Assistance Services	15%
- Other Services	25%
- Remittances to "tax havens"	25%[5]
Tax losses carry-forward term	unlmited years[6]
Tax losses carry-back term	not applicable
Transfer Pricing Rules	Yes
Custom Duties (II)	from 0% to 35%[7]
Excise Tax (IPI)	from 0% to 300%[7]
Contribution for the Social Integration Program (PIS)[8]	
- Non-cumulative system	1.65%
- Cumulative system	0.65%

Contribution for Social Security Funding (COFINS)[8]

- Non-cumulative system	7.6%
- Cumulative system	3%[9]
Tax on Financial Transactions (IOF)	from 0% to 25%
Tax on Rural Property (ITR)	from 0.03% to 20%
Local Level Tax Rates	
VAT on Sales and Services (ICMS)	from 4% to 40%[10]
Tax on Services (ISS)	from 2% to 5%[11]
Tax on Urban Property (IPTU)	from 1% to 1.5%[12]
Tax on Vehicles' Ownership (IPVA)	from 1.5% to 4%[13]
Tax on Real Estate Transfer (ITBI)	3%[12]
Tax on Donation and Inheritance (ITCMD)	up to 8%[14]
Import Taxes	
Imports of services[15]	
- WHT	15% or 25%[16]
- ISS17	from 2% to 5%
- PIS-Import	1.65%
- COFINS-Import	7.6%
- Economic Intervention Contribution (CIDE)	10%[16]
- IOF	0.38%
Imports of goods	
- II	from 0% to 35%
- IPI	from 0% to 300%
- ICMS	from 17% to 40%[18]
- PIS-Import	2.1%[19]
- COFINS-Import	9.65%[19,20]

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1 The regular rate is 15% but a 10% surcharge is applicable to taxable profits exceeding BRL 240,000 per year (USD 63,160 - estimated exchange rate: BRL 3.8 for each USD 1.00).

2 This contribution is also levied on corporate profits. The applicable rate to financial institutions is 15% as of January 2019.

3 See Section 1.1.2.9.

4 See Treaty Taxation – Additional Remarks.

5 See Section 1.1.2.3.

6 Tax losses offsetting shall not reduce taxable profits in more than 30% in any given period.

7 The tax rate varies according to the tax classification number and, in general, the lower rate is applicable to food and medicine meanwhile the higher rate is applicable to superfluous products, such as alcoholic beverages and cigarettes.

8 Pharmaceutical, cosmetic, automotive, beverage, tobacco and fuel industries, among others, are subject to specific taxation regimes.

9 Financial institutions and insurance companies are subject to a 4% rate of COFINS.

10 The tax rates vary according to the State and the type of good or service. We informed the lowest and the highest ICMS rates considering all Brazilian States.

11 The tax rate varies according to the Municipality and the type of service rendered.

12 The tax rate varies according to the Municipality. The tax rates mentioned apply to the city of São Paulo.

13 The tax rate varies according to the State. The tax rates mentioned apply to the State of São Paulo.

14 The tax rate varies according to the State, subject to a maximum rate of 8%. In the State of São Paulo, a 4% rate applies.

15 Communication services are also subject to the ICMS (rate varies according to the State).

16 WHT rate is 15% if the service is technical (see Section 1.4.1.2) or 25% if not. CIDE (see Section 2.5) is only charged in case of technical services.

17 International transport services are not subject to the ISS. The value of the international transport services of imported goods is comprised in the Customs Value, and hence being subject to the taxes due on the import of goods.

18 The ICMS rates generally applicable on imports vary according to the State where the importer is established and the goods imported.

19 The following rates of PIS and COFINS apply, respectively: (i) general import of goods: 2.1% and 9.65%; (ii) pharmaceutical products: 2.76% and 13,03%; (iii) perfumery, toiletries and personal hygiene products:3,52% and 16.48%; (iv) some machines and vehicles: 2.62% and 12.57%; (v) tires and inner tubes: 2.68% and 12.35%; (vi) some auto parts: 3.12% and 14.37%; and (vii) paper for printing books, newspapers and periodicals: 0.8% and 3.2%.

20 Some products are currently subject to a surcharge of 1 %.

Treaty Taxation

Items of Income[1]

Countries	Interest	Dividends	Royalties	Technical Services	Technical Assistance
Argentina [2]	15% [3]	0%	10/15% [4]	10% [5]	10% [5]
Austria	15% [3]	0%	10/15% [6]	0% [7]	0% [7]
Belgium	10/15% [8,9]	0%	10/15% [10]	10% [5,7]	10% [5,7]
Canada [11]	10/15% [3,9]	0%	15%	15% [5]	15% [5]
Chile [11]	15% [2,12]	0%	15% [2]	15% [0,5]	15% [2,5]
China [11]	15% [3]	0%	15%	15% [5]	15% [5]
Czech Rep.[11]	10/15% [3,8]	0%	15%	15% [5]	15% [5]
Denmark	15% [3]	0%	15%	15% [5]	15% [5]
Ecuador [11]	15% [3]	0%	15%	15% [5]	15% [5]
Finland [11]	15% [13]	0%	10/15% [10]	0% [7]	0% [7]
France	10/15% [8,9]	0%	10/15% [10]	0% [7]	0% [7]
Hungary [11]	10/15% [3,8]	0%	15%	15% [5]	15% [5]
India [11]	15% [3]	0%	15%	15% [5]	15% [5]
Israel [11,14]	15% [3,12]	0%	10/15% [4]	10% [5,7]	10% [5,7]
Italy [11]	15% [3]	0%	15%	15% [5]	15% [5]
Japan	12.5% [3]	0%	12.5/15% [15]	0% [7]	0% [7]
Luxembourg	10/15% [3,8]	0%	15%	15% [5]	15% [5]
Mexico [11]	15% [2,3,12]	0%	10/15% [2,4]	10% [2,5,7]	10% [2,5,7]
Netherlands [11]	10/15% [3,9]	0%	15%	15% [5]	15% [5]
Norway [11]	15% [3]	0%	15%	15% [5]	15% [5]
Peru [11,14]	15% [11,12]	0%	15% [2]	15% [2,5]	15% [2,5]
Philippines [11]	15% [3]	0%	15%	15% [5]	15% [5]
Portugal [11]	15% [3,12]	0%	15%	15% [5]	15% [5]
Russia [14]	15% [2,3,12]	0%	15% [2,16]	15% [2,5]	15% [2,5]
Slovakia [11]	10/15% [3,8]	0%	15%	15% [5]	15% [5]
South Africa [11,14]	15% [2,3,12]	0%	10/15% [2,4]	10% [2,5,7]	10% [2,5,7]
South Korea [11]	10/15% [3,8]	0%	10/15% [4]	10% [5,7]	10% [5,7]
Spain	10/15% [3,8]	0%	10/15% [4]	10% [5,7]	10% [5,7]
Sweden	15% [3]	0%	15%	0% [7]	0% [7]
Trinidad and Tobago	15% [2,3,12]	0%	15% [2]	15% [5]	15% [5]
Turkey	15% [12,17]	0%	10/15% [4]	10% [5,7]	10%[5,7]
Ukraine [11]	15% [2,3,12]	0%	15% [2]	15% [2,5]	15% [2,5]
Venezuela [14]	15% [2,3,12]	0%	15% [2]	15% [5]	15% [5]

Additional Remarks

Brazil has signed tax treaties with Singapore, Switzerland and the United Arab Emirates, which have not been ratified yet and, therefore, are not currently in force.
In some specific cases, the tax treaties may not impose an actual reduction of the taxation nor provide for a more beneficial treatment in Brazil. For example, since payment of dividends by a Brazilian company are usually taxed at a zero rate according to Brazilian rules currently in force, the treaty provisions that limit the rate applicable to such payments in the source State do not produce any practical effect.

It is also worth mentioning that the Brazilian Federal Revenue Service (RFB) changed its position on the classification of service remittances under tax treaties by means of Interpretative Declaratory Act 5/14 ("ADI 5/14"). In the past, such income was either treated as royalties or other income, giving cause to double taxation. ADI 5/14 establishes that service remittances shall fall under: (i) article 12 (royalties) when the tax treaty establishes that technical services fall under said article; (ii) article 14 (independent professions) when the rendering of the service is based on the technical qualification of a person or a group of people; or (iii) article 7 (business profits) in all other cases.

Thus, remittances for the payment of technical services made to beneficiaries resident in: (i) Austria, Finland, France, Japan and Sweden should not be subject to WHT in Brazil (article 7); and (ii) Argentina, Belgium, Israel, Mexico, South Africa, South Korea, Spain and Turkey remain subject to WHT in Brazil, at a 10% rate (article 12); and (iii) other countries, remain subject to the general 15% WHT rate.

According to local legislation, technical service is a service rendered with the use of any specific knowledge or that involves administrative assistance or consultancy services, irrespectively of any transfer of technology, performed by independent professionals or under labor agreements or related to automated structures with clear technological content. Such definition was also included in the tax treaty with Argentina.

In 2016, the RFB established rules for individuals and legal entities residing in Brazil to request a Mutual Agreement Procedure in case Brazil or both Brazil and the other contracting State have taken measures that lead or may lead to improper taxation under the tax treaties.

Following the worldwide exchange information tendency, Brazil has also entered into several agreements providing for the exchange of tax and financial information, such as the Convention on Mutual Administrative Assistance in Tax Matters and Tax Information Exchange Agreements with ome jurisdictions[18].

1 This table provides information about the applicable taxation on remittances of funds overseas from Brazil. When the domestic rate is lower than the rate applicable based on the relevant treaty, we informed only the local rate. Tax treaties apply not only to IRPJ but also to CSLL.
2 Such reduction is not applicable if the main purpose or one of the main purposes of any party involved in the transaction from which the income arises is taking advantage of the treaty provisions.
3 Exemption is granted if the beneficiary is the government of the other State, its political subdivisions or government owned entities.
4 The 15% rate applies to royalties arising from the use, or right to use, trademarks and 10% for other cases.
5 Deemed as royalties according to the corresponding royalties article of the treaty or the treaty protocol.
6 The 10% rate applies to royalties arising from the use of, or the right to use, any copyright of literary, artistic or scientific work, but not including cinematographic films, films or tapes for television or radio broadcasting and the 15% rate applies to all other cases.

7 See Additional Remarks.

8 The 10% rate applies to loans that meet some conditions (e.g., minimum repayment terms).

9 Exemption is granted if the beneficiary is the government of the other State.

10 The 10% rate applies to royalties arising from the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films, films or tapes for television or radio broadcasting and the 15% rate applies to all other cases.

11 Such reductions are only applicable to the beneficial owner of the income.

12 Applies to interest on net equity.

13 Exemption is granted if the beneficiary is the government of the other State or the Bank of Finland.

14 A legal entity that is a resident of a Contracting State and derives income from sources within the other Contracting State will not be entitled in that other Contracting State to the benefits of the treaty if more than 50% of interest in such legal entity is held by persons who are not resident of the first-mentioned State or of any of the Contracting States. However, such limitation of benefits does not apply if that legal entity carries on a substantial business activity in the Contracting State of which it is resident.

15 The 15% rate applies to royalties arising from the use of, or right to use, trademarks and any copyright on cinematographic films, films or tapes for television or radio broadcasting. The 12.5% rate applies to all other cases.

16 Payments of any kind concerning any transactions with respect to computer programs shall be taxable by a Contracting State in accordance with its domestic legislation.

17 Exemption is granted if the beneficiary is the government of the other State or the Central Bank of Turkey or the Import and Export Turkish Bank.

18 Brazil has signed tax exchange information agreements with Bermuda (pending ratification), Cayman Island (pending ratification), Guernsey (pending ratification), Jamaica (pending ratification), Jersey, Switzerland, United Kingdom, United States and Uruguay (pending ratification).

OVERVIEW

1. INCOME TAX

1.1 General Aspects

1.1.1. IRPJ and CSLL Rates

The general IRPJ rate for Brazilian entities (including Brazilian branches of foreign companies) is 15%. A surcharge of 10% is applicable for taxable income exceeding BRL 240,000 per year (USD 63,160[1]) or BRL 20,000 per month (USD 5,260) in case of base periods shorter than one year. CSLL is due at a 9% rate, except for financial entities which are subject to a 15% rate as of January 1, 2019.

1.1.2. Taxable Base

Brazilian legal entities may use one of the three following systems to calculate their taxable income: (a) the Actual Profit; (b) the Deemed Profit[2] or (c) the Arbitrated Profit[3]. Since the most usual is the Actual Profit, the considerations below relate to this system. Generally speaking, the taxable income corresponds to the net profit reported in the company's financial statements (according to the Brazilian Generally Accepted Accounting Principles – "BR GAAP"), adjusted in accordance with the additions and exclusions set forth by the tax legislation.

As a result from the convergence of the BR GAAP with the International Financial Reporting Standards (IFRS), and seeking to adapt the rules for the calculation of IRPJ, CSLL, PIS and COFINS to these new accounting rules, Law 12973/14 introduced significant changes on the legislation of such

taxes, in force as of January 1, 2015[4].

Such law requires that companies maintain several additional accounting controls in order to: (i) ensure the tax neutrality of transactions occurred before the initial adoption date; and/or (ii) allow the deferral deduction of Present Value and Fair Value adjustments, among others.

Law 12973/14 also introduced, among others: (i) modifications to the tax deduction of depreciation expenses5; (ii) the setting out of additional requirements for the tax deduction of goodwill amortization expenses[6]; and (iii) the provision of specific tax treatments for certain transactions previously not regulated by tax legislation such as:

- Borrowing Costs (IAS 23), which may be included in the cost of the asset but deducted for tax purposes in the year they are incurred, at the taxpayer's option;
- Share-based Payments (IFRS 2), which expenses are only considered as tax deductible after the actual payment or definitive delivery of the shares or equity instruments by the entity to the employee;
- Intangibles (IAS 38), which amortization expenses shall be considered as tax deductible under certain conditions;
- Leases (IFRS 16), allowing the deduction of the installments paid or credited provided some conditions are met;
- Services Concession Agreements (IFRIC 12).

A summary of the calculation of the IRPJ and the CSLL taxable basis could be illustrated as follows:

Net profit before IRPJ and CSLL
[+] Additions
[-] Exclusions
[=] Taxable income before tax losses offsetting
[-] Tax losses offsetting (up to 30% of the taxable income above)
[=] Taxable income
[x] 15% IRPJ rate
[x] 10% IRPJ surcharge (on taxable income exceeding BRL 240,000 – USD 63,160 – per year)
[x] 9% or 15% CSLL rate

IRPJ and CSLL are levied on the worldwide income of Brazilian legal entities as detailed in Section 1.1.2.6 below. Such rules were also extensively modified by Law 12973/14.

Under the Actual Profit system, the tax base period shall be closed on each quarter (Quarterly Actual Profit) or year (Annual Actual Profit), at the taxpayer's option. If the Annual Actual Profit is chosen, monthly advance payments are required. Section 1.2 below details IRPJ and CSLL payment and filing rules.

1.1.2.1. Deductions

As a general rule, all costs and expenses paid (or accrued) for the performance of the company's activities/undertakings (necessary, normal or usual expenses) are tax deductible, even if related to excluded and/or exempt income. Some expenses, however, are subject to deductibility requirements or limitations among which we highlight the following:

(A) Provisions: even if necessary for accounting purposes, they are not regarded as deductible expenses for IRPJ and CSLL purposes, except for those expressly authorized by law (e.g., vacations, 13th

month salary and certain technical provisions). Impairment of assets (IAS 36) is treated as a provision for tax purposes.

(B) Fringe Benefits: fringe benefits paid to the companies' administrators, officers, managers and/or their assistants can be considered tax deductible expenses provided that the values are included in the taxable income of the corresponding beneficiaries, which shall be individually identified.

(C) Taxes: these expenses are deductible on accrual basis, except for: (i) taxes that are being discussed in Courts and (ii) the IRPJ and CSLL.

(D) Royalties: for deductibility purposes, payments must be done under agreements registered with the Brazilian Patent and Trademark Office ("INPI") and, additionally, with the Central Bank of Brazil ("BACEN") in case of cross border remittances. Moreover, the sum of all royalties, technical assistance and other technology transfer payments due cannot exceed percentages varying from 1% to 5% of the net revenues derived from the sale of products manufactured or sold with the use of the relevant industrial property rights or technological knowledge. Technical assistance payments shall only be tax deductible for the first five years of operation of the relevant company (one renewal allowed) or in the case of introduction of a special production process. Although there is no legal basis to apply these limits to the CSLL taxable basis, there are controversies on the case law.

(E) Bonus or Profit Sharing: if paid to officers, these expenses are not tax deductible for IRPJ purposes, whereas, if paid to employees, they are fully tax deductible[7].

(F) Depreciation: despite of the criteria and method adopted for accounting purposes, companies may deduct the depreciation calculated on the acquisition cost using the straight line method and the rates established by RFB, among which we highlight:

(rates may vary depending on tax classification)

Asset	% per year	No. of years
Buildings	4%	25
Vehicles (depending on type/use)	10 to 25%	4 to 10
Hardware and software	20%	5
Furniture and fixtures	10%	10
Machine and equipment	10%	10

Depreciation may be accelerated: (i) by use (16 hours of use: additional of 50% on the depreciation rate; 24 hours of use: additional of 100%); or (ii) by incentive (sometimes also applicable to the CSLL).

If the asset is sold or written-off, the difference between the total depreciation considered for tax purposes and the total depreciation registered in the accounting books must be included in the IRPJ/CSLL taxable base.

(G) Losses Resulting from the Equity Pick-up Method of Accounting: such expenses are non-deductible (the revenues are not taxable).

(H) Amounts paid by Brazilian companies for the acquisition of equity stakes in other companies (investments subject to the equity pick-up method of accounting): the investment acquisition cost must

be segregated into: (i) proportional net equity of the target company; (ii) the surplus or deficit arising from the difference between the fair value of the net assets and item (i); and (iii) goodwill, which corresponds to the remaining balance from items (i) and (ii) or gain from a bargain purchase, which results from the positive difference between the fair value of the net assets and the acquisition cost.

The amounts paid corresponding to the surplus or deficit of net assets and/or goodwill shall only be tax deductible in the following cases: (i) sale, disposal, or liquidation of the relevant equity stake (the premium is deducted as cost of the relevant investment); and (ii) merger of the Brazilian investor into the target company, or vice-versa. The bargain purchase amount shall only be taxable at the sale, disposal, or liquidation of the equity stake or in case of a merger of the investor into the target, or vice-versa.

The appraisal report for acquisitions occurred as of January 1, 2015[4], must be registered before the RFB or with the Public Register for Deeds and Documents up to 13 months after the acquisition.

After the merger, the surviving company:

i. may consider as part of the cost of the assets the surplus corresponding to the assets for the purposes of depreciation, amortization or write-off provided the target company was acquired from a non-related-party;

ii. shall consider as part of the cost of the assets the deficit corresponding to the assets for the purposes of depreciation, amortization or write-off;

iii. may consider as deductible expense 1/60 per month of the goodwill balance provided the target company was acquired from a non-related-party; and/or

iv. shall consider the bargain purchase amount at the minimum rate of 1/60 per month in the calculation of taxes.

1.1.2.2. Exclusions (non-taxable income or income with deferred taxation)

(A) Profits arising from the sale of investments, fixed and/or intangible assets: IRPJ and CSLL may be ascertained and paid on a cash basis in case the price is agreed to be paid, partially or entirely, after the end of the tax base period following the one in which the sale was performed.

(B) Premium received in the issuance of shares or other kind of securities: exempt from taxation provided that the issuer is a corporation ("Sociedade por Ações") and that the amount received is registered in a capital reserve.

1.1.2.3. Tax Havens and Privileged Tax Regimes

The concept of tax haven encompasses countries or locations (i) that do not tax income or tax it at rates lower than 17% (compliance with international tax transparency standards set out by RFB is necessary[8]); (ii) that ensure the secrecy regarding the shareholding structure or ownership of legal entities; and or (iii) whose legislation does not allow the identification of the actual beneficiary of the income paid or credited to a nonresident.

The privileged tax regimes are those that meet one or more of the following requirements: (i) do not tax income or tax it at rates lower than 17% (compliance with international tax transparency standards set out by RFB necessary[8]); (ii) grant tax advantages to non-residents without requiring the performance of substantial economic activities in the relevant jurisdiction or conditioned to the

non-performance of substantial economic activities in the relevant jurisdiction; (iii) do not tax the income earned outside the relevant territory, or tax it at rates lower than 17%; and/or (iv) do not allow access to information about the shareholding structure of legal entities, ownership of assets and rights or economic transactions performed.

Normative Instruction 1037/10 of the RFB (as amended) lists the jurisdictions considered as tax havens[9] and privileged tax regimes[9].

Despite the general deductibility requirements foreseen in Section 1.1.2.1, the transactions carried out with parties domiciled in tax havens or under privileged tax regimes are subject to burdensome tax consequences in Brazil, to wit:

i. presumption of non-deductibility of costs and expenses incurred in such transactions, for IRPJ and CSLL purposes;

ii. application of Brazilian transfer pricing rules (see Section 1.1.2.4), even if the involved parties are not related; and

iii. application of stricter thin capitalization rules (see Section 1.1.2.5), even if the involved parties are not related.

The presumption described in item (i) shall be overruled if the following requirements are met, concurrently: (a) the beneficial owner of the foreign entity, who is entitled to the relevant payment, is identified (the beneficial owner is defined as the individual or legal entity that is not incorporated with the main or sole purpose of achieving a tax saving and that earns income on their own account, rather than as an agent, fiduciary manager or attorney-in-fact acting on behalf of a third party); (b) the operative ability of the non-resident to carry out the transaction is proved; and (c) documental evidence of the payment of the price and the receipt of the goods, assets, rights or the use of the services is presented.

This presumption does not apply in certain cases described in the law or regulations.

In addition to the foregoing, payments or credits of income from Brazilian sources to non-residents in tax havens are generally taxed at a higher WHT (25% instead of 15%).

1.1.2.4. Transfer Pricing Rules

Such rules apply to the following transactions, if carried out by Brazilian legal entities with related parties, related or unrelated parties domiciled in tax havens or non-residents subject to privileged tax regimes (see definitions on Section 1.1.2.3):

- import or export of assets, goods, services and rights; and
- interest expenses arising from transactions and interest revenues regardless of the registration with the Central Bank of Brazil.

Transfer pricing rules do not apply to royalty and know-how payments made by Brazilian companies to the parties mentioned above.

Brazilian tax law adopts a mathematical approach when describing the methods to calculate the transfer pricing benchmarks and, although the domestic transfer pricing rules are inspired by the OECD guidelines, there are relevant differences which must be considered.

One of such differences relates to the concept of related parties, which is broader than the concept of associated enterprises used by the OECD and includes not only the transactions between the legal entity and its branches; headquarters; controlled companies; controlling shareholders; managers and their relatives, but also the transactions with (among others):

- affiliate companies, as defined by Law 6404/76 (Corporation Law);
- companies that participate with the legal entity in a joint enterprise, under a "consortium" or "condominium";
- foreign legal entities that grant to the Brazilian legal entity (as their agent, distributor or dealer), exclusive rights to buy or sell assets/goods/services/rights; and
- foreign agents, distributors or dealers of the Brazilian legal entity, to whom the latter has granted exclusive rights to buy or sell assets/goods/services/rights.

Brazilian law adopts specific calculation methods for imports and exports of commodities.

1.1.2.5. Thin Capitalization Rules

Brazilian legal entities must comply with thin capitalization rules to be able to deduct interest, when calculating their IRPJ and CSLL, arising from any form of debt, for any term, irrespectively of the registration of the relevant transaction with the Central Bank of Brazil, with (i) related parties; (ii) residents in tax havens; and/or (iii) non-residents subject to privileged tax regimes.

The concepts of related parties, tax havens and privileged tax regimes are outlined in Section 1.1.2.3 and 1.1.2.4.

Payments or credits of interest arising from transactions covered by the thin capitalization rules shall only be tax deductible up to the debt/equity ratios below:

	Creditor		
Limit	Related party with (direct) equity stakes in the Brazilian company	Related party with no equity stakes in the Brazilian company	Resident in tax haven or subject to privileged tax regime (related or unrelated party)
Individual	Debt shall not exceed twice the value of the equity stake held by the related party in the Brazilian company's net worth	Debt shall not exceed twice the value of the Brazilian company's net worth	Debt shall not exceed 30% of the Brazilian company's net worth
Collective: debts with related parties with equity stakes or not (direct) in the Brazilian company	Total debts shall not exceed twice the value of the equity stakes of all the related parties abroad in the Brazilian company's net worth		
Collective: exclusively for debts with related parties with no (direct) equity stakes in the Brazilian company	Not applicable	Debts shall not exceed twice the value of the Brazilian company's net worth	

Non-deductible interest must be added to the Brazilian legal entity's profits or losses (i) ascertained on suspension or reduction balance sheets, on a temporary basis (see Section 1.2) (ii) ascertained in the end of each relevant tax base period (year or quarter, according to the method chosen to calculate the IRPJ and CSLL, as explained in Section 1.1.2), on a definite basis.

1.1.2.6. Profits and Other Revenues Earned Abroad

The IRPJ and the CSLL are levied on the worldwide income, which means that Brazilian companies must also consider, when calculating such taxes, the capital gains and profits arising from Brazilian investments abroad, including profits of foreign branches, affiliate or controlled companies.

As of January 1, 2015[4]:

i. the profits of directly or indirectly controlled companies shall be taxed individually on December 31 of the calendar year in which they were accrued (accrual basis). The losses may only be offset against future profits earned by the same (direct or indirectly) controlled company;

ii. if certain requirements are complied with, positive and negative results ascertained by foreign (directly or indirectly) controlled companies may be consolidated for Brazilian tax purposes, until 2022[10]. Positive consolidated results shall be added to the taxable basis of IRPJ and CSLL on December 31 of the calendar year in which they were ascertained (accrual basis). In case of negative consolidated results, the remaining amount of losses (after the consolidation) of each legal entity may be offset against future profits of the same foreign legal entity; and

iii. profits of qualifying foreign affiliate companies will be subject to taxation in Brazil on a cash basis or on an accrual basis, at the taxpayer's choice. Otherwise, profits shall be subject to tax in Brazil on December 31 of the calendar year in which they were accrued and losses shall only be offset against future profits of the same affiliate company.

Taxes due in Brazil on an accrual basis may be paid proportionally to the profits distributed to the Brazilian investing company, in up to 8 years (with interest), under certain conditions.

1.1.2.7 Foreign Tax Relief

Taxes paid abroad can be offset against IRPJ and CSLL due on profits and dividends of foreign controlled companies (limits must be observed). In the case of qualifying affiliate companies, only the tax paid abroad on dividend distribution can be offset against IRPJ and CSLL on such income.

Until 2022, Brazilian taxes due on profits of controlled companies that develop listed activities may be reduced by a deemed tax credit of 9%, as long as certain requirements are complied with[11].

1.1.2.8. Tax Losses Carry-forward / Carry-back

Tax losses can be carried forward without any statute of limitations, provided that the offsetting does not exceed 30% of the taxable basis ("actual profit") of any given period. No carry-back is allowed.

Non-operating tax losses (i.e., negative results from the disposition of fixed assets, investments and intangibles) may be offset only against non-operating profits, except in the tax base period when the non-operating tax losses accrue (such losses are subject to the 30% limit mentioned above).

A restriction to the tax losses' offsetting is imposed in case of change of control and business activities. Accordingly, a company cannot offset its tax losses if from the date of the accrual of such losses

to the date of their offsetting, a change in the control of the company and in the company's business activities occur concurrently.

In case of a spin-off, the company forfeit tax losses proportionally to the spun-off part of its net worth. In the case of merger, the merged company's tax losses cannot be offset against the profits of the company in which was merged.

1.1.2.9. Dividends and Capital Reductions

Distribution of profits/dividends arising as of January 1, 1996 is exempt from income tax, regardless of the beneficiary of the income (individual or legal entity, resident or non-resident).

The payment of interest on equity (a kind of dividend that is considered as an expense of the legal entity provided some limits are observed) is subject to a 15% WHT (25% in case of beneficiaries located in tax haven jurisdictions). Several decisions of the administrative level denied the deduction of interest on equity expenses from previous year and, following such understanding, RFB issued a rule that do not allow the distribution of interests on equity of previous years. Such provision, however, does not have a legal basis.

Capital refunds may generate taxable capital gain for the quotaholder or for the legal entity, on a case by case basis.

1.2. Payment and Filing

Under the Actual Profit System, the IRPJ and the CSLL may be quarterly or annually calculated (according to the taxpayer's option)[12].

Taxpayers that calculate their corporate taxes quarterly must pay such taxes up to the last business day of the month following the end of each quarter.

Taxpayers that calculate their corporate taxes annually must make advance monthly payments until the last business day of the month following the one to which it refers. Such advance payments are calculated on either on estimated income (calculated as in the Deemed Profit system[2]) or on actual profits shown in intermediary balance sheets (so-called suspension or reduction balance sheets) whichever is lower (at the option of the taxpayer). The difference between the IRPJ and the CSLL due and the advance payments must be paid up to the last working day of January or March following the end of the fiscal year, increased, in the last case, by legal interest as from February 1 or, if negative, can be offset against taxes due by the taxpayer as from January 1.
The Tax Bookkeeping (ECF) must be filed up to the last business day of July following the end of the fiscal year (Brazilian fiscal year coincides with the calendar year).

1.3. Penalties for Unpaid Tax or Tax Paid Belatedly

Unpaid taxes or taxes paid belatedly are charged with interest calculated based on the SELIC (*"Sistema Especial de Liquidação e Custódia"* – Special System for the Settlement and Custody) rate. For 2018, the SELIC corresponded to 6,24%.

Fines are also imposed on the principal. At the federal level, the following fines apply: (a) delayed payments: daily 0.33% up to a maximum of 20%; (b) tax assessments: 75% (general rule), 112.50% (cases in which the taxpayer does not present documentation if requested by the tax authorities),

150% (clear evidences of fraud) and 225% (fraud and refusal by the taxpayer to collaborate with the tax authorities). Discounts can be granted if the payment is made within certain deadlines.

1.4. Cross-border Payments

1.4.1. Withholding Income Tax (WHT)

The WHT is levied on the income earned by non-residents from a Brazilian source (income paid, transferred, credited, delivered or otherwise made available to a non-resident).

1.4.1.1. Dividends

Remittances of dividends arising from profits generated as of January 1, 1996 are not subject to WHT, regardless if the beneficiary is an individual or legal entity, resident or non-resident. Interest on equity is subject to 15% (25% if paid to beneficiaries in tax havens). For more details, please see Section 1.1.2.9.

1.4.1.2. Royalties, Technical Assistance and Technical / Administrative Services

Such remittances are subject to a general 15% WHT (other taxes are levied on such remittances as shown in the Highlights above – Imports of Services). Such 15% rate may be reduced by applicable provisions of Double Taxation Treaties (for more details, please see Additional Remarks of Treaty Taxation Section). A higher 25% rate is applicable to remittances made to tax haven jurisdictions. According to local legislation, technical service is a service rendered with the use of any specific knowledge or that involves administrative assistance or consultancy services, irrespectively of any transfer of technology, performed by independent professionals or under labor agreements or related to automated structures with clear technological content.

1.4.1.3. Other Services

Remittances for services not qualified as technical services or not included in the previous item are subject to a 25% WHT (other taxes are levied on such remittances as shown in the Highlights above – Imports of Services).

1.4.1.4. Interest

Payments of interest on foreign loans are generally subject to a 15% WHT (or a reduced rate applicable due to provision of a Treaty). A higher 25% rate is applicable to remittances made to tax haven jurisdictions. Certain reductions are granted to foreign investors provided some requirements are met, e.g., in case of bonds issued to fund investments.

1.4.1.5. Capital Gains

As of January 1, 2017 capital gains ascertained by non-resident individuals and legal entities domiciled abroad upon the disposal of goods and rights located in Brazil are subject to WHT progressive rates of 15% up to 22.5%. If the beneficiary of the capital gain is domiciled in a tax haven, a WHT of 25% rate applies, regardless of the amount of the capital gain.

1.4.1.6. Tax Treaties

Tax treaties generally limit the WHT on certain remittances to 10% to 15%.

2. OTHER TAXES

2.1. Excise Tax (IPI)

IPI is a federal tax charged on industrialized products manufactured or imported by Brazilian companies or shipment of goods imported or manufactured. The law defines that, for IPI purposes, manufacturing is the process which modifies the nature, functioning, finishing, presentation or purpose of a product or that improves a product for consumption, such as its conversion, improvement, assembly, packaging, repackaging or restoration.

The taxable basis on imports is the cost, insurance and freight (CIF) price (in compliance with customs valuation rules), plus custom duties (II). The taxable basis on the shipment of goods in the domestic market is the value of the relevant transaction, as provided by the law. The transactions between related parties are subject to a minimum taxable basis defined by law.

IPI rates vary according to the essentiality of the good (pharmaceutical products, for instance, are subject to zero rates, whereas sumptuous or superfluous articles can be taxed by rates of up to 300%) and its classification under the IPI Table of Rates ("TIPI"), which adopts the same nomenclature used in the Mercosur Common Nomenclature / Harmonized System ("NCM/SH"). IPI rates generally range from 5% to 30%.

IPI is a value added tax, calculated by netting of credits for imports and domestic purchases of inputs, and debits from taxable transactions. Exports are not taxed by IPI, but the exporters have the right to keep the related tax credit. The purchase of fixed assets does not imply the appropriation of IPI credit.

2.2. VAT on Sales and Services (ICMS)

ICMS is a state tax levied on:

i. imports of goods;

ii. domestic circulation of goods (the tax triggering event is the shipment of the goods, which includes the sales and other taxable transactions);

iii. inter-municipal or interstate transport services (including services originating from abroad); and

iv. communication services (including services originating from abroad).

Exports of goods and services and financial transactions with gold (financial asset) are not subject to ICMS. Export exemptions shall not impair the taxpayers' credit rights, as provided by the Constitution.

Transportation services rendered within the territory of the same municipality are not subject to ICMS, but rather to the ISS. ICMS can be levied on services rendered with the sale of goods, if such services are not reached by the competence of the municipalities to charge the ISS.

Generally, ICMS taxable basis are:

i. for imports of goods: the CIF price, plus II, IPI, PIS-Import, COFINS-Import, any other taxes, fees, contributions, customs expenses and ICMS itself (which must be included in its own taxable basis);

ii. for circulation of goods: the sales price or value of other taxable transactions, as provided by the

law, including PIS, COFINS and ICMS itself (IPI shall not be included in the ICMS taxable basis in case of goods for resale or manufacturing inputs; IPI must be included in ICMS taxable basis on transactions with end customers);

iii. for transportation and communication services: the remuneration charged by the service provider, plus PIS, COFINS and ICMS itself (which must be included in its own taxable basis).

Applicable rates on imports and circulation of goods within the territory of the same State vary from state to state. Generally ICMS rates are:

i. 17% (North, Northeast and Middle West states), 18% (South and Southeast states) on imports and circulation of goods within the territory of the same State;

ii. 25% on communication services; and

iii. 12% on transportation services.

According to the Federal Constitution, a Senate resolution shall provide for interstate rates on transactions executed between ICMS taxpayers. Currently, the resolutions establish that such rates are:

i. 4% on interstate transactions carried out with imported goods that are not submitted to manufacturing process after their customs clearance and goods submitted to manufacturing if it results in a final product, with an import content higher than 40%. ICMS shall be paid to the state where the importer is based and disputes among States arise when the recipient is not the ultimate importer;

ii. 7% on shipments from taxpayers based on the South/Southeast to taxpayers based in the North/Northeast/Middle West and state of Espírito Santo; and

iii. 12% on other interstate transactions.

Regarding the circulation of goods, the tax shall be paid to the state of origin of the goods, as a general rule, except for interstate transactions with petroleum, including lubricants and liquid and gaseous fuel derived therefrom and energy not destined for resale or manufacturing.

For transportation services, ICMS shall be paid to the state where the service starts (where the goods are shipped), irrespective of the place where contractors and service providers are based.

In case of communication services, ICMS shall be paid to the state: (i) where the sound and image broadcast service is provided; (ii) where the user is domiciled, when the service is rendered through satellite; (iii) where the service is charged; or (iv) where the service provider is based, in case the service is pre-paid by card or similar instruments.

As of January 1, 2016, interstate transactions involving end consumers are subject to the payment of the difference between the internal rate and the interstate rate to the State of destination. Such tax shall be paid by (i) the seller if the recipient is not an ICMS taxpayer; or (ii) the recipient if this one is an ICMS taxpayer.

ICMS is a value added tax. Hence, taxpayers shall book (i) credits for the ICMS paid on imports or

domestic purchase of goods and some services and (ii) debts for sales or other taxable transactions. The tax related to the domestic circulation of goods and services to be periodically collected shall be calculated by netting credits and debts.

Generally, taxpayers cannot book ICMS credits for exempt or non-taxable acquisitions and some services and will cancel ICMS tax credits in the case of subsequent exempt or non-taxable operations.

Currently, several transactions are subject to ICMS tax substitution (ICMS-ST) rules. This system consists in the collection of the ICMS by the manufacturers and importers, who must pay the ICMS levied on their own operations, as well as the tax that would be due on subsequent taxable operations until the product is delivered to the end consumer within the State.

On interstate transactions, the State of destination shall charge the ICMS-ST from the purchaser upon the arrival of the goods in its territory. The supplier will be responsible for paying the ICMS-ST on these transactions only in case there is an Agreement in place between the State of origin and the State of destination of the goods.

ICMS incentives and benefits can only be granted by Agreements signed by all federal states to avoid harmful competition between them. However, several Brazilian states, aiming at attracting new investments, grant ICMS incentives, such as ICMS refunds, deemed credits, tax exemptions, without proper approval. This procedure has often been challenged and declared unconstitutional by the Supreme Federal Court. We point out that the Supreme Federal Court has some precedents determining that the declaration of unconstitutionality of a benefit will be effective as of the date of said decision, forbidding the States to charge ICMS based on an unconstitutional benefit.

In 2017, a Supplementary Law was enacted to address the harmful tax competition between the Brazilian States. Such law determined that the States should list all the normative acts granting tax benefits and register them in the National Council of Tax Policy (CONFAZ), and from then on, the term of each incentive may be extended by governors for up to 15 years for most economic activities, with reduced deadlines of 8, 5, 3 and 1 year, depending on the nature of the benefit. Furthermore, such law forbids the collection of past tax debts related to tax benefits registered in CONFAZ.

The States are currently carrying out the procedures for the regularization of their ICMS benefits.

2.3. Tax on Services (ISS)

ISS is the municipal tax on services levied on the import and the rendering of services listed in the Federal Supplementary Law 116/03.

Said law has fixed the ISS minimum and maximum rate at 2% and 5%, respectively, and ruled the ISS exemption on exports, defining exports as the rendering of services to parties located abroad as long as the results of such services are not produced in Brazil. Such definition has raised serious concerns, as there is no clear criteria to identify what should be understood by "results produced in Brazil".

Although the minimum rate is fixed at 2%, some municipalities adopt lower rates – against the law – to attract investments. As of January 1, 2018, any act or omission to grant, apply or maintain a financial or tax benefit that reduces the ISS burden to under 2% of the service price shall be considered as administrative improbity and the responsible agent shall be held personally liable for the municipal tax loss.

Taxpayers are the service providers. However, in the case of imports of services, the importer is responsible for the calculation and collection of the tax due by the foreign party. The ISS taxable basis is the service price and tax rates vary from municipality to municipality by type of service.

As a general rule, the tax must be paid to the municipality where the establishment performing the service is located. However, there are some exceptions to this rule depending on the type of service. For instance, in case of performance of civil construction, hydraulics or electrical engineering services, the ISS is due to the municipality where the service is provided.

Supplementary Law 116/03 allows the municipalities to determine that the engaging party is liable for the withholding and payment of the ISS in certain cases.

2.4. Contribution for the Social Integration Program (PIS) and Contribution for Social Security Funding (COFINS)

PIS and COFINS are federal social security contributions levied on revenues earned by legal entities. Exceptions apply (e.g. dividends and revenues derived from exports of goods or services, and in the last case, as long as the export revenues are cashed in Brazil or kept outside Brazil in compliance with local exchange control rules).

The taxes are mainly calculated according to the non-cumulative or cumulative systems, which may coexist for the same legal entity depending on the nature of its activities. Exemptions and specific rules apply to certain businesses and certain income on a case-by-case basis.

The non-cumulative system is generally mandatory for entities that calculate the IRPJ and CSLL based on the actual profit system, while the entities that calculate the IRPJ and CSLL based on the deemed profit system are subject to the cumulative system of these contributions.

PIS and COFINS are highly regulated taxes and represent a significant share of the overall Brazilian tax collection, which represents a very heavy tax burden. Disputes and controversies are frequent in this field, especially regarding the right to use tax credits, as the law and the interpretation of tax authorities restrict this right.

On March 15, 2017, the Supreme Federal Court ruled that, in the case of sales of goods, the inclusion of the ICMS on the PIS and COFINS taxable basis is unconstitutional, as it is not legally comprised in the selling entity's revenues, because such amount will be transferred to the States, not adding to the entity's assets.

The effects in time of such ruling (i.e., if the inclusion of the ICMS in the PIS and COFINS taxable basis will be deemed unconstitutional only for future transactions, preventing the recovery of overpaid PIS and COFINS), will still be analyzed by the Supreme Federal Court.

2.4.1. Non-cumulative System

Generally, PIS and COFINS are levied on gross and other revenues of legal entities at rates of 1.65% and 7.6% respectively and exceptions apply (see section 2.4.3). Some other revenues are exempt, such as the ones arising from the sales of fixed assets.

Financial revenues are, generally, subject to the rates of 0.65% (PIS) and 4% (COFINS), except for the following revenues, which are subject to a 0% rate:

i. financial revenues arising from exchange variations deriving from exports of goods and services and liabilities of the legal entity, including loans and financing; and

ii. hedge transactions exclusively intended for the protection of risks of price fluctuations or rates if, cumulatively, the purpose of the agreement negotiated is related to the entity's core business and is intended to protect its rights or obligations.

The taxpayer is entitled to tax credits provided by law to offset PIS and COFINS debts, generally corresponding to the rate of each contribution (1.65% and 7.6%), among which we highlight the following:

i. expenses incurred on (i) domestic purchases of goods for resale or manufacturing inputs and (ii) services hired by the taxpayer to provide services to its customers and/or for producing goods for sale or renting;

ii. expenses with electric energy, rent of buildings, rent or lease of machines and equipment used for the activities of the taxpayer and transportation costs relating to sales; and

iii. depreciation expenses relating to fixed assets imported or purchased in the domestic market and used in the manufacturing process, for renting or for the rendering of services. Some alternatives are available to use such credits.

If a company has activities/revenues subject to the cumulative and non-cumulative systems, PIS and COFINS tax credits must be proportional to the revenues subject to the non-cumulative system.

2.4.2. Cumulative System

In the cumulative system, gross revenues earned by legal entities are taxed at the rates of 0.65% (PIS) and 3% (COFINS)[13]. The taxpayer has no right to tax credits for the contributions paid on imports or relating to domestic purchases and expenses incurred. Other revenues are not taxed in this system.

2.4.3. Specific PIS and COFINS Rules

Specific rules apply per type of revenue or activity, such as:

i. financial institutions;

ii. pharmaceutical, automotive, beverage, and tobacco industries;

iii. fuel industry; and

iv. hygiene and cosmetics products.

Among such specific rules, we highlight:

i. tax centralization rules, by means of which PIS and COFINS are charged only once, from a chosen person of the relevant market chain; and

ii. tax substitution rules, by means of which a person appointed by the law must be liable to calculate and collect PIS and COFINS due by other persons, on past or future transactions (in the latter case based on estimated prices).

Such tax centralization[14] and tax substitution rules are frequent in sectors with high informality levels.

A tax substitution system applies, for instance, to tobacco industries, in which case importers and manufacturers will be liable for the taxes due at the retail level.

2.4.4. PIS-Import and COFINS-Import

Such contributions are due on:

i. imports of goods: at rates of 2.1% (PIS-Import) and 9.65% (COFINS-Import) on the customs value (CIF). Some products are currently subject to a surcharge of 1% of COFINS-Import, resulting in an effective rate of 10.65%. It should be noted that different tax rates (including 0% rate) apply to imports of pharmaceutical products, perfumery, toiletries and personal hygiene products, some vehicles, tires and inner tubes, some auto parts, and paper for printing books, newspapers and periodicals, among others; and

ii. imports of services: at the rates of 1.65% (PIS-Import) and 7.6% (COFINS-Import) on the amounts paid, credited, delivered, employed or remitted abroad, before the WHT, plus the ISS and the amount of the contributions themselves.

The taxpayer subject to the non-cumulative system can be in certain cases entitled to PIS-Import and COFINS-Import credits, calculated at the rates applicable on the import transaction upon the amount used as the contributions' taxable basis. Importers are not entitled to credits related to the 1% COFINS-Import surcharge.

2.5. Economic Intervention Contribution (CIDE) on Payments of Royalties, Technical Services and Administrative Assistance

CIDE is a Federal contribution levied at a 10% rate on the amounts paid, credited, transferred, delivered or otherwise made available to non-residents for technology transfer or technology license agreements, patents and trademarks licenses, technical assistance, technical and administrative services[15] and any agreement involving royalty payments, except for payments for software licenses and for the right of commercialization and distribution of software that are not connected with transfer of technology.

2.6. Tax on Financial Transactions (IOF)

IOF is levied on credit, exchange and insurance transactions, as well as on securities at variable rates.

Credit granted to legal entities is subject to the IOF at a 0.0041% daily rate plus a 0.38% surcharge. Foreign currency exchange transactions are generally subject to a 0.38% rate, with a few exceptions (including a 6% rate on the inflow of currency as loans granted or repaid in less than a certain period of time – currently, this term is fixed in 180 days). Insurance transactions are generally subject to the IOF at rates varying from 0% to 7.38%. Securities transactions are subject to the IOF at rates that vary according to the type of investment and investment period. Generally, floating and fixed income investments for 30 days or more are subject to a zero percent rate.

Due to IOF's regulatory purpose on instituting and controlling exchange, credit, insurance and securities policies, its rates can be modified producing immediate legal effects.

2.7. Property Taxes

2.7.1. Urban Property Tax (IPTU)

IPTU is a municipal tax levied annually on the ownership or possession of any real estate located in urban areas. The taxable basis corresponds to the fair market value of the property at a rate that may vary according to the Municipality and the use and price of the real estate.

In the city of São Paulo, IPTU rates range from 1% to 1.5% with discounts or additions granted based on the market value and use of the relevant property (calculated as provided by the Municipal law).

2.7.2. Tax on Vehicles' Ownership (IPVA)

IPVA is a state tax levied annually on the ownership of vehicles[16]. The taxable basis corresponds to the fair market value, determined every year by the State Treasury Secretariat, that takes into consideration the brand, model and age of the vehicle. The applicable rate may vary according to each State. In São Paulo, for instance, the -tax rate varies from 1.5% to 4%.

2.7.3. Tax on Rural Properties (ITR)

ITR is a federal tax levied annually on the ownership or possession of rural property (real estate located outside the urban zones of the cities). The Federal Union may enter into conventions with Municipalities to delegate to such Municipalities the duty to inspect and collect the ITR.

The taxable basis is the value of the taxable area, which shall be calculated in accordance with specific rules. Tax rates vary depending on the total area of the property and level of use of the areas that can be exploited for agricultural purposes, according to the table of rates below.

	Utilization Rate - GU (%)				
Total Area of the Property (per hectares)	Up to 30	Above 30 up to 50	Above 50 up to 65	Above 65 up to 80	Above 80
Up to 50	1.00	0.70	0.40	0.20	0.03
Above 50 up to 200	2.00	1.40	0.80	0.40	0.07
Above 200 up to 500	3.30	2.30	1.30	0.60	0.10
Above 500 up to 1,000	4.70	3.30	1.90	0.85	0.15
Above 1,000 up to 5,000	8.60	6.00	3.40	1.60	0.30
Above 5,000	20.00	12.00	6.40	3.00	0.45

Small sized rural properties exploited by the owner, who does not have any other real estate, are exempt. ITR has been an important tool to discourage unproductive rural properties.

2.8. Tax on Real Estate and Related Rights Transfer (ITBI)

ITBI is a municipal tax levied on *inter vivos* and remunerated transfers of ownership or *in rem* rights over real estate. The taxable basis corresponds to the fair market value of the property at a rate that may vary according to the Municipality. In the city of São Paulo, the general rate is 3%.

This tax is not levied on the contribution of a real estate and/or *in rem* rights in exchange for capital of a legal entity or on ownership transfers resulting from corporate reorganizations, such as mergers, spin-off or liquidation, except if, in any of such cases, the acquirer's core activity is trading or leasing

real estate as provided by the law.

2.9. Donation and Inheritance Tax (ITCMD)

ITCMD is a state tax levied on donations or inheritances. The taxable basis corresponds to the fair market value or value of the relevant donation or inheritance. Applicable rates vary from State to State, subject to a maximum 8% rate. In São Paulo, ITCMD is currently charged at 4% rates[17].

3. CUSTOMS DUTIES AND EXPORT TAXES

3.1. Customs Duty (II)

II is a federal tax levied on imports of goods and charged for the clearance of such goods from customs.

Generally, II taxable basis is the CIF value, with due regard to the 1994 General Agreement on Trade and Tariffs (GATT) customs valuation rules. The Agreement describes six methods, which may be successively applied in order to ensure that II is paid on market prices.

Applicable rates vary per imported item - according to the relevant tax classification under the Mercosur Common External Tariffs Table ("TEC-SH"), organized based on the Mercosur Nomenclature (which is based, in turn, on the Brussels Nomenclature) - and may range from 0% to 35%. II is not a VAT.

Please note that IPI, PIS, COFINS and ICMS are also levied on imports of goods, as described above. See Section 5 below for tax and customs incentives.

3.2. Export Tax (IE)

Export tax is a federal tax levied on exports of national or nationalized products, imposed when the products leave the Brazilian territory. Generally speaking, the taxable basis is the export price of the product. The rate may vary according to the tax classification number of the product, but, currently, the rate is zero for virtually all products, except for (i) leather, fur and dead animal skin, which are subject to the tax rate of 9%; and (ii) cigarettes and guns (subject to few exceptions) destined to Latin America, subject to tax rate of 150%.

4. PAYROLL TAXES / WELFARE CONTRIBUTIONS

4.1. Social Security Contributions

The Brazilian Social Security System is generally financed by taxes (social contributions) paid by companies and professionals (employees and self-employed professionals) over the total compensation for services. Companies also support some welfare services for employees (such as SESI, SENAI, SESC and SENAC), the so-called "S System".

The social contributions due by companies are composed of a fixed rate of 20% supplemented by rates generally varying from 6.3% to 11.8%, in case of compensation paid to employees. The criteria to establish such variable rate depend on the company's core business, on the occupational hazards related to the working environment, and on the annual company's Accident Prevention Factor ("FAP" in the Brazilian acronym), which is calculated according to the number, cost and seriousness of work accidents, among other factors. The contributions to support welfare services comprise rates of up to 5.8% over the compensation paid to employees.

Companies of some specific sectors, such as IT, call center, road, railway and subway passenger transportation, some types of cargo transportation, civil and infrastructure construction, some types of retailer companies and companies engaged in the manufacturing or sale of certain goods, are entitled to replace, partially or totally, the ordinary payroll contribution levied at 20% rate by rates varying from 1% to 4.5% levied on the company's gross revenues (export revenues are not included) until December 31, 2020. Agricultural and agro-industrial sectors in general have their social contributions mandatorily replaced by a rate of 2.85% levied on the company's revenues.

The professional's contributions (employees and self-employed professionals) are withheld by the companies at rates varying from 8% to 11%, limited to a maximum monthly contribution of BRL 642.33 (USD 169.03).

4.2. Unemployment Severance Fund ("FGTS")

The FGTS is a monthly social contribution equivalent to 8% of the employees' monthly compensation. The employer deposits this contribution into accounts opened on behalf of each employee at a governmental bank. Employees can withdraw such funds under certain circumstances, such as retirement termination without a cause, housing purchase, among others.

In case of termination without a cause, the employer is subject to a fine of 50% on the FGTS balance on the termination date (40% fine reverting to the employee and 10% fine paid as a tax).

5. TAX AND CUSTOMS INCENTIVES

5.1. Free Trade Zones

5.1.1. Manaus Free Trade Zone ("ZFM")

ZFM incentives are granted by the Federal Constitution until 2073 and comprise federal, state and municipal tax benefits, such as:

Federal taxes incentives:

- II: up to 88% reduction on several inputs used in the manufacturing process at ZFM according to a Basic Production Process defined by law;
- IPI: exemption on imports of certain inputs to be manufactured or consumed at the ZFM, on shipment of products made in Brazil to ZFM for consumption or to be used as inputs in the region and on shipment of products manufactured in ZFM to other regions within the national territory;
- IRPJ: 75% reduction of income tax calculated on profits directly related to the encouraged activities for applications filed and approved with the ZFM until December 31, 2023;
- PIS-Import and COFINS-Import: suspension on imports of raw material, intermediate products and packaging materials, for use in manufacture processes by industrial plants located within the ZFM as well as on the import of certain new fixed assets;
- PIS and COFINS: 0% on revenues from sales carried out by legal entities based outside

ZFM of goods to be consumed or manufactured inside the ZFM and on revenues from sales of certain production inputs by legal entities based inside ZFM to ZFM companies; and reduced rates on sales of products manufactured by ZFM companies depending on certain characteristics of the purchaser (e.g. based inside or outside the region; taxed based on the cumulative or non-cumulative system).

State taxes incentives:

- ICMS: exemption on shipment of national products from other Brazilian States to ZFM companies; deemed credit for the tax that would be paid if the tax exemption were not applicable; and refunds varying from 55% to 100% of the tax due.

5.1.2. Other Free Trade Zones

There are other free trade zones in Brazil in some Municipalities in the Northern States, to which similar benefits apply.

5.2. Regional Development Incentives

Companies in the North, Northeast and in certain States in the Middle West (Mato Grosso) and Southeast (certain areas of Espírito Santo and Minas Gerais) can benefit from federal, state and municipal incentives.

The most important one relates to a 75% IRPJ reduction for companies domiciled in the Amazon and in the Northeast regions that execute activities considered as a priority (as defined by Presidential Decrees) for the development of those regions (in certain cases an exemption can be granted). In general terms, taxpayers may benefit from such reduction for a 10 year period provided they apply and have their projects approved until December 31, 2023. The benefit shall be approved by the RFB based on a prior technical analysis of the Amazon and Northeast Development Superintendencies (SUDAM/SUDENE).

The IRPJ reduction only applies to profits directly related to the encouraged activities (“lucro da exploração”). The tax waiver must be registered as a fiscal incentive reserve and can only be used to offset losses or increase the company’s capital (cannot be distributed to its partners). Law 12973/14 establishes that, in case the reserve is used to offset losses, future profits must be used to recover such reserve.

5.3. Technological Innovation Incentives

Applicable to legal entities that carry out research of new products, new manufacturing processes and improvements in quality, productivity and competitiveness of existing products and manufacturing processes.

IRPJ and CSLL benefits:

- Deduction of expenses with technological innovation R&D;

- Exclusion from the IRPJ and CSLL taxable basis of percentages varying from 60% to 100% of the expenses with technological innovation R&D (conditions must be met);

- Full depreciation in the year of acquisition of new assets used in the technological innovation R&D;
- Accelerated amortization of costs with the acquisition of intangibles linked to the technology innovation R&D.

Other benefits:

- 0% WHT on payments or credits to non-residents for the registration and maintenance of trademarks, patents, and cultivars abroad;
- 50% reduction of the IPI levied on the purchase of assets destined for technological R&D;
- Government subvention of up to 60% of the value of the remuneration of researchers holding masters or PHD degrees.

5.4. Main Special Customs Regimes Available

Brazilian law allows the admission of foreign goods into the Brazilian territory without the immediate payment of taxes, under special import regimes, as long as certain requirements are met. The most common regimes are as follows.

5.4.1. Temporary Admittance of Foreign Goods

Under this regime, certain goods are admitted temporarily into Brazil, for specific purposes, with a total or partial suspension of customs duties, IPI, PIS and COFINS levied on imports. Generally, guarantees for the suspended taxes are required from the beneficiary of the regime.

The total suspension is usually applicable to imports for sport competitions, artistic and cultural exhibitions, scientific and trade fairs, among others.

The partial suspension applies to imports for so-called "economic purposes", such as imports of equipment and machinery under an operational lease, rental or free lease, when the imported products will be used in Brazil to (a) provide services to third parties, or (b) manufacture goods for sale.

In the last case, the importer shall pay an amount equivalent to 1% of the total taxes levied on a regular import of the same good multiplied for the number of months of its permanence into Brazil. The difference between the total taxes levied on a regular import and the taxes calculated as described above will be suspended.

If the goods brought to Brazil under temporary admittance return to their country of origin the total or partial suspension granted is converted into a tax exemption. If they are nationalized, tax differences shall be paid.

ICMS exemptions or reductions apply pursuant to Agreement 58/99 and the laws of each State.

5.4.2. Drawback

There are two modalities of drawback:

i. suspension of Customs duties, IPI, PIS, COFINS and ICMS levied on imports (or acquisitions in

the domestic market) -of goods that shall be used to manufacture products for exportation within a specified term (generally one year, which can be extended for an equal term); or

ii. exemption of Customs duties, IPI, PIS and COFINS levied on imports (or acquisitions in the domestic market) of goods that shall replace -inventory items imported with the payment of taxes (or acquired in the domestic market) and used in the production of exported products .

In the case of item (a), the suspension of taxes is converted into a tax exemption upon the exportation of the products manufactured with the imported items. Otherwise, payment of the suspended taxes is required.

5.4.3. Bonded Warehouse

This regime suspends the payment of II, IPI, PIS-Import, COFINS-Import and ICMS for goods admitted into Brazil in consignment.

The suspension is granted for one year as of customs clearance, which may be extended for two more years, as long as the goods are stored at certain bonded warehouses.

If the goods are exported or industrialized in the bonded warehouse and exported, the suspension is converted into tax exemption. If the goods are nationalized, the suspended taxes shall be paid.

5.4.4. Industrial Warehouse (RECOF)

This regime provides for the suspension of Customs duties, IPI, PIS and COFINS- levied on imports and acquisitions in the domestic market of inputs used for manufacturing goods to be sold in the domestic market or exported, as well as for the maintenance or repair of certain used foreign goods (e.g. aircrafts, vehicles, IT and telecommunication products, semiconductors and highly technological components used by electronic and telecommunication industries).

The suspension of taxes is granted for a period of one year, which can be extended on a case by case basis, as long as the regime is not granted for more than 5 years. The 5 year term applies to goods with a long production cycle. The beneficiaries of the regime are the manufacturers of the goods aforementioned, who shall have to meet certain requirements.

The taxes suspended shall be paid if the beneficiary (i) does not export the goods in the legal period; or (ii) sells the goods in the domestic market.

5.5. Other Incentives

Brazilian legislation provides other tax incentives for several economic sectors, among others:

- Programs to Support Culture and Sports;
- Informatics and Automated Products;
- Program to Support Educational Activities (PROUNI);
- Special Regime for the Purchase of Capital Goods by Exporters (RECAP);
- Regime applicable to infrastructure projects in the areas of transportation, ports, energy, sanitation and irrigation (REIDI);

- Special Regime for the modernization and expansion of the port structure (REPORTO);

- Special Regime for the oil and gas sector (REPETRO): import and export of equipment, machinery and parts;

- Special Tax Regime for Small Businesses (SIMPLES): applicable to small companies with annual gross revenues lower than BRL 360,000 (USD 112,500) and medium sized companies with annual gross revenues greater than BRL 360,000 (USD 112,500) and not exceeding BRL 4,800,000 (USD 1,500,000). Not applicable to certain companies or activities (e.g. corporations, companies with foreign shareholders and companies engaged in consulting services); and

- Oil and gas sector. As of January 1, 2018, expenses and depreciation/exhaustion charges related to the exploration and production of oil and natural gas may be fully deducted from the IRPJ and CSLL taxable basis and an exemption of WHT on remittances abroad may apply, among others benefits.

Brazilian legislation also provides tax incentives for several other sectors, such as digital TVs, information technological services focused on exports, real state defense industry sectors, among others.

6. ANCILLARY OBLIGATIONS

Brazilian taxpayers are required to inform their tax obligations in innumerous electronic reports through which tax authorities are able to track inconsistencies and acknowledge companies' tax positions. Those reports include the Federal Tax Debts and Credits Return (DCTF, where federal taxes due shall be monthly informed), the Withholding Income Tax Return (DIRF, where income taxes withheld shall be annually informed), which will be replaced by the Digital Bookkeeping of Withholdings and Other Tax Information (EFD-Reinf) for taxable events occurred as of May 1, 2018, January 1, 2019 or July 1, 2019 (depending on the type of entity/person obliged to comply with such obligation), and others such as:

6.1. Public Digital Bookkeeping System (SPED)

As part of the SPED, all legal entities that pay corporate taxes based on the actual profit system and on the deemed profit system must keep their accounting records in digital format and submit such files to the RFB. All operations that impact the calculation of IRPJ and CSLL basis must be annually informed (up to the last business day of July following the end of the fiscal year) through the Tax Bookkeeping (ECF).

In line with Action 13 – Transfer Pricing Documentation and Country-by-Country Report (CbC) of BEPS, ultimate parent entities of multinational groups residing for tax purposes in Brazil must submit information in the CbC on an annual basis through the Tax Bookkeeping (ECF).

6.2. Eletronic Report of Foreign Trade (SISCOMEX)

This electronic system records, monitors and controls foreign trade transactions.

6.3. Eletronic Report of Services, Intangibles, and any other Transaction that may change parties' net worth (SISCOSERV)

Transactions between Brazilian residents (individuals and legal entities) and non-residents regarding the export or import of services, transfer or acquisition of intangibles, and any other transactions that may change parties' net worth shall be informed through this system. The information required also includes services rendered abroad by a foreign related party of the Brazilian legal entity, but excludes any services or intangibles that are connected with imported or exported goods (which shall only be reported in SISCOMEX).

6.4. Eletronic Invoices

Commercial invoices are issued electronically.

6.5. Electronic Report of Labor and Social Security Contributions (eSocial)

A digital bookkeeping system of tax, social security and labor obligations ("eSocial") was recently introduced by the federal government. The employers must provide information regarding employees´ personal data as well as employment relationship relevant information, such as: admissions, absence periods, dismissals, detailed payroll information, FGTS, social security contributions, union relationship and occupational safety and health data under the penalty of being compelled to pay administrative fines set out by the Federal Revenue Service, the Social Security Institute and the Ministry of Labor.

1 Estimated exchange rate: BRL 3.8 per each USD 1.00.

2 Usually applicable to small-size companies with total revenues of less than BRL 78 million (approximately USD 20,5 million) in the previous year, that are not subject to restrictions otherwise imposed by law (e.g., financial institutions, companies earning profits/income from abroad etc.). The taxable basis (deemed profit) is calculated on a quarterly basis upon the applicability of certain percentages on the company's gross sales revenue which may vary per activity performed by the company. The general percentages are 8% (for IRPJ) and 12% (for CSLL). In case of services the percentage is 32% for both taxes. Other revenues may be subject to other specific percentages or may be fully added to the taxable basis.

3 For a long time used at the sole discretion of the tax authorities. Nowadays, the companies are authorized to use this income tax system in some specific cases, such as when their accounting records are not reliable for the calculation of the taxes due. It is similar to the "Deemed Profit System" (also calculated on a quarterly basis), but the percentages applicable on the companies' revenues are 20% higher for IRPJ purposes.

4 Or January 1, 2014, at the taxpayer's choice.

5 See section 1.1.2.1 (F).

6 See section 1.1.2.1 (H).

7 The profit sharing paid to employees is taxable exclusively at source according to a specific table of progressive rates.

8 Normative Instruction 1530/14 establishes that jurisdictions that comply with international tax transparency standards shall be the ones that: (i) have executed a tax treaty providing for the exchange of information or a Tax Information Exchange Agreement or concluded negotiations for such with Brazil; and (ii) are committed to the criteria set out by international forums on tax evasion of which Brazil is part, such as the Global Forum on Transparency and Exchange of Information for Tax Purposes.

9 The countries or locations considered as tax havens are: American Samoa, Andorra, Anguilla, Antigua and Barbuda, Aruba, Ascension Island, Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Brunei, Campione D'Italia, Cayman Islands, Channel Islands (Alderney, Guernsey, Jersey and Sark), Cook Islands, Curacao Cyprus, Djibouti, Dominica, French Polynesia, Gibraltar, Granada, Hong Kong, Ireland, Isle of Man, Kiribati, Labuan, Lebanon, Liberia, Liechtenstein, Macao, Maldives, Marshall Islands, Mauritius, Monaco, Montserrat Islands, Nauru, Niue, Norfolk Island, Panama, Pitcairn Islands, Qeshm, Saint Helen, Saint Lucia, Saint Martin, Saint Pierre and Miquelon, Saint Vincent and Grenadines, San Marino, Seychelles, Solomon Islands, Sultanate of Oman, Swaziland, Tonga, Tristan da Cunha, Turks and Caicos, United Arab Emirates, US Virgin Islands, Vanuatu, and West Samoa. The privileged tax regimes are those applicable in Austria, Denmark and in the Netherlands (holding companies that do not perform substantial economic activities); in Costa Rica (Free Trade Zones – RZF); in Iceland (International Trading Company – ITC); in Malta (International Trading Company – ITC – and International Holding Company – IHC); in Spain (Entidad de Tenencia de Valores Extranjeros – ETVE); in Portugal (International Business Centre of Madeira – CINM); in Singapore (special rate of tax for non-resident shipowner or charterer or air transport undertaking; exemption and concessionary rate of tax for insurance and reinsurance business; concessionary rate of tax for Finance and Treasury Centre;

concessionary rate of tax for trustee company; concessionary rate of tax for income derived from debt securities; concessionary rate of tax for global trading company and qualifying company; concessionary rate of tax for financial sector incentive company; concessionary rate of tax for provision of processing services for financial institutions; concessionary rate of tax for shipping investment manager; concessionary rate of tax for trust income to which beneficiary is entitled; concessionary rate of tax for leasing of aircraft and aircraft engines; concessionary rate of tax for aircraft investment manager; concessionary rate of tax for container investment enterprise; concessionary rate of tax for container investment manager; concessionary rate of tax for approved insurance brokers; concessionary rate of tax for income derived from managing qualifying registered business trust or company; concessionary rate of tax for ship broking and forward freight agreement trading; concessionary rate of tax for shipping-related support services; concessionary rate of tax for income derived from managing approved venture company; and concessionary rate of tax for international growth company); in Switzerland (holding company, domiciliary company, auxiliary company, mixed company, administrative company and other companies with ruling granted by tax authorities, which tax treatment results in the levy of Corporate Income Tax at a combined rate lower than 20% according to federal, cantonal and municipal legislation); and in the United States (State LLCs – Limited Liability Companies – owned by non-residents and not subject to federal income tax). Governments are allowed to file pleads for the revision of their classification within the Brazilian lists of tax havens or privileged tax regimes. Based on such reviews, Spain has been temporarily excluded from the list of privileged tax regimes until a final decision is granted to its request.

10 The tax consolidation shall not include amounts ascertained by companies: (i) located in a country with which Brazil does not have a Tax Information Exchange Agreement or clause (unless the Brazilian company provides digital accounting bookkeeping); (ii) located in tax havens or subject to privileged tax regimes or subject to nominal tax rate lower than 20% ("regime de subtributação"); (iii) controlled, directly or indirectly, by a legal entity subject to the tax treatment mentioned in item (ii); or (iv) that have active income lower than 80% of its total income.

11 The invested company shall not: (i) be subject to a nominal income tax rate lower than 20% ("regime de subtributação"); and (ii) have active income lower than 80% of its total income.

12 Under the Deemed Profit and the Arbitrated Profit such taxes must be calculated on a quarterly basis.

13 4% COFINS rate applicable for commercial banks; investment banks; development banks; savings banks; credit, financing and investment institutions; real estate credit companies; brokers; bonds and securities brokers; leasing companies; credit cooperatives; private insurance and capitalization companies; autonomous private insurance and credit agents; open and closed private pension entities, and legal entities whose purpose is the securitization of credits.

14 Examples of tax centralization system are represented by the hygiene and pharmaceutical sectors, where the importer or the manufacturer shall calculate PIS and COFINS at a higher rate (total of 12.5% and 12%, respectively), while the zero rate applies to the revenue derived from the resale of the products carried out by the wholesaler or retailer.

15 Even if they do not involve technology transfer.

16 Cars, trucks, buses, tractors. Controversies arise regarding the levy of IPVA on the ownership of boats, yachts and aircrafts.

17 In São Paulo, a bill of law that establishes progressive rates of 3% to 8% has been submitted.

CHILE CHAPTER
ESPINOSA GRANESE BIANCHI ABOGADOS

CHILE CHAPTER
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HIGHTLIGHTS

NATIONAL LEVEL TAX RATES: 2018

Corporate Income Tax (First Category Tax):	25 or 27% (art. 14 A y art. 14 B) of LIR[1] Tax year 2019. 25% General Regime to other cases (e.i. Art. 14 Ter letter A).
Branch Profit Tax:	35%[2]
Dividend tax:	35%
Interest:	35% or 4%[3]
Royalties:	3%[4] to 30%
Technical Assistance	15% or 20%
Other services	35%
Standard Software	0%
International leasing	1,75%[5]
Tax loss carry-forward term:	No time limited[6]
Transfer Pricing Rules:	Yes
Tax-free Reorganizations:	Mergers, stock-for-stock, divisions, changes of the legal characteristics
VAT on Sales:	19%
VAT on Services:	19%
VAT on Imports:	19%
Customs Duties:	6 % flat rate[6]
Stamp (Documentary) Tax:	0.066 up to 0.8%

Local Level Tax Rates:

Municipal Tax: 0,0025 a – 0,005 x mil[8]

1 Law 20.780 (tax reform) increased gradually the corporate tax rate. The First category tax rate for the year 2019 is 25% % (attributed income system); and 27% (semi integrated system).

2 Withholding tax on dividend distribution is taxed with a 35% withholding tax, however the 65% First Category Tax could offset this tax.

3 4% on bank or financial institution loans; 35% as a general rule.

4 In cases in which Chie has a double treaty convention.

5 Legal presumed income equivalent to, 35% applied on 5% of each rental payment in the case of the capital goods.

6 Loss carryback no longer exist.

7 However, Chile has entered into over 50 Free Trade Agreements with several countries under which the tax rate for most goods imported from those countries will be 0%.

8 Calculated on the Tax Owner's Equity up to 8,000 MTUs (equivalent to approximately US$ 584.789 with an exchange rate of US$ 1 = 660,78 Chilean pesos).

TREATY TAXATION

ITEMS OF INCOME

Countries	Dividends	Interests	Royalties	Tech. Services and Assistance) Local Rules are applicable)
Argentina	10/15%	4-12-15%	3-10-15%	0/15/30/35%
Australia	5/15%	5/15%	5/10	15/20/35%
Austria	0/15%	5/15%	5/10%	15%
Belgium	15%	5/15%	5/10%	15/20/35%
Brazil	10/15%	15%	15%	15/20/35%
Canada	5/15%	10/15%	10%	15/20/35%
Croatia	5/15%	5/15%	5 /10%	15/20/35%
Colombia	0/7%	5/15%	10%	10% *
China	10%	4/10%	2/10%	15%
Czech Republic	5-15%	5/15%	5-10%	0/15/20/35%
Denmark	5/15%	5/15%	5/10%	15/20/35%
Ecuador	5/15%	5/15%	10%	15/20/35%
France	15%	5/15%	5/10%	15/20/35%
Italy	5-10%	5-15%	5-10%	15/20/35%
Ireland	5/15%	5/15%	5/10%	15/20/35%
Japan	5-15%	4-10%	2-10%	0/15/20/35%
Korea	5 /10%	5/15%	5 /10%	15/20/35%
Malaysia	5/15%	15%	10%	15/20/35%
México	5/10/%	5/10/15%(6)	10%	15/20/35%
Norway	5/15%	5/15%	5 /10%	15/20/35%
New Zealand	15%	10/15/%	10%	15/20/35%
Paraguay	10	10/15%	15%	10%
Peru	10/15%	15%	15%	15/20/35%
Poland	5/15%	5/15%	5 /10%	15/20/35%
Portugal	10%/15%	5/10/15%	5/10%	15/20/35%
Spain	5/10%	5/15%	5/10%	15/20/35%
South Africa	5-15%	5-15%	5/10%	0/15/20%35%
Sweden	15%	5-15%	5/10%	0/15/20%35%
Switzerland	15%	515%	5/10%	15/20/35%
Russia	5/10%	15%	5/10%	15/20/35%
Thailand	10%	10/15%	10/15%	15/20/35%
United Kingdom	5/15%	5/15%	5 /10%	15/20/35%
Uruguay	5/15%	4/15%	10%	10%

- In conventions signed with countries were technical services and assistanceare not branded as "business profits", according to what is stated in art. 7 of such conventions, and are therefore treated as royalties (Colombia, Brazil).

APPLICATION OF THE MOST FAVORED NATION CLAUSE

Many conventions include the "most favored nation clause". According to this clause if Chile agrees an exemption or a more reduced rate with respect to certain specific incomes in a different convention that is subsequently executed with another State, such exemption or reduced rate will also apply to the convention including the clause.

For example, if Chile signs a convention with country A including the "most favored nation clause" with respect to interest, where the maximum applicable rate on interest paid from Chile is 15%, and then Chile and country B agrees to apply a reduced 10% rate, such reduced rate shall also apply to interest paid from Chile to country A.

In connection with some conventions that include this clause, the entry into force of other conventions with reduced rates applicable to interest, royalties and services provided by individuals, have already triggered consequences.

Therefore, in order to identify the applicable rate, if a convention has been signed, reading the article will not be enough, but confirming the existence of the clause under analysis is of the essence. If that is the case, then all those conventions executed afterwards should be analyzed to verify whether or not the condition for that clause to apply is met.

The Conventions signed by Chile and Austria, Brazil, Canada, Czech Republic, China, Korea, Denmark, Ecuador, Mexico, Norway,Poland and Spain include the Most Favored Nation Clause.

OVERVIEW

1. INCOME TAX

1.1. General Aspects

General Residents or domiciled persons are liable to income tax on their worldwide income.

Non-residents or non-domiciled individuals are liable to income tax only on their Chilean-source income.

Foreigners that establish domicile or residence in Chile are liable to income tax only on their Chilean-source income during the first 3 years in the country (this period may be extended by the tax administration in special cases).

In general, Chilean-source income comes from assets located in Chile or activities carried out therein. Income tax is assessed according to a scheduler system, based on the nature of its source:

a. Business income tax (first category tax) is levied on business income under the rules described in Corporate Taxation;
b. Employment income tax (second category tax) is levied on employment income;
c. Global Complementary tax (personal income tax) is levied on the total taxable income derived by individuals, including income liable to business income tax or employment income tax, at progressive marginal rates.

Business income tax and employment income tax are creditable against the personal income tax.

Non-resident income tax (additional tax) is levied on Chilean-source income derived by persons who are non-residents and are not domiciled in Chile, generally when the income is made available.

1.1.1. Income Tax Rate

From 2017, two alternative methods for computing shareholder-level income taxation, additional corporate tax rate increases, limits for goodwill amortization, important amendments to the thin capitalization rules, deductibility of related-party payments, CFC regulations, transfer pricing rules, general anti-avoidance rules (GAAR), and other substantial modification complete the new regimen from January 1st, 2017.

1.1.2. Tax Regimes for Income Taxes

Taxes established in the income tax law are the following:

a) First Category Tax:

This tax is paid by the business that generates the income and is payable, at a rate of 25% (attributed income system) or 27% (semi integrated system) for fiscal year 2019.

The law provides for two options, namely attributed income or partially integrated income.

In the case of attributed income the taxpayer must pay tax on the income he is entitled to, whether paid or not.

In the case of partially integrated income, the taxpayer will only pay personal income tax or additional tax assessed on partners or shareholders not domiciled nor resident in Chile when actually paid.

In the case of partially integrated income, the First Category Tax will be 27% instead of 25 but personal income taxes or additional tax will only be paid once the profit has been received.

The amount of this tax is considered as a credit against taxes, if any, payable by the owners or shareholders of the company following profit distributions.

In the case of partially integrated income, the credit will be 65% of the First Category Tax, unless the foreign investor is from a country with which Chile has a double tax treaty, in which case the credit will be 100% of the First Category Tax.

Monthly provisional payments -aggregating 1% of gross income during the first year- must be made by the company as an advance against the final tax accrued at the end of the respective fiscal year. After the first year, such provisional payments are calculated according to the ratio between the amount paid for First Category Tax and the interim payments.

b) Second Category Tax:

This tax is a progressive tax applied on the aggregate amount received by an employee on account of wages, salaries, profit-sharing or others. The taxation rates range from 0% to 35%.

Second Category taxpayers are not subject to any other income taxation, unless they have income from sources other than wages or salaries.

c) Global Complementary Tax:

This tax is applied to persons domiciled or residing in Chile on income for any source, including income originating from outside of Chile and must be yearly declared by the taxpayer.

d) Taxes on enterprises and their owners or shareholders

Business enterprises of any kind, as already mentioned, are subject to the First Category Tax on accrued income.

Thereafter, when the taxpayer is taxed under the attributed income tax system the shareholders,

partners or owners domiciled or resident outside Chile, and in the case of a branch, such profits are subject to the Additional Tax on accrual basis, whether distributed or not.

Since the First Category Tax may be credited against the personal Progressive Tax or the Additional Tax, as the case may be, it represents only a projection of the final tax burden. In other words, First Category Tax affects only the cash flow of the company.

In the case of a foreign-owned company, the attributed income of its owners or shareholders is subject to a 35% Additional Tax.

Accordingly, the overall income tax burden affecting the income of a company owned by a foreign on-resident entity in the case of the attributed income alternative will amount to 25% payable by the company plus 35% payable by the foreign owner, and the company tax, is accepted as a credit against the 35%.

e) Transfer of Shares and Securities

In Chile, there are no taxes on transfers of shares and securities, only the income from it will be subject to income tax to the extent it produces a higher value between its cost value and its sales value.

This higher value is treated differently, depending on the concurrence of a number of requirements:

1. - General taxation regime.

2. - Special taxation regime: Article 107 of the Income Tax Law.

Article 107 is quite similar to the above, except that it is only regarding shares traded on stock exchanges, other exchanges authorized by the Central Bank, or in a public offer and they must have been acquired through a stock exchange, in a public offering, or the placement of shares of first issuance, whether for the formation of the company, a later capital increase, or the exchange of convertible bonds.

For the alienation of corporate rights and/ or shares of stock there is a single rule to determine the tax cost thereof, i.e. the acquisition value adjusted according to the consumer price index fluctuations (CPI) between the last day of the month prior to acquisition and the last day of the month prior to the alienation.

In case of non-habitual operations performed by persons that are not taxpayers that determine the Corporate Tax on effective income, the gain obtained from the sale of shares and social rights, when at least one year has passed between the acquisition date and the sale date, only will be subject to the Corporate Taxes and Complementary Global Taxes or Withholding I Tax, as corresponds, and the taxpayers of the Complementary Global Tax may choose, in case of declaring on an accrued income basis, to re-liquidate the aforementioned tax in accordance with a new procedure that has been set.

The Tax treatment for the gain obtained from the selling of shares and rights on companies, as well as the tax treatment for the selling of mining property and water rights, bonuses and other debt securities, the intellectual or industrial property rights and vehicles for the transportation of passengers or third parties' cargo, are regulated in the No. 8 of article 17 of the ITL.

f) Taxes on Equity

Although there is no specific tax on equity, there is a municipal tax or commercial license to be paid each year to the municipality in which the taxpayer is domiciled for the development of a profession or commercial or industrial activities.

The above tax is a fixed amount in the case of professionals. In all other cases, a rate is applied on the own capital of the company to develop the activity, i.e., its equity. Said rate is established by each municipality and it ranges from 2.5 to 5 per thousand with a maximum of 8,000 UTM ("Monthly Tax Unit", equivalent to approximately US$ 584.789 with an exchange rate of US$ 1 = 660,78 Chilean pesos).

g) Real Estate Taxation

Regarding Real Estate, there is a special tax, the real estate tax, which is applied on the fiscal valuation of the property determined by the Internal Revenue Service ("IRS"). The funds collected for this tax are designated for municipal funds. They are collected in four installments during the year in the months April, June, September, and November.

If any variations on the normal installments are to be considered, the IRS will effect supplemental or replacing (reduction) charges in June and December each year. The fiscal valuation to be considered is that subject to the tax, for a part of it is exempt.

- Non- agricultural Real Estates destined for habitation

The annual rate for properties destined for habitation and with a valuation equal to or less than CLP$118.571.329 is 0,933%. For higher valuations, the rate is 1,088% with an over rate of 0.025% (of fiscal destination), both on the amount exceeding the above figure.

Non- agricultural Real Estates destined for residential use are exempt from paying taxations up to a valuation of $37.526.739 for the first half of 2019.

- Non- agricultural Real Estates

The annual rate for properties not destined for habitation is 1,088% with an over rate of 0.025% (of fiscal destination). In the case of a new property, real estate tax must be paid from January 1 of the year in which it was incorporated into the charge roll, if the property is not exempt. This tax must be paid by the owner of the property, regardless of the right of use, lease or usufruct that third parties may have over it.

Non- agricultural Real Estates affected to Territorial Tax, located in urban areas, with or without development, and that correspond to sites not built, abandoned properties or aggregate excavation, will pay a surcharge of 100% compared to the current tax rate. Such surcharge shall not apply in areas of urban sprawl and rural areas.

The appraisal affection will readjust each semester according to the CPI of the previous semester. Territorial Tax Law considers general exemptions for housing, agricultural and special properties, such as land intended for worship, education and sport.

In addition, the Fiscal Value is used to determine presumed income of farmland, calculating the du-

ties of maritime concessions, land titles domain of the Ministry of National Property, inheritance tax, land value discount in the affects real estate VAT, municipal rights division or merger of land.
In January 2019, the reappraisal of unbuilt sites, abandoned properties, and valventual wells came into effect, a process in which the tax values of these properties are updated.

1.1.3. Attributed income regime versus partially integrated regime

Gradual increase of FCIT and Dual Regime
As it was already explaneited above, depending on the regime companies adopt, the corporate tax for Chilean companies would be 25% or 27%. For this purpose, there are two tax regimes.

Attributed Regime (Article 14 A or the Income Tax Law-ITL) under which foreign shareholders will be subject to the additional tax (withholding tax on dividends) on the income from their investment held in certain entities in the same year in which the income is recognized, and ii) Partially Integrated (Article 14 B or the ITL) where foreign shareholders will be subject to the additional tax only on the effective dividends distributed by the company.

Each taxpayer could select one regime, taking into account the formalities established in the Law, the last quarter of 2016. if no regime was selected by the taxpayer, the law provides for a default rule as follows:

- Individual entrepreneurs and individual limited liability companies: **Attributed Regime**
- Partnerships (Sociedades de Responsabilidad Limitada) where the partners are only Chilean individuals: **Attributed Regime**
- Partnerships where one or more partners are legal entities or taxpayers not resident or domiciled in Chile: **Semi or Partially Integrated Regime**
- Taxpayers under the regime established in Article 58 No. 1 (Permanent Establishments): **Semi or Partially Integrated Regime**
- Stock Companies (Sociedades Anónimas y Sociedades por Acciones): **Semi or Partially Integrated Regime**

Once the applicable regime is determined, by choice or by default, a five-year holding period is required.

Attributed Regime
The records to be kept by taxpayers, are: (i) Individual Attributed Income; (ii) The difference between accelerated and normal depreciation; (iii) Exempt income of Final Taxes, and Not Taxable Income (this registration includes registration FUNT determined at December 31, 2016).

Consequentially the order of allocation of withdrawals, remittances or distributions is simplified as follows: (i) Individual Atributted Income, (ii) Differences between normal and accelerated depreciation, and (iii) Exempt Income or Not Taxable Income, starting with Exempt Income and then by Not Taxable Income. Any other amount exceeding the above, except the paid capital, will be affected by end taxes, having the right to a First Category credit for historic FUT, if any.

Semi or Parcially Integrated Regime
Unlike the regime of Attributed Income, taxpayers who imputed the amount of First Category Tax against the Final Tax must repay an amount equal to 35% of the amount of that credit. This eventually translates in the fact that there will only give a credit of 65% of First Category Tax, paid by the taxpayer (eg: Income of $ 100 is taxed at 27% of First Category Tax. To the credit of $ 27 is applied the 35%, and restored in $ 9.45, so the final credit is $ 17.55).

The obligation to return the 35% does not apply to taxpayers of additional tax whom are resident in countries in which Chile has signed a double taxation agreement in force (about 24 in total). These taxpayers will be taxed with Distributed Income System or removed from Chilean companies, and can use a 100% of the credit granted for payment of the First Category Tax, its effective charge will remain at 35%, while for other foreign investors, regarding the new law of foreign investors (law 20.848) do not pay a tax conform new law.

The order of allocation of withdrawals, remittance or distribution is allocated first of all to the affected income taxes; secondly to differences between normal and accelerated depreciation; thirdly, to exempt income or income not constitute income (including FUNT balance determined at December 31, 2016), beginning with the exempted income and then by not taxable income; and finally, if there are still amounts exceeding the ones indicated above, they will be taxed at the tax due (and entitled to credit a notch historic FUT, if any); except in the case of a return of capital.

Elimination of FUT and applying average rate. As for the FUT, as in Income Attributed regime, the Bill provides that when credits from the historic FUT are allocated, they will be charged according to an average rate determined annually according the division of the total First Category Tax credits accumulated.

Special Income Tax Regime

Letter A of article 14 Ter of the Income Tax Law ("ITL") sets forth an especial regime for investment, working capital and liquidity.

Its main features include as a general rule that taxpayers adhering to its dispositions will pay taxes on the difference to be determined between the received income and the expenses paid during the respective period. Requirements for being admitted and remaining in the regime are modified; for example, the increase up to 50.000 UF out of the limit of the annual average of received or accrued income from sales and services of their line of business. Other modifications are also included in favor of the micro, small and medium enterprises.

1.1.4. First Category Tax rate

In the year 2019, the First category Tax rate is 25% or 27% depending on which of the options the taxpayer exercised. for both the attributed income regime and the semi-integrated system.

Elimination of FUT and new record of profits

As from January 1st, 2017, the FUT is replaced by the record profits that is different depending on whether the taxpayer adheres to or attributed system or partially integrated system.

1.1.5. Taxable Basis

Taxable basis is determined according to the generally accepted accounting principles, including all profits. Dividends received by resident companies from other resident companies are exempt from corporate tax.

1.1.6. Deductions

As a general rule all costs and expenses are deductible provided that they are related, proportional and necessary to the income producing activity. Any costs or expenses related to Excluded and/or Exempted Items of Income are not deductible. For example, automobile expenses are not deductible.

The Tax Reform established the deductibility of interest payments new provisions expressly allow the deductibility, for Chilean income tax purposes, of interest and other expenses derived in connection with the acquisition of shares, bonds, and similar instruments.

Also established additional requirements are set forth for the deduction of expenses for some withwolding tax, when these result from operations with parties directly or indirectly related abroad, for example, that the AT affecting such amounts is paid.

1.1.7. Depreciation

The depreciation of the assets is regulated by the as an expense for producing income and in this regard it has established that a deduction from the profits of the operation can be taken as an annual quota of depreciation for the physical goods of the fixed asset, from its utilization by the company.

The general rule is that the goods are depreciated in annual quotas, and the elements to consider are the value of acquisition (total net value) and the useful life of the good (determined by the IRS) by the simple operation of dividing the cost by the number of years applicable.

However, the taxpayer may apply an accelerated depreciation that results from determining for the depreciated goods a useful life equivalent to the third part of that established by the IRS.

This accelerated depreciation cannot be applied to goods with a useful life of less than five years. Taxpayers may, at any time, waive the accelerated depreciation regime, thus returning to the normal regime.

Furthermore, there is an instant and super-accelerated depreciation.

There is a distinction between companies with sales below to US$ 1.1 million and those with sales between US$ 1 million and $4.4 million.

In the first case, businesses may depreciate investments in fixed assets using a useful life of one year, whether they are new or used.

In the second, businesses may depreciate investments in fixed assets considering effectiveness of one-tenth of its normal useful life, but only if they are new or imported. This benefit is only available to companies that have not opted to the article 14 ter special regime.

1.1.8 Inflation Adjustments

Chile has an inflation adjustment or monetary correction system applicable to certain assets and liabilities annually, based on changes in the consumer price index (CPI) and foreign exchange rates.

The difference between the taxable income and the expenses originated in the yearly inflation adjustments should result either in a net item of taxable income or a net loss for inflation (this loss is deductible).

1.1.9. Tax Loss Carry forward / Carry-back

As of 2019, only loss carryforward is available and loss carryback no longer exists.
However, the right to offset losses at the level of a holding company to dividends distributed by subsidiaries (with the corresponding right to obtain a refund) will still be available

1.1.10. Tax-Free Reorganizations

Tax-free reorganization rules, and conversions, mergers and spin off are permitted without triggering taxable events; however, the company that is converted, created or absorbed should be under the same regime before the reorganization until it completes the mandatory five-year period.

Also, if a company is subject to the partially integrated regime and the same is dissolved or merged into an entity subject to the attributed regime, a 35% tax on accumulated profits will apply.

1.1.11. Capital Gains Tax

Capital gains on the alienation of shares

Alienation of shares Capital gains from the alienation of shares of a resident joint-stock company whose shares are regularly quoted in the stock exchange are not considered income for tax purposes when:

- the shares are acquired on the stock exchange
  (i) through a public offer under Law Nº. 18.045,
  (ii) in a public tender for acquisition of new shares in case of a company's incorporation or capital increase,
  (iii)in an exchange of convertible bonds or
  (iv)on a redemption of securities made from a mutual investment fund;

- the shares are sold on the stock exchange through a public tender under Law 18.045, or through a contribution of securities to a mutual investment fund.

Institutional investors Capital gains from the alienation of shares are also exempt from tax when derived by institutional investors constituted abroad and not domiciled in Chile and that comply with other legal requirements (e.g. mutual funds or pension funds), provided that

- the gains are realized through the alienation of shares of a resident open joint stock company whose shares are substantially and regularly traded on a Chilean recognized stock exchange (presencia bursátil), bonds issued by the central bank, the Chilean government or Chilean incorporated enterprises; or

- Gains are realized from the redemption of units in mutual funds. The fund may not have participation in the control of the companies that issued the securities, must hold less than 10% of their capital and must be entitled to less than 10% of the profits of those companies.

The transactions must be made on a Chilean stock exchange or through another mechanism authorized by the supervisor of securities and insurance.

Capital gains derived from the alienation of Chilean entities is subject to the general tax regime.

In case of shares or quotas of entities subject to the attributed income regime, the accumulated attributed income that have not been distributed, will be considered as part of the cost basis, for capital gains purposes.

1.2. Payment and Filing

For any given taxable year the corresponding income tax return and tax liability must be filed and paid every april of the next year.

All entities including corporations must file their income tax return and pay the corresponding tax liability.

1.3. Additional Tax / Withholding Tax

The Additional Tax the Chilean Withholding Tax is assessed, as a general rule, on income from Chilean sources earned by individuals or entities neither domiciled nor residing in Chile. This tax is also assessed on certain payments made by Chilean taxpayers abroad, as analyzed herein.

The general tax rate is 35%, although in some cases it might go down to 2%, as explained below.

As mentioned before, the First Category Tax paid may be credited against the Additional Tax but must also be considered as additional taxable income for the Additional Tax.

In the case of partially integrated income and if the foreign investor is from a country with which Chile does not have a double tax treaty the credit for the First Category tax is limited to 65% of said tax.

In some cases the Additional Tax must be declared annually by the taxpayer, whereas in others it must be withheld by the person or entity making the payment.

These withholding taxes (Additional Tax) are assessed on profit remittances and dividends (35%) (dividends distributed by stock companies, joint stock companies and partnerships limited by shares incorporated in Chile, 35%) Shares or rights: 35% Income derived from the alienation of shares and social rights. Alienation with underlying assets: Alienation made by a non-resident, non-domicile taxpayer of social rights, shares, bonds or securities situated abroad whose value derives from underlying assets situated in Chile (if some legal requirements are met) 35%; royalties. Invention patents: Sums paid for the use, enjoyment or exploitation of invention patents, utility models, industrial drawings and design, layout-designs or topographies of integrated circuits, and new varieties of plants 15%; edition rights 15%; computer programs (15% software); film distribution fees (20%), interest on foreign loans(35% or 4% as the case may be), remuneration for services rendered abroad (35% except for engineering work or technical assistance, in which case a 15% rate applies) premiums for foreign insurance policies (22%) and reinsurance policies (2%), leasing of movable assets (1.75%) and compensation to foreign individuals which are neither residents nor domiciled in Chile on sport, scientific or cultural services in Chile (20%)

The 35% Additional Tax levied on certain payments to persons or entities not domiciled in Chile are not applicable to imports, provided the import prices are reasonable in terms of market values. Amounts paid in excess of reasonable prices are taxable.

Royalties: Software payment exemption

There is a Withholding Tax exemption to payments remitted abroad on account of acquired software use of licenses, including digital books.
Likewise, the Withholding Tax rate on the remuneration paid abroad for engineering or technical services as well as professional or technical services rendered by a person or entity knowledgeable in

a science or technique through advice, a report or plot, whether they are rendered in Chile or overseas, is 15% unless such services are rendered to related parties or beneficiaries located in a country deemed a "tax haven" in which case the withholding rate goes up to 20% .

In respect of payments made abroad to related parties (royalties, interests, services, etc.) the Additional Tax (retention) has to be actually declared and paid in Treasury for its deductibility.

1.4. Cross-border Payments

1.4.1. Withholding Taxes

When Chilean source income is remitted abroad to a beneficiary that is a non-resident individual or entity, the payment should be subject to a withholding tax.

1.4.1.1.Royalties

Royalty payments are subject to an effective 30% withholding tax for income and remittance taxes.

Income for payment for intangibles

The tax is applied on amounts paid for the use of trademarks, patents, formulas, and other similar items. The tax is applied on the total amount, without deductions, except for the following amounts that are excluded:

1. - Return of capital or loans;

2. - Payment for corporeal goods entered into Chile up to a cost generally accepted.

The applicable rate is 30%. There is a special situation regarding the use or exploitation of patents of invention, utility models, industrial drawings and designs, integrated circuits topography, and plant varieties, cases in which the rate is 15%.

The same rate will be applied to the amounts related to computer software. However, the applicable tax rate will always be 30% if the beneficiary of the royalties.

All the above must be proven by the local taxpayer withholding the tax by means of an affidavit within two months from the closing of the operation in the manner and conditions determined by the Internal Revenue Service ("IRS").

Software payment exemption

The new regime tax provides for the withholding tax exemption on payments remitted abroad for standard software licenses, including digital books. The rate tax is 15%.

1.4.1.2.Technical Services, Technical Assistance and Consulting Services

Whether rendered in Chile or abroad by a non-resident, technical services and technical assistance payments are subject to 15% withholding for income and remittance taxes.[9]

9 With the exception indicated in the last paragraph of No 3 above.

1.4.1.3.Other Services

If services are rendered from abroad and do not qualify as technical services, technical assistance or consulting services, then an effective 35% withholding should apply.

1.4.1.4.Interest Payments

As a general rule, payments made pursuant to foreign debt agreements are subject to a 35% effective withholding for income and remittance taxes. A reduced 4% withholding for income and remittance taxes applies in some specific cases to banks and financial institution foreign loans.

1.4.1.5 Leasing of capital assets

Amounts paid to the lessor in compliance with a rental contract, with or without purchase option, of an imported capital good, which may be subject to the system of deferred customs duties payment is subject to tax.

The applicable rate is 35% on the part of profit or interest in the operation, which for these purposes is presumed to be 5% of the amount of the quota paid for the above contract, resulting in an actual 1,75% tax rate.

1.4.2. Tax Treaties

Chile has Tax Treaties to avoid the Double Taxation with Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Czech Republic, China, Japan, Korea, Croatia, Denmark, Ecuador, Italy, Ireland, Spain, France, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, Russia, United Kingdom, Switzerland, Sweden, South Africa, Uruguay and Thailand. There are subscribed, but non-effective tax treaties with the United States of America. Convention to standardize the tax treatment provided for in the Agreements between the States Parties to the Framework Agreement of the Pacific Alliance (Chile, Colombia, Mexico and Peru).

Most double taxation treaties concluded by Chile and currently in force are governed by the OECD system, the most common in the world these days. It must be born in mind that OECD treaties contain what is called the "most-favored-nation clause", according to which each of the contracting parties guarantees the other a treatment as favorable as that granted to any third nation.

Of the treaties concluded by Chile and in force and containing the above clause are Austria, Brazil, Canada, Czech Republic, China, Korea, Denmark, Ecuador, Mexico, Norway, Poland and Spain.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

Subject to a number of exceptions, such as if the goods to be imported are included in the list contained in a Supreme Decree of Capital assets, a value added tax of 19% also applies to imports and it is levied on customs value plus import duties.

2.1.1. Tax Rates VAT general rate is 19%.

A Value Added Tax at a 19% rate is charged on all habitual sales of corporal movable goods. Sales are deemed habitual when they correspond to the company line of business. VAT is charged on services, whether habitual or not, that trigger interest, premiums, commissions or any other similar compensation whose nature is commercial, industrial, financial, mining, construction, publicity, among others.

Imports are subject to VAT, regardless of whether they are habitual or not. Professional services provided by employees or independent professionals are not subject to VAT.

2.1.2. Taxable Transactions

VAT taxes sales as well as services. A "sale" is any contract whereby the title to movable goods is transferred, or the title to real estate property of a construction company totally built by it or in part by a third party, with a quota of ownership over said goods or of any real rights over them, as well as any deed or contract to the same end or that the law regards as a sale. A "service" is an action or performance of a person in the benefit of another, for which the former receives an interest, premium, commission, or any other form of remuneration, to the extent it comes from any of the activities listed in numbers 3 and 4 of Article 20 of the Income Tax Law[10] .

However, VAT Law has established a number of operations that are equivalent to "goods" or "services," such as imports, whether habitual or not; contributions to companies and other assignments of ownership over corporeal movable goods, done by sellers; sales of commercial establishments that comprise corporeal movable goods; leasing, subleasing, usufruct or any other form of temporary assignment of use of trademarks, patents, procedures, industrial formulas, and similar items; parking of automobiles and other vehicles in parking lots or other places destined for that purpose; premiums on insurance of insurance cooperatives; and sales of fixed assets.

2.1.3. Taxable Basis

As a general rule, the taxable basis is the price or value of the consideration paid for the goods or services, which should correspond to their Fair Market Value (FMV).

2.1.4. Creditable VAT

VAT paid on imports, purchases and services received (tax credit) is deducted from the VAT payable on sales and services provided (tax debit). Any net tax credit may be deducted over the next months (duly readjusted to reflect the inflation).

2.1.5. Exemptions

There are few exemptions in the Chilean VAT law. The main ones are the following:
(a) Exports;
(b) Interest on loans and other financial operations. In the case of deferred payment of a sales price, interest charged is subject to VAT;
(c) International freight, both by air and sea;
(d) Personal services; and
(e) Services subjected to Additional Tax, unless the services are provided in Chile and
also that those enjoy a specific tax exemption given by the Chilean law or by treaties to avoid double taxation in Chile.
(f) Revenues which are not considered as income.

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10 Income from the following activities: manufacturing; trade; mining; exploitation of marine resources and other extractive activities; airlines; insurance; banks, loan and credit associations; mutual fund administrating companies; investment or capitalization companies; financial and other similar companies; construction; journalism; publicity; radio broadcasting; television; automatic data processing; telecommunications; brokers; auctioneers; customs agents; embarking agents and others in the maritime, ports and customs trade; private schools and educational institutions and other establishments alike; clinics, hospitals, laboratories, and other similar private establishments; and amusement and entertainment companies.

2.2. Payment and Filing

VAT has a monthly taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT return must be filed and paid in full on the filing dates scheduled by the tax authorities for these purposes, which are usually within the first 12 days following the corresponding month end.
The payment of fiscal debit can be delayed up to two months, for the following taxpayers:

- Taxpayers subscribed to letter A) of article 14 Ter of the Income Law (annual sales of up to 50.000 UF (Aprox. USD $ 2.084.213); that is, micro and small companies).
- Taxpayers that follow the general rules, with average annual earnings of up to 100.000 U.F. (Aprox. USD $ 4.168.425).

3. OTHER TAXES

3.1. Real Property

The sale of real property is subject to value added tax only when the sale is done within 12 months of its acquisition, initiation of activities, or construction, as the case may be, and by taxpayers that have been subject to the same tax.

As for income tax, there are two situations, for the higher value in the assignment of real estate may be subject to two different tax regimes, depending on compliance with certain requirements: it may be a non-income profit or be subject to the general regime, thus, paying 25% corporate tax (which may be a tax credit for global complementary or withholding tax, as the case may be).

Letter b), N° 8, article 17, of the ITL. The aforementioned tax treatment includes certain improvements, for example, revenues that do not constitute income are only, provided all legal requirements are complied with, for natural persons or those domiciled or resident in Chile and up to a highest value equivalent to a total amount of 8.000 UF annually (USD 330.000 approximately), irrespective of the number of sales that the taxpayer performs or the number of real estate owned by the same.

With respect to real estate acquired before September 29th, 2014, if they comply with the other legal requirements, the taxpayer will be able to consider as acquisition value, the readjusted acquisition value, the respective good's appraised value at January 1st, 2017 (readjusted) or the market value at September 29th, 2014.

3.2. Municipal Tax

There is a municipal tax applicable to all industrial, commercial and service activities carried out in the territory of said municipality. The taxable basis is the net equity of the taxpayer. The tax rates vary from county to county and range from 0,0025 up to 0,005 per thousand with a minimum of one Monthly Tax Unit (US$ 68 approximately) and a maximum of 8,000 Monthly Tax Units (US$ 584.789 approximately). This tax is usually paid twice a year.

3.3. Stamp Tax

Is imposed on certain specified acts. It has a limited scope and is basically applied only with respect

to documents representing a debt claim (e.g. bills of exchange or promissory notes). The taxable base is the amount of the capital specified in the document. The tax rate varies depending on the period of the loan:

The Stamp Tax maximum tax rate is increased from the actual 0, 066-0,8%

In case on payable on demand documents the maximum rate is 0,332%.

3.4. Royalty Tax

This tax affects the operational income associated with mining activities derived by a mine operator, that is, any natural or legal person that extracts minerals in which respect a concession may be awarded, and sells them at any stage of production.

This tax is applied to the mining companies incomes obtained in the exercise of its activities. Regarding mining companies with annual sales on any kind of minerals up to the equivalent to the value of 50,000 and not less than 12.000 metric tons of fine copper or less, they are subject to a progressive tax rate with a maximum of 4.5%.

Mining companies with higher sales are subject to a progressive tax rate from 5% to 14 %, depending on their operational margin.

The value of one metric ton of fine copper is determined based on the relevant commercial year average value at the London Metals Exchange.

The operational income derived from the mining activity is calculated according to a schedule established in the law that consists in adding to or deducting from the Taxable Base of the First Category Tax certain amounts or items specified in the relevant legal provision.

3.5. Importing and Exporting

Imports

All types of goods and services may be imported by any individual or entity except a limited number of specifically prohibited items (for example, used cars).

Imports must be registered with the Customs Service prior to shipment and comply with all applicable laws and regulations. Import licenses are generally provided if import prices are consistent with market levels (to combat transfer pricing, the Customs Service may not approve imports at undervalued prices)

Normally, imports must be shipped within 120 days after the license is granted.

Customs Duty

Customs duty is normally payable on imports at a rate of 6% of the CIF value of the imported goods, although this rate may be increased to counter-balance the effect of proven foreign subsidies. A number of treaties and trade associations have had the effect of reducing (or eliminating) the normal customs duty rate for certain products traded with most Latin American countries, the United States, the European Union, Canada, Japan, China, etc.

Free Trade Zones

Custom duties (and VAT) may not apply in free trade zones in the north and south de Chile. (The cities of Iquique and Punta Arenas).

The tax reform introduced changes the Tax Regime of the Free Zones, and Customs and Tax preferential regimes, came into effect as of January 1, 2017.

For Free Zones, the main change is the recognition of a credit for First Category Tax against the final tax of owners of Management Companies or users of these Zones, corresponding the 50% of the First Category Tax that would have affected the company in the absence of the exemption, provided that the institutions are covered by the tax regime called Attributed Income. This provision is equated with the limitations that are left exposed, to what exists for Preferential Customs and Tax Regimes. Surplus generated of First Category Tax are not entitled to a refund.

Note that, for the Free Zones, another objective of the amendments to the Tax Reform is related to the harmonization of the texts of the laws mentioned in particular the provisions of the Income Tax effective.

As for the Preferential Arrangements, the amendments made by the Tax Reform only come to harmonize the text of the particular to the provisions of the Law on Income Tax.

Exports

All types of goods and services may be exported by any individual or entity (provided the exports comply with applicable laws and regulations) except a limited number of specifically prohibited items. For example, some agricultural products may be subject to seasonal restrictions.

The Customs Service must be notified in advance of exports with the exception, among others, of transactions of up to US $ 3,000 FOB (or authorized by certain government bodies, when particularly sensitive products are at issue, such as copper, which requires authorization by the Copper Commission)

Foreign currency proceeds of exports sales (net or related overseas expenses) do not have to be returned to Chile, and if returned, such proceeds do not need to be converted into local currency. If not returned to Chile, the exporter is obliged to inform the Central Bank accordingly. Export incentives are available for "non-traditional" exports.

As indicated previously, exports are exempt from VAT. However, exporters may recover VAT charged. on purchases or services necessary for their exporting activities as a credit against the debit originated in their local sales. Additionally, they may recover this credit in cash as a refund.

Excise duty

In addition to VAT, excise or sales taxes apply on the sale and/or importation of specific goods. The taxable base is the same as for VAT purposes. The following examples of taxable goods and the related tax rates can be given – alcoholic and non-alcoholic beverages and similar goods, whether sold or imported habitually or otherwise, are subject to tax at various rates (from 10% to 31,5%), depending on the alcohol content; – luxury goods (e.g. gold, platinum, ivory, jewels, etc.) are subject to tax at a rate of 15% (depending on the product, the tax may be applicable only to the first sale or import, or also to subsequent transactions); – tobacco is subject to tax at different rates depending on the product (i.e. cigars 52.6%; cigarettes 0.0001288030 monthly tax units per cigarette

plus 60.5% on sale price to customer inclusive of taxes; processed tobacco 59.7%); and – a fuel tax is levied on the first sale or import of automobile gasoline and diesel.

Biodiesel and bioethanol are not subject to this specific tax.

3.6. Construction

New housing, buildings and constructions of any kind sold by construction companies are charged VAT. Provisions have been established in the law allowing for the deduction of the cost of the land from the taxable basis. Revenues originating from construction contracts are also subject to Income Tax.

Note: Special Credit for Construction Companies (article 21 of DL 910, 1975).
The limit to the special credit granted to construction companies is 65% of the VAT fiscal debit to which the sale of property destined to residential use was subject, as long as the property was constructed by a construction company or through a general construction agreement which is not by administration of such property.

Construction is entitled to a special Tax credit (65%) in case of sale of subsidized housing - which includes housing construction whose value ranges up to 2,200 UF (about USD $100.000) - and that in leasing operations, the fee payment that corresponds to interests will not affect this tax. This to assimilate it to the treatment of a mortgage credit.

3.7. Taxable Basis

Customs duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the appropriate customs duties.

3.8. Filling and Payment

An import return must be filed upon nationalization of the goods. As a general rule, under the ordinary import regime, customs duties must be paid upon importing the goods. Import VAT must be paid within the month following the arrival of the goods to Chilean customs jurisdiction.

3.9. Other taxes

3.9.1. Alcoholic, Soft Beverages and Tobacco taxation

Taxes on alcoholic beverages are increased in accordance to their volume of alcohol, just like for sugar-sweetened beverages, flavored mineral water, among other. In addition, tobacco tax is increased.

3.9.2. Environmental Taxes

a. New vehicles: The new motor, light and medium vehicles, with the exceptions stated by the same regulation, have to pay a one-time additional tax expressed in UTM, in accordance with a included formula (based on their urban performance and the vehicle's emission of nitrogen oxides)

b. Pollution sources: A tax is set forth for natural and legal persons that make use of certain fixed sources of air pollution such as particulate matter, nitrogen oxides, sulfur dioxide and carbon dioxide, produced by premises which fixed sources, individually or as a whole, have a thermal capacity over or equal to 50 MWt 2. First pay in the year 2018, and the tax rate si US$5 per ton issued.

The tax does not apply to work vehicles, this means, motor vehicles for passengers transportation with a capacity of more than 10 seats, including the driver, trucks, SUVs and vans over 2,000 kilos of capacity, vans and closed lower capacity.

3.10 Transfer Pricing

The Law N°. 20.780 establishes that international reorganizations or structures that imply an export of assets or activities would be subject to Transfer Pricing.

This operations consider a sort of general substance-over-form regulation and new significant anti-elusion rules into the Chilean ITL. These rules, among other effects, will incentivize the use of legal structures only for cases where a relevant economic ingredient and its effects can be demonstrated.

The local tax authority will be empowered to interpret and assess the legal form of operation according to the business being carried out, notwithstanding the labels or legal forms that the parties have disclosed.

Furthermore, where a deferral of taxes is obtained by the use of specific legal structures or business reorganizations, which have no other economic reason than to obtain such tax deferral, the operation could be seen as abusive and therefore be subject to strong penalties.

Thus, all of the above will imply that every and any type of operation, transaction, tax or business planning, business restructure or other corporate modification, will have to bring an explicit, or implicit but yet identifiable and demonstrable business purpose and be performed under a credible economic rationale, with strict compliance to the general arm's-length principle.

Moreover, as it has been recognized among the experts, the only, or at least the most evident, way to sustain prove, and justify the aforesaid conditions will have to be based on general Transfer Pricing methods in accordance to local regulation and the OECD guidelines, for which proper guidance and expert advice will become even more crucial.

Besides the above article 41 E is either referenced directly or linked indirectly by the tax reform a number of times. Transfer pricing rules are considered in general to indicate when, how or why two or more parties should be considered as related parties for purposes of the new law (since they comprehend more and broader situations than other relationship rules within the ITL), or to show how a certain transaction or situation may be analyzed by the tax authority to see if it complies with the arm`s length principle(becoming the basic legal tool for fiscal assessment).

However –and notwithstanding the method of attribution performed by the taxpayers-the tax authority will be empowered to assess such attribution/allocation in accordance to the Transfer Pricing methods stated in article 41 E to remunerate the stockholders in accordance to their functions and activities in relation to the entity that is designating its profits.

Additionally the Law 20780 considers two relevant direct changes to the local Transfer Pricing rules:

Exit charge/Tax

The tax reform modifies article 41 E of the Chilean ITL clarify that the local tax authority is empowered to assess any type of corporate or business restructuring process that is found to be removing or

shifting from Chile to foreign countries any sort of tangible or intangible asset, or otherwise transferring an activity that could potentially have generated taxable income in Chile.

This assessment would be allowed when the tax authority is able to determine that the restructuring, with its embedded removal of assets or transfer of rights and the corresponding legal agreements or activities being performed for that reason, would have considered an arm's length price, value or otherwise profitability, if it had been agreed upon non-related parties or when the price, value or profitability agreed, as a consequence of the restructuring, does not comply with said arm`s length principle.

Until now, according to the wording of the local ITL, business reorganizations would have been susceptible of tax assessment for an exit charge, if the transfer/shitting of assets and/or activities are moved to a fax heaven country.

Note that the Chilean IRS has pronounced an administrative interpretation of the current rule stating that it needs not to be a tax heaven, but the fact that the new law bill is including this express change would corroborate our restrictive legal interpretation of the current rule.

There are some awaited tax measures envisaged as part of the BEPS project driven by the OECD, in especially controlled foreign company rules are introduced:

Passive income

In general, passive income of foreign entities qualifying as controlled foreign corporations are taxed in Chile. This passive income is taxed whether it has been accrued or perceived by the controlled company. Obviously, dividends later paid by the foreign company, will not be taxed in Chile provided these can be allocated to passive income already taxed as such.

The passive income also grants tax credits regarding this passive income should the relevant tax have been paid or accrued. These tax credits will also comprise taxes paid by indirectly-controlled foreign companies, if the territory where those companies reside has a double tax treaty in force with Chile.

Thin Capitalization Rules

The changes made tax reform refer to the rules for determining when the excess of indebtedness occurs and, in such a case, the amount that is to be taxed as such. They are included in the taxable basis of the company not only those interests and affected amounts to 4% (extra tax on interests), but also everything that has been affected with a rate below 35%. Thus, the taxable basis became wide substantially, including those interests or quantities affected at reduced rates of Double Taxation Conventions.

Penalty tax rate

The article 21 of the Chilean ITL, has a 40% rate for the penalty tax applicable in cases here the tax authority has determined a transfer pricing adjustment in accordance with the law.

Note that this rate could be raised to 45% in certain assessment cases if the taxpayer does not cooperate in due time and form with the fiscal investigation.

4. PAYROLL TAXES / WELFARE CONTRIBUTIONS

4.1. Retirement Contributions

Employees are subject to private pension funds. The contribution must be equal to at least 1,41% of the employee's wages up to 79,2 Unidades de Fomento (UF) which is approximately US$ 3.300.

The UF is a monetary unit expressed in Chilean pesos that varies according to the CPI on a monthly basis. Employees can make additional and voluntary contributions. Contributions must be paid to the pension funds on a monthly basis. The employees must cover 100% of the contribution.

The employer is responsible for withholding the monthly contribution in the pension fund. Filing and payment is made on a monthly basis.

4.2. Health Care Contributions

The employees must be affiliated to a general Health Care Plan. Contributions to the HCP administering entity must be equal to 7% of the employee's monthly gross income.

There are two systems, the public system called "Fondo Nacional de Salud", or "FONASA", and the private system where different Health Care Institutions or "Isapres" operate.

Public system: 7% of a person's monthly gross income must be paid to FONASA. Those affiliated to this system are entitled to use the benefits starting from the third month, that is, after paying the third contribution to FONASA.

Private system: 7% of a person's monthly gross income must be paid to the Isapre chosen by that person. In addition, a specific health care plan may be negotiated and agreed upon by the parties in order to obtain more benefits than those included in a basic plan, which involves paying a higher percentage, hence an additional cost.

4.3. Labor Risk Insurance System

Labor accident and occupational disease insurance is financed with a 1,41% contribution of the employee's taxable base, to be borne by the employer, and an additional contribution segmented by activity and risk level of the company which may not exceed 3.4% of the taxable income, also borne by the employer. Therefore, the employer has the obligation to finance this insurance; however, the former may request to the insurance administrating entity (Health Institution, INP Normalization Institute, Non- profit Health Care Institutions for labor accidents) that the additional contribution rate is reduced if the company has implemented all such prevention measures that considerably reduce the labor accident or occupational disease risks, or to be exempt from the referred contribution rate if the company operates at a certain level of safety. On the contrary, if the company's safety conditions are not satisfactory or the safety measures required by the managing entity are not implemented, it must pay the additional contribution with a surcharge of up to 100%.

4.4. Unemployment Fund Contribution

Unemployment insurance provides a shared funding: provide worker, employer and state. The monthly contribution depends on the type of contract affiliate:

- When the worker has a permanent contract, the worker must provide monthly pocket 0.6% of its taxable income, to stop UF 118,9 (USD$ 4956), while the employer contributes 2.4% of the same amount.

The contribution of the company, only 1.6% is payable on the individual account of the worker, and the remaining 0.8% admitted to distributing fund, called "Unemployment Solidarity Fund". Note that the 1.6% contribution by the employer is deductible from the compensation to which the worker is entitled to a permanent contract when fired "by business needs.

- When the employee has a fixed-term contract or one particular work or task, the entire cost of the insurance is paid by the employer, who must contribute monthly 3% of the employee's taxable income, with top-of UF 118,9 (USD$ 4956).

Unemployment Solidarity Fund is financed by employer contributions, and contributions defined by state law. Its purpose is to finance the minimum benefits that the law guarantees to those members who -complied with pertinentes- requirements are exhausted or no resources sufficient in their individual account when losing their jobs.

5. FOREIGN INVESTMENT STATUTE

Much of the language used in foreign investment contracts new regime law 20.848 and other communication targeting foreign investors in Chile has typically been focused on assuring foreign investors that they will be treated on equal terms as local investors. Ironically, with the tax reform, foreign investors domiciled in a country with which Chile has a ratified Convention to Avoid Double Taxation ("Tax Treaty"), will receive preferential treatment compared to local investors.

Under the terms of the standard OECD model Tax Treaty, in the event taxpayers that are domiciled in a Tax Treaty country are subject to the additional tax, total taxation should remain at 35% even with the partially integrated regime. In this way, these foreign investors can essentially: 1. continue to postpone the additional tax levied at the moment of profit distribution, 2. continue to pay the total tax of 35% on distributed profits with the first category tax applied as a full credit, and 3. enjoy preferential tax treatment compared to those investors domiciled in Chile.

In order to determine the taxes applicable to each effective dividend distribution, the attribution order according to this regime is as follows:

a) Income subject to final taxes (additional tax or personal income tax), in which case the additional tax will apply as well as the appropriate credit.

This income is the difference between the equity (the higher between book and tax) and the exempt income and less the share capital adjusted by inflation (therefore, it includes book profits in excess of tax), whichever is higher.

b) Exempt income: no taxes would apply

c) Retained taxable earnings (FUT) for income generated before January 01, 2017, in which case the former taxation regime applies In summary, ignoring for a moment the benefit enjoyed by investors domiciled in Tax Treaty countries, company owners can essentially choose between paying all of their

tax each year (attributed regime) or postponing a portion of their total tax burden, but ultimately paying a higher rate (partially integrated regime).

The Foreign Investment Statute has been the main regulatory law for foreign direct investment in Chile for the last 30 years. Under this statute a foreign investor Law n. 20.848 may sign a contract with the Chilean State, under which the following rights may be granted: – a non-discriminatory legal regime; Investors may opt out of this mechanism at any time and pay the non-resident income tax at the applicable rate at the time of the opt-out; the opt-out is, however, irrevocable; and the possibility to freeze the existing rate of VAT (for a limited period of time) for goods imported into the country in relation to the specific investment project.
However, the foreign investors who have already entered into an investment contract with the Foreign Investment Committee would continue being subject to the laws applicable to such contracts according to the current provisions.

6.- INTERNATIONAL TAX RULES

6.1. Articles 41F and 59 of the ITL. The norms about thin capitalization

Article 59 of the ITL indicates the limit for company indebtedness with their related companies off the border, being understood that a company is able to normally operate up to a total indebtedness with its related companies not higher than three times its taxable net worth.

Although it is true that this 3 to 1 ratio may vary, depending on the type of company, Chile chose the said ratio, mainly used in world tax legislation.

Articles 41 F and 59 of the ITL: Regarding standards of excess of indebtedness, in the taxable basis of the company are included not only those interests and affected amounts to 4% (extra tax on interests), but also everything that has been affected with a rate below 35%. Thus, the taxable basis became wide substantially, including those interests or quantities affected at reduced rates of Double Taxation Conventions.

According to the new thin-capitalization rules, interest, commissions, services and any other conventional payment by virtue of loans, debt instruments and other operations and contracts which correspond to excessive indebtedness determined at the end of the tax year will be subject to a 35% sole tax.

There will be "excessive indebtedness" if the taxpayer's total indebtedness is larger than 3 times its tax equity at the end of the corresponding year, taking into consideration the following rules:

(1) The 3:1 debt-to-equity limit would be tested on the aggregated of related-party and third-party debt. Currently, only related-party debt is counted.
(2) The 3:1 debt-to-equity limit would be tested annually, in lieu of the one-time test that is currently applied upon disbursement of each loan.
(3) The 35% surtax is levied, in addition to interest, on all charges and fees linked to excessive-indebtedness.
The concept of related company now applies to all kinds of guarantees granted by the group companies.

6.2. Article 41 A of the ITL:

Various amendments are introduced in article 41 A. For example, it is indicated that will not give right to refund any balance credit from taxes paid abroad allocated against the Complementary Global Tax.

6.3. Article 41 G of the ITL: CFC Rules

There are rules regarding the tax treatment that Chilean companies must carry on "Passive Income" generated abroad, internationally known as Controlled Foreign Corporation Rule (CFC). This time, we will specifically refer to the recognition of Passive Income Chilean companies must perform when they are received or accrued by entities controlled abroad.
This matter is regulated in the new article 41 G of the Income Tax Law, which states that individuals, companies and/or entities domiciled or resident in Chile whom, directly or indirectly, are in control of foreign entities, will have to consider, as accrued or received, in proportion to their share in the equity; the passive income, either accrued or received, by such entities abroad.

Passive Income is the one obtained without the need to exercise a commercial or economic activity, for example, the income earned by an investment company, which comes exclusively from the profits generated by companies or other instruments in which it holds investments. In the case analyzed in this report, the holding or Investment Company, is located abroad and is under the control of a Chilean company.

The CFC rules seeks that those passive incomes that are received or accrued by the foreign entities, are recognized in Chile and therefore become subjected to the appropriate taxes, in other words, the aforementioned rules do not affect income generated by operating companies, that is, companies that do not seek to obtain passive income as their main line of business.

In order to apply the provisions in the new art. 41 ° G, two copulative requisites must be met: first, a Chilean taxpayer must control a foreign entity, and then, that foreign entity should be getting, by itself or through a succession controlled companies, the passive income.

If the above hypothesis is verified, then the Chilean taxpayer, for the purpose of determining its own taxable income, will have to include the passive revenue perceived or accrued abroad by the foreign entity that is under its control.

For these purposes, it will be understood that a Chilean taxpayer controls a foreign company when, either alone or together with related persons or entities, it:

A) Owns, directly or indirectly, 50% or more of the capital, the right to profits or voting rights of the foreign company;

B) May elect, or choose to do so, or remove, the majority of the directors or managers of the company abroad, or to unilaterally modify the statutes of the latter;

C) If, regardless of the percentages or attributes mentioned on the two previous literals, the foreign company is resident or domiciled in a country of "low or no taxation", as established in accordance with Chilean regulations; and

D) The Chilean taxpayer has an option to purchase rights under the terms mentioned in letter A.

Th new legislation provides a specific list of items that are to be considered as Passive Income, among which we can highlight, besides the aforementioned profits or dividends: Interests and movable capitals, unless it comes from a bank or regulated financial institution; Royalties; Capital Revenue from property or rights; Revenue from the rental of real states, unless such activity is the main line of business of the foreign entity, among others.

6.4. Preferential tax regimes and CFC Regulations

In 2000, the OECD considered it convenient to publish a "black list" of countries that, given their tax and financial policies and practices, could be considered as "Unco-operative Tax Havens ".

Chile, through Decree No. 628 of 2003, issued by the Ministry of Finance, echoed the criteria used to prepare the list just mentioned, and listed the countries that would be considered tax havens for purposes of Chilean law.

In 2009, the OECD decided to remove from the list the last 3 countries that still remained in it, so there is currently no country that is officially recognized by such organization as a Tax Haven; however, in our country the mentioned Decree remains in full force.

This reality was not altered with the entry into force of the recent Tax reform, the new Article 41° letter H, introduces a new concept, "Countries of Low or No Taxation", however, this regime would now come to coexist with the one already established in the aforementioned decree. Consequently, taxpayers must pay special attention, since now both statutes are in effect, and therefore, not being classified under one of them, is no guarantee of being exempt from the other; and to be included under either regime, or under both of them at the same time, will bring different consequences depending on the legal body from which each of them comes.

Thus, the new art. 41 ° letter H of the Income Tax Law establishes that a country is to be considered as a beneficiary of a preferential tax regime, if it meets at least two of the conditions set out below:

- In such country or territory, the effective rate of taxation on foreign source income is less than 50% of the currently prevailing rate of Chilean Additional Tax (i.e., 35%).
- Such country has not signed an agreement with Chile to enable the exchange of information for tax purposes, or, the agreement isn't currently in force.
- Territories or jurisdictions that do not have legislation that enables the local tax administration to oversee transfer prices, with these being adjusted to the standards of the OECD and the UN.
- Territories or jurisdictions whose laws contain provisions prohibiting their respective tax administrations from requesting information to the people under its jurisdiction, and / or the provision and delivery of such information to third countries.
- Territories or jurisdictions whose laws are considered as preferential regimes for tax purposes by the OECD and the UN.
- Those territories or jurisdictions that tax only the income generated, produced or whose source is in their own territories.

The countries that belong to the OECD, by express provision of the article in question, are per se excluded from this classification. It is noteworthy that the IRS is the one tasked with making the call on whether a country qualifies as a territory of low or no taxation, or not.

This new categorization is especially relevant in light of the provisions incorporated by the reform regarding Passive Income, because, under the new law, when a Chilean taxpayer is in control of enti-

ties not domiciled or resident in the country, and the latter are domiciled in countries that qualify as of low or no taxation, the law presumes that the income earned by these entities are passive income and therefore, unless proven otherwise, such income shall be taxed in Chile.

6.5. Tax Crimes

In addition to determining taxes, the Tax Law, and especially the Tax Code, extensively regulates a series of tax infractions, ranging from fines and penalties to imprisonment. Penalties are applicable in the case of a delay in filing tax returns, as well as malicious omission of documents that alters the resulting taxes, merchandise transport, or tax refunds.

Tax crimes that are especially regulated include:

1. Filing malicious, incomplete or false tax returns that may result in a tax being applied for less than it should be;

2.The malicious omission in the accounting books of records regarding merchandise purchased, sold, assigned or exchanged or other taxed operations;

3. The adulteration of balance sheets or inventories, or the submission of maliciously erroneous records;

4.The use of invoices, debit notes, credit notes or bills already used in prior operations; or

5. The use of other malicious procedures tending to hide or disguise the actual amount of the operations or to clearly evade a tax.

The penalty for the above crimes is a fine ranging from 50% to 300% of the value of the tax evaded and prison.

Regarding taxpayers subject to VAT or other withholding or surcharge taxes that maliciously conduct any maneuver tending to increase the actual amount of their credits or other benefits, regarding the amounts they have to pay, they will be fined from 100% to 300% of the amount evaded and sentenced to 3 years and 1 day to 10 years in prison.

In the same manner, those who, by the simulation of a tax operation or by any other malicious maneuver, obtain tax refunds to which they are not entitled will be subject to imprisonment and 100% to 400% fines.

If, in the commission of the above crimes, false, forged or adulterated invoices or other documents were maliciously used, the highest penalty will be applied. A person who maliciously makes, sells, or gives, under any title; dispatch guides, invoices, debit or credit notes that are false, whether they are stamped or not by the IRS, with the aim of committing or eventually committing one of the above crimes, he will be fined with up to 40 UTA (yearly tax units) and prison of 541 days to 3 years.
The IRS has a one-year term to audit the applicant's statement. It may challenge the taxes determined by the taxpayer and also deny the benefit if it concludes the applicable requirements are not fulfilled. In this case, the taxpayer will not benefit from the exemption of responsibility referred above. The IRS' decision can be claimed by the applicant before the tax court, according to the general rules of the Chilean Tax Code. If the relevant tax court affirms the non-compliance of the requirements, the taxpayer will not be refunded with the 8% tax it paid.

This program does not extinguish the liabilities arising from breaches to provisions related to the prevention of money laundering and terrorist financing.

The main purpose of these incorporations is to grant powers to the tax authority to contest acts or businesses or any other activity performed by taxpayers taking advantage or abuse of the legal forms or through simulation, which exclusive or main purpose is eluding the payment of taxes, which will be subject to the respective control of the Courts of Law. For that purpose, articles 4 bis, 4 ter, 4 quater and 4 quinquies are added to the Chilean Tax Code.

In addition, a new article 26 bis Tax Code was added in 2016, which sets forth that taxpayers or those liable to the payment of taxes that have personal and direct interest, will be able to ask questions to the IRS previously, on the application of articles 4 bis, 4 ter and 4 quater of the Tax Code, on the acts, business or economic activities they project to perform. Likewise, a new article 100 bis is added to the Tax Code , which sanctions a person when it can be proved that has designed or planned acts, contracts or business that constitute an abuse or simulation, in accordance with articles 4 ter, 4 quater, 4 quinquies and 160 bis of the Tax Code.

The amendments, adopted on 27 January 2016, extend the subjects who may make consultations about pronunciations of the tax authority in matters regulated in Article 26a of the Tax Code. In this sense, even taxpayers who do not have a committed interest can do this, but in such cases, the response of the tax authority will be non-binding general or particular.

7. ADDITIONAL CONSIDERATIONS

7.1. Disallowed Expenses

The rate of the sole tax set for in article 21 of the ITL is 40%.

7.2. Deduction of intra group remittances abroad.

A new requirement has been introduced for the deduction of service-related expenses, royalties, interest, freight, insurance, leases and all types of income contemplated in Article 59 of the Income Tax Law paid to foreign related parties as follows:

- The applicable withholding tax should have been declared and paid, if its appropriate
- The remittance of funds abroad should have been effectively made

7.3. Goodwill

Goodwill arising out of a merger is deemed a non-amortizable intangible.

7.4. General anti-avoidance rules

These rules give the SII the authority to challenge a transaction due to abuse or simulation and to request payment of the relevant taxes that would have applied.

The tax courts may rule on the existence of abuse or simulation in a given situation; however, the burden of proof is on the SII.

These anti-abuse rules apply to transactions carried out after the entry into force of the substance-over-form rules; therefore, all prior transactions will be subject to the rules currently in force.

These rules do not apply to acts stipulated before September 30, 2015 even if they produce effects afterwards, without any time limit, with the exception of subsequent amendments to those contracts considered abusive or simulated.

8. ENDNOTES

- On 23rd, August 2018, the Chilean government launched a tax reform proposal, ("Proposal") This newsletter focuses on key proposed tax changes set out in the Proposal, including a significant overhaul to Chile's corporate / shareholder income tax system currently in effect, the introduction of a Digital Service Tax, and other changes that may be relevant to Chilean and non-Chilean multinational enterprises doing business in Chile.

Bill's main guidelines

a) The bill seeks to encourage economic growth, entrepreneurship, investment, savings, and job creation.
b) Focuses on making growth easier for SMEs and entrepreneurs.
c) Respects vertical equity and restores horizontal equity.
d) Seeks to provide legal certainty and predictability for taxpayers.
e) Introduces new tax rules on the digital economy.
f) Modernizes the taxpayer's relationship with the SII
g) Safeguards fiscal neutrality.

Single Corporate / Shareholder Tax System

a) A general and single tax system for all corporate taxpayers. Fully Integrated income tax System ("SIT").
b) Full integration (corporate tax fully imputable against shareholder taxes
c) Shareholder taxes based on effective distributions (cash basis).
d) Corporate tax rate is preserved: Tax rate of 27%: taxpayers in SIT; Tax rate of 25%: taxpayers with "Cláusula Pyme".
e) Simplification of tax records: Taxpayers with no taxexempted profits need not keep special tax records.

Other proposals

-General anti-avoidance rules.
-Rules on deductibility of expenses.
-Modifications to the VAT law.
-Rules for foreign investors.
-Taxation of natural persons.
-Rules for audits and defense of taxpayers.

*The reform is still in the first step in the Chamber of Deputies, should still go through the Senate, perhaps by mixed commission and even by review in the Constitutional Court.

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CORE PRACTICE AREAS: International and Domestic Taxation, Foreign Investment Law, Foreign Exchange Law, Mergers and Acquisitions, Corporate and Business Law, International Trade and Customs Laws, Wealth and Estate Planning.

HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax	33% (2019), 32% (2020), 31% (2021); 30% (as of 2022)
Foreign Entities	33% (2019), 32% (2020), 31% (2021); 30% (as of 2022)
Foreign Entities with PE or Branch	33% (2019), 32% (2020), 31% (2021); 30% (as of 2022)
Corporate Income Tax Surcharge	4% (2019), 3% (2020 and 2021)
Free Trade Zones Reduced Corporate Income Tax Rate	20%
Capital Gains Tax	10%
Dividends Tax	
Regular Withholding Taxes on Cross-border Payments	
- After Tax Dividends (if untaxed at Corporate level)	0%, 7.5% or 15% (33%, 38.025% or 43.05%)
- Branch Profits (if untaxed at Corporate level)	15% (38.025%)
- Interests	The withholding tax rate on inbound credit facilities and leasing transactions varies between 0%, 1%, and 15%, 20% and 33%..
- Financial Returns of Public Private Partnerships Funding	5%
- Royalties	20%
- Technical Assistance, Technical and Consulting Services	20%

- Imports	No withholding
- Tax Havens	33%
Tax Loss Carry-forward Term	12 years
Tax Loss Carry-back Term	Not available
Transfer Pricing Rules	Yes, OECD-like
Tax-free Reorganizations are available if certain requirements are met.	Statutory Mergers, Statutory Divisions, Transformations and Capital Contrinbutions.
General VAT Rate on Sales, Services and Imports	19%
Consumption Tax (Specific businesses)	8%
Regular Custom Duties[1]	0% - 20%
Bank Debits Tax	4 per thousand
National Stamp Tax	0%

Local Level

Tax on Industrial, Commercial and Service Activities	2-13.8 per thousand
Property Tax (including Real Estate)	0.5%-3.5%
Registration Tax	0.1%-1%
Local Stamp Taxes	Up to 2%

Income Tax Treaties

Country	Dividends	Interest	Royalties	In Force
Bolivia	Source	Source	Source	Yes
Canada	Up to 15%	10%	10%	Yes
Chile	Up to 7%	Up to 15%	10%	Yes
Czech Republic	Up to 15%[2]	10%[3]	10%	Yes
Ecuador	Source	Source	Source	Yes
France	Up to 15%[2]	10%[3]	10%	No
India	5%[2]	10%[3]	10%	Yes
Italy	Up to 15%	Up to 10%[3]	10%	No
Japan	Up to 15%	Up to 10%	Up to 10%	No
Mexico	0%[2]	Up to 10%°	10%	Yes
Peru	Source	Source	Source	Yes
Portugal	10%[2]	10%	10%	Yes
South Korea	Up to 10%[2]	10%[3]	10%	Yes
Spain	Up to 5%	10%[3]	10%	Yes
Switzerland	Up to 15%	10%[3]	10%	Yes
United Arab Emirates	Up to 15%[2]	10%[3]	10%	No
United Kingdom	Up to 15%[2]	10%°	10%	No

1 Exceptionally certain products may be subject to higher custom duties.

2 These Treaties to Avoid Double Taxation provide a higher withholding rate when the company distributing the dividends is a Colombian company and the profits out of which the dividend is distributed were not taxed at the corporate level, as follows (i) 25% for the Czech Republic; (ii) 15% for India; (iii) 33% for Mexico, (iv) 33% for Portugal; and (v) 15% for South Korea; (vi) 15% for France; (vii) 15% for United Kingdom; (viii) without limitation for United Arab Emirates.

3 These Treaties to Avoid Double Taxation provide the non-taxation at the source of the interest paid to the other State or to certain public entities of the other State. The following treaties also provide the non-taxation of certain other activities: (i) Spain: sale on credit of merchandise and loans granted by banks; (ii) Switzerland: sale on credit of merchandise and loans granted by banks; (iii) Czech Republic: sale on credit of merchandise and loans granted by banks for a period not exceeding three years;

OVERVIEW

1. INCOME TAX ON COMPANIES

1.1. Corporate Residence

In Colombia, resident entities are taxed on their worldwide income, while foreign entities and foreign entities' Permanent Establishments ("PE") are taxed only on their Colombian source income.

If an entity (i) is incorporated in Colombia; or (ii) has its corporate domicile is in Colombia; or (iii) is "effectively managed" in Colombia; such entity is deemed Colombian for tax purposes.

An entity is "effectively managed" where the key managing decisions are taken[1]. It is important to highlight that foreign companies 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 Exchange; or (ii) receive at least 80% of their total income in the country in which they are incorporated; will not be considered Colombian entities (tax residents) even if their place of effective management is located in Colombia.

1.2. Permanent Establishment

Colombian regulations provide a domestic definition of PE partially tracing the PE definition of the OECD-MC. The Colombian PE definition does not include the project PE.[2] Colombian domestic regulation also provides a list of activities considered ancillary or preparatory, which do, therefore, not give rise to a PE.[3]

PEs are taxed on the worldwide profits attributable to them considering their assets, activities, functions and risks. Therefore, transfer pricing considerations and the elements related with the "OECD report on the attribution of profits to permanent establishments" are to be considered.

Any foreign person or entity having a PE in Colombia is required to file an income tax return and to keep accounting records, for each PE they have in Colombia.[4]

It is worth noting that, although Colombia has a domestic definition of PE, the rules governing PEs under international treaties executed by Colombia, should always prevail.

1.3. Income Tax Rate

The general statutory corporate income tax rate applicable both to Colombian companies and to foreign corporate entities receiving Colombian source income, regardless of whether it is attributable to a Permanent Establishment in Colombia or not, is **33%** for 2019.[5] Pursuant to the 2018 Tax Reform Act, this rate will be reduced in the following years as follows:

1 Colombian Tax Code §12-1

2 Colombian Tax Code §20-1

3 Decree 3026/2013 §3

4 Colombian Tax Code §20-2

5 Colombian Tax Code §240

2019	2020	2021	2022
33%	32%	31%	30%

1.3.1. Reduced Corporate Income Tax Rates

Certain companies in free trade zones are eligible for a reduced **20%** income tax rate.[6]

Additionally certain items of income, that were formerly exempt, are subject to a reduced 9% corporate income tax rate. Some examples are (i) hotel services rendered in newly built or refurbished facilities; and (ii) ecotourism activities

Likewise, in 2010 Law 1429/2010 was enacted in Colombia, introducing several incentives for small enterprises that complete the registration procedure in the merchants' registry after December 29th, 2010.

Only companies that have less than 50 employees and less than approximately USD 1,4 million in assets are eligible for these benefits. If at any point the company exceeds these thresholds it loses the benefits. Such benefits include a progressive income tax rate, which was modified by the 2016 Tax Reform Act as follows:

First two years	9% + (general CIT rate -9%)*0
Third year	9% + (general CIT rate -9%)*0,25
Fourth year	9% + (general CIT rate -9%)*0,5
Fifth year	9% + (general CIT rate -9%)*0,75
As of the sixth year	100% of the general CIT rate

In order to determine whether an entity can benefit from the progressivity on the income tax rate, the individual facts and circumstances of each case should be carefully considered.

1.3.2. Corporate Income Tax Surcharge for Financial Entities

From 2019 through 2021, a surcharge will be levied, exclusively for financial entities, as follows:

	2019	2020	2021
Surcharge	4%	3%	3%
Total CIT Rate	37%	35%	34%

1.4. Taxable Base and Income Tax Assessment Process

The taxable base should be multiplied by the applicable statutory corporate income tax rate. The result is the income tax liability, from which applicable tax credits are subtracted to find the income tax charge.

The taxable base of the Colombian corporate income tax is the result from subtracting the taxpayer's specifically exempt items of income from the greater of (i) the Net Taxable Income ("NTI") and (ii) the Alternate Minimum Taxable Income ("AMTI"). The NTI results from the sum of all revenues realized by the

6 Colombian Tax Code §240-1

taxpayer, minus the sum of all specifically excluded items of income, minus the sum of all costs and expenses allowed as deductions. The AMTI computation is explained in §1.6 below.

The regular income tax assessment process can be illustrated as follows:

Gross Income	
(Sum of all items of income, including short-term capital gains)	
[-]	Excluded Items of Income
[=]	Gross Taxable Income
[-]	Allowed Deductions
[=]	Taxable Income
[-]	Tax Loss Carry-forward (if applicable)
[=]	NTI or AMTI (if greater)
[-]	Exempt Items of Income
[=]	Taxable Base
[*]	25% Corporate Income Tax Rate (or 15% or progressive if applicable)
[=]	Income Tax Liability
[-]	Tax Credits
[=]	Income Tax Charge

The 2016 Tax Act introduced changes that imply that, as of FY 2017, the taxable base of the corporate income tax is calculated using the financial information deriving from the accounting records kept in accordance with International Financial Reporting Standards ("IFRS"). Nonetheless, according with the 2016 Tax Act, various adjustments should be made, in order to avoid that the taxpayer is obliged to pay tax on theoretical income or allowed to deduct theoretical expenses.

Hence, despite that the tax assessment process continues unchanged, there are various changes aligning, for accounting and tax purposes, among others, (i) the moment of accrual of income and costs, (ii) the deductible expenses, (iii) the calculation of the useful life of the assets, and (iv) the applicable methods of depreciation.

It is important to note that a large amount of adjustments for tax purposes are comprised in the 2016 Tax Act, which will most likely imply that, notwithstanding IFRS will be the basis both for accounting and tax purposes, (i) the taxpayers will still need to keep, besides the regular accounting records, special accounting records for tax purposes, and (ii) important differences may arise between accounting and tax records, which will most likely generate untaxed profits at the level of the company, taxable therefore at a higher rate at the level of the shareholder.

1.5. Alternate Minimum Taxable Income ("AMTI")

The taxpayer's AMTI is equal to the taxpayer's net-worth (i.e. all assets net of all liabilities and other allowable exclusions, e.g. shares in Colombian corporations) as of December 31st of the year immediately preceding the taxable year, multiplied by **1,5%.**[7] This rate will be maintained for FY 2020.

If the AMTI is greater than the NTI, the difference between these two items generates a carry-forward

7 Colombian Tax Code §188 and 189

against the taxpayer's NTI, which can be used within the following five (5) taxable years. Paired with the repeal of the CREE and its surcharge, the 2016 lawmaker introduced a transition regime, which specifies how the taxpayers will be able to carry-forward the excess AMTI (determined on the net-worth) over the CREE general tax liability.[8]

The obligation to assess the income tax liability based on the AMTI will be eliminated as of FY 2021.

1.6. Income Tax Deductions

Unless otherwise provided by the statute, all costs and expenses incurred by the taxpayer are deductible, provided that they are related, proportional and necessary to the taxpayer's income producing activity.[9] Costs or expenses related to specifically excluded and/or exempted items of income are not deductible.[10] Certain costs and expenses may be subject to limitations, depending on the facts and circumstances of each case, (e.g., related party charges and commissions, among others). Special limitations apply to the deduction of expenses incurred outside Colombia (see §1.8. below).[11]

It is worth highlighting that (i) royalties paid to foreign related parties or to related parties operating in a FTZ, with regards to intangible goods formed in Colombia, are not deductible; (ii) royalties paid in consideration for the acquisition of finished products are not deductible; and (iii) with the exception of CIT, VAT (which is now creditable, as further explained in §5.5.4 below), net-worth tax and normalization tax, the taxes and other levies paid by Colombian taxpayers are fully deductible, provided that there is a nexus between the payment and the income producing activity carried out by the taxpayer, solving various disputes that have arisen in recent years between the taxpayers and the Tax Authorities on this matter.

1.7. Thin Capitalization Rules

In cases of indebtedness between related parties, only interest derived from indebtedness with an average value not exceeding two times the entity's net equity (on December 31 of the preceding year) are deductible..[12]

The aforementioned interest deductibility limitation applies on both cross-border inbound indebtedness and local indebtedness, and does not apply only on certain narrowly defined cases (e.g. when the debtor is a financial entity, when the loan is obtained in order to finance infrastructure projects related with activities considered of public interest). [13]

1.8. Additional Limitations on Costs and Expenses Incurred Abroad by Colombian Taxpayers

In addition to the regular deductibility requirements, costs and expenses incurred abroad are subject to additional limitations.

Costs and expenses incurred abroad are deductible only to the extent that such deductions do not exceed 15% of the taxpayer's net taxable income assessed without taking into account these deductible items. Exceptiona-

8 Act 1607/2012 §22-1

9 Colombian Tax Code §107

10 Colombian Tax Code §177-1

11 Colombian Tax Code §121 and 122

12 Colombian Tax Code §118-1

13 Act 1607/2012 §22-4

lly, this 15% limitation does not apply (i) whenever the payment abroad has been subject to the corresponding statutory withholding tax in Colombia, (ii) on certain interest payments that are deemed not from a Colombian source, and (iii) on payments on imported movable tangible property.[14]

Payments to a home office or parent company abroad are only deductible if they were subject to withholding tax in Colombia and meet the transfer pricing arm's-length criteria. Additionally, the parties should be able to prove that the service was actually rendered.[15] Please bear in mind that cross-border payments to the home office of Colombian branches and subsidiaries in consideration for management are subject to withholding tax, regardless of whether they are deemed to generate Colombian source income or not. There are other limitations for deductibility of payments to foreign related parties, which need to be analyzed on a case-by-case basis. The application of these deducibility limitations should be carefully considered taking into account, among others, the transfer pricing regime and the application of tax treaties.

1.9. Depreciation and Amortization

Tangible fixed assets' depreciation is deductible. The applicable depreciation term varies depending on the nature of the asset. Further to the 2016 Tax Reform Act, the depreciation term is no longer set on regulations, and should instead be set by the taxpayer, considering for that purpose the lifespan of the asset. IFRS regulations should be regarded; however, the lifespan of an asset determined for tax purposes may differ from the lifespan determined for accounting purposes.

The maximum depreciation rate varies between 2,22% and 33%. Depreciation rates for specific assets (within the previously mentioned range) are set in the corresponding regulation.[16]

For tax purposes, regular methods commonly used worldwide (e.g. straight-line method, declining balance method, etc.) are accepted in Colombia. When using the declining balance depreciation method, the following limits should be observed: (i) the salvage value should be pursuant to IFRS, depending on the type of asset, and (ii) the depreciation rate cannot be accelerated by the application of additional shifts.[17]

If the machinery and equipment are daily used at least for 16-hour shifts, depreciation can be accelerated, increasing the depreciation rate in 25%.

Unless specifically restricted, double and triple shift accelerated depreciation is also available and might be implemented when the asset needs to be depreciated in full in the first years of its useful lifespan. As mentioned before, as of FY2013 the 2012 Tax Reform Act prohibited the combination of the accelerated depreciation with the declining balance method.

Certain assets, including acquired intangibles, and certain costs and expenses deemed as necessary investments for the taxpayer's income producing activity that must be capitalized can be amortized throughout a minimum 5-yr. period using any generally accepted amortization method.[18] It is worth highlighting that, although under IFRS preoperative expenses are deductible when completed, for tax purposes the taxpayer should register an and deduct its value via amortization.

14 Colombian Tax Code §122

15 Colombian Tax Code §124 and 260-3

16 Colombian Tax Code §137

17 Colombian Tax Code §134 and 140

18 Colombian Tax Code §142 and 143

1.10. Transfer Pricing

Colombia has OECD-like transfer pricing rules that are applicable to all transactions between a Colombian party and (i) a foreign related party; or (ii) a related party located in a free trade zone (as explained in §3 a different set of rules applies to transactions between two Colombian related parties).[19]

Under these rules, the Colombian party exceeding certain statutory net assets or revenues thresholds must keep and file with the tax authorities supporting documentation, and a transfer pricing study showing whether the corresponding prices or profit margins are arm's-length.[20] The supporting documentation shall include a master file containing all relevant global information in connection to the multinational group, as well as a local report with all information with regards to the operations carried out by the taxpayer.

The Colombian transfer-pricing regime has a catalogue of situations where two parties are deemed related. This catalogue is complex and its application requires a detailed case-by-case analysis. Parties domiciled in tax havens are deemed as related parties for transfer pricing purposes.[21]

Sale or exchange of stock or quotas in Colombian companies by foreign holders to a related party located abroad is subject to transfer pricing rules.

Lastly, whenever a Colombian taxpayer transfers functions, assets or risks to a related party abroad, it is expected to obtain an arm's length remuneration. This provision is based on the OECD report on business restructurings.

As of FY 2016, a country-by-country report shall be filed in Colombia by:

(a) Colombian taxpayers that are controlling entities of multinational groups of companies; or
(b) Entities (resident or non-resident) that have been designated by the controlling entity as responsible for the filing of the country-by-country report; or
(c) One or more entities and/or permanent establishments pertaining to the same multinational group and having a foreign home office, provided that (i) the income generated by these entities and/or permanent establishments corresponds to at least 20% of the total income of the multinational group; (ii) the home office did not file a country-by-country report in its country of residence; and (iii) the total income of the multinational group in the previous year was equal or higher than USD 800.000.000 (approx.).

The country-by-country report should contain all information relating to the allocation of income and the taxes paid by the multinational group globally. Certain indexes in connection to the economic activity carried out by the multinational group should also be included.

1.11. Certain Exempt Items of Income

Subject to eligibility and compliance by the taxpayer of the statutory requirements, the following corporate income tax exemptions are available (among others):[22]

19 Colombian Tax Code §260-2

20 Colombian Tax Code §260-5 and Decree 3030/2013 §2

21 Colombian Tax Code §260-1

22 Colombian Tax Code §207-2

(a) A fifteen (15) year exemption on income from power generation activities based on wind, biomass and agricultural waste technologies;[23]
(b) A fifteen (15) year exemption on income from fluvial transportation services using low draught boats;
(c) Use of qualified new forestry plantations or investment in new sawmills for the use of said plantations.
(d) A 7-year exemption for income from creative industries, i.e. the so-called *orange businesses*. This exemption applies to companies incorporated and carrying out business activity before December 31st, 2021, which have their domicile in Colombia. Only companies that are exclusively engaged in the development of one of the 27 business activities defined as a creative industry are eligible for this regime. The previously mentioned business activities include, but are not limited to: (i) Jewelry manufacturing; (ii) Book publishing; (iii) Film, music, radio and television production; (iv) Software development; (v) Architecture and engineering and other activities related to technical consultancy; (vi) Theatre and other cultural activities; and (vii) Cultural tourism activities.

Eligible companies shall (i) submit their project to the *Orange Business Committee* of the Ministry of Culture for approval, and (ii) be willing to invest in a 3-year period at least COP 150 million (USD 46,000) in the development of the *orange business*. If this threshold is not met, the income tax exemption will not be applicable from the third year onwards.

1.12. Certain Special Tax Frameworks

1.12.1. Research and technological investment special deduction and tax credit ("RTISD&C")

In Colombia taxpayers are allowed to deduct their investments in research and technological projects. This deduction can be coupled with a tax credit equal to 25% of the amount invested. In order to benefit from the RTISD&C, the investment should be completed through centers and entities approved by the Colombian Science and Technology Department "Colciencias" and registered with the same authority. Donations to specific scholarship funds are also a way to access this treatment. This last issue is pending regulation.[24]

1.12.2. Performing Arts and Cinema

Performing arts enjoy a series of tax benefits, which include, among others, the possibility to deduct 100% of the investment made in the necessary infrastructure for the performance.[25] A special withholding rate as well as a differential VAT treatment may also apply. Please note that individual basis analysis would be needed in order to determine the applicability of the law to a specific case.

Regarding the cinema industry, taxpayers that make investments or donations to cinematographic projects approved by the Ministry of Culture have the possibility to deduct 165% of the amount of the investment or donation.[26]

1.12.3 Leasing Tax Treatment

As a general rule, leased assets must be initially accounted for their value, both as an asset and a liability.

23 In addition to the income tax exemption benefit, taxpayers investing in reaserch and development related to renewable energy projects are elegible for a 50% bonus depreciation or amortization deduction. Furthermore, these taxpayers should also be entitled to opt for an accelerated 5-year depreciation method.

24 Colombian Tax Code §158-1

25 Law 1493/2011 §4

26 Law 814/2003 §16

The lease payments portion allocated to principal decreases the liability while the portion allocated to interest is a deductible expense. Depreciation and amortization deductions are available, as applicable.[27]
The 2016 Tax Reform Act introduced (i) a definition of financial leasing agreements, including the features of this type of agreements, and its particular tax treatment and (ii) a definition of operative leasing agreements, with its own tax rules. It is worth highlighting that the features listed by the provision as requirements for a leasing to be classified as a financial leasing for tax purposes do not necessarily match the definition of leasing agreements provided by the Colombian financial rules and the commercial regulation.

The 2016 Tax Reform Act introduced special accounting recognition rules, based on the new accounting frameworks and other particular considerations.

The new framework is intended to apply to all leasing agreements executed as of January 2017.

1.12.4. Public Private Partnerships and Concession Agreements

The 2016 Tax Act introduced a new special tax framework for Public Private Partnerships and Concession Agreements. This new framework aims to arrange a previously existing mismatch between the moment of accrual of the income with the moment in which the amortization and depreciation expenses could be deducted by the taxpayer. This new tax framework applies whenever the concession agreement comprises both the construction and the operation and administration stages.

Whenever a concession agreement is granted only with regards to one of the stages the new rules are not applicable and the general rules for the accrual of income, depreciation and amortization deductions should be applied.

1.12.5. Regulated Fiduciary Arrangements

The 2016 Tax Act enhanced the transparency of the Fiduciary Arrangements to a full transparency tax regime, by stating that the beneficiary should report in its income tax return the income, costs and expenses accrued at the level of the fiduciary arrangement. Under the former tax framework (partial transparency) the beneficiary only had to report in its income tax return the profit or loss accrued at the level of the fiduciary arrangement.

New rules on income accrual have been enacted and should be carefully reviewed on a case-by-case basis, as they could have important tax implications for beneficiaries and settlors of the fiduciary arrangements.

1.12.6. Carbon Dioxide Tax

The 2016 Tax Reform Act created a "Carbon Dioxide Tax" which is triggered by the first sale or import of fossil fuels, including oil-derived products and all types of gas that may be used as energy sources. This tax is levied only once, either on the import or on the first sale made by the local producer. Neither exports, nor subsequent sales or operations are taxed.

The rate is COP15.000 (Approximately USD 5) per ton of CO2 that a determined fossil fuel is estimated to generate. This rate will be annually readjusted. In order to ease the taxable base of this Tax, the government included the following table, which contains an already calculated estimate of the tons of CO2 produced by each of these common fuels, and therefore, already has a fix rate per unity.

27 Colombian Tax Code §127-1

Fossil Fuel	Unit of Measure	Rate/unity (COP)
Natural gas	Cubic meter	$29
Oil liquefied gas	Gallon	$95
Gasoline	Gallon	$135
Kerosene and Jet Fuel	Gallon	$148
Diesel	Gallon	$152
Fuel Oil	Gallon	$177

1.12.7. Joint Ventures

The 2016 Tax Reform Act established a common fiscal treatment for joint venture agreements, applicable to consortium agreements, associations (temporary company union), other joint ventures and joint accounts agreements, among others. Joint venture agreements, under the 2016 Tax Reform, continue to be regarded as non-taxpayers for corporate income tax purposes and, therefore, as fully transparent from the tax perspective; however, additional formal obligations are established. It is important to highlight that under the 2016 Tax Reform Act the parties of the joint venture agreements maintain the obligation to report the assets, liabilities, income, costs and deductions of the joint venture in their corporate income tax returns, according to their participation in the agreement. The parties to the joint venture can decide whether the agreement should keep accounting records.

Commercial relationships between the joint venture and its parties that imply a fixed remuneration for one of the parties should not be considered as contributions to the joint venture. The implications of this provision should be carefully reviewed on a case-by-case basis.

1.12.8. Stock Options

The 2016 Tax Reform Act introduced a new chapter dedicated to the tax treatment of stock options. The tax regime applicable to (i) stock options, i.e. when shares of a company are offered to employees and the employee has the right to decide whether to accept the offer or not; and (ii) shares transferred to an employee as part of his labour remuneration.

The applicable provision establishes rules for accrual of taxable income and the method to calculate the taxable base both for the company offering the stock option or transferring the shares and for the employee receiving either the stock option or the shares.

1.12.9. Adjustment due to the Fluctuation of the Exchange Rate of Foreign Currencies

With the entry into force of the 2016 Tax Reform:

(a) Income, expenses, costs, assets and liabilities in foreign currency should be accounted for at the exchange rate of the day of its initial recognition.
(b) For tax purposes, exchange differences shall be recognized as income or expense for the fiscal year in which (i) the asset is sold or exchanged; or (ii) the liabilities are liquidated or paid.
(c) The taxable income or the deductible costs or expenses correspond to the difference between the exchange rate at the initial recognition and the exchange rate at the day of the payment or accrual of the payment.

Considering that the 2016 Tax Reform Act substantially modified the previous regime (formerly the relevant regulation stated that the adjustment to be made due to the fluctuations in the exchange rate of assets in a foreign currency owned by a taxpayer on the last day of the fiscal year or taxable

period constituted income in such fiscal year), the 2016 Tax Reform Act provided a transitional regime that should be reviewed on a case-by-case basis.

1.12.10. Colombian Holding Company Regime

The 2018 Tax Reform Act introduced a new regime, for Colombian Holding Companies ("CHC") dedicated to (i) investing in securities, (ii) investing in shares of foreign and/or Colombian companies, and/or (iii) the management of such investments. Colombian companies carrying out these activities may opt- in for the CHC Regime, provided that they meet the following requirements:

(a) Minimum Holding Requirement: The CHC shall have, directly or indirectly, held at least a 10% stake in the capital of at least 2 foreign or Colombian companies, for at least a 12-month period.

(b) Minimum Economic Substance Requirement: The CHC shall have at least 3 employees, an address in Colombia (belonging to the CHC, not to a third party), and shall be able to prove that the strategic decisions in connection with the investments and assets of the CHC are taken in Colombia (please note that only carrying out the Shareholders' meetings in Colombia is not enough to meet this requirement).

In the following tables we summarize the main tax benefits (i) for the shareholders of a CHC, and (ii) for a Colombian company subject to the CHC Regime:

Tax Benefits for the Shareholders of the CHC		
	Colombian Tax Resident	Foreign Tax Resident
CHC distributes dividends to	Taxed in Colombia, with right to a Foreign Tax Credit on any tax paid abroad by the company that distributed dividends to the CHC.	Exempt from Dividends Tax in Colombia, provided that the income out of which the dividends were distributed (i) is attributable to activities carried out by foreign entities; (ii) is not covered by the Colombian Controlled Foreign Entities Regime; and (iii) the shareholder is neither resident in a non cooperative jurisdiction, nor subject to a preferential tax regime
Sale of shares of the CHC by	Exempt from Capital Gains Tax and CIT in Colombia, provided that (i) the price received in consideration for the shares is attributable to value created by foreign entities[4]; and (ii) the company from which the CHC is selling the shares does not qualify as a Colombian Controlled Foreign Entity.	Exempt from Capital Gains Tax and CIT in Colombia, provided that (i) the price received in consideration for the shares is attributable to value created by foreign entities1; (ii) the company from which the CHC is selling the shares does not qualify as a Colombian Controlled Foreign Entity; and (iii) the shareholder is neither resident in a non- cooperative jurisdiction, nor subject to a preferential tax regime.

Tax Benefits for the Company Subject to the CHC Regime		
	Colombian Company	Foreign Company
Dividends received by the CHC from	Taxable in Colombia with CIT, but not subject to Dividends Tax.	Exempt from CIT in Colombia, provided that the income out of which the dividends were distributed (i) is attributable to activities carried out by foreign entities; and (ii) is not covered by the Colombian Controlled Foreign Entities Regime.
CHC sells its shares in a	Taxable in Colombia, under the Capital Gains Tax or CIT, as applicable, depending on the circumstances.	Exempt from Capital Gains Tax and CIT in Colombia, provided that the income out of which the dividends were distributed (i) is attributable to activities carried out by foreign entities; and (ii) is not covered by the Colombian Controlled Foreign Entities Regime.

1.12.11. Mega-Investments

With the entry into force of the 2018 Tax Reform a special tax regime for any Income Tax taxpayer who generates at least 250 direct workplaces and makes new investments of at least 30,000,000 UVT (approx. COP 1,000,000 million or USD 310 million) was introduced.

This regime implies: (i) a reduced income tax rate of 27% (9% for any income derived from hotel services); (ii) a reduced 2-year depreciation term, (iii) exclusion of the obligation to assess the Income Tax liability using the AMTI method; (iv) that dividend distributions will not levy Dividends Tax if originated in income taxed at the corporate level, and will be taxed at a reduced 27% Dividend Tax rate if the dividends are originated in income that was untaxed at the corporate level; and (v) projects qualified as Mega-Investments would be disregarded when assessing the Net-Equity Tax.

This special regime will be applicable for a term of 20 years to investments made before 2024. Investments related to the evaluation and exploration of non-renewable natural resources will not be eligible for this regime.

In order to enforce this regime, the investor and the State will enter into legal stability contracts. Through these contracts, the State guarantees that the above mentioned special tax conditions will be applicable for the investor throughout the term of the contract. In consideration for executing the legal stability contract, the investor will be obliged to pay, during the first 5 years, a premium of 0.75% of the value of the yearly investment.

1.12.12. SIMPLE Tax Regime

In order to promote the formalization of enterprises the 2018 Tax Reform introduced a new simplified tax ("SIMPLE tax") for small and medium enterprises. This SIMPLE tax would replace the Income Tax, local Turnover Tax and the Consumption Tax for any individual or entity who opts- in. In order to be eligible for this regime the taxpayer's gross income shall be lower than 80,000 UVT (approx. COP 2,270 million or USD 700,000). The SIMPLE Tax establishes fix rates applicable to the gross income. Such rates vary depending on the sector in which the enterprise operates, but in any case, the maximum rate is 11.6%.

1.13. Tax Loss Carry-forward

On January 1st, 2007 an evergreen tax loss carry-forward against the taxpayer's NTI was introduced

in Colombia[28] for income tax purposes. The 2016 Tax Reform Act limited this carry-forward to the 12 fiscal years following the year in which the tax loss accrued. A transitory regime was introduced, according to which tax losses generated before January 1st, 2017 will continue to be subject to the previous regime.

The tax loss must arise from an income producing activity commonly taxable under the regular income taxation rules. Should the tax loss lack such nexus, i.e. be related to a non-taxable or exempt income producing activity, the tax loss carry-forward would not be available. The credited amount cannot be greater than the taxpayer's NTI on the year the carry-forward is credited, i.e., a tax loss carry-forward cannot generate further tax loss. Carry-back is not available.

Except as provided for reorganizations, tax losses are neither transferrable to share or quota holders, nor to other taxpayers.

In the case of tax-free mergers and spin-offs the abovementioned general limitations continue to apply. Nonetheless, in these cases part (not all) of the tax losses is transferable to the beneficiary entity(ies); i.e. only the part proportionally corresponding to the participation of the beneficiary entities in the net-worth of the new, surviving or resulting entities, should be deductible. In order to qualify for the tax losses transfer under reorganization tax rules, the corporate purpose of the merging/dividing entity should be the same as that of the beneficiary entity(ies).[29] The tax loss expiration term (when applicable) is not renewed by a reorganization event.

Colombian tax law limits (or in some cases sets special conditions) for the assessment and deduction of tax losses other than net operating losses. We list some of these cases:

(a) Loss generated by acts of god damaging taxpayer's assets;
(b) Loss generated in the sale of fixed assets;
(c) Loss generated in the sale of assets (fixed or current) between related parties, or a corporation and its shareholders – not deductible;
(d) Losses in the sale of shares- not deductible.

1.14. Statutory Foreign Tax Credit ("FTC")

Individuals and corporate persons that are Colombian tax residents and are obliged to pay income tax abroad with regards to their foreign source income, have the right to a FTC. In accordance with the FTC, the tax paid abroad can be credited against the income tax, provided that the amount to be credited does not exceed the income tax liability in Colombia. Excess tax credits can be carried forward for 4 years if certain requirements are met.[30]

Certain conditions need to be met in order for a taxpayer to benefit from the foreign indirect tax credit (i.e. shares not granting voting rights cannot benefit from the credit, a minimum 2- year holding period is required).

1.15. Income Tax Treaties

Colombia's belated development of a network of OECD-like treaties has lead to the execution of income

28 Colombian Tax Code §147

29

30 Colombian Tax Code §254

tax treaties with Spain, Chile, Switzerland, Canada, Mexico, India, Italy, Czech Republic, South Korea Portugal France, the UK the United Arab Emirates and Japan. All these treaties, except the treaties with France, Italy, United Arab Emirates the UK and Japan are already enforceable. Please bear in mind that Colombia is a signatory of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS since June 7th, 2017.

Colombia is also a member of the Andean Pact. Therefore, it benefits from the Andean Pact Tax Directive 578 to avoid double income taxation, enacted in 2004. With isolated exceptions, this Tax Directive provides for exclusive source taxation among member countries.

Additionally, Colombia currently has limited scope income tax treaties to avoid double taxation on sea and air transportation activities with Argentina, Brazil, France (air), Germany, Italy, Panama (air), the United States of America, and Venezuela.

Lastly, it is worth noting that besides the treaties to avoid double taxation on income and capital, Colombia has also signed information exchange tax treaties. Furthermore, Colombia is an early adopter of the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters and, therefore, Colombia will be exchanging tax information under the Common Reporting Standard with over 90 jurisdictions.

1.16. Consolidated Group Taxation

Colombian Tax Law does not provide for a consolidated group taxation mechanism.

1.17. Tax-Free Reorganizations

The Tax Code's reorganizations chapter determines specific anti-avoidance rules, in an effort to curtail M&A transfer strategies that resulted in acquisitions of corporate assets and businesses in Colombia that, due to loopholes that previously existed in the statutes, avoided local taxation.

1.17.1. Tax-Free Capital Contributions of Property

According to the applicable rules, unless otherwise provided by the statute, property transfers to companies, as capital contributions, are deemed tax-free. Therefore, the stock received by the transferor will inherit the tax cost in the transferred property, while the transferee corporation keeps the same tax cost in the property that the transferor had.[31]

All capital contributions of property, including stock, where the transferor is a Colombian national individual or entity and the transferee corporation is an offshore entity (a) will be deemed as taxable without exception, and (b) must observe transfer pricing rules, regardless of (i) the existence of a related-party relationship between transferor and transferee and (ii) the value attributed to the contributed property[32].

1.17.2. Tax Free Statutory Mergers and Spin-Offs Restricted

In an effort to prevent the use of statutory mergers and spin-offs as a means of achieving tax-free status for certain acquisitions of corporate assets and businesses in Colombia, there are certain statutory requirements for these types of reorganizations to qualify for tax-free treatment. In order to achieve the tax-free treatment, the applicable rules provide for a tax cost rollover concerning both the

31 Colombian Tax Code §319

32 Colombian Tax Code §319-2

transferred assets and the new shares issued to the shareholders.

These requirements are based on a continuity of interest ("COI") and on continuity of business enterprise ("COBE"), in absence of which the reorganization will not qualify for tax-free treatment.

In addition to the adoption of COI and COBE requirements, the statute differentiates acquisitional mergers and spin-offs[33] from organizational mergers and spin-offs[34]. For the former type of reorganizations, the participating entities are not considered related-parties under Colombian regulations, while in the latter the participating entities are deemed related-parties. The difference would consist on the adoption of stricter COI and COBE requirements for the organizational mergers and divisions.

In a reorganization between foreign entities entailing the transfer of assets located in Colombia, the transfer of the Colombian assets is taxable in Colombia, unless the Colombian assets transferred as a result of the reorganization represent 20% or less of the worldwide combined assets of the participating entities. In the latter case, the resulting transfer of the Colombian assets could be eligible for tax-free treatment observing the COI and COBE requirements and related rules, as discussed above[35].

Lastly, it is important to highlight that, for tax purposes, Colombian rules provide for joint and several liability of the entities participating in reorganizations[36].

1.18. Indirect Sales

The 2018 Tax Reform Act introduced a special anti-abuse provision aimed at taxing in Colombia indirect sales of shares and assets located in Colombia.

Under the previous regime, indirect sales of shares of Colombian companies and assets located in Colombia, via the sale of shares in a foreign holding company, were not taxable events in Colombia. This was due to the fact that under the previous regulation, the sale of shares of foreign companies generated foreign source income, even if all the assets owned by the foreign company whose shares were sold were located in Colombia.

Exceptions to the new anti-abuse provision comprise (i) the sale of shares of foreign companies listed in a recognized stock exchange (provided that no more than 20% of such shares are owned by the same real beneficiary) and (ii) cases in which the underlying asset(s) located in Colombia represent 20% or less of the book and market value of the total assets owned by the alienated entity.

1.19 Controlled Foreign Entities ("CFE") Regime

The 2016 Tax Reform Act introduced Controlled Foreign Entities rules ("CFE rules"). Individuals and national companies subject to income tax in Colombia that directly or indirectly control a foreign entity and hold participation equal or higher than 10% in it are subject to this regime.

CFEs are defined as investment vehicles (such as corporations, regulated fiduciary arrangements, trusts, mutual funds, other types of trusts), and business and private foundations, that are incorpo-

33 Colombian Tax Code §319-3 and 319-4

34 Colombian Tax Code §319-5 and 319-6

35 Colombian Tax Code §319-8

36 Colombian Tax Code §319-9

rated or domiciled abroad, regardless of whether they have legal personality, and/or whether they are transparent for tax purposes.

A CFE is deemed controlled by one or more Colombian residents when any of the following criteria is met:

(a) the CFE is subordinated of a Colombian resident according to §260-1 of the Colombian Tax Code;
(b) the CFE is a related party of one or various Colombian residents according to §260-1 of the Colombian Tax Code; or
(c) the CFE is domiciled in a non-cooperative jurisdiction (tax haven).

The CFE should not be a tax resident in Colombia. Income, costs and deductions relating to passive income obtained by the CFE are deemed accrued at the level of the Colombian residents that directly or indirectly control the CFE, in the same taxable year in which such income, costs and deductions accrued in the CFE. The tax recognition of these assets, costs and deductions should be made in proportion to the participation held by each Colombian resident in the CFE. However, it is important to highlight that the applicable provisions explicitly forbid the use by the controlling Colombian tax resident of any tax losses accrued at the level of the CFE.

Passive income comprises:

(a) Dividends or any other form of distribution, except for profits that have their origin in real economic activities carried out by the CFE or its subsidiaries. This rule shall be carefully considered on a case-by-case basis;
(b) Proceeds except those obtained by either a CFE controlled by a company that is subject to "surveillance" from the Colombian Superintendence of Finance, or a foreign financial institution, not domiciled in a non-cooperative jurisdiction;
(c) Royalties;
(d) Income from the alienation of the CFE's participation in a passive-income-producing entity;
(e) Income derived from alienation or rental of immovable property;
(f) Income from the trade of goods that (i) are acquired from, on behalf or for a related party; (ii) are produced, manufactured, built, farmed, or extracted in a jurisdiction different from that of residence of the CFE; and (iii) are consumed, used or disposed of in a jurisdiction different from that of residence of the CFE;
(g) Income from intercompany services (technical assistance, and technical, management, engineering, architectonic, scientific, qualified, industrial or commercial services) rendered for or on behalf of a related company in a jurisdiction different from that of the CFE.

This regime is not applicable to profits from active income. However, all revenues, costs and deductions of the CFE are presumed to give rise to passive income, when passive income represents 80% or more of the total revenues of the CFE. Likewise, as of FY 2019, all revenues, costs and deductions of the CFE are presumed to give rise to active income, when active income represents 80% or more of the total revenues of the CFE.

The fact that (i) the income from trading and from the provision of services is deemed passive income, and (ii) entities controlled by Colombian tax residents are deemed CFEs, regardless of whether they are subject to a low or high level of taxation in their tax residence, is rare and implies the need to review the impact of this new regime on a case-by-case basis for taxpayers with operations abroad.

1.20. Disclosure of Beneficial Ownership

Colombian companies owned by Colombian or foreign companies, as well as the Colombian permanent establishments of foreign companies, regulated fiduciary arrangements and mutual funds owned by foreign companies, shall report to the Tax Service information in connection to their beneficial owners. For instance, they shall report the following information: name, date of birth, identification number, and participation in the capital of the company, among others.

The concept of beneficial owner comprises individuals that meet any of the following conditions:

(a) Have effective direct or indirect control of a Colombian company, an agent, a regulated fiduciary arrangement, an investment fund or a permanent establishment of the foreign company; or
(b) Be a direct or indirect beneficiary of the operations and activities carried out by the Colombian company, agent, regulated fiduciary arrangement, investment fund or permanent establishment of the foreign Company;

Certain entities, to be defined by the Government, will collect and disclose information in connection with the beneficial owners of financial accounts.

1.21. General Anti-Avoidance Rule ("GAAR")

Traditionally, the Colombian tax service has attempted to challenge tax abusive transactions based on the constitutional principle of substance over form and based on general law abuse considerations.

Additionally, as of December 27th, 2012 a GAAR was adopted. This GAAR was modified by the 2016 Tax Reform and currently states that tax abuse comprises the use or implementation of one or more contrived acts or legal transactions, without an apparent economic or commercial purpose, in order to obtain a tax benefit, which is defined as the alteration, disfigurement or modification of the tax effects, for instance, the elimination, reduction, or deferral of a tax due, or increasing the balances or tax losses, or the extension of tax benefits and/or exemptions.

This GAAR introduces the following non-exhaustive list of cases in which a business is deemed to

(a) The legal act or transaction is executed in a way that, in economic and/or commercial terms, is unreasonable;
(b) The legal act or transaction results in a higher tax benefit that is not proportional to the economic or business risks borne by the taxpayer; or
(c) An act or business apparently correct hides the true and real intention of the parties.

The Tax Service always bears the burden of proof. Additionally, the 2016 Tax Reform Act established a new administrative procedure for these cases and an inaccuracy penalty of 160%.

The new rule maintains the provisions according to which the Tax Service could (i) re-characterize or reconfigure every transaction or series of transactions that are deemed abusive for tax purposes, as well as disregard their effects in order to prove the reality of the transaction; and (ii) pierce the corporate veil from the companies or entities that were part of the transaction(s) considered abusive.

The 2018 Tax Reform establishes that the persons involved in transactions with evasion or tax abuse

purposes are jointly and severally liable for any tax, interest or penalties that the Tax Administration had not collected. Likewise, the persons who custody, administrate or manage assets in funds or vehicles used by their owners for purposes of tax evasion or abuse are jointly and severally liable for the sums that the Tax Administration had not collected.

1.22. Filing and Payment

The taxpayer must file the income tax return and pay the corresponding tax liability on the year immediately succeeding the fiscal year for which the return was prepared. Every year, the tax authorities issue a filing and payment schedule with specific deadlines that vary depending on the last number of the taxpayer's Tax Identification Number. Usually, filing and payment dates are similar year after year.

For FY2018, all entities including corporations must file their income tax return between April and May 2019. The taxpayer can pay the Income Tax Charge in two (2) 50% installments: The first installment on the filing date, and the second installment on June 2019, observing the yearly payment schedule issued by the tax authorities[37].

There are special filing and payment schedules issued by the tax authorities for certain companies in the list of "grand income taxpayers." For FY2018 all "grand income taxpayers" must file their return between March and April 2019. "Grand income taxpayers" benefit from a three (3) installments payment facility. For FY2017 these installments are due on February, April and June 2019.[38]

1.22.1. Foreign Held Assets Return

Taxpayers who pay income tax in Colombia with respect to their worldwide income and hold assets abroad should yearly file a special return disclosing such assets.[39]

1.22.2. Statute of Limitations

Through the 2016 Tax Reform Act, the statute of limitations that the Tax Service has to audit taxpayer's returns was modified. Prior to the 2016 Tax Reform Act, with only few exceptions, the Colombian Tax Service had a 2-year term to audit tax returns. The general statute of limitations was extended to a 3-year term and special 6-year term statute of limitations for income tax returns of taxpayers obliged to comply with the transfer pricing regime was set.

The statute of limitations of tax returns that report tax losses or carry them forward was also extended. Formerly, the statute of limitations to audit these tax returns was 5 years and such term was extended to 6 years. Please bear in mind that the 6-year statute of limitations for tax returns reporting losses would be extended for 3 additional years if the taxpayer offsets the tax losses during the last two years of the initial 6-year term.

It is important to highlight that under an alternative interpretation, which might be defended by the Tax Authorities, the statute of limitations for returns in which tax losses are reported could be of 12 years. This new rule lacks clarity and is extremely complex and could, therefore, be construed in different ways.

37 Decree 1625 /2016 §1.6.1.13.2.12.

38 Decree 1625 /2016 §1.6.1.13.2.11.

39 Colombian Tax Code §607

1.22.3. Non-payment and Lateness Penalties

Unpaid taxes are subject to daily interests at a rate equal to the highest legally accepted three (3) month rate certified by the Financial Regulatory Agency. The 2012 Tax Reform Act changed the interest calculation from a composed interest to a simplified one.[40]

Depending on the facts and circumstances of each case, other penalties apply, e.g., for non-filing, late filing, or inaccurate filing, which may range from 5% up to 200%[41] of the corresponding tax liability.[42]

1.22.4. Tax Evasion as a Criminal Offence

The 2016 Tax Reform Act introduced two new criminal offences, one in connection with income tax and one in connection with VAT.

1.22.4.1.Income Tax: Criminal Offence for Omitting Assets or Reporting Non-Existent Liabilities

The corresponding provision establishes a Criminal Penalty for taxpayers that intentionally affect their income tax due or their reported income tax balance by (i) omitting assets or filing inaccurate information regarding their assets; or (ii) reporting non-existent liabilities, or filing inaccurate information regarding their liabilities. The omitted assets or non-existent liabilities should be equal to or higher than 5,000 minimum wages (approx. COP 4,140 million or USD 1.2 million).

The penalty comprises (i) imprisonment from 48 to 108 months and (ii) 20% of the amount of the omitted asset or the non-existent liabilities. The criminal liability would extinguish when the taxpayer presents or corrects the tax return and performs the corresponding payments, but only if the amount of the omitted assets or inexistent liabilities is lower than 8,500 minimum wages (approx. COP 7,000 million or USD 2.1 million).

The time of imprisonment and the 20% fine would increase 1/3 or 1/2 depending on the amount of the assets omitted or inexistent liabilities included. In any case, the criminal prosecution can only start upon request of the director of the National Tax Authority.

1.22.4.2.VAT and Consumption Tax: Criminal Offence for not Collecting VAT or Consumption Tax

Formerly there was a criminal offence referring only to taxpayers that, having collected taxes, did not pay them to the Tax Service. This provision continues to apply but was broadened to comprise taxpayers that having the obligation to collect and pay to the Tax Service VAT or Consumption Tax fail to do so.

The penalty comprises (i) imprisonment from 48 to 108 months and (ii) double of the amount of the unpaid VAT/Consumption Tax. The criminal liability would extinguish when the taxpayer presents or corrects the tax return and performs the corresponding payments.

It is important to highlight that the corresponding provision explicitly states that if the criminal offence is committed by an entity, the natural persons in charge of fulfilling the tax obligations of the entity would be held liable.

1.22.4.3. Tax Fraud

The 2018 Tax Reform Act established a new criminal offence applicable to (i) the non- filing of any

40 Colombian Tax Code §634 and 635

41 The highest 200% rate is applicable for unreported foreign held assets, as of January 1st, 2018.

42 Colombian Tax Code §641 to 650-1

tax return, (ii) the lack of report of income or the report of inexistent costs or expenses in any tax return, and (iii) or the claim of non-applicable tax credits, withheld taxes or pre-paid taxes.

This criminal offence is applicable in case the tax authorities determine a higher tax due in an amount equal to or exceeding 250 minimum wages (approx. COP 200 million or USD 61,000). The penalty comprises (i) imprisonment from 36 to 60 months and (ii) a fine equal to 50% of the higher tax due. These penalties can increase 1/3 or 1/2 depending on the amount of the offence.

The criminal liability would extinguish when the taxpayer presents or corrects the tax return and performs the corresponding payments, only if the amount of the higher tax due determined by the tax authorities is lower than 8,500 minimum wages (approx. COP 7,000 million or USD 2.1 million). In any case, the criminal prosecution can only start upon request of the director of the National Tax Authority.

2. DIVIDENDS TAX / BRANCH PROFITS TAX

For three decades Colombia did not tax dividend distributions, provided that the distributed profits had previously been taxed at the level of the distributing entity. However, the 2016 Tax Reform Act modified this system by taxing both the distributing company and the shareholder receiving the distributed dividends, as explained herein below.

2.1. Definition of Dividend

Dividend distributions comprise any distribution of benefits, in cash or in kind, out of equity (and not only out of profits) made by a company to its shareholders. The transfer of profits from permanent establishments in favour of their home office is a deemed dividend distribution. Distributions corresponding to paid-in capital or share premiums paid-in by the beneficiary of the distribution are not deemed dividends and are, therefore, not taxable.

2.2. Rates

Beneficiary	Profits Taxed at the Corporate Level	Profits Untaxed at the Corporate Level			
		2019	2020	2021	2022
Colombian companies	0%	38.025%	37.1%	36.175%	35.25%
Resident individuals	0% or 15%	33% or 43.05%	32% or 42.2%	31% or 42.35%	30% or 40.5%
Foreign companies	7.5%	38.025%	37.1%	36.175%	35.25%
Non-resident individuals	7.5%	38.025%	37.1%	36.175%	35.25%
Permanent Establishments (including branches)	7.5%	38.025%	37.1%	36.175%	35.25%

It is worth highlighting that:

(a) Dividends paid out of profits that were not taxed at the corporate level, are subject to an additional withholding, after applying the general CIT withholding. This provision should be carefully reviewed under the treaties to avoid double taxation that have been executed by Colombia, particularly considering that in many of them a 0% withholding on dividends has been agreed upon.

(b) Dividends received by a Colombian Company would be taxed only on the first dividends distribution, and the tax credit will be transferred until the last beneficiary of the dividends (individual or foreign investor). Dividend distributions to CHCs or within groups of companies duly registered with the Chamber of Commerce are not subject to this dividends tax withholding.

(c) The fact that non-resident individuals are always subject to a 7.5% rate, while resident individuals can be subject to either a 0% or a 15% rate could be considered discriminatory.

(d) Distributions of profits generated on of before December 31st, 2016 would be subject to the previous regime, even if distributed in 2017 or thereafter.

3. CAPITAL GAINS

The general statutory long-term (2-year holding period required) capital gains tax rate for the sale or exchange of property (including stock in Colombian corporations) is **10%**[43]. Short-term capital gains are deemed as a regular item of income subject to income tax.

The taxable base of the capital gains tax is the result of the amount realized, minus the taxpayer's adjusted tax basis on the asset, plus any recaptured depreciation, amortization or deductions, as applicable. Capital gains can be offset with capital losses only.

Except in certain isolated cases, the taxpayer's capital gains tax is assessed, filed and paid with the taxpayer's regular yearly income tax assessment.

The tax authorities can challenge, through an audit, the amount that the taxpayer reported as realized in the sale or exchange of assets. Such an audit is authorized by law only when there is evidence that the taxpayer breached certain statutory pricing thresholds that use criteria such as (i) the asset's fair market value; (ii) the greater of its cadastral appraisal or the owner's self-appraisal in the case of real estate; and (iii) 115% of the "intrinsic" value in the case of stock or quotas[44].

In the case of intangibles, taxpayers must be on the lookout, because the 2016 Tax Reform Act introduced new rules to assess capital gains in the sale or exchange of intangibles, depending on whether the intangible is formed or acquired, among others[45].

Special thresholds and valuation methods apply if the operation takes place between a Colombian taxpayer and a foreign related party (see §1.11).

4. WITHHOLDING TAX ON CROSS BORDER PAYMENTS

When Colombian source income is remitted abroad to a beneficiary that is a non-resident individual or entity, the payment should be subject to a withholding tax.

4.1. Dividends

43 Colombian Tax Code §300 and 313

44 Colombian Tax Code §90

45 Colombian Tax Code §74 and 75

As explained in §2 below, a withholding tax on cross-border payments of dividends/branch profits applies, at the following rates for FY 2019: 7.5% or 38,025%

In fact, if the corresponding profits were taxed at the corporate level, a 7.5% withholding tax applies; otherwise a 38,025% withholding tax would be applicable to all non-resident entities/individuals. In the case of PE's of foreign companies, the same withholding rates would be applicable on distributions of profits to the home office.[46]

4.2. Royalties

Outbound royalty payments are subject to a 20% withholding tax.[47]

It is worth highlighting that as a consequence of the 2016 Tax Reform Act, royalties paid (i) to foreign related parties or to related parties operating in a Free Trade Zone, with regards to intangible goods formed in Colombia, are not deductible; and (ii) in consideration for the acquisition of finished products are not deductible.

4.3. Technical Services, Technical Assistance, Consulting Services and Management Services

Outbound payments for technical services, technical assistance and consultancy services rendered by non-residents, in Colombia or abroad, are subject to a 20% withholding tax[48.]

Cross-border payments to the home office of management fees are subject to a 33% withholding tax, regardless of whether they are deemed to generate Colombian income or not.

4.4. Other Services

Other services, different from technical services, technical assistances and consultancy services, if rendered from abroad, are not subject to withholding tax[49]. Conversely, if rendered in Colombia, a 20% withholding tax applies, unless otherwise provided by special rules.

4.5. Interest and Leasing Payments

Pursuant to the 2018 Tax Reform Act, except otherwise provided by applicable regulations, cross-border interest payments on credit facilities will be subject to a 15% withholding tax, if the term of the agreement is longer than a year, and to a 20% withholding tax otherwise. Only few exceptions as (i) payments made in consideration for leased equipment (i.e. provided that the equipment is a vessel, helicopter or an airplane), case in which the reduced applicable withholding tax rate is 1% and (ii) financial returns from the funding of public private partnerships, with are subject to a 5% withholding, as further explained in §4.6. below.

4.6. Financial Returns of Public Private Partnerships Funding

A special 5% withholding tax rate applies on cross-border payments of interest and other financial

46 Colombian Tax Code §407

47 Colombian Tax Code §408, 410 and 411.

48 Colombian Tax Code §408

49 Colombian Tax Code §418

returns, in connection to loans granted to fund infrastructure projects under a Public Private Partnership structure, which are granted for an 8-yr. term, or longer. It is worth highlighting that the general withholding tax rate on cross-border payments of financial returns is 15%, or 20%, depending on the case (see §4.5. above).[50]

4.7. Capital Contributions Repatriation

For the foreign share or quota holders, reimbursements of capital contributions not corresponding to dividend or profit distributions are non-taxable items of income. Therefore no withholding tax should apply.

4.8. Tax Havens (Non-Cooperative Jurisdictions)

Payments directed to a tax haven beneficiary corresponding to items of income deemed from a Colombian source, are subject to withholding tax at a 33% rate.[51] Otherwise the corresponding deduction will not be allowed. This higher withholding tax rate should not be applicable to certain payments related with financial operations duly registered with the Central Bank, provided that they meet the criteria to be deemed as income from a foreign source.[52]

Colombian transfer pricing regulations apply on all the transactions involving a person or entity located, resident or domiciled in a tax haven, regardless of whether between related or unrelated parties. Whenever a Colombian taxpayer has operations of that kind exceeding certain thresholds, it must keep and file with the tax authorities supporting documentation, and a transfer pricing study.[53]

On October 2013 the Government published a list (updated on October 2014) indicating what countries are considered as tax havens for Colombian tax purposes[54]. The 2016 Tax Reform replaced the concept of tax havens' by the concept of "non- cooperative jurisdictions, with no or low imposition and preferential tax regimes".

The Government may continue to define which jurisdictions are non-cooperative (previously "tax havens"), according to the following criteria: (i) absence of imposition or low imposition in contrast to that applicable in Colombia for similar operations; (ii) lack of effective information exchange; (iii) absence of transparency at a legal or regulatory level; (iv) absence of a requirement of either a substantive presence, or the exercise of a real activity which has economic substance; and (v) other criteria internationally accepted for the identification of non-cooperative jurisdictions. Not all of the criteria need to be met; meeting only one criterion could be enough for a jurisdiction to be classified as non-cooperative.

On the other hand, the taxpayer will have to identify the preferential regimes. For that purpose, the relevant provision of the Tax Reform Act states that preferential regimes are those that meet at least 2 out of the following 5 criteria: (i) absence of imposition or low imposition in contrast to that applicable in Colombia for similar operations; (ii) lack of effective information exchange; (iii) absence of transparency at a legal or regulatory level; (iv) the absence of a requirement of either a substantial presence, or the exercise of a real activity which has economic substance; and (v) the fact that the

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50 Colombian Tax Code §408

51 Colombian Tax Code §408

52 Colombian Tax Code §124-2

53 Colombian Tax Code §260-7

54 Decree 1966/2014 (as modified by Decree 2095/2014)

regime is available only for non-residents (ring fencing). Notwithstanding the above, the Government could issue a list of preferential regimes, based on the aforementioned criteria and on any other internationally accepted criteria.

In order to determine whether tax havens' regulation is applicable in a certain case, the individual facts and circumstances should be carefully considered.

4.9. Capital Gains

Outbound payments taxable in Colombia as long-term capital gains (according to §3 above) are subject to a 10% withholding tax (i.e. the same rate as that of the final tax). Taking into account that the withholding is performed on the gross payment, while the tax is assessed on a net basis, the taxpayer will always have a balance, which can only be recovered by claiming it back from the Tax Authorities.

5. VALUE ADDED TAX ("VAT")

5.1. Tax Rates

VAT's general rate is **19%**.[55] A reduced **5%** rate applies for certain goods and services.[56]

5.2. Taxable Transactions

The sale and importation of movable tangible property, intangible property, as well as the provision of services in Colombia or from abroad, are subject to VAT. As a general rule, the sale of fixed assets does not levy VAT[57]. Certain public entities of the national and local territorial level are not subject to VAT.[58]

In most cases of services provided to a Colombian party from abroad, a reverse charge applies and, thus, it is the Colombian party that is obliged to perform VAT back-up withholding and directly pay to the tax authorities 100% of the accrued VAT.[59] In certain cases the foreign party is requires to register with the Colombian Tax Authorities for VAT purposes.

Certain goods and services are exempted ("zero-rated")[60] or not taxable with VAT ("excluded")[61]. In the case of excluded goods and services, any input VAT paid by the taxpayer to its goods and services suppliers has to be capitalized as part of the cost of the excluded goods sold. In the case of zero-rated goods and services, any input VAT paid by the taxpayer to its goods and services suppliers generates a VAT credit[62] (See §5.4. below). In certain cases VAT credits from zero-rated transactions may result in a refundable VAT balance. Exports are VAT exempt (exempt with credit).

55 Colombian Tax Code §468

56 Colombian Tax Code §468-1 and 468-3

57 Colombian Tax Code §420

58 Act 21/1992 §100 and Act 30/1992 §92

59 Colombian Tax Code §437-2

60 Colombian Tax Code §477 to 481

61 Colombian Tax Code §423-428

62 Colombian Tax Code §489

The lists of zero-rated and excluded goods are extensive and should be reviewed in detail on a case-by-case basis

5.2.1. Digital Services

The 2016 Tax Reform Act established a presumption under which any service rendered from abroad but with a beneficiary located and resident in Colombia is deemed as a service rendered inbound, and therefore, subject to VAT unless otherwise provided. This presumption especially has an impact over electronic services rendered to Colombian beneficiaries through software, mobile applications, and satellite broadcasting, among others.

In order to enforce the VAT triggered by the above-mentioned services, the 2016 Tax Reform Act states that the Colombian entities that issue credit cards or debit cards, as well as the sellers of gift cards or prepaid cards in Colombia for such services, and any other Colombian entity or person who receives payments on behalf of foreign renderers of the following services should withhold the VAT triggered as a consequence of the provision of such services at the general rate of 19%:

(a) Streaming services (including movies, TV shows, music, sports and any other kind of streaming).
(b) Digital platform for the digital distribution of mobile applications.
(c) Supply of online marketing/advertisement services.
(d) Educational or instructional electronic supply.

Although pursuant to the 2018 Tax Reform cloud computing and hosting shall remain untaxed, further digital services were added to the list of taxable services, including (i) services rendered through digital platforms, (ii) the assignment of the rights of use or the right to exploit intangibles, and (iii) a catch all provision referring to "other digital services destined to users located in Colombia

5.2.2. Franchises

Franchisees who are currently subject to consumption tax can opt-out from such treatment (until June 2019). Franchisees opting out of consumption tax will be subject to VAT. As of the entry into force of the 2018 Tax Reform Act all franchised restaurant sales will levy VAT instead of consumption tax.

5.3. Taxable Base

As a general rule, the taxable base is the price or value of the consideration paid for the goods or services; this consideration should correspond the fair market value of such goods or services.[63]

There are cases in which certain items must be either included or excluded from the taxable base and/or cases with either mandatory or optional taxable bases, which should be analyzed on a case-by-case basis.

5.4. Creditable VAT

Unless otherwise provided, all VAT paid to suppliers of goods and services that constitute a cost or expense of the taxpayer's income producing activity, is creditable towards the VAT collected by the taxpayer from its clients.[64]

63 Colombian Tax Code §447

64 Colombian Tax Code §484-1 and 485

VAT paid by the buyer on the acquisition, construction and importation of tangible fixed assets used in the tax payer's income producing activity is creditable against income tax.[65]

There are certain limitations on the VAT credits available for zero-rated transactions.

5.5. Selected VAT Incentives

The following are some of the available statutory VAT incentives:

5.5.1. Temporary Importation of Heavy M&E

Temporary importation of "heavy" M&E not produced in Colombia and effectively used in a "basic industry" in Colombia, should not be subject to import VAT.[66]

5.5.2. Acquisition and Permanent Importation of Heavy M&E

Act 1739/2014 extended to acquisitions the formerly only applicable to imports VAT deferral benefit in connection to the payment for Heavy Machinery and Equipment.

In fact, although acquisition and permanent importation of heavy M&E (whether or not produced in Colombia) is subject to VAT, if the M&E is going to be used in a "basic industry" and it's CIF value exceeds approximately USD 500.000, payment of the VAT can be deferred (40% upon acquisition or importation, and 30% in each of the following 2 years). In addition, in these cases the VAT paid can be credited against the taxpayer's income tax in the taxable year in which the VAT was paid or in the subsequent taxable years if the VAT paid cannot be initially credited in full[67].

Please note that if the asset acquired is sold before the end of its useful lifespan a proportional recapture applies.

5.5.3. Environmental Monitoring and Control Systems

Any domestic or imported equipment or devices to be used in the construction of control and monitoring systems required by environmental law and standards in any activity, are not subject to VAT. Access to this exemption requires certification of the environmental authority qualifying the specific equipment or devices acquired[68].

5.5.4. Tax Credit for VAT paid in the Acquisition, Construction or Import of Tangible, Fixed Assets Used in the Taxpayer's Income Producing Activity

The 2018 Tax Reform Act states that as of FY 2019 taxpayers have the right to a full tax credit against income tax of the VAT paid in the acquisition, import or construction of tangible fixed assets used in the taxpayer's income producing activity.

This is an important benefit for businesses because previous law only granted a deduction of the VAT paid in the acquisition or import of capital assets. Hence, instead of recovering up to 33% of the VAT paid, under the current rule, businesses will recover 100% of the VAT paid in the acquisition, import or construction of a fixed asset. Consequently, the VAT paid will not be considered as part of the asset's cost for depreciation purposes

65 Colombian Tax Code §258-1

66 Colombian Tax Code §428

67 Colombian Tax Code §258-2

68 Colombian Tax Code §428

5.5.5. Renewable energy

Certain services (not all), rendered in Colombia or abroad, as well as the purchase of certain goods, equipment and merchandise, related to the investment and pre-investment in projects aiming to the generation or utilization of renewable energy, may be eligible for a VAT exemption. For purposes of benefitting from this VAT exemption, the applicable regulations provide for a number of lengthy and cumbersome requirements that include, among others, that the specific service has to be included in a list issued by the Authorities, a certification issued by the Environmental Authority and filing an application that meets the requirements included in the regulations issued by the Administration of Mines and Energy. The evaluation of the eligibility of the VAT exemption should be reviewed on a case-by-case basis.[69]

5.6. Payment and Filing

VAT is paid on a bimonthly or every four months, depending on the taxpayer's gross income from the previous year.[70] The VAT return must be filed and paid in full on the filing dates scheduled by the government for these purposes.[71]

5.7. Andean Pact VAT Harmonization

Andean Pact Directive 599 establishes the framework for the harmonization of the VAT regimes in member countries, which is expected to take place in the future.

6. CONSUMPTION TAX

Certain economic activities are subject to a non-creditable consumption tax at a general statutory **8%** rate, and not to VAT.[72]

Servies taxed at the general 8% consumption tax rate include restaurant services, bar, grills, pubs and franchised restaurant sales. According to the 2018 Tax Reform, franchisees who are currently subject to consumption tax can opt-out from such treatment (until June 2019). Franchisees opting out of consumption tax will be subject to VAT.

Mobile internet services provided by the carriers are subject to consumption tax at a reduced **4%** rate. This is on top of the already existing 4% for the telephone service component of the mobile plans.

Most sales of immovable property (not only housing) for a price exceeding approximately USD 275.000 will levy a **2%** consumption tax.

7. BANK DEBITS TAX

This is a national level tax. Colombian banks (and other savings institutions) must withhold the tax at source. It applies on any funds deposited that are either withdrawn or transferred from checking or savings

69 Act 1715/2014 §12

70 Colombian Tax Code §600

71 Decree 2623 /2014

72 Colombian Tax Code §512-3

accounts[73]. The taxable base is the amount withdrawn or transferred. The tax rate is **4 per thousand.** There are very limited exemptions to this tax. It is an important tax to keep in mind when structuring a transactions' cash flow.

8. NET-EQUITY TAX

The 2018 Tax Reform Act introduced for 2019 through 2021 a Net-Equity Tax ("NET"). Resident and non-resident individuals, as well as foreign entities that on January 1st, 2019 had a net-equity equal to or higher than COP 5.000 million (approx. USD1.6 million), will be subject to the NET at a 1% rate. Contrary to past similar taxes, Colombian entities (corporations and partnerships) will not be subject to this tax.

NET's taxable base is determined by subtracting the taxpayer's debts from its equity. Additionally, NET taxpayers are allowed to subtract:

a. In the case of individuals, the first COP 460 million (USD 149,000) of the value of the house of residency of the taxpayer provided that it is taxable; and
b. 50% of the assets that are subject to the complementary regularization tax created for 2019

In this edition of the NET the triggering event and the dates in which the obligation to pay the tax arises are separated. Therefore, for NET taxpayers the NET base for 2020 and 2021 may increase or decrease with respect to the original tax base determined for 2019 only by 25% of the previous year's inflation rate.

9. LOCAL TAX ON INDUSTRIAL, COMMERCIAL AND SERVICE ACTIVITIES

This is a municipal (local) level tax applicable to income deriving from all industrial commercial and services activities performed in the territory of a municipality[74]. The taxable base is the sum of the taxpayer's gross revenue from the activity carried out in the relevant municipality. The tax rates vary from one municipality to the next and range from **2 per thousand** to **13,8 per thousand.** This tax is usually paid and a return is filed yearly, with the exception of some municipalities that have adopted a two (2) month taxable period (e.g., Bogota). Incentives for this tax are created and regulated by each municipality. Therefore, the availability of incentives must be confirmed on a case-by-case basis.

As of FY 2019, 50% of the turnover tax will be creditable against the taxpayer's Income Tax liability. From 2022 onwards, 100% of the turnover tax paid will be creditable against the income tax liability. Please note that in this case, the taxpayer faces a choice whether to have the tax deducted or as a tax credit.

10. PROPERTY TAXES

There are municipal (local) level taxes on real estate and vehicles. Each municipality adopts the applicable tax

73 Colombian Tax Code §871

74 Act 14/1983 §32

rates. Therefore, they vary from one municipality to the next. Real estate tax rates usually range between **0,5%** and **1,6%,** however, certain exceptions may apply[75]. Motor vehicles tax rates range between **1,5%** and **3,5%**.[76] Unless otherwise specified, the taxable base in the case of real estate is the cadastral value of the property, and in the case of motor vehicles is their fair market value. Unless otherwise specified in the corresponding municipal ordinances, filing and payment is usually on a yearly basis.

Available local tax incentives, if any, are regulated by the relevant municipal ordinance, applicable in the municipality in which the property is located or registered. Therefore, the availability of incentives must be confirmed on a case-by-case basis.

11. REGISTRATION TAX

A taxpayer registering acts and documents with the cadastral registry or merchants' registry offices is subject to this tax. Depending on the type of act or document, the tax rate ranges from **0,5%** to **1%** when the registration is with the cadastral registry office, and from **0,1%** to **0,7%** when the registration is with the merchants' registry office.[77] Unless otherwise provided, the taxable base is the amount of the price or consideration reflected in the document. Very few documents subject to registration are exempt from this tax. If one of the parties to the document is a public entity, the taxable base is reduced to 50% of the regular taxable base.

12. LOCAL STAMP TAXES

Certain laws authorize departments to enact local stamp taxes to support investments in hospitals, universities and other public entities and activities. Such local stamp taxes are usually levied at a **1%** rate on the gross income attached to the taxable event.

Pursuant to a revenue ruling from the Colombian Tax Service, in some cases the amounts paid by the taxpayer that correspond to stamp taxes can be deducted from corporate income tax.

Before engaging in activities, agreements or transactions with effects within the jurisdiction of any department in Colombia, the taxpayer should confirm whether a local stamp tax that could be triggered by such activity, agreement or transaction is in place, as well as the applicable rate of any relevant stamp tax.

13. ROYALTIES ON NATURAL RESOURCES EXPLORATION ACTIVITIES

Unless otherwise provided, all natural resources exploration activities are subject to the payment of royalties. This summary does not cover the royalty regime. Prior to engaging on any natural resources exploration activity in Colombia, it is advisable to seek qualified legal advice on the royalty regime applicable to the specific activity and jurisdiction.

75 Act 1450/2011 §23

76 Act488/1998 §145

77 Act 223/1995 §230

14. WELFARE CONTRIBUTIONS

14.1. Retirement Contributions

The employee can choose between private or public pension funds[78]. The contribution must be equal to at least **16%** of the employee's wage; both employer and employees can make additional voluntary contributions. Contributions must be computed and paid to the pension funds monthly. The employer must cover 12%, and the employee the remaining 4%. The employer must withhold the employee's part of the contribution and deposit **100%** of the monthly contribution in the pension fund.[79]

14.2. Health Contributions

The employee must be affiliated to a general Health Care Plan ("HCP"). Contributions to the HCP must be equal to **12,5%** of the employee's wage. Contributions must be computed and paid monthly. The employer must cover 8,5% and the employee the remaining 4%. The employer must withhold the employee's part of the contribution and pay **100%** of the monthly health contribution.[80]

14.3. Employment Risks Insurance System

The employee must be affiliated to an employment risk insurance system of its election. The contribution varies between **0,348%** and **8,7%** of the wage of the employee (depending on the activity) and are computed and paid monthly. The employer must cover and pay to the insurer **100%** of the contribution.[81]

14.4 Contributions to Child and Family Protection Services, Public Training System, and Compensation Funds

These contributions were mostly eliminated as a consequence of the introduction of the CREE (see §1.4. above).

14.5. Unemployment Fund Contribution

The employer must contribute an amount equal to one monthly wage per year to the employee's unemployment fund of choice[82]. In addition, the employer must pay to the employee a 12% yearly interest on the amount of that yearly contribution[83]. Both the contribution and the interest must be paid on a yearly basis.

14.6. Incidence on Wages Deductibility

Payment of the abovementioned welfare contributions is a requirement for the corresponding wages paid by the employer to be deductible[84].

78 Act 100/1993 §59

79 Act 797/2003 §7 and Decree 4982/2007 §1

80 Act 100/1993 §204

81 Decree 1772/1994 §13

82 Colombian Labor Code §249

83 Act 52/1975 §1

84 Colombian Tax Code §108

15. CUSTOMS IMPORTS REGIME

The following sections summarize some (not all) general aspects of the Colombian customs imports regime.

15.1. Imports Custom Duties

Unless exempted, zero-rated or exceptionally subject to a different rate, importation of goods is subject to a 19% import VAT[85]. In addition to import VAT, imports are also subject to custom duties generally ranging between 5% and 20%.[86] Colombia has entered into Preferred Custom Duties Agreements with many countries, reducing the applicable custom duties for certain goods.

15.2. Taxable Base

Unless otherwise provided, custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties.[87]

15.3. Customs Valuation

Colombian custom valuation rules are those of the WTO valuation rules. For valuation purposes, the Andean Pact valuation rules in Directives 378 and 379 apply. These rules are also similar to the first mentioned rules.[88]

15.4. Filing and Payment

An import return must be filed upon nationalization of the goods. As a general rule in the ordinary importation regime, custom duties and import VAT must be paid and an imports return filed within the first month following the arrival of the goods to Colombia. In certain cases the importer can request to the custom authorities a one (1) month filing extension.[89]

15.5. Used M&E

Importing used M&E (and spare parts) requires a previous import license that is granted by the foreign trade authorities if the M&E are not produced locally or in an Andean country. In practice, the importation of used spare parts is hardly authorized.[90]

15.6. Free Trade Agreements

Colombia currently has thirteen Free Trade Agreements (FTAs) in force, including, among others, FTAs with various Latin-American countries, an FTA with the United States of America, an FTA with Canada and an FTA with the European Union. Although these FTAs differ in the details of the specific regulation therein, the structure of most of them is quite similar.

85 Colombian Tax Code §468

86 Decree 2153/2016

87 Colombian Tax Code §459 and Colombian Customs Code §26

88 Colombian Customs Code §167

89 Colombian Customs Code §115

90 Decree 925/2013 §14

The FTAs are divided by chapters, each regulating a particular area that affects trade. Some of the main chapters regulate: (i) National Treatment and Market Access – establishing main rules for market access of goods and tariff elimination schedules, (ii) Rules of Origin – establishing rules to consider a product's origin, (iii) Traditional Trade issues – comprising rules on technical barriers to trade, and sanitary and phytosanitary measures, (iii) Trade Remedies – regulating subsidies, safeguards, and antidumping and countervailing measures, (iv) Investment – establishing investment protection and international arbitration for solving investment disputes under the FTA, (v) Trade in Services – liberalizing market access in services, and (vi) Intellectual Property – providing for further protection and regulation on intellectual property. Other issues such as government procurement, labor, environmental matters, among others, are also dealt with in some of these FTAs.

It is important to take into account that each FTA differs on the specific regulation of the areas mentioned. For instance, tariff elimination schedules vary for each FTA, as well as the rules of origin, services liberalization schedules, and most of the rules and procedures established in each agreement.

15.7. Selected Custom Duties Imports Regimes Available

In addition to the ordinary importation regime, a variety of special customs regimes are available for M&E imports. The applicable duties and VAT vary depending on the applicable regime.

Both the ordinary and the temporal imports regimes are available for M&E importations whether leased, on free bailment, or contributed in kind to a Colombian company or branch. Purchased M&E can only be imported through the regular importation regime. Below, some of the features of the different importation regimes are described.

Please bear in mind that last year the Colombian government issued a new Customs Code, which introduces some changes regarding the imports regimes described below. However, these new modalities are not yet in force, because their regulation has not yet been issued. Once the regulation is issued, some changes regarding the time and the requirements for the imports described below will enter into force.

15.7.1. Regular Imports Regime

It applies to all goods that will remain permanently in Colombian territory without restrictions[91]. Upon nationalization, full payment of custom duties and import VAT is required. For foreign exchange purposes, these imports may be reimbursable or non-reimbursable. Non-reimbursable imports require an importation license.

15.7.2. Long-Term Temporary Imports Regime

It applies to M&E and spare parts listed as "Capital Goods" in the applicable regulation. This regime is used whenever the temporally imported goods are expected to remain in Colombia for a period between 10 months and 5 years. Under special circumstances, the Customs Administration has the authority to approve a longer importation period. During the importation period, the payment of custom duties and import VAT will be deferred, being payable in equal installments every six months.

It is important to keep in mind that the value of the customs duties and the import VAT must be computed upon the temporary nationalization and that the customs return must be file within the above-stated one (1) month period. Regardless of whether the Customs Administration authorizes an extension of the importation, the duties and VAT must be paid within the initial 5-year period.

91 Colombian Customs Code §117

The importer must extent a compliance bond, guaranteeing payment default or delays. For foreign exchange purposes, the temporary importation may be reimbursable or non-reimbursable. Non-reimbursable imports require an importation license. Upon expiry of the term, the importer can either re-export or nationalize the goods without paying any additional amounts for custom duties or import VAT[92].

15.7.3. Long-Term Temporary Imports Regime for Leased Equipment

The rules of this regime are similar to the above-explained rules. Nevertheless, given that for foreign exchange purposes lease payments are treated as foreign debt payments, the imports should be treated as non-reimbursable. In addition, this regime allows the substitution of the goods initially imported and the importation of the corresponding spare parts (if any)[93].

15.7.4. Short-Term Temporary Imports

This regime applies to specific goods that will be used for a certain activities taking no longer than six (6) months. The customs service can authorize a three (3) months extension. At the expiration of the authorized importation period, the goods must be re-exported or the importer must apply for a long-term importation regime; otherwise the goods are forfeited and/or a **200%** fine will be imposed. Although for control purposes an imports return must be filed, the operation triggers neither customs duties nor VAT, provided that a guarantee for **150%** of the VAT and customs duties amount is subscribed[94].

15.7.5. VAT Incentives

The VAT incentives mentioned above are available for imported goods, only if the legal requirements are met.

15.7.6. Free Trade Zones ("FTZ")

Colombia has an attractive FTZ regime that should be carefully explored by importers and investors interested in operating in Colombia. Besides the logistic advantages of operating in a FTZ, the Colombian FTZ regime implies, among others, the following benefits: (i) There are neither customs duties nor import VAT upon the "introduction" of foreign goods to the FTZ, (ii) Qualified FTZ users are subject to a special 20% income tax rate (instead of 34%), (iii) If the legal requirements are met, the sale of goods from the rest of the territory to FTZ users, which were acquired to develop their corporate purpose, are VAT exempt [95].

Please note that transfer-pricing regime is applicable between FTZ users and related taxpayers located in Colombia (outside the FTZ).

15.7.7. "Plan Vallejo" Special Imports Regime (special Draw-back mechanism)

After meeting certain requirements, under the "Plan Vallejo", raw materials and other goods can be temporarily imported without triggering custom duties and enjoying a preferential VAT treatment. Both agricultural and services activities could be covered with the "Plan Vallejo"[96].

15.7.8. International Trading Companies ("Sociedades de Comercialización Internacional")

The qualification as an International Trading Company is available for those companies whose main purpose is the commercialization and sale of Colombian products abroad. In this regard, an International Trading Company can buy or acquire goods in the national market issuing a certificate to the seller, without paying the corresponding VAT, as long as these products are exported within 6 mon-

92 Colombian Customs Code §145

93 Colombian Customs Code §153

94 Colombian Customs Code §144

95 Act 1004/2005 §1 to 4 and Colombian Tax Code §240-1

96 Resolution1860/1999

ths as of the date of issue of the corresponding certificate. In order to obtain this qualification, the company must accredit minimum net assets, constitute a guarantee and must not have been subject to tax or customs penalties during the 5 years prior to the filing of the application, among others[97].

1. Exceptionally certain products may be subject to higher custom duties.

2. These Treaties to Avoid Double Taxation provide a higher withholding rate when the company distributing the dividends is a Colombian company and the profits out of which the dividend is distributed were not taxed at the corporate level, as follows (i) 25% for the Czech Republic; (ii) 15% for India; (iii) 33% for Mexico, (iv) 33% for Portugal; and (v) 15% for South Korea; (vi) 15% for France; (vii) 15% for United Kingdom; (viii) without limitation for United Arab Emirates.

3. These Treaties to Avoid Double Taxation provide the non-taxation at the source of the interest paid to the other State or to certain public entities of the other State. The following treaties also provide the non-taxation of certain other activities: (i) Spain: sale on credit of merchandise and loans granted by banks; (ii) Switzerland: sale on credit of merchandise and loans granted by banks; (iii) Czech Republic: sale on credit of merchandise and loans granted by banks for a period not exceeding three years;

4. The amount of profits generated as a consequence of activities carried out in Colombia by the CHC is considered as value not created by the foreign entity, and is therefore not covered by the Capital Gains Tax/CIT exemption.

97 Colombian Customs Code §40-1

COSTA RICA CHAPTER

FACIO & CAÑAS – FAYCATAX

COSTA RICA CHAPTER
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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate	30%
Capital Gains Tax:	15%
Branch Profits Tax:	30%
Dividends Tax:	15%
Withholding Taxes on:	
Interest:	15%
Royalties:	25%
Technical or Administrative Advice	25%
Any other remittances abroad do not regulated in the articles 49 and 50 of the Income Tax Law, generated from the Costa Rican source income.	30%
Imports:	0%
Labor services:	10%
Tax losses carry- forward term:	Restricted to 3 years (industrial) Or 5 years (agriculture)
Tax losses carry-back term:	Not applicable
Transfer Pricing Rules:	Applicable
Tax-free Reorganizations:	Mergers
VAT on sales:	13%
VAT on services:	13%
VAT on Imports:	13%
Custom Duties:	From 5% to 15%
Net- worth (Assets) Tax:	Not applicable
Stamp (Documentary) Tax:	Scheduler rates
Bank Debits (Transfers) Tax Rate	Not applicable

Local Level Tax Rates:	Varies in each municipality
Tax on Industrial Activities:	Varies in each municipality
Tax on Commercial Activities:	Varies in each municipality
Tax on Service tax:	Not applicable
Real Estate Tax:	0.25%
Taxes on Other Property:	Scheduler rates applicable at National Registry, for registration purposes.
Excise Taxes:	3-5%
Statute of limitations	4 years, and 10 depending of some circumstances

1. INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate

The general statutory corporate income tax rate for Costa Rican entities including Costa Rican branches of foreign companies is 30%. For purposes of corporate Income Tax only, there are four preferential rates of 20%, 15%, 10% and 5% based on Gross Income amounts.

1.1.2 Taxable Base

All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income, i.e. the sum of all Items of Income realized by the taxpayer. The result is the Gross Taxable Income from Which Costs and Expenses are deducted. The after-deductions result is the Net Taxable Income. The result of applying the 30% tax rate is the Resulting Income Tax Liability (Tax Credits only apply for individuals.)

1.1.3.Deductions

As a general rule all costs and expenses deductible provided that they are related, proportional and necessary to the income producing activity. Any costs or expenses related to Excluded and /or Exempted Items of Income are not deductible, and the lack of appropriate apportionment could lead to a proportional rejection on overall deductible costs and expenses. Some costs and expenses are limited to quantitative ceilings, e.g. royalties and technical fees between a branch and foreign headquarters.

1.1.4. Depreciation

Tangible fixed assets depreciation is deductible. Depreciation term varies depending on the asset. Globally used methods are generally accepted in Costa Rica for tax purposes e.g. straight-line method, sum of year's digits method.

1.1.5. Transfer Pricing

Costa Rican legislation approved:

- Rules for identifying related parties
- Introduction OECD methods and sixth method (international traded goods).
- Functional analysis and comparability.
- Documentation (transfer pricing studies)
- Previous Agreements (APAS)
- Country by Country

1.1.6. Inflation Adjustments

Costa Rica does not have inflation adjustments mechanisms. The revaluation of tangible or intangible fixed assets is forbidden.

1.1.7. Tax Losses Carry- forward / Carry-back

A Costa Rican industrial or agricultural taxpayer can carry-forward its losses for a maximum term of 3 or 5 taxable year, respectively. There is no carry-back possibility.

Tax losses can be credited towards (and are capped by) the taxpayer´s net income for the deduction´s taxable year. Therefore, a tax loss deduction cannot generate further tax losses.
Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations such as a merger. Costa Rica does not specifically regulate spin-offs.

This deduction is allowed only when the tax loss arises from an income generating activity ordinarily taxable under the general income taxation rules. Should the tax loss lack such nexus, i.e., be related to a non – taxable or exempt income generating activity, then the taxpayer is not allowed to take the loss deduction.

1.1.8. Financial Leasing Tax Treatment

As a general rule, the assets leased must be entered on the lessee´s books as an asset and in addition its value must be also be entered as a liability. The part of the lease payments corresponding to principal decreases the registered liability, while the interest portion is a deductible expense. The lessee will have the right to take depreciation or amortization deductions on the asset, provided the asset is either depreciable or amortizable. In contrast, the Operative leasing is considered as a normal rental contract and the lessee would total amount of the recurring payments.

Under IFRS leasing contracts (with optional purchase) are recorded as an Asset Accounting (IAS 17). Effects this operation corresponds tax register as an expense to the extent the payment or indebtedness of the lease.

1.2. Payment and Filing.

Ordinary Tax Year covers period between January 1st and December 31st. All taxpayer must observe a filling deadline of two months and fifteen working days after the closing of the corresponding tax year.

There are installments or partial payments calculated on the average on Income Tax of the last three years, and any excess of such installments over the income Tax Liability constitutes an account collectible by the Taxpayer.

1.3. Interest and Penalties on Unpaid Tax or late payment

Unpaid taxes are subject to lateness interest that should be assessed at the official rate fixed every year by the Tax Administrations, according to banking interest rates, and penalty of 1% monthly that could range up to 20% of the corresponding tax liability.

Errors without malice will be subject to a penalty of 50% of the unpaid amount, while omissions or mistakes with bad intentions will incur fines of 100% for so-called "serious behavior", and 150% on those denominated "very serious behavior."

1.4. Dividends Tax / Branch Profits Tax

There is 15% remittance tax on dividends and branch profits remitted abroad to non-domiciled foreign entities or individuals.

1.5. Cross-border Payments

1.5.1. Withholding Taxes

When Costa Rican sourced income is remitted abroad to a beneficiary that is a non-domiciled foreign individual or entity, the payment should be a subject to a withholding tax.

1.5.1.1. Dividends

See 1.4.

1.5.1.2. Royalties

Royalty payments are subject to 25% withholding tax on remittances abroad.

1.5.1.3. Technical Administrative or other Advisory Services.

Whether rendered in Costa Rica or abroad by a non- domiciled party, advisory services are subject to 25% withholding tax on remittances abroad.

1.5.1.4. Other Services

If rendered from abroad and could not be considered as advisory services, then no withholding tax applies. If the services were rendered in Costa Rica, then a 10% (labor) 15% (professional) or 30% (generic) withholdings should apply. (There are other specific rates for certain services, such as transportation or communications, or insurance premiums).

1.5.1.5. Interest Leasing Payments

Interest Payments are subject to a 15% withholding tax rate, unless some exemptions apply, such as loans with a non-domiciled first order Bank, or interest paid in connection to imports. The financial Leasing Payment, typically linked to importation of goods or assets, is exempted and ordinary leasing is subject to a 15% tax rate.

1.5.1.6. Equity Reimbursements

Equity reimbursements not corresponding to dividend or profit distributions are not taxable items of income for the foreign shareholder. Therefore no withholding taxes should apply.

1.5.1.7. Tax Havens

Costa Rica has a special treatment with not cooperant tax countries, for example expenses paid in those countries are not deductible in the income tax.

1.5.2. Tax Treaties

In terms of international taxation, Costa Rica has in effect only an agreement to eliminate double taxation, namely, the one with the Kingdom of Spain, ratified by Law 8888 of 2010, which came into effect on January 1, 2011 , although it had been signed in March 2004.

On February 13, 2014 a treaty with Germany was signed, and the ratification happened by Law 9345 of February 2nd 2016. The effects of DTA begin on January 1st, 2017.

1.5.3. Tax Information Exchange Agreements

Costa Rica has an exchange of information valid with the following countries: Argentina, Australia, Canada, USA, France, Holland, Mexico and Central American.
Also has signed treaties with Denmark, Ecuador, Iceland, Faroe Islands, Finland, Greenland, Norway, Sweden, South Africa.

Includes the Convention on Mutual Assistance and Technical Cooperation between Tax and Customs Administrations.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1. Tax Rates

VAT´S general rate is 13%. There is a reduced rate of 4% for private healthcare services, 2% for medicines, private education and personal insurances, also a 1% rate for goods covered in the Basic Need Goods list. There are also some VAT exemptions for specific public entities of the national or local territorial level.

2.1.2. Taxable Transactions

There are: sale and importation of movable tangible property; and services rendered in Costa Rica. In the case of services, only the services specifically included in a list are taxable, leaving the non mentioned services excluded from the VAT coverage.

2.1.3. Taxable Base

As a general rule, the taxable base is the price or value of the considerations paid for the good services.

There are cases where certain item must be either or excluded from the taxable base and/or cases, which should be analyzed on case-by-case basis.

2.1.4. Creditable VAT

As a rule, the VAT taxpayer has a right to credit against payable VAT all VAT paid to her providers for tangible movable property bought or imported and for services hired, provided that they constitute a cost or expense of the taxpayer´s income producing activity.

The VAT paid in the acquisition of good that will become fixed assets for the buyer is creditable in VAT account.

There are limitations in the VAT credits available for VAT on costs and expenses (e.g. capital assets, raw materials), especially for non-manufacturing companies.

2.2 Selected VAT Incentives

The VAT law does not include selective incentives.

2.3. Payment and Filing

VAT has one month taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT return must be filed and in full on the filing date, 15 natural days after the closing of the monthly period.

3. OTHER TAXES

3.1. Property Taxes

There national taxes on real estate and vehicles according to the corresponding laws. Real estate tax has a 0.25% tax rate. Motor vehicles tax ranges from approximately US $ 25 up to a 3.5% on the fair market value of the motor vehicle. The taxable base in the case of real estate is the registered value of the property in the Municipality. These taxes are paid yearly.

3.2. Industry, Commerce and Service Tax

This is also a municipal tax applicable to all industrial commercial and service activities performed in the territory of said municipality. The taxable base is typically the gross revenue received by the taxpayer and arising from the activity performed in said locality, even though some municipalities use a mix of gross and net income. The tax rate varies according to each every one of the 81 municipalities. The tax is usually paid filed yearly.

3.3. Stamp Tax

This is a documentary tax applicable to a list of with effects in Costa Rica or for Costa Rica party, with scheduler rates. The taxable base is the full amount of considerations agreed in the document, unless otherwise indicated by law. There are several exemptions to this tax, which must be checked depending on the different types of documents.

3.4 Registration Tax

The registration of acts and documents with the National Registrar Office is subject to registration taxes that varies according to a scheduler classification. The taxable base is the amount of the price or consideration shown the document.

3.5. Annually Corporate tax

Costa Rica has approved an annual tax on all corporate entities registered in Costa Rica. The law comes into effect on April 1, 2012. In january, 2015 this tax Has been found unconstitutional by the Sala Constitucional for the Court Supreme for Justice.

3.6. Solidarity Tax for the Strengthening of Housing Programs

The Costa Rica Government introduced Luxury Tax on Houses valued at more than 121 million colones (local currency) in 2014. The tax is also known as the 'Ley Impuesto Solidario Para el Fortalecimiento de Programas de Vivienda'. The Luxury Tax is paid in addition to the other existing property taxes.

The Luxury Tax on Houses is calculated on an annual basis and is due for payment every first of January each year.

4. CUSTOMS REGIME GENERAL ASPECTS

4.1. Custom Duties

In addition to import VAT, imports are also subject to custom duties that range between 5% for most goods, and the application zero rating to certain goods in the context of Free Treaties of Costa Rica.

4.2. Taxable base

Customs duties are calculated on the CIF value goods, while import VAT is computed on the CIF value corresponding custom duties.

4.3. Transfer Pricing

Custom valuation rules follows the GATT valuation code (1994). The department of the Custom Administration has the authority to manage a valuation database.

4.4. Filing and Payment

An important tax return must be filed upon nationalization of the good, and all import procedures must be performed through an authorized custom agent.

4.5. Selected Custom Duties Regimes Available

4.5.1. Ordinary Importation Regime

It applies to all goods that will remain permanently in Costa Rican territory. Full payment of custom duties and import VAT is required upon nationalization.

4.5.2. Temporary Importation Regime

This regime allows the suspension of import taxes payment for an ordinary term of one year, and applies to goods not subject to physical transformation. This regime does not require the subscription of guarantee.

4.5.3. Active Improvement Regime

This regime allows the suspension of import taxes and applies to goods subject to physical transformation within Costa Rican Territory, and does require the subscription of a guarantee.

4.5.4. Passive Improvement Regime

This regime allows the temporary export of goods to physical transformation outside Costa Rican Territory.

4.5.5. Duty Drawback Regime

This regime allows for the reimbursement of tax payments on raw materials imports that were used in the manufacturing process of exporting goods, as long as the export is executed within a year from the raw materials importation.

4.5.6. Free Trade Zone Regime

This regime facilitates the operation of exporting-oriented companies financed through direct foreign. It has exemptions and tax benefits for VAT and Income taxes, subject to compliance of a Contract signed with the Ministry of Foreign Trade competent authorities.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Social Security Systems

The Costa Rican Social Security Institute (Caja Costarricense del Seguro Social) manages and operates the Social Security System and National Health System. These systems provide services and benefits related to illness treatment (Health Care), disability and pension systems, old age, maternity, and death insurance. Social Security taxes are applicable to employer and employees. The taxes are based on the monthly salaries with a 26.17% rate for the employer and 9.34% for the employee, with no brackets or ceilings on the taxed amounts.

5.2. Retirement Contributions

Employee Protection Act No 7938 (February 16, 2000) created and additional employer contribution (3% of employee´s monthly salary) that applies for the whole employment term and does not have a ceiling or a temporal limit. Such employer contributions are deposited in Labor Capitalization Fund under the specific employee´s name, funding in halves a Mandatory Complementary Pension and savings fund. The Costa Rican Social Security Administration collects these contributions through a Centralized Collection System.

5.3. Labor Risk Insurance

This mandatory insurance is covered under the state owned monopoly of the Insurance National Institute covers all the labor force. The employer has to pay insurance according to the schedule of primes updated by the Insurance National Institute.

5.4. Incidence on Wages Deductibility

For purposes of the Corporate Income Tax deductible expenses, the deduction of wages is conditioned to the accurate applications of Income Tax on Salaries and Social Security contributions.

6. CHANGES IN THE LAW APPLYING SINCE 2014

6.1. Comprehensive Amend to the Law No 8634 of the Banking System Development.

This reform covers topics of interest, commissions and other financial expenses paid to Banks by companies domiciled abroad and those went from not being taxed, to be taxed at a rate of 15% of the amount paid. Eliminates the exemption established at the current section 59 of the Income Tax Law, related to payments of interests, commissions and financial expenses paid to financial entities recognized by the Central Bank of Costa Rica, as institutions which usually engaged to make international operations. This reform includes a change on the withholding on remittances abroad.

6.2. The section 27 of the Regulation of the Law Sales Tax has been updated with the modification that ruled the Ordinance No. 38579-H to the subsection f) of that section.

The Tax Administration is authorized to grant special purchase orders, in order to file or the taxpayers make acquisitions of goods without previous tax payment.

6.3 AMPO (Informative Return- Formal compliance)

Multifunctional Tool Analysis Preprogrammed . This resolution is mandatory for the major taxpayers which have to be done electronically through "AMPO" tool. The information that must be reported is General Data Company Name, IDTax Number, Address Fiscal Domicile, number employees, tax period, date of registration as a taxpayers, information of the Legal Representative, Shareholders, tax obligations, agencies, branches, and other info.

7. NEW LAWS APPLYING SINCE 2014

7.1. Creation of Tax Procedure Regulation

Was effective since April 2nd, 2014 and repeal the General Tax Audit and Collection Regulations, giving the taxpayer clarity, transparency, legal certainty and simplicity in implementing the Tax Code of Standards and Procedures. This regulation was reformed in November 2018.

7.2. Tax Reform: Bill to improve the fight against tax fraud (Law Draft)

This tax reform, was included with the purpose of reduce the tax avoidance and the breach. This law came into play on December 20th 2016.

7.3 In February, 2016 the Tax Administration presented at Congress the project to corporate taxes with the number 19.818.

This project aims to replace the corporate tax that was found unconstitutional.

7.4 On September 13th 2016, came into play the "Transfer Pricing declaratory" which is an informative tax return which due date is the month of June every year.

7.5 On December 2018, the Costa Rican Congress approved the VAT and Corporate Income Tax (CIT) amending the current law.

For the VAT purposes the law includes that the all services will be subject to pay VAT and changes the concept adopting goods and intangibles instead merchandise.

The credits only will be allowed if they have relation directly with the taxable event, in order to use those credits against the tax debit.

Regarding to the CIT, the capital gains of the assets used in the economic activity and they which not will be subject to pay income tax, currently only the capital gain are taxable if they come from the depreciable assets, also if they come from the habitual activity becoming in ordinary income. The new provisions will apply on July 1st, 2019.

DOMINICAN REPUBLIC CHAPTER
DR&R ATTORNEYS & TAX CONSULTANTS

DOMINICAN REPUBLIC

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	27%
Capital Gains Tax:	27%
Branch Profits Tax:	27%
Dividends Tax:	10%[1]
Tax on local sales by Free Zone Companies:	3.5%[2]
Withholding Taxes on:	
- Interest:	10%
- Royalties:	27%
- Other Services:	27%
Tax losses carry-forward term:	5 years
Transfer Pricing Rules:	Economic group transfer pricing rules[3]
Tax-free Reorganizations:	i) mergers; ii) reorganizations and splits, and iii) sales and transfers within an economic group
VAT on Sales:	18%[4]
VAT on Services:	18%
VAT on Imports:	18%
Custom Duties:	from 0% to 20%
Selective Consumption Taxes:	In the majority it is of a rate of 20%, the highest being 78%[5]
Bank Checks and Transfers Tax Rate:	0.15%[6]
Personal Property and Assets Tax:	1%[7]

Local Level Tax Rates[8]:

Stamp (Documentary) Tax:	2% on mortgages, motor vehicle transfers
Turnover Tax:	16% ad-valorem on fossil fuels
Real Estate Tax:	3% transfer tax

Treaty Taxation:

Countries	Interest	Dividends	Royalties
Canada[9]	Up to 18%[10]	Up to 18%[11]	18%
Spain	10%	10%	10%

OVERVIEW

INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate

The general statutory corporate income tax rate for entities incorporated in the Dominican Republic, including branches or permanent establishments of foreign companies, is **27%**.

1 Branches or other forms of permanent establishments of foreign companies shall withhold and pay the same tax rate when sending payments to a parent company abroad.

2 Free Zone Enterprises when transferring goods or services to a person or entity in the Dominican Republic are subject to payment of a three point five percent (3.5%) fee on account of income tax on the value of gross sales made in the local market. Commercial Free Zones are subject to a 5% fee.

3 In order to establish transfer pricing between related entities, the Dominican source income of branches or other forms of permanent establishments of foreign companies operating in the country will be determined based on actual results obtained from their operations in the Dominican Republic. Decree No. 78-14, about Transfer Pricing, regulates the order of priority of the different valuation methods ruling transfer pricing, as well as the informal declaration obligation over transactions with related parties or affiliates. In that sense, the adjusted amount that will govern for 2019 RD$ 11,144,913.00 (approximately US$222,953.00) for taxpayers whose transactions with related parties do not exceed said value.4There are lower and higher differential rates, as set forth below.

5 Goods subject to excise taxes are: leaded and unleaded fuel (16% ad-valorem tax); cigarettes (per each number of cigarettes in each pack, and 20% ad-valorem), alcoholic beverages (Degree per liter of absolute alcohol and 10% ad-valorem tax), telecommunications (10%), insurances (16%) except if they fall under Law 87-01, electronic items (10-20%); among others.

6 A tax of RD$1.50 per every thousand pesos (RD$1,000.00) is levied on the values of all checks or wire transfers.

7 This rate applies on the total value of the assets, including real estate properties as reflected in the tax payers' balance sheet, not adjusted by inflation and after applying the deduction for depreciation, amortization and reserves for non-collectable accounts. It will be excluded from the taxable base of this tax stock investments made in other companies, land located in rural areas, fixtures on agricultural exploitation and advance taxes.

8 Reference is made to the most usual rates, but different rates may apply.

9 There is a Non Discrimination clause in the treaty.

10 It is currently 10% as per our applicable national law.

11 It is currently 10% per both our applicable national law and said Non-Discrimination clause.

1.1.2. Taxable Base

All revenue from domestic source is subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income. The result is the Gross Taxable Income from which all expenses incurred in obtaining taxable income are deducted. The after-deductions result is the Net Taxable Income. The Exempted Items of Income are subtracted, resulting in the Taxable Base to which the 27% statutory corporate tax rate is applied. The result of applying the 27% tax rate is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the Income Tax Liability.

[+] Sum of All Revenues
[=] Gross Income
[–] Deductible Expenses
[–] Exempted Items of Income
[=] Net Taxable Income (Minimum Presumptive Income Tax)
[=] Taxable Base
[*] 27% Corporate Tax Rate
[=] Resulting Income Tax
[–] Tax Credits
[=] Income Tax Liability
[=] Income Tax Charge Payable

1.1.3. Deductions

- Non-resident physical or legal persons or entities that obtain gains in the Dominican territory by means of a permanent establishment shall pay taxes on the total amount of the income applicable to said establishment in accordance to what is established for legal entities in the Tax Code, notwithstanding any norm that may be specifically applicable. Nevertheless, these permanent establishments do not automatically acquire the characteristics of a resident.

- Non-resident physical or legal persons or entities that obtain income without a permanent establishment shall pay taxes separately for each particular income subject to taxation.

- As established in Article 287 of the Tax Code of the Dominican Republic, the following rules apply:

- Contributors that make payments over Fifty Thousand Pesos (RD$50,000.00; that is, about one thousand US dollars), in fiscal invoices with fiscal credit value, shall use any of the means established in the banking and financial system that single out the beneficiary and that are different from payment in cash, in order to be able to confirm costs and expenses that may be deducted or that may constitute fiscal credit and other income with tax effect. This amount may be adjusted by the inflation as published by the Central Bank.

- Financial Interests: Limits to their Deductibility.

The same Article establishes that when the expenses incurred through the constitution, renewal or cancellation of the debt, constitute taxable income to the lender, under the provisions of articles 306 and 306 bis of the same Tax code, the deduction shall be limited to the amount arising from applying to the expense the result of the application of the abovementioned articles, for a resident and

non-resident lender, respectively, and the rate established in accordance to the dispositions of article 297 of the DR Tax code.

Example:

Credit Entity	**Interests**	**Withholding (10%)**	**Withholding Paid**	**TET**
ABC Bank of USA	225,000.00	10%	22,500.00	10%
ABC Bank of Panamá	350,000.00	10%	35,000.00	25%

Part of the deductible expense			
	Deductible	Non-deductible	Percentage Loss
10/27*225,000=	83,250.00	141,750.00	63%
25/27*350,000=	325,500.00	24,500.00	7%

Notwithstanding other norms relating to deduction of interests, the amount to be deduced for said concept shall not exceed the value resulting from multiplying the total amount of interests accrued in the fiscal period (I) multiplied by three times the existing relationship between the average annual amount of the accounting capital (C) and the average annual amount of all the debts (D) of the contributor that accrues interests (I*3(C/D)).

Example:

Expenses for Financial Interests	200,000.00
Corporate Capital at Beginning	300,000.00
Corporate Capital at End	500,000.00
Average Corporate Capital	400,000.00
Debts that generate interests	
Pending at the Beginning	2,000,000.00
Pending at the End	1,800,000.00
Debt Average	1,900,000.00

Limit on the deductions	
Corporate Capital / Debts	21%

Final Result = (I*3(C/D)	126,315.79
Deductible Proportion	63%
Non-deductible Portion	37%

Even though the amount of cost to be deducted as interest is currently 257,198.00 -about US$5,144.00- the remaining amount of RD$151,552.00 -about US$3,031- can be deducted in a three year period.

The limitation established in the Article of reference shall not apply neither to entities of the financial system regulated by the Dominican financial and monetary authority (nor to foreign financial entities

controlled by over 90% by said local entities) nor to debtors of loans taken before said entities.

Interest not deducted in a fiscal period may be deducted in the following ones, up to the three periods fiscal years from the date they were accrued.

- Deduction of education expenses shall apply as long as the service has been effectively invoiced by the education entity with a valid fiscal invoice with fiscal credit up to a maximum of ten percent (10%) of the taxed income. Nevertheless, said deduction shall not exceed twenty-five percent (25%) of the minimum exemption established in article 296 of the Tax Code of the Dominican Republic.

- Also deductible:

- Insurance premiums that cover risks on goods that produce profits.

- Depletion. In the case of the exploitation of a mineral deposit, including any gas or petroleum well, all the costs concerning exploration and development, as well as the interest attributable to it, must be added to the capital account. The amount deductible as depreciation for the fiscal year shall be determined through the application of the Unit of Production method to the capital account for the deposit.

- Amortization of Intangible Assets. The depletion of the monetary cost of each intangible asset, including patents, copyrights, drawings, models, contracts and franchises whose life has a defined limit, must reflect the life of said asset and the method of recovery in a straight line.

- Uncollectible Accounts. Losses arising from bad credit, in justifiable amounts, or in amounts separated to create a reserve fund for bad accounts.

- Donations to Public Institutions of Charity.

- Investigation and Experimental Expenses.

- Losses.

- Contributions to Pension and Retirement Plans. Contributions to pension and retirement plans approved in accordance of the Law issued for its regulation, and the Rules of Application of this tax, as long as these plans are established for the benefit of the employees of the companies, up to 5% of the applicable tax for a fiscal exercise. However, as per Law 87-01 all contributions to pensions and retirement plans will be deductible regardless of such 5% limit,

- Treatment of natural persons

Individual taxpayers, except those who are salaried, that carry out activities distinct from the business, have the right to deduct from the gross income of such activities the verified expenses necessary to obtain, maintain and conserve taxed income.

Natural persons shall be subject to a 25% tax rate when their income exceeds RD$ RD$867,123.01; 20% when their income falls between RD$624,329.01and RD$867,123.00; 15% when it is between RD$416,220.01and RD$624,329.00; while total income below those ranges is exempted[12]. This scale will be adjusted by inflation early each year.

12 Which equals to a monthly income of up to RD$34,685.00.

Period	Contribution Exemption	
	Annually	**Monthly**
1998	90,720.00	7,560.00
1999	97,800.00	8,150.00
2000	102,792.00	8,566.00
2001	120,256.00	10,000.00
2002	125,256.00	10,438.00
2003	138,420.00	11,535.00
2004	197,470.00	16,455.83
2005	240,000.00	20,000.00
2006	257,280.00	21,440.00
2007	290,243.00	24,186.92
2008	316,017.00	26,334.75
2009	330,301.00	27,525.08
2010	349,326.00	29,110.50
2011	371,124.00	30,927.00
2012	399,923.00	33,326.92
2013	399,923.00	33,326.92
2014	399,923.00	33,326.92
2015	399,923.00	33,326.92
2016	409,281.00	34,106.75
2017	416,220.00	34,685.00
2018	416,220.00	34,685.00
2019	416,220.00	34,685.00

1.1.4. Depreciation

For the purposes of the DR Tax Code, the concept of depreciable assets means the assets used in a business that loses value due to wear and tear, deterioration or disuse.

The amount allowed in a fiscal year for depreciation deduction of any category of assets shall be determined by applying to an asset account, at the close of the fiscal year, the percentage applicable to such category of assets.

Depreciable assets must fall in one of the following categories:

Category 1. Buildings and other structural components used to generate taxable income may be deducted at a 5% annual rate and is calculated by applying the depreciation coefficient to the depreciable base of each asset individually.

Category 2. Automobiles and light trucks for common usage; office equipment and furniture; computers, information systems and data processing equipment may be deducted at a 25% annual rate over the acquisition or construction cost of such assets, minus the ITBIS that has been paid in the acquisition of a business.

Category 3. Any other depreciable assets may be deducted at a 15% annual rate over the acquisition or construction cost of such assets, minus the ITBIS that has been paid in the acquisition of a business. Category 2 and Category 3 assets will be registered in a joint account and the depreciation will be

calculated by multiplying the depreciation coefficient by the depreciable base of its joint account.

The initial addition to an asset account for the acquisition of any asset shall be its cost plus insurance, freight and installation expenses. The initial addition to an asset account for an asset of one's own construction shall include all taxes, charges, including customs duties and interest attributable to such asset for periods prior to its placement into service.

All depreciable assets given in lease will be depreciated by 50% for category 2 assets and 30 % for category 3 assets.

Amortization of intangible assets is permitted by the depletion of the monetary cost of each intangible asset, including patents, copyrights, drawings, models, contracts and franchises whose life has a defined limit, but it must reflect the life of said asset and the method of recovery in a straight line.

At the taxpayer's option, organization costs may be deducted either in the year in which they are incurred or capitalized, or amortized over a period not exceeding five years.

1.1.5. Transfer Pricing

The Dominican Republic has transfer pricing rules applicable to transactions with related companies. The general principle is that when legal acts between a local enterprise of foreign capital and a natural person or legal entity domiciled abroad that directly or indirectly controls it shall be considered to be, in principle, made between independent parties when their provisions adhere to normal market practices between independent entities.

The transfer pricing rules shall also apply when a resident performs commercial or financial transactions with either a (i) related resident, or (ii) natural person or legal entity domiciled, organized or located in states or territories with fiscal paradise or with low taxes, be them related or not.

In order to determine the price or amount of the operations between related parties, the conditions of the transactions between them must be compared with other comparable transactions executed between independent parties.

1.1.5.1. Valuation Methods

For the purposes of determining the price of the operations executed between related enterprises, one of the following methods must be chosen:

a. Non controlled comparable price method (MPC);
b. Resale price method (MPR);
c. Additional cost method (MCA);
d. Comparable profits method (CPM)
e. Transactional net margin method (TNMM)

1.1.5.2. Advanced Pricing Agreements (APA) and Cost Sharing Agreements

Taxpayers may submit an Advanced Pricing Agreement request to the tax authorities on transfer prices that set the values of the operations or financial or commercial transactions carried out with other related parties, prior to the their execution and for a limited time.

Likewise, Cost Sharing Agreements are permitted, as long as they comply with Article 3 of Decree 78-14.

1.1.6. Inflationary Adjustments

The Executive Branch shall order an adjustment for inflation for each calendar year on the basis of the regulated Consumer Price Index, which is calculated and published by the Central Bank of the Dominican Republic.

a. The adjustment ordered for any fiscal year shall be applied to the following concepts determined as of the closure of the preceding fiscal year:

 1. The steps in the tax scale for personal income tax;

 2. Any other amount expressed in Dominican currency ("RD$");

 3. Up to the limit set forth in the Regulations, any net participation in the capital of a business or in any capital asset not related to business;

 4. The transfer to future periods of the net losses for operations and of dividend accounts;

 5. The credit for taxes paid abroad; and,

 6. The nontaxable minimum established for individuals.

b. The Regulations shall include:

 1. Regulations that describe how, in the case of businesses, the amount of the adjustment set forth in clause (a) shall be distributed among all the assets in the balance sheet of business, with the exclusion of cash, accounts receivable and stocks and bonds;

 2. Provisions for rounding-off the adjusted amounts up to the appropriate limit in order to efficiently administer the taxes; and

 3. Provisions that contemplate interim annual adjustments for the calculation of reserves for taxes, insufficient payments and payments in excess, undue payments, amounts paid through retention of an estimated tax and similar matters in which it is necessary to make said adjustments in order to carry out the goals of this Article.

c. The Executive Branch, if necessary, may establish adjustments with respect to inflation in other matters that affect the assessment of taxable income or the payment of taxes.

1.1.7. Tax Loss Carry-forward

The Dominican Republic taxpayers may carry-forward tax losses for a maximum term of 5 fiscal years in accordance to the following rules:

a. In no case, in the current or future tax period, losses will be deductible from other entities in which the taxpayer has made a reorganization process nor losses generated from non-deductible expenses.

b. The enterprises may only deduct their losses of twenty percent (20%) of the total amount of such losses per year. In the fourth (4) year, this twenty percent (20%) will be deductible only to

a maximum of eighty percent (80%) of the net taxable income related to such fiscal period. In the fifth (5) year, the maximum amount is of seventy percent (70%) of the net taxable income. The twenty percent (20%) portion of losses not deducted in a year cannot be deducted in further years nor will it trigger any reimbursement by the Dominican State. The deductions can only be made when filing the income tax returns.

The enterprises that in their first fiscal year present losses in their first income tax return will be exempted from this rule. The losses generated in their first fiscal year may be offset against 100% of their income in the second fiscal year. In the event that such losses could not be fully offset, the remaining credit will be offset following the deduction procedure explained herein.

There is no carry-back possibility.

Losses arising from the sale or disposal of stock or shares may only be computed against capital gains of the same nature.

Tax losses cannot be transferred to other taxpayers.

The Dominican Republic Tax Code allows for three types of tax-free reorganizations:

i. Tax-free mergers, preexisting through a third one that forms, or by the absorption of one of them;
ii. Tax-free split or division of an enterprise into others that jointly continue with the operations of the first, and,
iii. Sales or transfers within an economic group.

1.1.8. Tax-Free Reorganizations

In order to qualify for a tax free merger, requirements are as follows:

i. Approval of the local IRS office of the reorganization: All transfers of rights and obligations are subject to the prior approval of the local IRS office. The non-compliances of the formal duties of the entities whose reorganization results in their dissolution, whether by merger, splits, take over, sales or equity transfers, will be assumed by the surviving entity for the period the statute of limitations that have not yet elapsed and will be liable of any sanctions for the infractions made by the predecessor company.

ii. Dissolution of the absorbed entity: The mergers, acquisitions, sale or transfer of equity from one enterprise to another, leads to the closing of activities of the absorbed entity and obligates such company to make a final income tax return within sixty (60) days after the closing of its activities.

iii. Compliance with the Commerce Code requirements: the publication and registration requirements set forth in the Commerce Code, Law 3-02 of the Mercantile Registry, and Law 479-08 regarding Commercial Companies and Individual Limited Liability Companies must be observed.

1.1.9. Leasing Tax Treatment

The leasing of moveable or immovable assets directly affects the corporate income tax and the Tax on the Transfer of Industrialized Goods and Services (ITBIS) of individuals and corporations.

For the leasing of assets, the rent payments will be treated as deductible expenses to the lessee's income tax, but for financial leasing such payments will be deducted provided that they are not considered to be capital amortization to the assets granted in lease.

If the payment of the lease is made to an individual (the landlord), the rent payment will be subject to a 10% withholding over the amount paid as rent and it will be considered to be a payment on account. Enterprises or corporations are not subject to any withholding when receiving rent payments.

If the landlord is a corporation, the leased asset will be considered to be part of the corporation's tax equity at the end of the operational period subject to inflation adjustments and depreciations, and consequently, affect the income tax to be paid.

To determine tax equity and further apply the inflation adjustments, the following steps must be followed:

a. The financial leasing company must omit from its assets, the accounts receivables for capital settlements insofar as the company is allowed to deduct expenses for depreciation of assets granted in lease;

b. The company that receives the assets in lease must omit from its liabilities (i) the accounts payable for capital settlements, and (ii) the fixed assets received in lease.

The payments made for the lease of moveable and immovable property are levied with an 18% tax rate for ITBIS applied over the lease price. If the landlord is a natural person or individual and the lessee is a corporation, the latter must withhold the 100% ITBIS amount to be paid and file the same before the local IRS. Rent of housing for personal use is exempted from the payment of ITBIS.

In the case of leasing of moveable assets between entities, the paying entity is required to withhold 30% of the ITBIS to be paid.

1.2. Foreign Exchange Gains and Losses

With respect to the application of income tax, our tax regime considers that foreign exchange gains or losses not made at the end of the fiscal year, derived from adjustments to the exchange rates over the currencies of the corporation or obligations in foreign currency, will be considered as taxable income for tax purposes or as deductible expenses depending on each particular case. To that effect, the referred exchange rate adjustments will be made in accordance to the exchange rate index published by the tax administration.

The entries subject to these readjustments are a) all asset entries in foreign currency which are permanent in the country or abroad. In this case, entries such as cash in foreign currency, account receivable entries, titles, rights, certificates, deposits and investments made in foreign currency must be adjusted; and b) all liabilities in foreign currency. The exchange adjustments to the assets in foreign currency must be made against an income-statement account "Exchange Rate Results", while the exchange rate adjustments to the liabilities in foreign currency must be made against each corresponding asset, if applicable, or against the income-statement account "Exchange Rate Result". The income-statement account will be considered for the Profit & Loss Statement and also for tax purposes.

1.3. Payment and Filing

All enterprises or corporations incorporated in the country or abroad domiciled in the country that obtain Dominican source income and/or foreign source income from investments and financial earnings, will be obligated to file an income tax return within 120 days after the closing of the fiscal year.

The individuals or persons, including those that operate business with or without organized accounting and the other physical persons, domiciled or not in the country, taxpayers of Dominican Source income and for foreign income of investments and foreign earnings, must file annually before the tax administration an income tax return of the previous fiscal year, and pay the tax no later than March 31st of each year.

No later than March 15th of each year, the corporations or entities that act as employers shall file separately their income tax declaration on the taxes withheld and paid on the previous calendar year for the wages paid to its employees as well as the independent staff that rendered work or services.

1.4. Penalties on Unpaid Tax or Tax Paid Belatedly

The Dominican Tax Code sets forth certain penalties for incompliance with formal requirements and for incompliance with material obligations.

Penalties for non-compliance of formal requirements are imposed on the following infractions:

i. Omitting presentation of tax declarations within the set period is penalized with a surcharge of 10% of the first month and an additional 4% of each month or fraction thereof, interests of 1.10% per each subsequent month or fraction of a month, and a fine of five (5) to thirty (30) minimum salaries (a minimum salary is equal to approximately US$250.00). In addition to this fine, a sanction of 0.25% of the income declared in the previous fiscal year may be imposed on the taxpayer. However, the surcharges, interests and fines may be reduced up to 40% or 30% if the taxpayer voluntarily pays the due tax by rectifying its tax declarations prior to any requirement made by the tax administration and if no tax audit has been initiated for the tax or the corresponding fiscal period;
ii. Close down of businesses, which may be applied on establishments for lacking registry books, not registering determined goods or equipment, the delay in making the accounting registration after it has been required to do so, the destruction or hiding of goods, documents, books and accounting records, among others.

Amongst penalties for incompliance with substantial obligations:

i. Tax Evasion: this is fined with a penalty of two (2) times the tax that has been omitted, notwithstanding the closure of the establishment. In the event that the amount of the tax evasion could not be determined, a fine will be set between ten (10) to fifty (50) minimum salaries;
ii. Tax Fraud: this is fined with a penalty from two (2) to ten (10) times the tax being evaded; the confiscation of the merchandise or products and the vehicles or other elements utilized for committing the fraud; closure of the establishment for a maximum period of 2 months; cancelation of the license, permits related to the activities performed by the taxpayer for a maximum period of 2 months. In the event of withholding or perception agents, this will be sanctioned with a penalty equal to the payment of two (2) to ten (10) times of the tax withheld or perceived after the expiration of the time limits in which they must remit them to the tax administration. When the amount of the tax fraud cannot be determined, the sanction will be from five (5) to thirty

(30) minimum salaries. Imprisonment of 6 days to 2 years may apply in some circumstances. The amounts of the fine may be reduced whenever the incompliance is not repeated and upon rectification or voluntary filing of the tax.

1.5. Dividends Tax / Branch Profits Tax

The distribution of dividends by local entities or corporations, as well as the repatriation by foreign branches established in the county of Dominican source profits, to natural persons or legal entities residing or domiciled in the country or abroad, are subject to a 10% withholding to be made and paid by the local entity or corporation making the distribution or the branch remitting the profits abroad.

1.6. Cross-border Payments

1.6.1. Withholding Taxes

Those who pay or credit on account taxable income from Dominican sources to physical or legal persons or entities neither residing nor domiciled in the country, must withhold and pay to the Administration, as sole and definitive payment of the tax, 27% of such income.

The gross income paid or credited on account is understood to be, without admitting evidence to the contrary, net income subject to withholding, except when the DR Tax Code establishes the presumptions referring to obtained net income, in which case the tax base for the calculation of the withholding shall be this latter one.

1.6.1.1. Interest on Loans Obtained Abroad

Whoever pays or credits to the account interests of a Dominican source to non-resident physical or legal persons or entities shall withhold and present before the Administration, as a onetime and definitive payment, the ten percent (10%) of said interests.

1.6.1.2. Interest Paid or Credited to Resident Physical Persons

Those who pay or credit interests to physical persons residing or domiciled in the country must withhold and present before the Tax Administration, as a onetime and definitive payment, ten percent (10%) of said amount.

Physical persons may decide to make their Income Tax statements so as to request the return of the amount withheld from interests, in which case it shall be considered as a payment to the account of Income Tax, when one of the following conditions is met:

a. When the net taxable income, including interests, is lower than two hundred forty thousand pesos (RD$267,478.00);
b. When the net taxable income is under four hundred thousand pesos (RD$445,797.00), as long as the income for interests is not over twenty-five percent (25%) of the net taxable income.

Since 2015, the above established scale shall be adjusted annually as per the accumulated inflation corresponding to the previous year, in accordance to the figures published by the Central Bank of the Dominican Republic.

1.6.1.3. Dividends

Please refer to section 1.5.

1.6.1.4. Royalties

Royalty payments made to non-domiciled companies or natural persons are subject to a 27% withholding tax. If the double taxation treaty with Canada or Spain applies, an 18% or 10% withholding will apply, respectively.

1.6.1.5. Technical Assistance, Engineering and Consulting Services

Technical assistance, engineering and consulting services rendered by non-domiciled corporations or natural persons are subject to a 27% withholding tax.

1.6.1.6. Payments to Non-Residents

Payments to non-residents working on a temporary basis in Dominican Republic will be subject to a 27% withholding tax on their gross income.

1.6.1.7. Rental Payments on moveable property

These are subject to a withholding rate of 10% when the beneficiary of the payment is a natural person. When the beneficiary is an entity or corporation, no tax withholding will apply.

1.6.1.8. Rental Payments on real estate property

Just the same as above, these are subject to a withholding rate of 10% when the beneficiary of the payment is a natural person. When the beneficiary is an entity or corporation, no tax withholding will apply.

1.6.1.9. Proceeds from the sale of any type of property

These are subject to a 3% transfer tax and, if applicable, a capital gains tax of 27%. To determine the capital gain subject to tax, the acquisition or production cost adjusted by inflation shall be deducted from the price or value of the transfer of the asset. When dealing with depreciable assets, the acquisition or production cost to be considered shall be their residual value, and based on this the referred adjustment shall be made.

1.6.1.10. Others

The general withholding rate applicable to other cross-border payments not included within those mentioned above are subject to a general withholding rate of 27%.

1.7 Money Laundering Legislation

1.7.1 Law No. 155-17

Law No. 155-17 on Money Laundering and Financing of Terrorism published on June 1, 2017 on the Official Gazette, presents some important novelties from the tax point of view, as follows:

- Effective on June 1, 2017, tax offenses such as tax fraud are hereinafter also considered violations to our new money laundering rules under Law No. 155-17.

- Identification of the final beneficiary of corporate stock. According to said Law 155-17, the concerned parties have the obligation to identify the final beneficiaries of any corporate stock

and to provide any pertinent information of the same. Therefore, in order to comply with the provisions of said Law, the Tax Administration (DGII) proceeded to modify some of its filing forms by adding to the same several annexes regarding the identification of the final beneficiary of any corporate stock. Such is the case of Form IR-2 (Annual Affidavit of the Tax on the Income of Legal Entities) whose new annexes are the H-1 and H-2. Likewise, in Form RC-02 (Affidavit for the Registration and Updating of Legal Data) and Annex D has been added.

- Pursuant to this law, tax violations will only be considered as precedent violations or constituting money laundering as per section 11 from article 2 of said law, whenever the amount involved exceed from the equivalent to 700 average minimum salaries of the Dominican Republic (about US$166,000.00)

1.7.1.1 General Rules

As a result of Law No. 155-17 on Money Laundering and Financing of Terrorism published on June 1, 2017 on the Official Gazette, the Tax Administration (DGII) has issued the following General Rules on Sectorial Money Laundering (hereinafter "GRSML")

i) GRSML No. 01-18 dated January 18th, 2018, regarding the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by lawyers, notaries, accountants and factoring companies;

ii) GRSML No. 02-18 dated January 18th, 2018, about the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by natural or legal persons who regularly engage in the purchase and sale of motor vehicles, ships and aircraft;

iii) GRSML No. 03-18 dated January 18th, 2018, regarding the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by real estate agents, construction companies and fiduciary non-financial or public offerings;

iv) GRSML No. 04-18 dated January 18th, 2018, regarding the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by the traders of precious metals, precious stones and jewelry, natural or legal persons who are dedicated to the purchase and sale of firearms and pawnshops; and,

v) GRSML No. 05-18 dated January 18th, 2018, which establishes the administrative sanctioning regime of non-financial subject to the regulation and supervision of the DGII for the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction.

On the other hand, the Tax Administration (DGII) proceeded to modify some of its forms such as the IR-17 (Sworn Statement and/or Payment of other Withholdings and Supplementary Remuneration); and IT-1 (Sworn Statement and/or Payment of Tax on Transfers of Industrialized Products and Services (ITBIS)).

Regarding the form of IR-17 (Affidavit and/or Payment of other Withholdings and Supplementary Remuneration), in its line "Other Withholdings" the following variations were made:

- The following boxes were added: i) Internet games (Law 139-11, Article 7) and; ii) Other Income (Decree 139-98, Article 70, Literal a and b).
- The name of the box "Other Income" was changed to "Other Income (Law 11-92, Art. 309, Literal b)".

Regarding the form of IT-1 (Affidavit and / or Payment of the Tax on Transfers of Industrialized Products and Services (ITBIS)), an "Annex A" has been added.

2. VALUE ADDED TAX (VAT), A.K.A. ITBIS

2.1. General Aspects

2.1.1. Tax Rates

The general VAT rate is 18%. A reduced VAT rate is established for the goods listed below:

Description	Examples	2017	From 2018	2019
Milk products	Yogurts, butter	16%	16%	16%
Coffee	Coffee, even toasted and decaffeinated	16%	16%	16%
Animal Oils or Edible Vegetables	Soy Oil, peanuts, palm, sunflower, coconut	16%	16%	16%
Sugars	Sugar from Canes and other sugars	16%	16%	16%
Cocoa and Chocolate	Powdered, block and tablet Cocoa	16%	16%	16%

There are also some VAT exemptions for specific public entities of the national or local territorial level, religious institutions, free zones, health services (except gymnasiums), financial services – including insurance -, pension and retirement plans, ground transportation for persons or freight, electricity, water and garbage disposal services, rent of housing for personal use and personal care services, amongst others.

2.1.2. Taxable Transactions

Transactions subject to VAT are the sale of goods, the provision of services in the Dominican Republic and the importation of goods.

In some cases, services rendered outside the Dominican Republic are exempted from the payment of VAT. However, the tax authorities do not always accept this exemption.

2.1.3. Taxable Base

The taxable base is the price or value of the consideration paid for the goods or services.

2.1.4. Creditable VAT

As a general rule the VAT taxpayer shall have the right to deduct from the gross tax the amounts that, by reason of this tax, have been advanced within the same tax period:

a. To local suppliers for the acquisition of goods levied by this tax; and
b. In customs, for the introduction to the country of goods levied by this tax.

2.2. Selected VAT Incentives

Some entities or corporations under a special tax regime law are exempted from the payment of VAT:

2.2.1. Free Zones Entities under Law 8-90

Free Zone entities are exempted from all taxes, including the payment of VAT for the importation of goods and services, and from the acquisition of goods or services.[13]

2.2.2. Tourism Development Law 158-01

Investments made on some tourism projects are exempted from the payment of VAT but limited to the machinery, equipment, materials and moveable assets that are necessary for the construction and for the initiation of operations of the tourism facilities.

2.2.3. Law 28-01 for Border Development

Corporations and entities that install their operations in the border provinces with Haiti are exempted from the payment of VAT.

2.2.4. Law 56-07 that Declares as a National Priority the Sectors Belonging to the Textile Chain, Apparel and Accessories; Fur, Manufacture of Footwear and leather Goods

Corporations and entities under this law are exempted from the payment of VAT.

2.2.5. Law 122-05 Regarding Nonprofit Organizations

Nonprofit organizations are exempted tom the payment of VAT.

2.2.6. Law 502-08 on Books and Libraries

This law establishes a VAT exemption on the importation, as well as on their sale on the local market, of books and other editorial products with cultural and scientific character.

2.2.7. Law 108-10 on the Promotion of Cinematographic Activity

13 Starting on late 2016, shareholders of free zone corporations, are now subject to the 10% with holding described on point/section 1.5.

This law establishes a VAT exemption over equipment, material and furniture required for equipping for the first time and putting into operation new movie theaters.

2.2.8. Law 57-07 on Incentives to Renewable Energy

This law establishes exemptions for investments and development of any renewable energy resources, such as custom duties and taxes on equipment and accessories related to the construction of renewable energy projects, income tax and foreign financing tax.

2.2.9. Other

Other incentive laws grant selective tax incentives. Before the entry into force of Law 253-12, on Tax Reform, an exemption applied to all exporters and producers of exempted goods. Currently, the exemption previously granted has been limited to some sectors of goods exporters and producers of exempted goods, namely, milk, cereals and milling products, beans, chicken and sausage, educational materials, medicines for human and animal use, fertilizers and chemicals products.

2.3. Payment and Filing

VAT returns must be filed within the first twenty (20) days of each month. In the case of definitive imports, the tax is determined and paid along with custom duties.

3. OTHER TAXES

3.1. Personal Property and Assets Tax

This is a 1% tax levying company assets which are included in the taxpayers' general ledger, not adjusted by inflation, after applying all deductions by depreciation, amortization, provisions for bad debts, investment in shares in other companies, land located in rural areas, properties affixed to rural production plants and advance taxes.

The National Bank for Housing Development as defined by Law 6-04, The Pension Fund Administrators as defined by Law 87-01, which creates the Dominican Social Security System and the Pension Funds, the stock market trading corporations, the investment funds managers and those equity issuing companies as defined in Law 249-17, as well as the electrical companies dedicated to the generation, transmission and distribution, as defined by the General Electricity Law No. 125-01, shall pay this tax on the basis of their total fixed assets, net of depreciation as it appears in their balance sheet, with the exclusion of financial intermediation entities or corporations, as defined by the Monetary and Financial Law 183-02, which shall pay their tax pursuant to their productive net financial assets, which encompasses: a) their loan portfolio, net of provisions and b) their investments in titles, net of provisions, but excluding any investments in Dominican government's or the Dominican Republic Central Bank's titles.

The liquidated amount in respect of this tax, when applicable, shall be considered to be a tax credit against the corporate income tax corresponding to the same fiscal year. In the event that this liquidated amount equals or exceeds the assets tax to be paid, the payment obligation shall be considered extinguished. If after the payment is made, there is a difference to be paid, in the event that the assets tax exceeds the income tax, the taxpayer shall pay the difference in two equal installments,

the first due within 120 days from the end of the fiscal year and the remaining balance within a term of six (6) months from the due date established for the first payment.
The following tax payers shall be exempted from this tax:

a. The corporations that are exempted from Income Tax (IT);

b. Those investments as defined by the local IRS as Intensive Capital Investment, meaning;

c. Those investments that by the nature of its activities have an installation, production and operation cycle of more than 1 year;

d. Taxpayers who are operating under the umbrella of a law that includes tax exemptions in connection to corporate income tax;

e. The investments defined regularly by the Tax Administration as intensive capital or the investments that by their nature have an installation, production and commencement of operations cycle exceeding one (1) year, performed by new or pre-incorporated companies, may benefit from a temporary exemption of this tax, after providing proof that their assets qualify as new or derive from an investment capital; and,

f. Those tax payers that declare losses in their income tax returns may request a temporary exemption for the payment of Assets Tax.

The Assets Tax declaration must be filed along with the income tax return of the company (A.K.A. IR-2) and shall be paid in two equal installments: 50% at the date of filing of the declaration and the 50% remaining balance shall be paid six (6) months later. If an extension is granted by the local IRS in filing the income tax return, it will also extend the term to file the assets tax declaration.

For physical persons (resident or non-resident) a personal property tax is levied of 1% on the real estate properties that are destined for housing, commercial or industrial activities owned by individuals whose approximate value –accounting for all properties, and including the land– currently exceed USD$150,437.00. This value is annually adjusted pursuant to local official inflation rates.

The personal property tax (A.K.A. I.P.I.) must be filed by the physical person during the first 60 days of each year and liquidated in two installments: (i) 50% of such tax on March 11 of each year; and (ii) the remaining balance of 50% on September 11 of each year.

On 2016, the tax over assets was eliminated and substituted by the personal property tax rate of one percent (1%) established by Law 18-88 on Luxury Homes, therefore applying to real estate property of both physical and legal persons.

3.2. Municipal Tax

Entities or corporations who privately use or utilize the soil, subsoil or public roads to exploit and supply services which affect all or some part of the municipality will be subject to pay a 3% municipal tax levied on their gross income generated from their annual invoices for each municipal term.

3.3. Stamp Taxes

A transfer tax levies the transfer of real estate property in the Dominican Republic. The tax rate is of

3% over the purchase price of the real estate property as set forth in the purchase and sale agreement or the value of the property assigned by the tax authorities, whichever is higher.
All other real estate operations (registration of mortgages, liens or encumbrances, among others) are subject to a 2% ad-valorem tax.

The transfer of motor vehicles is subject to a unified 2% ad-valorem tax rate applied over the value of the motor vehicle.

3.4. Bank Checks and Transfers Tax Rate

This tax is of RD$1.50 per thousand pesos on the values paid by checks or wire transfers. Payments made to public entities such as the Social Security Treasury Department, the Tax Administration and the General Customs Department are exempted from the payment of such tax.

3.5. Selective Consumption Tax

The selective consumption tax levies all transfers of goods produced locally at the manufacturing level, as well as its importation or the rendering of local services. The applicable tax to these services is as follows:

a. 10% on telecommunications;
b. Specific amounts per liter of pure alcohol;
c. Specific amount per cigarettes packages; and,
d. Specific amount per gallons or tons of fossil fuels and oil derivatives[14].

The individuals, corporations, national or foreign companies that produce and manufacture these goods are obligated to pay these taxes at the last phase of the process, regardless of the fact that their intervention occurs through services rendered by third parties, importers of goods levied by this tax by their own account or by third parties, and the service providers levied by this tax.

The payment of this tax shall be made within the first 20 working days of the month following the declared fiscal period. Importers shall pay this tax along with any custom taxes.
Insurances are levied by this tax at a rate of 16%. Insurances set forth by Law 187-01 are exempted.
Electrical appliances are levied with a selective consumption tax between 10% and 20%.

The products derived from tobacco and alcohols are levied with a selective consumption tax, which shall apply on the retail prices of such products. The rates are of 10% for the products derived from alcohol and 20% for products derived from tobacco. The table of specific amounts to collect the Selective Consumption Tax to the products deriving from alcohol and tobacco are modified on an annual basis.

3.5.1 Regulation No. 1-18 for the Application of Title IV of the Selective Consumption Tax (ISC) of the Tax Code of the Dominican Republic

This Regulation just enacted on January 10, 2018, repeals and replaces the provisions regarding the

14 In addition to this levy an excise ad-valorem tax of 16% shall apply on domestic consumption of these fossil fuels and oil derivatives. Furthermore, an additional tax of two Dominican pesos (RD$2.00) is established per each gallon of gasoline and diesel, regular and premium, as provided in Law No. 112-00 on Hydrocarbons.

manufacture of alcohol and tobacco products contained in Regulation No. 79-03 dated February 4, 2003, the scope of which, according to the Article 1 covers "transfers of goods of national production and their importation, described in article 375 of the Tax Code, at the level of manufacturing or production and import thereof; and the services encumbered with this tax according to the Tax Code and special laws. "

Among the novelties of this Regulation, there are the following:

1. Determination of the retail price (Article 8). The retail price, which is the tax base of the ad-valorem ISC tax, dramatically changes its concept and instead of being determined from the list price, it will now be from the Suggested Retail Price (PVP) (sale price to which the producer suggests his client to sell to the final consumer), not including the ISC and ITBIS taxes.

2. Renewal of licenses (Articles 16 and 27). The renewal of producer and importer licenses will be issued only if the taxpayer is up-to-date in its taxes with the Tax Administration (DGII), which leaves the DGII with the power to determine whether a person (physical or legal) is up to date from standpoint.

3. Fees (Articles 36 and 50). The request for the acquisition of the control mechanisms must be made prior to the payment of the "corresponding fees", but the Regulation does not establish, as legally required, the law under which such rates would be established, these being a type of tax.

4. Information on new products (Article 21). From the entry into force of the Regulation the companies that decide to produce or market a new product must inform so to DGII 20 working days in advance. This could imply leaking information to the competition.

5. Import of caps (Article 52). Imported caps or any tax control mechanism must be consigned to the DGII.

3.6. Tax on Motor Vehicles

In 2012, the annual circulation tax on motor private vehicles was established at a rate of one percent (1%) on the vehicle's value, to be applied according to a reference table, arranged by type and year of vehicle, provided by the Dominican Tax Authorities. This tax shall only apply to imported vehicles entering the DR after the date of entry of Law 253-12 on Tax Reform. However, this tax rate has yet to be implemented, with the old regime being maintained, which amounts to what follows:

a) One Thousand Five Hundred Dominican Pesos (RD$1,500.00) for vehicles with over 5 years or until 2013 of manufacture; and,
b) Three Thousand Dominican Pesos (RD$3,000.00) for vehicles of 5 years or under 5 years of manufacture.

All private vehicles, at the time of registration will be taxed according to their CO2 emissions per kilometer, according to the following rates applied over the CIF value (cost, insurance and fleet) of the vehicle:

g CO2 / Km	Rate
Over 380 g CO2/km	3%
220-380 g CO2/km	2%
120-220 g CO2/km	1%
120g CO2/km	0%

4. CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties

Importation of goods and are subject to import VAT at a rate of 18% plus custom duties that range between 0% to 20%, depending on the type of asset imported, and with the exception for assets with special treatment.

4.2. Taxable Base

As a member of the WTO and having subscribed the Agreement for the Application of Section VII of the GATT, the value of the goods is established on account of the price paid. If this is not possible, other methods of valuation and the corresponding adjustments are applied. Duties are computed on the CIF value of the goods.

4.3. Transfer Pricing

Please see Section 1.1.5.

4.4. Filing and Payment

An import return must be filed and the pertinent tax must be paid before the good is nationalized and cleared from customs.

4.5. Selected Custom Duties Regimes Available

There are several importation regimes applicable in the Dominican Republic, as noted below.

4.5.1. Ordinary Importation Regime

It applies to all goods that will remain permanently in the Dominican Republic territory without any use or jurisdictional restrictions. Full payment of custom duties and import VAT is required upon nationalization.

4.5.2. Temporary Importation Regime

It applies to merchandise that is to remain in the country for a specific purpose to be re-exported within a period of 90 days from the date of entry of such good in the Dominican Republic. This time period may be renewed for three (3) additional periods of ninety (90) days by request of the party, which shall be renewed if the basis of this request is considered to be valid by the Customs Department.

The temporary importation regime benefits the following products: (a) professional equipment, including press and television, computer programs and cinematography and radio equipment necessary for the business activities, or profession of the business person that qualifies for the temporary entry of products in accordance to Foreign Investment Law 16-95; (b) merchandises used for exhibition or display; (c) commercial, movies and advertising samples; and (d) merchandises admitted for sporting events.

Several conditions must be met to import these merchandises to Dominican territory.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

Employees are liable for both income tax and social security contributions to be withheld to their salaries as required by applicable law. Employers are also designated as withholding agents for tax and contribution purposes, thus subject to withhold income tax and said contributions to its employees and pay such taxes directly to the competent authorities. On the other hand, employers are liable for withholding their own employees' social security contributions. Both withholdings and contributions are collected and paid monthly on the basis of the gross remuneration.

5.1. Retirement Contributions

The employee's withholding for retirement funds equals to 2.87%, calculated on the employee's wage. Employers whose main activity is to hire or provide services must also contribute to the social security system for retirement funds in an amount equivalent to 7.10% of the monthly wage paid to the employee.

The maximum wage applicable would be the equivalent of 20 minimum wages.

5.2. Health Contributions

The employee must be affiliated to a Family Health Insurance ("FHI"). Contributions to the FHI administering entity must be equal to 10.13% of the employee's wage, 7.09% of which is paid by the employer while the remaining 3.04% is contributed by the employee. The employer is responsible for withholding the employee's corresponding 3.04% and for paying the Treasury of the Social Security 100% of the monthly health contribution.

The maximum wage applicable shall be the equivalent of 10 minimum wages.

5.3. Workers Compensation Insurance System

This insurance is financed with an average contribution of one point twenty percent (1.20%) of the wages, covered totally by the employer. The total contribution from the employer will have two (2) components:

i. A fixed base rate to be applied evenly to all employers.
ii. A variable rate of up to zero point three percent (0.3%) established in agreement with the field of activity and risk factor of each enterprise as per the following 4 employers categories:

1. 0.10%
2. 0.15%

3. 0.20%
4. 0.30%

In both cases, said percentages shall be applied on the basis of the applicable wages.
The maximum contribution in this insurance is of four (4) wages.

All applicable as per an average national minimum wage of RD $ 9,855.00 (approximately USD$208.00).

5.4. Technical Professional Training Institute

All companies are subject to the payment of a monthly contribution to INFOTEP (the governmental Institute of Technical Professional Training). This contribution is equivalent to 1% of the wage of the employee.

The employee must pay 0.50% of the annual bonuses received from the employer if the bonuses apply.

5.5. Payroll Taxes and Contributions

Payroll taxes and contributions in the Dominican Republic shall be made in accordance to the following chart:

Payroll Taxes	
Annual Wages	**Rate**
Income until RD$416,220.00	Exempted
Income from RD$416,220.01to RD$ 624,329.00	15% of the surplus of RD$416,220.01
Income from RD$624,329.01to RD$867,123.00	RD$31,216.00 plus 20% of the surplus of RD$624,329.01.
Income from RD$867,123.01 and beyond	RD$79,776.00 plus 25% of the surplus of RD$867,123.01

Early each year, the established scale is adjusted for cumulative inflation for the previous year, according to the figures published by the Central Bank of the Dominican Republic.

Social Charges Contributions on Wages		
Social Charges	**Employee**	**Employer**
Social Security (Pensions)	2.87%	7.10%
Social Security (Health)	3.04%	7.09%
INFOTEP	0.50% (if applicable)	1.00%
Social Security (Labor Risk)		1.20%
Subtotal nowadays	6.41%	16.39%
Christmas Salary		8.33%
Vacations		6 %
Profit Sharing Bonus (when applicable)		18 %

Sub-total:	6.41%	48.72%
Severance		8%
Prior notice		10%
TOTAL:	6.41%	66.72%

6. MISCELLANEOUS

6.1. Simplified Tax Procedure (PST)

The Simplified Tax Procedure (PST) is a method that facilitates the tax compliance of medium and small taxpayers, be those legal entities –eligible if their purchases do not surpass RD$40,759,725.00 (approximately USD$864,339.93)– or individuals –eligible if their income does not surpass RD$8,771,771.50 (approximately USD$185,366.24).

It allows for the liquidation of Income Tax (ISR) based on their purchases and / or income, as well as paying the VAT (ITBIS) based on the gross value added.

The main advantages of the PST are: organized accounting is not required; no tax advances paid on Income Tax (ISR); not subject to Assets Tax; automatically, a payment agreement is conceded for the ISR (3 installments for purchases and 2 assessments for income); for those on the purchase method, not having to make a payment for ISR for the first six (6) months of the year; no need to send the information of tax identifiers on their purchases and sales from the previous year.

6.2. Special Formal Duties

6.2.1. Tax Identifiers ("Comprobantes Fiscales")

These are codified fiscal operations identifiers that give credit to the transfer and leasing of goods or the provision of services. Common identifiers apply to invoices that generate tax credit and/or support costs and expenses, bills to final consumers (with no tax credit value), debit notes and credit notes.

Special identifiers apply to informal providers, single records of revenue, petty cash, special tax regimes and transactions with the government.

6.2.2. Fiscal Solutions

Formerly known as fiscal printers, these apply to taxpayers who sell products or provide services to end users subject to VAT (ITBIS). Printers, or other alternative mediums, store the data of sales for the taxpayer which is to be sent monthly to the IRS in order to allow more fiscal control over said sales.

6.3. Special Withholding Agents

In the taxation of VAT (ITBIS) and Selective Consumption Tax on the operations of entities under special customs fiscal regimens, the physical person or legal entity that purchases the good or service shall be considered as the contributor. Entities under the abovementioned regimes that transfer goods or services shall be constituted as withholding agents for the abovementioned taxes.

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NATIONAL LEVEL TAX RATES:

Corporate Income Tax: 25% (10% about reinvested profits)

Companies that reinvest their profits may obtain a reduction of 10 percentage points of the Income Tax rate on the reinvested amount, only in the following economic activities.

- Usual exporters;
- Receptive tourism; and,
- Those that are dedicated to the production of goods, including those of the manufacturing sector, that have 50% more of the national component, as established in the regulations to the Tax Law.

Reinvestment of 8% in:

Sports or cultural projects or programs, responsible scientific research or technological development;

The aforementioned programs must have the accreditation of the Sporting Government Agency, culture and higher education, science and technology. Additionally, in the case of a 10% reduction in the Income Tax Rate, these programs or projects must be qualified as priority.

Tax on capital gains: Added to taxpayer's taxable income and taxed at regular rates

Branch Profits Tax: 25% (*)

(*) Dividends Tax: 0% Distribution of dividends and profits to Tax Haven Jurisdictions are subject to a 10% withholding tax, 0% - 35% (beneficial owner) natural person resident in the Ecuador.

Withholding Taxes on:

(*) Interest: 25%, 35% if remitted to Tax Haven Jurisdictions
(*) Royalties: 25%, 35% if remitted to Tax Haven Jurisdictions
(*)Technical assistance: 25%, 35% if remitted to Tax Haven Jurisdictions
(*)Technical Services: 25%, 35% if remitted to Tax Haven Jurisdictions
(*) Other Services: 25%, 35% if remitted to Tax Haven Jurisdictions
(*) The tax reform enacted in December 2017 established that the tax rate will be 25% of local companies, branches and permanent establishments provided that the shareholders are residents in Ecuador.

However, the aforementioned, the Income rate would increase to 28% in the following cases:

i) The proportion of the tax base corresponding to the direct or indirect participation of partners, shareholders, participants, beneficiaries, constituents or similar, who are residents or are established in tax havens or lower tax regimes.

ii) In the event that the participation exceeds individual or joint, equal or superior to 50%, the rate of 28% will be applicable to the entire tax base.

When companies fail to comply with the duty to report on the participation of their shareholders, partners, participants, constituents, beneficiaries or similar.

(*) The distribution of dividends to shareholders is no longer exempt and will now add to its global taxable base, thus conforming to the general tax rates. Dividends distributed to companies will be exempt, as long as they are not in tax haven jurisdictions; otherwise a 10% withholding will apply.

Tax losses carry forward term:	[5] years
Tax losses carry back term:	Not permitted
Transfer Pricing Rules:	[yes-OCDE]
Tax-free Reorganizations:	mergers, spin-offs, etc.
VAT on Sales:	[12] %
VAT on Services:	[12] %
VAT on Imports:	[12] %
Custom Duties:	from [5] % to [20] %
Net-worth (Assets) Tax:	[0.15] %
Stamp (Documentary) Tax:	See Municipal Taxes
Bank Debits (Transfers) Tax Rate:	[5] %

Local Level Tax Rates:

Tax on Industrial Activities: See municipal Taxes
Tax on Commercial Activities: See municipal Taxes
Tax on Service Activities: —

Real Estate Tax:

Taxes on Other Property: See Taxes on vehicles, Superintendence of companies Tax and University of Guayaquil Tax
Document Registration Tax: See municipal Taxes
Excise Taxes: Tax on Special consumptions: From 5.15% to 300% depending on item

TREATY TAXATION

ITEMS OF INCOME

No.	Countries	Interest	Dividends	Royalties	Tech. Services	Tech. Assistance	Application start
1	Alemania	10-15%	15%	15%			1987
2	Argentina						1983
3	Belarus	10%	5% - 10%	10%			2018
4	Bélgica	10%	0%	10%			2005
5	Brasil	15%	0%	15%			1989
6	Canadá	15%	0%	15%			2002
7	Chile	15%	0%	10-15%			2005
8	China	10%	0%	10%			2015
9	Korea	12%	0%	5-12%			2014
10	España	10%	0%	10%			1994
11	Francia	10-15%	0%	15%			1993
12	Italia	10%	0%	5%			1991
13	México	10-15%	0%	10%			2002
14	Qatar	10%	5 - 10%	10%			2019
15	Rumania	10%	0%	10%			1997
16	Rusia	10%	5 - 10%	10 - 15%			2019
17	Singapur	10%	5%	10%			2016
18	Suiza	10%	0%	10%			1996 (Original Text) 2001 (Protocol)
19	Uruguay	10%	0%	5-10%			2013
	Andean Pact Countries (Bolivia, Colombia, Perú)	0%	0%	0%			2005
	Non Treaty Countries	25%	0%	25%	25%	25%	25%
	Tax Haven Non Treaty Countries	0% - 35%	10%	35%	35%	35%	35%

(*) Only applicable to air transport rentals.

OVERVIEW

INCOME TAX

Tax Brackets for Individuals for 2019

Taxable income exceeding	Taxable income not exceeding	Tax on lower amount	% Rate on excess
0	11,310	0	0%
11,310	14,410	0	5%
14,410	18,010	155	10%
18,010	21,630	515	12%
21,630	43,250	949	15%
43,250	64,860	4,193	20%
64,860	86,480	8,513	25%
86,480	115,290	13,920	30%
115,290	in onwards	22,563	35%

Tax Brackets for Inheritances, Legacies and Donations for 2019

Taxable income exceeding	Taxable income not exceeding	Tax on lower amount	% Rate on excess
0	72,060	0	0%
72,060	144,120	0	5%
144,120	288,240	6,603	10%
288,240	432,390	18,015	15%
432,390	576,530	39,637	20%
576,530	720,650	68,465	25%
720,750	864,750	104,495	30%
864,750	in onwards	147,727	35%

1.1. General Aspects

Corporate Income Tax. Corporate Income Tax (hereinafter referred to as CIT) is levied on companies domiciled in Ecuador. Companies domiciled in Ecuador include those incorporated in Ecuador and companies incorporated in foreign countries that have been approved as branches by the Superintendence of companies after a legal proceeding. Companies incorporated in Ecuador are subject to tax on their worldwide income. Foreign companies are subject to tax on income derived from activities within Ecuador and from goods and assets located within Ecuador.

1.2. Taxable Base

The base for calculation of Income Tax is composed by the totality of ordinary and extraordinary taxable income, minus devolutions, discounts, costs, expenses and deductions attributable to such income. Additionally to this taxable base, taxpayers must add non-deductible costs and expenses and subtract the exempt income, in accordance with the Tax Law.

1.3. Rate of corporate Tax.

The standard rate of CIT for 2017 is 22%. However, a 28% CIT will apply for those companies that have a 50%, or more, shareholders participation located in Tax Haven Jurisdictions.

1.4. Capital Gains.

The tax reform approved in December 2014, it stablished that the capital earnings derived from the sale of actions already are not exempt.

They will be subject, at the time of the alienation, to a single income tax with a progressive rate, in accordance with the following table:

Since	Until	% total
-	20,000	0%
20,001	40,000	2%
40,001	80,000	4%
80,001	160,000	6%
160,001	320,000	8%
320,001	In onwards	10%

1.5. General exemptions and Deductions

Taxable income must be calculate on accounting profits with appropriate tax adjustments.

In computing taxable income, a company can deduct all costs and expenses deemed necessary and related to the activity, aimed at attaining, maintaining and improving the taxable and not exempt income

Exemptions

For purposes of determination and calculation of income tax, the following income, among others, will be exempt:

a. Dividends and profits calculated after the payment of income tax, distributed, paid or credited by domestic companies to other local and foreign companies, branches of foreign companies and nonresident individuals
b. Exempt income consecrated in international treaties;
c. Income received by non-profit private organizations and by political parties;
d. Interest received by individuals for their savings accounts and deposits, paid by financial institutions of Ecuador;
e. Income received by Government colleges and Universities;
f. Income arising out of non-monetary investments made by entities that maintain oil & gas contracts with the Government;
g. Income earned from the occasional sale of real estate.
h. Income derived from capital gains, profits, benefits or financial yields distributed by investment funds, welfare funds, pension funds and merchant trust funds to their beneficiaries, provided said funds have complied with their obligations as taxpayers;
i. Indemnities received from insurance policies,
j. Thirteen and fourteen salaries,
k. Severance indemnities received by workers and employees, etc.
l. Government Joint Venture, 10 years

m. New Investment in Production, Trade and Investment. COPCI, 10 to 12 years
n. Travel, lodging and food expenses.

1.6 Expenses Incurred Abroad

Are generally deductible, provided appropriate taxes must be withhold if the payment constitutes taxable income for the payee.

Amounts that taxpayer remits abroad as reimbursement of costs and expenses incurred abroad, directly related to the activity carried out in Ecuador by taxpayer, shall be deductible as expenses for local purposes are taxed at a rate of 25% and 35% if sent to Tax Haven Jurisdictions.

With respect to interest on foreign loans remitted abroad, contracted by the private sector, the withholding tax rate for 2019 is 25% (35% if payments are remitted to Tax Haven Jurisdictions) and 0% if the payments are remitted to International Financial Banks and Institutions.

The following payments abroad are deductible within specified limitations:

- Payments for imports, including interest and financing fees, as provided in import licenses;
- Export fees of up to 2% of the export value;
- Interest with respect to foreign loans registered with the Central Bank of Ecuador, provided the foreign loans are Government to Government loans, International Financial Banks and Institutions loans or loans granted by the World Bank, the CAF, the BID, and other multinational organisms. In addition, in order for interest of foreign loans to be deductible, the amount of the foreign loan shall not exceed 300% of the foreign debt-capital stock relation.
- Payments on account of international lease of capital goods
- 50% - 75% of the insurance or reinsurance premiums paid to foreign companies that do not have a Permanent establishment or representation in Ecuador

Nondeductible expenses include the following:

- Interest on foreign loans, to the extent the interest rate exceeds limits established by the Central Bank Board, and interest on foreign loans not registered at the Central Bank of Ecuador; and
- Losses on sales of assets to related parties.

Deduction of costs and expenses incurred abroad and elimination of the tax exemption for reimbursement of costs and expenses remitted abroad.

Amounts that taxpayer remits abroad as reimbursement of costs and expenses incurred abroad, directly related to the activity carried out in Ecuador by taxpayer, shall be deductible as expenses for local purposes and taxed at a rate of 25% (for 2016) (35% if sent to TAX HAVEN Jurisdictions)

1.7. Tax Depreciation and amortization

Depreciation is generally computed using the straight-line method. The following are some of the straight-line depreciation rates provided in the tax law:

Asset Rate	(%)
Commercial and industrial buildings	5
Office equipment	10

Motor vehicles, trucks and computers	20
Plant and machinery	10
Computers and software equipment	33

In general, if the percentages indicated are greater than those calculated according to the nature of the assets, the duration of their useful life or the accounting technique, the latter will apply.

For other assets, that produce income must be amortized for 5 years, using a linear amortization rate of 20%.

Intangibles must be amortized over any term of the relevant contract or a period of 20 years, the impairment of intangible assets with indefinite useful life will not be deductible.

1.8. Transfer Pricing Rules

On 31 December 2004, Ecuador incorporated to its legislation several rules regarding the taxability of transactions between related parties, tax havens and the methods to apply the Arm's Length Principle.

In the transactions celebrated between related parties, the price shall be adjusted through the individual or combined application of any of the below described methods, in such a form that the "arm´s Length Principle" is reflected in their result.

The methods are:

- Comparable Uncontrolled Price method
- Resale Price method. - (Resale minus)
- Cost Plus method
- Profit Split method
- Transactional Profit method or Transactional net margin method

The Transfer Pricing Annex and Integral Report. Taxpayers have the obligation to file with the Local Internal Revenue Service a Transfer Pricing Annex when their transactions with related parties above in a fiscal year exceed USD 3,000,000.00 and a Transfer Pricing Integral Report detailing the transactions carried out with related parties in a fiscal year when their transactions with related parties abroad exceed USD 15,000,000.00. The Local Internal Revenue Service can request information also with regard to transactions carried out with related parties within Ecuador

According to the tax reform enacted 23 December 2009, taxpayers are exempt from the transfer-pricing regime, when:

a) The income tax liability exceeds 3% of their taxable income,
b) Do not carry out transactions with parties domiciled in Tax Haven Jurisdictions
c) Do not maintain contracts for the exploration or exploitation of non-renewable resources with the Government

Technical and Methodological measures to avoid the abuse of transfer prices

The measures established shall be mandatory for taxpayers of income tax, tax residents or permanent establishments in Ecuador, in their operations with related parties, provided that:

1. In the case of operations that correspond to:

a) Exports or any other type of sale of crude oil, direct or indirect, under any modality,

b) Exports or any other type of alienation of gold, silver or copper or another metallic mineral in any state, direct or indirect, under any modality,

c) Exports or any other type of sale of bananas, direct or indirect, under any modality.

2. Such transactions are carried out between the taxpayer of the income tax and one or more of its related parties that are framed in at least one of the following conditions:

a) Are residents or are established in countries, jurisdictions or regimes designated as tax havens or lower tax jurisdictions or are subject to preferential tax regimes, according to the resolution issued by the Internal Revenue Service.

b) Are international intermediaries without fiscal residence in Ecuador whose do not reside in the country or jurisdiction of final destination of the goods. For this purpose, goods to intermediate ports or other spaces that are used for logistical or other purposes will not be considered as the final destination of the goods when the merchandise does not enter the customs territory or is not nationalized.

The indexing methodology is established at the limit applicable to the prices of exports from bananas to related parties, from the fiscal year 2018.

1. International Indicator: The monthly indicator "BANANA, US" of Commodity Price Data, published by the World Bank website, will be used http://www.worldbank.org/en/ research / commodity-markets.
2. Calculation of the adjustment factor: The average for the twelve months that have elapsed from the month of November of the previous year, until the month of October of the current year. The result will be obtained with four decimals; this result will be divided for the average of November 2013 to October 2014, that is, USD $ 0.9309.
3. Indexed limit: The limit established in the Organic Law of Incentives for the Production and Prevention of Tax Fraud, that is, forty-five cents (USD $ 0.4500), will be multiplied by the adjustment factor calculated according to the previous number The result will be the current limit as of January 1 of the following year.

1.9. Tax Losses carry-forward / carry-back. Relief for Losses.

Net operating losses may be carried forward and offset against profits in the following five years, provide that the amount offset does not exceed 25% of the year's profits. Loss carrybacks are not permitted.

1.10. Tax-Free Reorganizations

Reorganization of corporations, mergers and Spin-offs are not subject to any tax in Ecuador. Contributions in kind are also exempt from municipal Taxes in these kinds of transactions.

1.11. Payment and Filing of Income Tax

Presentation of withholdings at the source
Withholding in monthly source of taxes will be made in the corresponding forms and other means, in the form and conditions established by the Internal Revenue Service (IIS). Even in the case when a withholding agent does not perform withholdings at source during one or more monthly periods, he shall be however obliged to file the tax returns corresponding to those months. This obligation shall not apply to those employers that only have workers who do not reach the minimum annual taxable income. Withholding agents shall provide to the Internal Revenue Service the complete information regarding withholdings at source effected by them, including the RUC number, sale voucher number, authorization number, amount of tax levied, name and identification of supplier and the date of transaction, in the means and in the manner instructed by the Internal Revenue Service.

Terms for filing and paying. Withholding agents will file the return with the declaration of the amounts withheld and these will be paid in the following month in the date corresponding to the ninth digit of the RUC number.

If the return contains mistakes or errors, it can be replaced by a new declaration containing all the pertinent information, but only provided the new declaration implies a bigger amount to be paid to the Internal Revenue Service.

Rules Regarding Filing and Payment of Income Tax. Terms for filing Income Tax Returns shall be filed annually in the places and dates determined in the General Regulation to the Tax Law Rules Regarding advanced Filing of Income Tax Return in cases of Termination of activities, mergers and Spin-offs of corporations

In the case of termination of activities before the end of the fiscal year, taxpayer will file an anticipated income tax return. Only when this anticipated return has been filed, the proceedings for the cancellation of the RUC, or the authorization for cease of operations, will be allowed to start. This rule will also apply for individuals that must leave Ecuador for a period exceeding the end of the tax year.

Payment of Income Tax and "Anticipated Payment of Income Tax"

Taxpayers must pay their income tax, in accordance with the following rules:

1) The balance due on account of income tax corresponding to the preceding fiscal year must be paid by on-line debit or depositing said balance with the financial institutions legally authorized to collect levies on behalf of the Government.
2) Individuals and inheritance trusts, and business that maintain contracts for the exploration and exploitation of oil & gas will pay as anticipated payment of income tax, a sum equal to 50% of the tax liability determined in the preceding year, minus the amounts withheld on account of income tax performed in the same preceding tax year;
3) Individuals and inheritance trusts, obliged to keep accounting books and corporations, will pay "anticipated payment of income tax", according to the following rules:
   An amount equivalent to the mathematical sum of the following items:
   0.2% of the total equity,
   0.2% of the total deductible costs and expenses for income tax purposes,
   0.4% of the total assets,
   0.4% of the total taxable income for income tax purposes
4) Companies undergoing processes of liquidation that have not generated taxable income in the

preceding tax year, shall not be obliged to pay any sum in advance in the fiscal year in which the liquidation process begun. Companies undergoing processes of dissolution that are later reactivated, will have the obligation to pay advanced payment of income tax, since the date the reactivation was accorded.

5) Should taxpayer fail the amount of advanced income tax to be paid during the current fiscal year, the Internal Revenue Service will proceed on determining it and will then issue the corresponding tax assessment and warrant for collection, including the applicable interest.
6) Taxpayers shall be entitled to request the Internal Revenue Service a reduction or the exemption of advanced payment of income tax; a) when proven that the taxable income for the current fiscal year will be inferior than the prior year's taxable income. b) The amounts of taxes withheld to them will suffice to cover the amount of income tax due for the same fiscal year.

Corporations and individuals obliged to keep accounting records will be granted the right to file the corresponding claim for undue payment or payment in excess. The Internal Revenue Service will order the refund to the taxpayer of amounts undue paid or the amounts paid in excess, through the issuance of a credit note, check or other mean of payment.

The Internal Revenue Service may order the refund of the amount paid on account of anticipated payment of income tax, of any given year, elapsed in a three year period, when due to causes of force majeure or acts of God, the economic activity of taxpayer has been severely affected in any given current year.

The amount paid of advanced payment of income tax, in case it is not credited to the income tax due, or in case the authorization for reimbursement is denied, shall be regarded as definitive payment of income tax, and the right to use it as a tax credit forfeited.

Installments and Terms for the payment of the anticipated Income Tax. The amount determined by taxpayer of anticipated income tax, shall be pay in two equal installments, one in July and one in September.

1.12. Penalties on Unpaid Taxes, Late filing and Interest

Sanctions: Penalties and Interest

Penalties. The penalty for late filing shall be equal to 3% of the tax levied, for each month or fraction of a month, up to a maximum of 100% of the tax levied. In the case of late filings by withholding or perception agents, the penalty shall be imposed on the tax due, which is, after deducting the corresponding tax credit.

Interest. Tax obligation which is not declared and paid in the term set forth in the Tax Law will result in an annual interest equal to 1.5 times the referential active interest rate for ninety days established by the central Bank of Ecuador, to be calculated since the date the tax obligation became due until it is fulfilled. Fraction of a month will be considered a complete month.

1.13. Withholding Taxes

Withholdings at Source. All juridical persons, public or private, corporations, enterprises, or individuals that are obliged to keep accounting records, or that make payments or credit into account of any type of income, considered taxable income for the beneficiary, shall act as Income Tax withhol-

ding agents. The Internal Revenue Service periodically will release the withholding percentages that in no case will exceed 10% of the payment or credit into account.

Local Tax Credit. The amount withheld will constitute tax credit for taxpayer whose income was subject to withholding tax and he will be enabled to offset the amount withheld to the tax liability in his annual return.

In the case that the amounts withheld and/or the amount paid as anticipated income tax exceed the annual total tax liability; taxpayer will have the right to choose between filing a refund claim for the portion of taxes paid in excess or to offset it with future tax liabilities of next fiscal years.

Tax credit for taxes paid abroad. Regardless the provisions set forth in international treaties, Ecuadorian resident individuals and Ecuadorian corporations that receive income from abroad, subject to income tax in the country of origin, will be allowed to deduct from the Ecuadorian tax liability the Taxes paid abroad of the same income, provided the tax credit does not exceed the local tax liability attributable to the same amount of income in Ecuador.

Moment of withholding. -Withholding shall become mandatory at the time of payment or credit into account, whichever occurs first.

Obligation to withhold. -The obligation to withhold becomes mandatory in all payment or credit into account exceeding

Ecuador does not tax distribution of dividends to domestic companies or branches of foreign corporations, nor dividends remitted abroad to foreign companies or foreign shareholders nonresidents of Ecuador, provided income tax has been paid by the company at the corporate Level. Profits remitted abroad to Head office of a Branch of foreign company established in Ecuador are not taxed either, provided the corporate Tax has been paid by the Branch in Ecuador. However, dividends and profits remitted to what Ecuador considers Tax Haven Jurisdictions will be subject to taxation at the additional rate of 10%.

Royalties. Royalties paid or remitted abroad to non-treaty countries are taxed at the flat final rate of 25% and 35% if sent to Tax Haven Jurisdictions

Technical Services, Technical Assistance and Consulting Services. Technical Services, Technical Assistance and Consulting Services paid or remitted abroad to non-treaty countries are taxed at the flat final rate of 25% and 35% if sent to Tax Haven Jurisdictions

Other Services. All other services paid or remitted abroad to non-treaty countries are also taxed at the flat final rate of 25% and 35% if sent to Tax Haven Jurisdictions

Leasing Payments. Lease payments remitted abroad are subject at the flat final rate of 25% and 35% if sent to Tax Haven Jurisdictions

Interest, Effective 1 January 2012, payment of interest on account of foreign loans, are subject to a 25% and 35% if sent to Tax Haven Jurisdictions and 0% if the payments are remitted to International Financial Banks and Institutions

Equity Reimbursements. Equity reimbursements are not taxed in Ecuador.

1.14 Limits on the application of conventions to avoid double taxation (DTC)

i. The maximum amount for the automatic application of the benefits of the DTC (Double Taxation Convention), for 2019 would be of US$565,500 (US $ 11,310 x 50), in the event that it exceeds the database, the rate of 25% of income tax must be withheld, without considering the benefits foreseen in the DTC (Double Taxation Convention).

ii. The requirements for the deductibility and sustenance of spending and NO withholdings at source of tax income for the implementation of DTC (Double Taxation Convention):

- Certificate of residence tax that will find translated to the language Castellano, updated each year.
- Certificate of relevance of the expenditure).
- Issue liquidation purchases of goods and provision of services by each sales receipt received from the outside and it must tax of 12% value added tax.
- To issue proof of the source of the income tax withholding and tax value added.

iii. In addition, at least one of the following requirements is met:

- The payment is made based on the distribution of dividends.
- The benefits imply costs or expenses;
- An automatic qualification of the contracts is obtained; or,
- The sum of all payments or credits in account, according to what happens first in each case, made by the same withholding agent to the same provider in the same fiscal year; do not exceed the maximum amount established.

iv. The sanction for not acting as agent of retention will be equivalent to the
v. total of the deductions that should be made more interest by mora.
vi. For operations which exceeded the specified limit may be subject to a refund, meeting the following requirements:

Requirements for the automatic application of benefits:

a) Certificate of tax residence of the beneficiary

Refund's procedures of the withholding tax made to non-residents on the application of conventions to avoid double taxation DTC

The procedure for the application of the benefits established in the Agreements to Avoid Double Taxation signed by the Republic of Ecuador through the refund of the withheld values for income tax made to nonresidents will be that established in the secondary legislation of the Internal Revenue Service for the effect.

i. Periodicity. - The nonresident who chooses to return may submit an application for each month by agent retention or a cumulative basis, for several months or several agents of retention in the same month.
ii. Requirements the taxpayer not resident will present your application in the form published on the website www.sri.gob.ec, with the following requirements:
    As regards the holding:

    a. The respective proof of retention. With respect to the operation:

b. Settlement of purchases of goods and services that were issued relating to the request for referral back.
c. Contract and invoice or its similar showing the contractual link between the non-resident and the person who provided the service.
d. For each of the transfers the certificate issued by any of the involved institutions or Bank document -SWIFT-example, stating the following information:

    1. Identification of the holders of the accounts Bank of origin and destination;
    2. Identification of the institutions of origin and destination;
    3. Numbers of account of origin and destination;
    4. Country in which are involved, origin and destination, institutions that transfer and indeed receive payments;
    5. Total amount of the transaction; and,
    6. Date of the transaction.

Legitimation of the applicant:

e. Original or copy of the passport of the person natural or of the representative legal, in case of society, attaching the respective copy of the appointment of the representative legal.
f. Certificate of fiscal residence.
g. Get the user key for the use of online services, themselves undergoing institutional website.
h. If you request a refund through a third party, applicable general or special power, or its equivalent.

All foreign documents must be translated into the Spanish language if applicable and will have the formalities necessary for its validity in Ecuadorian territory.

The 25% will be taxed by the companies that make investments for the exploitation of large and medium scale metal mining and the basic industries, as well as the same tariff for investments that contribute to the change of the productive matrix of the country.

Tax Audit made by the Local IRS. Adjustment Index Processes through Difference Communications and Payment Liquidations.

They will be applied in cases where there is a main reduction of the taxable income of the taxpayers, is not higher than the corresponding adjustment index.

The general coefficients for the presumptive determination of income tax, fixed by the Director General of the Internal Revenue Service by resolution, shall be applied as adjustment factors. To establish the tax base, the adjustment factor will be applied multiplying it by the item of income determined by the Internal Revenue Service or by the taxpayer in his return.

ORGANIC CODE OF PRODUCTION COMMERCE AND INVESTMENTS. Enacted on December 2010

CONTAINS THE FOLLOWING TAX INCENTIVES

Tax Incentives are of three kinds:

1. General: For all investments made in any location of the national territory. These are:

a. For investments made in special development economic zones (Free Trade Zone)
b. Additional deductions for the calculation of income tax, as a mechanism to improve productivity,
c. Benefits arising out of the opening of the capital stock of the company on behalf of its employees,
d. Ease of payments on taxes on the foreign trade,
e. Exemption of the 5% Capital Flight Tax for foreign loans,
f. Exemption of the Advance Payment of Income Tax during five years for all new investments,
g. The reform for the calculation of the Advance Payment of Income Tax

2. Sectorial and development Regions

For those sectors that contribute to the change, strategic substitution of imports, improvement of exports, as well as for the rural development all around the country,

3. for depressed zones

In addition to the fact that these investments will be benefited by the general and regional incentives, as aforementioned, new investments in these zones will prioritized, granting them an additional tax benefit, for 5 years, consisting in the deduction of 100% of the hiring cost for contracting new employees.

INVESTMENT AGREEMENTS

By initiative of investor, it will be permitted to enter with the Government into INVESTMENT AGREEMENTS, whereby the treatment to the investment will be clearly detailed. INVESTMENT AGREEMENTS will grant stability on the tax treatment and tax incentives during the term of the Agreement. They will detail the supervision mechanisms for the fulfillment of the parameters of investment agreed upon by the parties. They will have a term of 15 years, renewable for the same term just once.

SETTLEMENT OF DISPUTES

Controversies between an investor and the Government that have been exhausted in the administrative stage, will attempt to be resolved friendly, through direct dialogues, for a term of 60 days. In the event that no solution has been reached, the next step is a mediation process within 3 months after the formal commencement of direct negotiations.

Should the case be that after this mediation term, the conflict still, it can be brought to national or international arbitration, in accordance with the international treaties of which Ecuador is a party. Rulings of this Arbitration Tribunal shall be “in right”, applicable legislation will the Ecuadorian legislation and the rulings will be definitive and mandatory for the parties.

If after the term of 6 months of being terminated the administrative stage, parties have not reached an amicably solution, nor subdued to the arbitration jurisdiction for the settlement of the dispute, controversy will be resolved by the Ecuadorian justice. Tax matter will not abide by arbitration.

TAX INCENTIVES FOR NEW PRODUCTIVE INVESTMENTS IN PRIORITIZED SECTORS AND BASIC INDUSTRIES.

The requirements are follows:

1. Employment generation:

The condition of net employment generation will be established in the Organic Code of Production, Commerce and Investments and its Regulations:

• The micro, small and medium enterprises must increase their permanent net employment during the period of execution of the investment; and,

• Large companies must increase their net employment by at least 3% of their permanent net employment during the same period.

Proportionality of incentives on the Income Tax

In the case of existing companies, the taxpayer must apply the exemption proportionally to the value of the new productive investments, by means of one of the options detailed below:

1. Differentiate in your accounting the values of assets, liabilities, income, costs and expenses, profits and labor participation attributable to the new and productive investment, according to the applicable accounting standards.

2. Apply the benefit proportionally to the value of the new productive investments, calculated as follows:

$$\text{Reduction in applicable rate} = \frac{\text{New Productive Investment}}{\text{Total of fixed assets revalued}} * \text{Income Tax Rate}$$

TAX INCENTIVES FOR THE NEW AND PRODUCTIVE INVESTMENTS

Companies incorporated after the enactment of the New Law, as well as new companies incorporated by existing companies, aimed at making new and productive investments, will be granted an exemption of the corporate income tax during the first five years, after the date in which they begin to generate taxable income attributable directly and exclusively to the new investment. But only if the investment is made in any of the following areas:

a. Manufacturing of fresh food, frozen or industrialized,
b. Forest and Agroforestry and their products,
c. Metal Mechanic,
d. Petrochemical
e. Pharmaceutical,
f. Tourism,
g. Clean energy,
h. Foreign Trade logistic services,
i. Biotechnology
j. Sector of substitution of imports and development of exports

TRANSFER OF STOCK TO WORKERS/EMPLOYEES OF THE COMPANY

The company that transfers (sells) no less than a 5% of its paid-in capital on behalf of at least 20% of its workers/employees, will be enabled to defer the payment of its corporate income tax for a term of up to five fiscal years (interest bearing however). This benefit will apply while the transferred stock remains in the ownership of workers/employees.

DEFERRAL OF THE PAYMENT OF THE *"ADVANCE PAYMENT OF INCOME TAX"*

Newly incorporated companies, new investments, individuals obliged to keep accounting records and inheritances obliged to keep accounting records, that initiate entrepreneurial activities, will be subject to the payment of the *"Advance Payment of Income Tax"* after the fifth year of effective operation, being understood as such, the commencement of the industrial and commercial process. This term can be extended, prior authorization of the Internal Revenue Service.

PAYMENT OF THE 15% PROFIT SHARING TO WORKERS AND EMPLOYEES WITH STOCK OF THE COMPANY

Prior agreement between Employer and Employees/Workers the 15% Profit Sharing can be paid with stock of the Company, provided the Company is duly registered in the Ecuadorian Stock Market.

ORGANIC LAW FOR INCENTIVES TO PRODUCTION AND PREVENTION OF TAX FRAUD. Enacted on December 2014

REFORMS TO THE TAX CODE

The facilities for payment of taxes are changed, broadening the term for the facility from 6 to 24 months and from 2 to 4 years.

REFORMS TO THE INTERNAL REVENUE SYSTEM LAW (THE TAX LAW)

TAX RESIDENCE: New provisions to consider an individual or a corporation as tax residents in Ecuador are enacted.

EXONERATIONS AND ELIMINATION OF EXEMPTIONS

It shall be considered as of Ecuadorian source, income arising out of direct or indirect sale of stock or quotas representative of capital that allow the exploration, exploitation, concession or similar of corporations or permanent establishments domiciled in Ecuador.

It will be regarded as Ecuadorian source income the unjustified equity increase.

Exemption to income tax on gains from occasional sale of shares or quotas is eliminated.

In the case of new and productive investments in the economic sectors considered as basic, the IT exemption will stretch out for 10 more years effective from the first year in which income is generated, attributable to the new investment.

DEDUCTIBILITY OF EXPENSES

In the case of revaluated assets, the expense for depreciation of the revaluated assets shall not be deductible.

The definitive write-off of the uncollectible receivables shall be done through coverage charged to this provision and to the results of the fiscal period in the portion not covered by the provision, when the requirements set forth in the Regulation have been met.

Expenses of promotion and advertising of food and products for human consumption regarded as harmful for health (junk food) cannot be deducted.
Deductibility of expenses of royalties, technical, administrative and consulting services effected between related parties cannot exceed 20% of the taxable income plus such costs and expenses.

The costs and expenses incurred for the promotion and advertising of goods and services will be deductible up to a maximum of 20% of the taxpayer's total taxable income, this limit will not be applicable in the case of expenses incurred by:

a. Micro and small businesses, including individuals whose income is within the established limits to be considered as micro and small enterprises; except when these costs and expenses are incurred for the promotion of goods and services produced or imported by third parties.
b. Taxpayers who dedicate themselves to the provision of promotion and publicity services as their usual activity, except those that are incurred for their own benefit; and,
c. The offer or placement of goods and services of national production, in foreign markets.
d. The offer of internal and receptive tourism.

RATE FOR CORPORATE INCOME TAX

Taxable income obtained by corporations, branches and permanent establishments, will pay CIT at the general rate of 25% on their taxable income. But this rate will increase to 25% on the portion of taxable income that corresponds to the direct or indirect participation of partners, shareholders, quota holders and beneficiaries that are resident or are settled in Tax Havens. If said participation exceeds 50%, the tax rate of 25% shall apply to ALL the taxable base.

Likewise, the 25% tax rate shall also apply to the taxable income of the company that does not comply with its obligation to inform regarding its corporate composition, its shareholders, partners and other beneficiaries.

LOANS TO SHAREHOLDERS.- When a Corporation grants loans to its shareholders or partners, this transaction shall be considered as payment of anticipated dividends and therefore the Company must withhold the corresponding amount, at the rate applicable to corporations on the amount of the transaction. Such withholding shall be declared and paid within the next month, and will constitute tax credit for the Company in its IT annual return.

NON RESIDENTS INCOME.- Non Resident´s Taxable Income, paid or credited into account, will pay the general rate applicable to corporations on said taxable income. If the income is receive by individuals resident in Tax Havens, the applicable rate will be of 35%

OBLIGATION TO REPORT AND DECLARE THE SALE OF SHARES, QUOTAS AND OTHER RIGHTS. Failure in filing this information shall be penalized with a fine of 5% of the market value of the transaction.

PENALTIES FOR NON DECLARATION OF SHAREHOLDERS CORPORATE STRUCTURE.- When the Company that distributes dividends or profits fails to comply with its duty to inform regarding its shareholders corporate structure, it shall be presumed that the effective beneficiary of the income is an Ecuadorian resident individual, and thus the withholding at source of income tax on those dividends will proceed.

REFUND OF VALUE ADDED TAX (VAT) TO SENIOR CITIZENS.- The devolution will apply only on VAT paid in the purchase of goods and services of first necessity, of personal use and consumption.

REFORMS TO THE ORGANIC CODE FOR PRODUCTION, COMMERCE AND INVESTMENT

TAX STABILITY INCENTIVES IN INVESTMENT AGREEMENTS.- Exploitation of metallic mining activities on a great scale shall be granted tax stability for a determined period of time.
Such stability can be extended to other sectors, provided that the amount of the investments exceeds USD 100 million dollars.

BASIC INDUSTRIES FOR PURPOSES OF SPECIAL BENEFITS

1. Copper and aluminum Smelting and refining,
2. Siderurgic smelting for the production of plain steel,
3. Refinement of hydrocarbons,
4. Petrochemical Industry,
5. Cellulose Industry,
6. Construction and repair of vessels

These activities will be entitled to an additional 100% deduction of the annual depreciation cost or expenses, generated by said investments during 5 years effective from the date of the start of the productive use.

REFORMS TO THE TAX FAIRNESS LAW OF ECUADOR

EXEMPTIONS TO THE CAPITAL FLIGHT TAX (ISD)

It will be exempted from the Capital Flight Tax the following payments: Payments remitted abroad, sourced from financial yields, capital gains, and capital of said investments made abroad, in securities issued by juridical persons domiciled in Ecuador, that have entered into Ecuador, and remained here at least a year, intended to the financing of housing of micro credit nature. This exemption does not apply when the payment is made to individuals or corporations residents or domiciled in Ecuador, or in Tax Havens or between related parties.

ORGANIC LAW FOR THE REACTIVATION OF THE ECONOMY, STRENGTHENING OF THE DOLLARIZATION AND MODERNIZATION OF FINANCIAL MANAGEMENT

- Exemption from income tax of 5 years in the merger of entities of the popular and solidarity financial sector.

- Exemption from income tax for new micro-enterprises for 3 years, counted from the first year in which operating income is generated, in case there are more exemptions, it should be applied to the most favorable.

- Unique income tax for the activities of the banana sector eliminates the values paid for the tax on rural land will constitute tax credit for the payment of this tax, as well as for the fees of the simplified regime.

- The reinvestment of exporting companies including those of the manufacturing sector, that have 50% or more national component and those receptive tourism companies that reinvest their profits in the country; may have a reduction of 10 percentage points of the income tax rate on the amount reinvested in productive assets.

- For micro-enterprises, the exemption is established to determine the tax base for income tax one basic fraction not taxed for natural persons. (for the year 2019 the basic fraction not taxed is $ 11,310.00)

- Micro and small companies of habitual exporters, will have a 3% reduction of the income tax rate, to benefit from the reduction of 3 percentage points, it must be demonstrated that employment is maintained or increased.

- Payments for concepts of eviction and employer retirement pension will not be deductible, in accordance with the provisions of the labor code, which do not come from provisions declared in previous fiscal years. The aforementioned will apply without prejudice to the provisions that the taxpayer establishes for the purposes of the payment of the aforementioned items.
  It is important to note that this provision considered as a non-deductible expense would generate a deductible temporary difference, that is, a deferred tax asset.

New Taxpayers have to keep accounting records

Individuals, and undivided estates whose gross income from the immediately preceding fiscal year (2018) is greater than USD 300,000 and whose costs and annual expenses related to the economic activity of the business of the previous fiscal year have been superior to USD 240.000,00.

The natural persons who develop the following activities will be included in this amount:

- Agricultural;
- Livestock;
- Forestry or similar;
- As well as professionals, commission agents, artisans, agents, representatives and other self-employed workers.

Banking of Expenses

Any payment over USD 1,000 must obligatorily use any institution of the Financial System to make the payment, through:

- Wires;
- Transfer of Funds;
- Credit or Debit Card;
- Checks;

- Any other electronic means of payment;

Advance Income Tax - AIT

Advance Income Tax considerations:

- It is added to the calculation of the Advance Income Tax of the literal a (tax on the income caused - withholdings of the Income Tax of the current fiscal year), the natural persons undivided successions obliged to keep accounts that do not exercise business activities.

- The calculation of the income tax advance is excluded, for the item of costs and expenses, wages and salaries, the thirteenth and fourth remuneration, employer contributions.

- The tax administration upon request of the taxpayer may grant the total or partial refund of the surplus, provided that it is verified that the employment has been maintained or increased and in case of fraud a 100% surcharge will be applied on the amount unduly returned.

- The sectors, sub-sectors or segments of the economy that have suffered a significant decrease in their income and / or profits are exempt from payment.

- For the purpose of calculating the income tax advance, as follows:

a) Assets (affected by 0.4% AIT),
b) Costs and expenses (affected by 0.2% AIT) deductible from said tax and
c) Equity will be excluded from the corresponding items (affected 0.2% AIT)

When applicable, the amounts referred to incremental expenses for the generation of new employment, as well as the acquisition of new productive assets that allow generating a higher level of production of goods or provision of services, thereby eliminating expenses for improvements in the wage bill.

Exemption or Reduction of the Advances:

Until June of each year, taxpayers who are not obliged to keep accounts and who are obliged to keep accounts, who do not carry out business activities, may request from the General Director of the Internal Revenue Service the exemption or reduction of the payment of the tax advance. The rent, when they demonstrate in sustained form, that the activities generating income of the taxpayers will generate losses in that year.

Refund of the AIT

If there is no income tax due or if the tax caused in the current fiscal year is less than the advance paid plus the withholdings. the taxpayer submits a claim for undue payment, or a request for a refund of excess payment, or to use said amount directly as a tax credit without interest for the payment of the income tax that it causes in the subsequent tax years and for up to 3 years from the date of the return.

1. When the AIT exceeds the incurred IT and the Effective Tax Rate ETR (IT Caused Presumptive)

When the economic activity of the taxpayer has been significantly affected in the respective fiscal

year and provided that this (advance) exceeds the tax caused, in the part that exceeds the average effective tax rate of taxpayers, defined by the IRS by resolution of a general nature, in which an average ETR may also be set per segment.

However, the excess subject to refund may not be greater than the resulting difference between the advance payment and the tax caused.

2. When employment has been maintained or increased

The IRS may return all or part of the surplus between the advance paid and the income tax caused whenever it is verified that the net employment has been maintained or increased.

The IRS will find indications of fraud with and without prejudice to legal actions, will apply a surcharge of 200% of the declared value unduly.

2. VALUE ADDED TAX (VAT)

2.1. Value-Added Tax (VAT)

VAT is levied on the transfer of goods, imports and services provided.

The following transactions are exempt from VAT:

- Contributions in kind to corporations
- Awards arising from inheritances and liquidation of companies
- Sale of businesses in which the assets and liabilities are transferred
- Merges, spin-offs and transformation of corporations
- Donations to public entities and charities
- Transfer of shares, participations and other securities

2.2. Transfers levied with "0" rate:

a. Food Products of agricultural, aviculture, cattle, apiculture, cuniculture, aquaculture and forest nature; meats and fish in natural estate;
b. Milks in natural estate, pasteurized, homogenized, powdered, maternity milks, child protein milks;
c. Bread, sugar, brown sugar, salt, grease, margarine, oats, cornstarch, noodles, flours for human consumption, canned tuna, mackerel, sardines, trout, and oils for human consumption, except olive oil;
d. Certified seeds, bulbs, plants, live roots. Fish flour, balanced foods, fertilizers, insecticides, pesticides, herbicides and veterinarian products;
e. Tractors with tires up to 200 HP, drill plows, harvest and crop machinery, bombs for irrigation.;
f. Medicines and drugs for human consumption, as well as raw material to produce them. Vases and labels for medicines;
g. Paper and books printed in paper;
h. Goods to be exported;
i. Goods imported to Ecuador by: Foreign Diplomats and officers of International organisms, provided they are exempt from custom duties, Passengers entering the country, Donations

on behalf of Government entities, Goods imported under the Temporary Import Regime, while they are not nationalized, Imports of capital goods made by Government entities, Andean Development corporation, Interamerican Development Bank and World Bank

2.3. Services levied with "0" rate:

a. Fluvial, maritime and terrestrial passengers and cargo transportation as well as international aerial cargo transportation,
b. Health Services,
c. Lease and rent of real estate destined exclusively for housing,
d. Public services of electric energy, potable water, sewage, those of garbage collection; and, of irrigation and drainage,
e. Education Services,
f. Kindergarten, childcare and elderly care homes services,
g. Religious services,
h. Book printing services,
i. Funeral services,
j. Some administrative services provided by the Government,
k. Public shows and spectacles,
l. Exchange, Stock market and Financial Services provided by the entities duly authorized by the law and the Government,
m. Transfer of securities,
n. Services for export, including inland tourism,
o. Services provided by Professionals up to an amount of US$ 800.oo for each case,
p. Toll for the use of roads and highways,
q. Lottery conducted by Beneficence and Faith and Smile (charity entities),
r. Aerial fumigation
s. Services rendered by artisans,
t. Refrigeration and freezing services for maintenance of food,
u. Services provided to Government entities that receive tax-exempt income.
v. Life insurance and reinsurance, medical assistance and personal accidents Services

According to the tax reform of 23 December 2009, importation of services is now levied with 12% VAT and it must be calculated and paid in the monthly VAT tax return made by taxpayer. The acquirer of the service provided from abroad must withhold and pay 100% of the VAT levied in the contracting of service. It shall be regarded as importation of services, those provided by a nonresident corporation or individual on behalf of an individual or corporation resident or domiciled in Ecuador, provided the utilization of the service is made completely in Ecuador, even if the service is rendered from abroad.

2.4. General Taxable Base

The taxable base for VAT is the total amount of the movable goods of corporal nature that are being transferred or of the services provided, calculated upon their sale prices or of the price of the providing services, which includes taxes, surcharges and other expenses legally attributable to the price.

2.5. Taxable Base on Imported Goods

VAT taxable base on imports is the result of adding to the CIF value the taxes, custom duties, surcharges, fees and other expenses as declared in the import permit and other relevant documents.

2.6. Rate

The general rate for VAT is 12%

2.7. VAT Credit

As a mandatory general rule, VAT credit will be granted on VAT paid in the purchase and utilization of goods and services levied with this tax, provided such goods and services are destined to the production and merchandising of other goods and services levied with 12% rate. There will be no VAT credit in the local purchase; import of goods; services made by taxpayers to be used in the production are totally levied with "0" rate; and the purchase or import of fixed assets to be used in the production of goods and services totally levied with "0" rate.

2.8. VAT Refund on Export Activities

Individuals and corporations that have paid VAT in the local purchase or import of goods, used in the manufacturing of goods to be exported, will be granted a refund for the tax paid, without interest, in a period of time not exceeding ninety days. If the refund is made after this term, interest will apply.

Notwithstanding the above rule, this will not apply to oil & gas exports, due to the fact that oil & gas are not manufactured, but rater extracted from the soil.

2.9. Commissions for concept of Severe Securities Services with 0% Tax Value Added Value (VAT).

Commissions for securities services that pay a 0% rate of Value Added Tax.

a) For Stock Exchanges:

1. Commission for the use of physical and technological infrastructure for transparent access to proposals for the purchase and sale of registered securities.
2. Commission for the use of the Stock Exchanges Systems (SIUB), for the stock exchange negotiation of securities and financial instruments.
3. Registration and maintenance so that issuers can negotiate the securities.

b) For Stock Houses:

1. Commission that the Stock Houses charge for carrying out the negotiations.
2. Commission for the administration of securities portfolios or third-party funds to invest them in Securities Market instruments in accordance with the instructions of their principals.
3. Commission in underwriting or subscription of an issue or part of it, for subsequent resale in the market, with legal entities of the public sector, the private sector and with collective funds.
4. Commission for advice and information on matters of finance, securities, structuring of securities portfolios, mergers, spin-offs, acquisitions, trading of share packages, purchase and sale of companies, and other operations of the stock market.
5. Commission for carrying out repurchase transactions.
6. Commission for carrying out the operations of brokerage of equities or fixed income of

the public and private sectors, inscribed in Stock Exchanges.
7. Commission for entering into correspondent agreements with securities intermediaries in other countries.
8. Commission for entering into referral agreements with securities intermediaries from other countries.
9. Commission for structuring processes of issuance of negotiable securities in the Stock Market.

c) For centralized clearing and settlement of securities deposits:
1. Commission for custody and management of Trust and Securities Deposits.
2. Commission for registration of short and long-term issues.
3. Commission in the settlement and compensation of the securities deposited that are traded on the Stock Exchange.
4. Commission for carrying out the liquidations of the securities registered in the Public Records of the Securities Market through its book entry.
5. Commission for acting as a paying agent of dematerialized issuances authorized by the Superintendency of Companies, Securities and Insurance.
6. Commission for providing the numerating agency services.
7. Commission for fractionation and consolidation of securities.

d) For the Administrators of Funds and Trusts:
1. Commission for the administration of investment funds and commercial securitization and investment trusts.

2.10. Minimum Publicity Space to Access the Deductibility of 100% of Expenditure.

Minimum advertising message

a) When the value of 12% of VAT in Ecuador is in force, in accordance with the law: "The use of Cash from my cell phone in the payment of goods and services allows access to the automatic refund of 2 VAT points."

Characteristics of printed visual material or fences.

a) In "Swiss" font type, printed in legible, clear and using high contrast colors between the letters and the background of the material, having to occupy at least 10% of the total allocated space, including the commercial image of the use of electronic money.

2.11 The Procedure and Conditions for the Verification of the Tax to the Added Value (VAT), Subject to the Budgetary Compensation Process, are established

The general rules that regulate electronic invoicing by taxpayers, companies or individuals that hire, promote or manage the provision of public shows in the country, who can issue invoices through data messages and signed electronically are established.

2.12 Rules for the Return of the Tax to the Added Value (VAT) Paid by the Elderly Adults

It establishes the procedure for the refund of the Value Added Tax paid by the elderly in the local acquisition of goods and services that are of national origin or imported, of first necessity and for

their use and personal consumption.

The proportion of VAT paid in purchases of goods or services susceptible to be used monthly, as a tax credit will be established by relating to sales with 12% rate. The amount arise from previous calculation it has add the exports, sales of receptive tourism packages, plus direct sales of goods and services taxed with zero percent rate of VAT to exporters plus the sales of the goods indicated in numeral 17 (*) of article 55 of the law of tax regime, of national production, with the total of the sales.

2.13. Return mechanisms by technical coefficients

In the case of exporters may establish a VAT refund scheme by coefficients that will be considered technical factors that may be issued sectorial, as provided in Article 172 of this Regulation.

Article 172 The Internal Revenue Service, by resolution of a general nature, may establish a procedure for the automatic reimbursement of the VAT paid and retained by the exporters or the compensation of the tax credit for which it is entitled to the VAT refund with the values paid. or generated by the VAT resulting from your activity.

Return of the Value Added Tax on the Acquisition of Fixed Assets

In this case the VAT to be refunded will be determined as follows:

1. In the case of exporters, the proportionality factor that represents the total of exports compared to the total declared sales will be applied.

They may request the refund of VAT of fixed assets after 6 months have elapsed since their first export. In this case, the VAT refund proportionality factor of fixed assets, applicable to the requested period, will be calculated according to the total exports compared to the total sales declared for the 6 months after the requested period.

2. In the case of direct suppliers of exporters of goods, the proportionality factor that represents the total of direct sales to exporters will be applied to total sales.

Taxpayers, who start their sales activities to exporters, may request the VAT refund of fixed assets after 6 months have elapsed since their first sale to exporters.

3. TAX ON SPECIAL CONSUMPTIONS

3.1. Object of Tax Special Consumptions

Tax Special Consumptions applies to the consumption of cigarettes, beers, soft drinks, and luxury or sumptuary articles, national or imported.

3.2. Taxable base

Taxable base of products subject to Tax Special Consumptions locally manufactured, shall be determined adding the “exfactory” price, costs and commercialization margins, minus VAT and the own Tax Special Consumptions. The rates established in the law shall be applied to this taxable base.

For imports subject to Tax Special Consumptions, the taxable base will be established increasing to the "Ex-Custom Price" an additional 25% on account of costs and expected commercialization margins.

3.3. Rates of Tax Special Consumptions

Tax Special Consumptions is levied on the following products

GROUP I RATE

GROUP I

1. Tobacco products and tobacco substitutes (cover products prepared in whole or in part using tobacco leaves as raw material and intended to be smoked, sucked, inhaled, chewed or used as snuff). 150%
2. Perfumes 20%
3. Video games 35%
4. Firearms, sports weapons and ammunition, except those acquired by the public force 300%
5. Incandescent lamps except those used as automotive inputs. Kitchens, water heaters and water heating systems, for domestic use, that work totally or partially through the combustion of gas. 100%

GROUP II

1. Motorized vehicles of land transport of up to 3.5 tons of load, according to the following detail:

   - Motorized vehicles whose retail price is up to USD 20,000 5%
   - Trucks, vans and rescue vehicles whose retail price is up to USD 30,000 5%
   - Motorized vehicles, except vans, vans, trucks and rescue vehicles, whose retail price is greater than USD 20,000 and up to USD 30,000 10%
   - Motorized vehicles whose retail price is greater than USD 30,000 and up to USD 40,000 15%
   - Motorized vehicles whose retail price exceeds USD 40,000 and up to USD 50,000 20%
   - Motorized vehicles with a retail price greater than USD 50,000 and up to USD 60,000 25%
   - Motorized vehicles whose retail price exceeds USD 60,000 and up to USD 70,000 30%
   - Motorized vehicles whose retail price exceeds USD 70,000 35%

2. Hybrid or electric motorized vehicles of land transport of up to 3.5 tons of cargo, according to the following detail:

   - Hybrid or electric vehicles whose retail price is up to USD 35,000 0%
   - Hybrid or electric vehicles whose retail price exceeds USD 35,000 and up to USD 40,000 8%
   - Hybrid or electric vehicles whose retail price exceeds USD 40,000 and up to USD 50,000 14%
   - Hybrid or electric vehicles whose retail price is greater than USD 50,000 and up to USD 60,000 20%
   - Hybrid or electric vehicles whose retail price exceeds USD 60,000 and up to USD 70,000 26%

- Hybrid or electric vehicles whose retail price exceeds USD 70,000 32%

3. Aircraft, light aircraft and helicopters except those intended for the commercial transport of passengers, cargo and services; jet skis, Tricare, quadrones, yachts and pleasure boats. 15%

GROUP III

- Pay TV services 15%
- Fixed telephony services and plans that only market voice, or joint voice, data, SMS of the advanced mobile service provided to companies. fifteen%

GROUP IV

- The fees, memberships, affiliations, shares and similar that are charged to its members and users by the Social Clubs, to provide their services, whose amount as a whole exceeds US $ 1,500 per year 35%

3.4. Special Consumption Tax for telephony services only voice, data and SMS and non-alcoholic drinks

There is not Tax Special Consumptions, on the sale of time air companies for marketing back to individuals through modalities such as: brokers, resale, distribution agreements and other similar ones.

In the case of non-alcoholic beverages having fifty percent (50%) or less than content natural, shall not be deemed for the purposes of the application of the Special Consumption Tax, the natural sugar of the fruit which is part of the drink, so that the corresponding fee shall apply only on the added sugar.

3.5. Reminder of the Special Consumption Tax

The kitchens, water heaters and water heating systems for domestic use, which operate totally or partially through the combustion of gas, regardless of their presentation for commercialization to the final consumer, are subject to the 100% Tax Special Consumptions tariff. Those cases in which these goods are marketed assembled or in parts.

3.6. Special Consumption Tax on goods partially o total manufacturing in Ecuador

1. For the purposes of calculating the ex-factory price, in the Tax Special Consumptions regime, the following shall be taken into account:

a. For the calculation of the ex-factory price, the items provided for that purpose in the relevant standards must be included in the cost of the product, even when they are carried out through independent business units or third parties, whether these parties are related or not. There is a price or retribution and even free of charge, regardless of the way in which the manufacturer registers such items. The value obtained in this way must be added the profit percentage of the manufacturer, in the cases that apply depending on the structure of the business, as indicated in the current tax regulations.
b. In order to obtain the ex-factory price within the processes for determining the tax base of the Tax Special Consumptions; The Local IRS considers the production process as a single economic process, regardless different subjects have divided the productive process into different sub processes.

3.7. The Tax Special Consumptions of perfumes and toilet waters, marketed through direct sales, for the fiscal period 2018

They must be calculated for each product, increasing to the ex-custom price - in the case of imported goods - and, to the total production costs - in the case of domestically manufactured goods - the percentages detailed in the following table:

EX-CUSTOMS PRICE RANGE OR TOTAL PRODUCTION COSTS PER PRODUCT IN USD		% of increase
Since	Until	
-	1,50	150%
1,51	3,00	180%
3,01	6,00	240%
6,01	In onwards	300%

The total production costs of domestically manufactured goods will include raw materials, direct labor and manufacturing costs and indirect costs.

For purposes of calculating the tax base of special consumption tax, payments for royalties calculated on the basis of volume, value or amount of sales that do not exceed 5% of said sales, shall not be considered manufacturing costs or expenses; in case the royalty payments exceed that percentage, the aforementioned value will be incorporated into the total production costs.

3.8. The Tax Special Consumptions, which will apply from january 1, 2019

GROUP V	SPECIFIC RATES
Cigarettes	0.16 USD for unit
Alcohol	7.22 USD For liter of pure alcohol
Drunk Alcoholic	7.25 USD For liter of pure alcohol
Handcrafted Beer	2.00 USD For liter of pure alcohol
Industrial Beer of small scale (market share Ecuadorian of up to 730,000 hectoliters)	7.72 USD For liter of pure alcohol
Industrial Beer of median climbs (market share Ecuadorian of up to 1,400,000 hectoliters)	9.62 USD For liter of pure alcohol
Industrial Beer of great scale (market share Ecuadorian Superior to 1,400,000 hectoliters)	12.00 USD For liter of pure alcohol
Not alcoholic and gaseous Drinks with content of sugar bigger than 25 grams per liter of drink, except energizers	0.18 USD for 100 grams of sugar

3.9 The base taxable by liter of drink of the Special Consumption Tax of alcoholic beverages, including beer, applicable to ad valorem tariff during the fiscal 2019 period is established

For purposes of determining the taxable base for the application of the ad valorem rate of the Special Consumption Tax of alcoholic beverages, including beer, the value of the ex-factory and ex-customs

price is established, as indicated in the literal b) numeral 2 of article 76 of the Internal Tax Regime Law, at USD 4.33 per liter.

4. CAPITAL FLIGHT TAX (ISD)

Tax Rate: 5% on all moneys, funds, currencies remitted abroad, with or without the intervention of Financial Institutions. It includes all kind of wire transfer, withdraws or payment of any nature remitted abroad, with or without the intervention of the financial system. It also includes the offsetting or compensation of accounts with entities abroad. All these transactions shall be subject to a 5% tax on the amount remitted, transferred or carried outside Ecuador

Taxpayers subject to this tax:

a) Ecuadorians and foreign individuals' residents in Ecuador
b) Inheritances and Trust
c) Private national corporations, Branches of foreign companies and permanent establishments domiciled in Ecuador, even in the cases when they offset or compensate accounts with entities, related or not, from abroad
d) Importers of goods, either individual, national or foreign corporations or permanent establishments of foreign companies

For the case of consumption or cash advances made with credit or debit cards, the issuer, administrator or financial institution, will withhold the tax on the total amount, in the date of the accounting registry of the transaction, chargeable to the account of the cardholder or client.

Moment of the payment in case of imports: In the case that the payment for imports is made through transfer or conveyance of currency, withholding taxpayer will withhold the tax at the time of transfer or conveyance. If the import payments made from abroad, the Capital Flight Tax shall be return and paid at the nationalization of the goods; as a result, all importers must file with the customs authorities, the corresponding form to the extent that the custom authority can accurately identify the transaction and collect the tax whenever applicable.

Ecuadorians and foreigners to leave the country taking in cash quantity equivalent to the part exempt from tax to the personal revenue (USD 11,310 for 2019), they will be exempt from this tax. In the excess, it will be subject to the tax. The transfers sent on the outside of up to USD 1,000.00 equally will be exempt of ISD and the tax will be applied on the excess. This exemption will not be applied in the consumptions and purchases out of Ecuador by credit cards.

Payment of ISD can be used as a tax credit to be applied to offset the income tax liability in the current fiscal year, if the taxpayer paid as part of import of goods.

Exemption of tax on the exit of foreign currencies for fiscal years 2019, 2020 and 2021 payments made with credit or debit cards for consumption to withdrawals up to an amount of up to USD 5,017.

4.2 Rules, conditions and limits for the application of the benefit of exemption from the capital flight tax and customs tariffs.

This Resolution establishes the rules, conditions and limits for the application of the benefit of exemption from the Excise Tax and Customs Duties, in the payment and in the clearance process of the goods, as appropriate, related to imports of goods. of capital not produced in Ecuador, that are destined to productive processes or to the rendering of services that are carried out in the provinces of Manabí and Esmeraldas, by the taxpayers that have suffered a direct economic affectation in their productive assets as a consequence of the earthquake of 16 April 2016, and have their domicile in those provinces.

Exemption for payments abroad for external financing

For effects of the exoneration foreseen in the law, respect of the payments on the outside for concept of external financing, will be considered to be institutions not specialized financiers qualified to those recognized like such on the part of the Superintendence of Banks of the Ecuador.

For effects of this exemption, the external financing must be destined to productive activities, understanding itself like fell those related directly with the generation of aggrieved revenue.

Limit.- Regarding the customs value of the imported goods, a maximum limit is established to which the exoneration of the Exit Tax on Foreign Exchange and Customs Duties will be applied, according to the following classification:

a) For micro-enterprises, and individuals (ECUADORIAN SIMPLIFIED TAX REGIME, natural persons not obliged to keep accounts, and natural persons obliged to keep accounts), with annual income of up to USD 100,000, it is 20% of the upper limit of each income range, up to a maximum quota of USD 12,000, according to the table described below:

Annual sales revenue (en USD)	Maximum value in customs for imports of capital goods, to which the exemption of ISD and Customs Duties will apply.
0-5000	1,000
5.001- 10.000	2,000
10.001- 20.000	4,000
20.001- 30.000	6,000
30.001- 40.000	8,000
40.001- 50.000	10,000
50.001- 60.000	12,000
60.001- 100.000	12,000

For taxpayers with annual sales revenue between USD 60,001 and USD 100,000, a maximum value of USD 12,000 is established on the customs value of the imported goods to which it will be applied in the exoneration.

b) For small, medium and large companies, and for individuals with incomes above USD 100,000, it is 20% of the productive assets registered in the last income tax return filed and

defined for that purpose, having a floor of USD 12,000 and a maximum quota established by company size, in accordance with the table described below:

Classification of companies	Annual revenue by sales (in USD)	Maximum limits (in USD)
Little	Of 100.001 - 1'000,000	50000.00
Median	Of 1'000.001 - 5'000.000	125000.00
Big	More de 5'000.000	500000.00

4.5 Exemption of ISD for persons who are disappearing from catastrophic diseases.

4.6 Refund of ISD in the exports activity of raw materials, supplies and capital goods, with the purpose of being incorporated in productive processes of goods that are exported, within a period not greater than 90 days.

5. TAX ON ASSETS AND INVESTMENTS MAINTAINED ABROAD

5.1 Assets levied with the tax: available funds and investments maintained outside Ecuador by private entities controlled by the Superintendence of Banks and Insurance and by entities controlled by Stock Intendancies of the Superintendence of Companies. This tax encompasses the ownership or possession of monetary assets maintained outside Ecuadorian territory, either in the form of accounts, checking accounts, time deposits, investment funds, portfolio investments, investment trusts or any other financial instrument.

5.2 Taxable base: The taxable base will be the simply monthly average balance of the daily balance of the funds available in a foreign institution, domiciled or not in Ecuador and of investments issued by issuers domiciled outside Ecuador. In the case of ownership or possession of several investment documents abroad, the taxable base will be calculated by adding the monthly average balances obtained by each one.

5.3 Rate: The rate of the tax on assets maintained abroad is of 0.25% - 0.35% monthly, applied on the consolidated taxable base

5.4 The monthly tax is established on the available funds and investments that keep outside. The assets should be held in banks, savings and credit cooperatives and other private entities dedicated to carry out financial activities; administrating societies of funds and trusts and other private entities of the securities market; insurance, reinsurance companies and as well as the companies of administration, intermediation, management and / or purchase of portfolio.

5.5 They are obligated to the payment of the tax to the assets abroad in quality of taxpayers the banks, savings and credit cooperatives, funds administrating societies and trusts; insurance, reinsurance companies; in addition, the companies of administration, intermediation, management and / or purchase of portfolio.

6. TAX ON TOTAL ASSETS

6.1. Rate

The rate is 0.15% on the amount of total assets located in a specific municipality.
The beneficiaries of this tax are the municipalities of Ecuador.

6.2. Taxpayers

Taxpayers of this tax are the individuals, juridical persons, companies, and businesses of all kinds, which maintain a domicile in the respective municipal jurisdiction, habitual y carrying out commercial, industrial, and other financial activities in said jurisdiction

6.3. Deductions

For purposes of the calculation of this tax, obligations of up to one year owed by taxpayers and contingent liabilities will be allowed as deductions.

6.4 Annex of assets and liabilities of Companies and Permanent Establishments

The Internal Revenue Service establishes the obligation to present the "Appendix of assets and liabilities of companies and permanent establishments", for the following subjects that have a total of assets or liabilities abroad that exceeds the value of five hundred thousand dollars (USD. 500,000.00):

1. Companies legally incorporated in Ecuador, according to the definition of Article 98 of the Internal Tax Regime Law; and,
2. Permanent establishments domiciled in Ecuador of non-resident foreign companies.

They will not be obliged to present the "Annex of assets and liabilities of companies and permanent establishments", the following subjects:

1. The institutions and entities that make up the public sector.
2. Public companies.
3. Legal entities with majority public capital, as well as independent or autonomous assets with or without legal status constituted by the State Institutions as long as the beneficiaries are said institutions;
4. The international organizations recognized by the Ecuadorian State and its foreign officials duly accredited in the country; diplomatic missions, consular offices, or foreign officials of these entities, duly accredited in the country;
5. The institutions that make up the national financial system
6. Insurance and reinsurance companies.

The components that make up the "Annex of assets and liabilities of companies and permanent establishment "the following concepts are considered:

1. ASSETS

a. Cash and investments in financial institutions and other depositories in Ecuador and

abroad
b. Representative rights of capital in Ecuador and abroad
c. Accounts receivable in Ecuador and abroad
d. Movable property and construction in progress, in Ecuador and abroad
e. Motorized land vehicles, ships and aircraft, in Ecuador and abroad
f. Rights in Ecuador and abroad
g. Real estate in Ecuador and abroad
h. Other assets in Ecuador and abroad

2. LIABILITIES

a. Debts incurred in Ecuador and abroad

7 . MUNICIPAL TAXES

7.1 Tax on urban real estate

Real estate located within the limits of a particular municipality shall be subject to municipal Taxes, which are paid annually. The tax is levied depending on the amount of the appraisal of the property assessed by the respective municipality.

Each municipality will update the appraisals every 5 years, splitting separately the commercial value of the land and the constructions.

Taxable base for this tax is the commercial value of the real estate, as appraised by the municipality, minus 40% of said value, which is the general reduction authorized by the law. On the taxable base, a progressive scale of taxes will be imposed. A fixed amount of tax is applied to the basic portion and on the excess rates range from 0.3% to 0.16%

7.2. Tax on rural real estate

This applies to real estate situated out of the urban limits. As in the above case, this tax is collected depending upon the commercial value and the rates are slightly lower than those applied to the real estate located within urban limits

7.3. Real Estate transfer Tax

This tax is collected on transfer of real estate and ships. The taxable base for the calculation of this tax is the commercial value of the real estate and the vessel or the value declared in the sale/purchase deed, whichever bigger. Depending on the taxable amount, the rates of this tax range from 4% to 8%.

7.4. Capital Gains on Real estate's sales

It applies only to real estate located within the urban limits of a municipality. The taxable base is the difference between the price in which the real estate was acquired and the price in which it is sold. There is a fixed amount of tax imposed in the basic portion of the taxable base and a percentage rate on the excess, which ranges from 10% to 42%.

7.5 Through the reform of the reformatory law for tax equity in Ecuador, chapter III of the creation of the tax to rural lands is eliminated

7.6 The general rules that regulate the compliance of formal duties related to occasional public shows with the participation of non-resident foreigners

The organizers of public show must be present the guarantee of 10% of the amount of the ticketing authorized; as well as the requirements for obtaining the certificate of compliance with tax obligations as withholding agent, for such concept.

8. UNIVERSITY OF GUAYAQUIL TAX

8.1. Beneficiary

This tax was created for the benefit of the Hospital of the University of Guayaquil and taxpayers of this levy are individuals and corporations engaged in commercial, industrial and financial activities within the city of Guayaquil.

8.2. Rate and Taxable Base

The annual rate is 0.20% calculated on the amount of own capital stock declared by taxpayers in their respective commercial and industrial registries. Payment must be made within the first quarter of each calendar year in the Treasury Department of the University of Guayaquil.

9. SUPERINTENDENCE OF COMPANIES TAX

9.1. Taxpayers

Domestic companies and branches of foreign companies that are under the surveillance and control of the Superintendence of companies will pay this annual tax to the Government entity. The amount of the tax shall be issued annually by the Superintendence of companies.

9.2. Taxable base

The annual amount of this tax shall be established and paid based upon the amount of real assets of each company, as shown in the general balance or financial statements of the preceding fiscal year.

9.3. Rate

The annual tax to the Superintendence of companies for years 2019:

Amount of real assets of the companies (in US Dollars)		Contribution per thousand over the real asset
Since	Until	
0	23,500.00	0,00
23,500.01	100,000.00	0,71
100,000.01	1,000,000.00	0,76

1,000,000.01	20,000,000.00	0,82
20,000,000.01	500,000,000.00	0,87
500,000,000.01	And on	0,93

9.4. Terms for payment

Taxpayers will be allowed to pay this annual tax in two installments, provided at least 50% of the tax is paid until September 30 of each year and provided there are no amounts owed for past years. The remaining 50% can be paid until 31 December of same year.

9.5 Information that must be sent to the Ecuadorian companies that have foreign companies as partners or shareholders.

Is duty of the legal representative of the national company having as partners or shareholders foreign societies, present in digitized form, to the Superintendency of companies, securities and insurance in the month of January of each year, the following information:

a) General information:

1. The name or business name of the national company and its file number.
2. Name and position of the legal representative of the national company.

b) Specific information:

1. A certification extended by the authority competent of the country of origin that accredits the existence legal of the society foreign, partner or shareholder of the company Ecuadorian. Such certification shall be authenticated by or Ecuadorian consul.
2. A complete list of all partners, shareholders or members of the foreign company, signed and certified before a notary public by the Secretary, administrator or official of the pre-designate foreign company, which is authorized in the connection, or by a legally constituted Attorney. If the list has been signed on the outside, it shall be authenticated by or Ecuadorian consul.

9.6 Remission of interest, fines and costs for the Superintendence of Companies, Securities and Insurance.

10. TAXES ON IMPORTS

10.1. Custom Duties

Custom Duties can be “ad-valórem” (according to the value), specific (on weight or measure units) or combined. In Ecuador, custom duties are generally “ad valórem” and are calculated on CIF value of the merchandises. Tariffs range from 5% (bottom) to 35% (ceiling)

10.2. Value Added Tax (VAT)

The rate is 12% and the taxable base is the result of adding to the CIF value all taxes, custom duties, surcharges, fees and other charges that appear in the UDI (Unique Document of Importation)

10.3. Tariff 0% for Imports of Vehicles to be assembled (CKD)

Imports taxed with tariff rate 0%, for those projects qualified as new by the governing body of the Industrial Policy.

A variable tariff rate is established for imports of vehicles to be assembled (CKD) in accordance with the following table:

Schedule for the application of the minimum tariff for imports of CKD subheadings

Year	Duty Base
2019	13%
2020	10%
2021	7%
2022	3%
2023 in onwards	0%

11. EXCISE TAX (ICE) ON HYBRID AND ELECTRIC VEHICLES

Hybrid vehicles were exempt from ICE before the reform. Now they will be levied with this excise tax, as well as electric vehicles. The rates are the following: Ground transportation hybrid or electric motor vehicles of up to 3.5 load tons, according to the following detail

Rate

- Hybrid or electric vehicles with a sale Price to the public of up to USD 35,000 0%
- Hybrid or electric vehicles whose sale Price to the public ranges from USD 35,001 to 40,000 8%
- Hybrid or electric vehicles whose sale Price to the public ranges from USD 40,001 to 50,000 14%
- Hybrid or electric vehicles whose sale Price to the public ranges from USD 50,001 to 60,000 20%
- Hybrid or electric vehicles whose sale Price to the public ranges from USD 60,001 to 70,000 26%
- Hybrid or electric vehicles whose sale Price to the public exceeds 70,000 32%

12. REDEEM ABLE TAX ON NON -RETURNABLE PLASTIC BOTTLES

Its purpose is to reduce the environmental pollution and to encourage the recycling process. The tax incidence is born when bottling liquids in non-returnable plastic bottles, utilized for containing alcoholic and non-alcoholic drinks, beverages, soft drinks and water. In the case of imported beverages, the tax incidence will occur upon their customs clearance for home use.

Tariff: For each plastic bottle levied with this tax, the rate will be of up to two cents of US dollar (USD 0.02) amount that will be fully reimbursed to whomever collects, delivers and returns the bottles. The Internal Revenue Service will determine the amount of the tariff for each specific case. Taxpayers of this tax will be the bottlers of drinks contained in plastic bottles and importers of drinks in plastic bottles.

Dairy products and medicines filled in plastic bottles are exempt from this tax. This tax will not be considered as a deductible expense for income tax purposes.

12.1 Form 114 for the declaration of the redeemable tax to non-returnable plastic bottles

The Form 114 for the Declaration and Payment of the Plastic Products Redeemable Tax (IRBP) is approved and additionally establishes:

a) As of the declaration of May 2016, the bottlers will not be able to compensate the tax for the bottles recovered and subject to this tax.

b) The obligated companies must present the IBP Annex monthly, the following information:

1. Number of Beverages bottled in non-returnable plastic containers taxed.
2. Number of units, and sold of finished product bottled in non-returnable plastic containers taxed.
3. Number of imported units of finished product bottled in non-returnable plastic containers taxed.

12.2 The conversion values of the number of non-returnable, recovered or collected plastic bottles are established to their equivalent in kilograms from January to June 2019.

PERIOD	RATE IN USD POR KG.	No. PET PLASTIC BOTTLES
January - June of 2019	USD 0.42 per Kg. Of PET plastic bottles	21 PET plastic bottles per Kg.

13. TAX ON VEHICULAR ENVIRONMENTAL CONTAMINATION

TAX ON VEHICULAR ENVIROMENTAL CONTAMINATION is levied on the contamination (pollution) of the environment for the use of ground transportation motor vehicles. The tax incidence is born from the environmental contamination produced by ground transportation motor vehicles. Taxpayers of Tax on Vehicular Enviromental Contamination are individuals, undivided inheritances and national or foreign corporations, proprietors of ground transportation motor vehicles. There are several vehicles exempt from this tax, among them, Government vehicles, public transportation of passengers, school buses, taxis, those vehicles directly related to the productive activity of taxpayer, ambulances, moving hospitals, vehicles regarded as "classical", electric vehicles, and those destined for the use and transportation of handicapped persons.

14. TEMPORARY IMPORT REGIME

14.1. Concept

Temporary Import Regime is a special custom regime whereby payment of import taxes and custom duties are suspended while merchandises are entered into Ecuador to be utilized in a determined purpose, during a certain period of time, and later re-exported without further modification.

14.2. Nationalization and payment of duties

If the merchandises that entered into Ecuador under the Temporary Import Regime are nationalized, the payment of import taxes and custom duties will be effected at the current rates and exchange rate in force at the time of filing the import to local consumption petition.

14.3. Re- exportation

At the time of re-exporting merchandises that were entered into Ecuador under the Temporary Import Regime for the construction of works or for the providing of services, the proportional part of the custom duties that were suspended will be levied.

15. PAYROLL TAXES AND PROFIT-SHARING

15.1. Social Security Contributions

Employer must pay a monthly contribution to the Social Security equal to 11.15% of the employee's monthly salary. Additionally he must pay 0.5% for SECAP (Ecuadorian Services for Professional Training) and another 0.5% for IECE (Ecuadorian Institute for Educational Credit) The Reserve Fund is a fringe benefit that employer must pay to the Social Security on behalf of employees. It is an annual contribution and is equal to the employee's one month salary. According to a recent reform, the employee has the right to choose whether he/she wants it to be paid annually or monthly.

15.2. Profit-Sharing

Ecuador imposes a pre-tax 15% Profit-Sharing to employers. The beneficiaries of this tax are the employees.

15.3. Basic salary unified for the worker in general from January 1, 2018

Is approves the agreement generated in the full of the Council national of work and wages and accordingly set starting from the 1 of January of 2019 the wage basic unified for the worker in general, microenterprise in USD$ 394.00 dollars of the United States of America monthly.

15.4. The profit-sharing payment

Employers who are natural or legal persons required to take accounting, including societies in fact, undivided and autonomous heritages, with staff under dependency relationship are required to pay to register and regulated in the present instruction manual.
15% of the profit-sharing, will be distributed as well: 10% will be divided among all workers and former workers; and the remaining 5% will be given to workers and former workers, in proportion to their dependants.
For the calculation of these percentages the employer shall take as a basis statements or determinations that are made for the payment of the tax income concerning profit-sharing for workers. In addition, the employer considered the length of service, without making any differentiation with the remuneration or the type of occupation or activity of the person worker or former worker who worked during the fiscal year in which generated earnings.
Calculation of 10% of the participation of utilities-the value that should perceive each individual worker or former worker for 10% of the profit-sharing concept, is obtained by multiplying the value of 10% of earnings for the time in days that the person has worked, divided for the total days worked by all workers and former workers.
The employer is offering 15% of profits until April 15 of each year.

15.5 The regulation is issued to guarantee the labor inclusion of persons with disabilities, through the registration and control of substitute workers, workers substitutes for

human solidarity and people who have their charge the maintenance of persons with disabilities

15.6. Procedure for Payment of Uncollected Utilities

In the event that the workers and former workers have not directly collected their profits, they should request the employer to pay at the company's address, with the presentation of the written request and citizenship card.

The employer will pay the profits by means of bank transfer or certified check to the workers or former workers with the value corresponding to this benefit, through the account that would have been destined for this purpose in an entity of the National Financial System.

16. PRODUCTION INCENTIVES

16.1. Amendments to the organic law of tax incentives for various productive sectors.

1. Employers will have a deduction of additional 100% for the costs of private health insurance or prepaid medicine contracted in favour of workers,
2. Other sub-sectors of sector agricultural, fishing or aquaculture, shall benefit from this regime for its production phase, when the President of the Republic, by Decree, so have it, provided that there is the report on the corresponding fiscal impact of the Internal Revenue Service. The rates will be set by Executive Decree, within the range of 1% to 2%. Taxpayers in these subsectors that are in the simplified tax regime may maintain that system, provided that the aforementioned Decree thus has it.

   The values paid by rural land tax shall constitute a tax credit for the payment of this tax, as well as for fees of the simplified scheme referred to in the previous paragraph, in accordance with the rules and conditions laid down by regulation. When that tax credit is increased to the flat tax or the designated quota, it may be used up to two following fiscal years and in any case will be subject to repayment or claim of improper payment or in excess.

   Natural persons and undivided not forced to take accounting, societies and popular and solidarity economy organizations which meet the conditions of micro-enterprises and enterprises who have subscribed or enter into contracts for exploration and exploitation of hydrocarbons in any contractual form."

   The Internal Revenue Service may provide refund of the advance payment established in the literal b) when it has been affected significantly the economic activity of the taxable person in the respective fiscal year. For the effect, the taxpayer will present his duly substantiated request that the Internal Revenue Service will carry out checks and controls that correspond. "This advance, in case of not be accredited to the payment of the tax to the income caused or of not be authorized your return is shall constitute in payment final of tax to the income, without right to credit tax later."

   Them operators of transport public and commercial legally constituted not considered in the calculation of the advance, both in active, costs, expenses and heritage, the value of the units of transport and their couplings with which meet your activity economic."

The price ex custom is one that is obtained of the sum of them rates tariff, funds and rates extraordinary collected by the Authority customs to the time of UN-bonded them products imported, to the value in custom of them goods."

The principal payments or dividends made abroad, in an amount equivalent to the value of the capital entered the country by a resident, both own financing without interest or as capital contribution, provided they intended to undertake productive investment, and these values have remained in the Ecuador for a period of at least two years from your income.

For access to the benefit detailed in the subsection above, the capital returned due have fulfilled to the time of its output of the country, with all them obligations tax.

The capital inflows must be registered in the Central Bank of Ecuador and comply with the conditions and limits established by the Internal Revenue Service.

10.- The producers in the sectors agriculture, livestock, aquaculture; as well as forest plantations they are not subject to the tax to the patent and therefore natural, legal persons societies, national or foreign engaged in these activities cannot be subjects of collecting by any municipal or metropolitan decentralized autonomous Government of the country.

16.2. Reforms to the Regulation for the Implementation of the Organic Law of Tax Incentives for various productive sectors.

1.- In the event that there are new employees who do not meet the condition of being under dependency ratio for at least six months within the corresponding fiscal year, will be considered as new employees for the following fiscal year, provided that in that year completed the minimum period in a row.

Not be considered as new employees, for the purposes of the calculation of the additional deduction, hired workers to cover spaces for which this benefit is already applied.

2. - Employers subtract 100% additional expenses incurred directly by them in payment of private medical insurance or prepaid medicine contracted in favour of all of the payroll of workers, with fiscal entities resident in the country, provided that the individual monthly value of the premium does not exceed the established limits. In case of overcoming them, it will be excluded from the benefit of the additional deduction to the surplus.

Means that costs of private health insurance or prepaid medicine include premium and costs directly related to these services.

3.- Cases in which can request is exemption, reduction or refund of the advance-until the month of June of each year las people natural and undivided not forced to take accounting, societies and organizations of popular and solidary economy, they may ask the corresponding to the Internal Revenue Service exemption or reduction of payment of the advance of the tax income up to the established percentages, when they demonstrate that the taxpayers income-generating activity will generate losses in that year that taxable income will be significantly lower than those obtained in the previous year, or covering the amount of the income tax withholding at the source of the income tax turn off in the office.

4. - Natural persons and the undivided forced to take accounting and societies, may apply to the Internal Revenue Service refund paid by concept of anticipation of the income tax as the total of the deductions that have been made, application which shall be served by the tax administration within a maximum period of 90 days, after which will generate interest that apply.
In any case the return value may be greater than the difference between the paid advance and caused tax.
Means that taxable persons have suffered a significant economic involvement when they have to pay an advance mayoral average effective tax rate of taxpayers in general or segments.

5. - Payments partners of road transport operators-in payments made by the operators of ground transportation partners enrolled in the single registry of taxpayer (RUC) under the general regime, retention will be on the total value paid or credited into account, in the same percentages established by the resolution issued by the Internal Revenue Service applicable to the transport sector. This retention will not proceed in the case of payments to members registered in the tax under the simplified tax RISE regime."

6. - Transportation.- the services of commercial road transport services, unless provided by taxis, will be carried out only through operators duly authorized by the competent traffic authority. Partner will issue respective sales receipt to the operator for the services rendered by this, such proof shall be subject to the requirements laid down in the rules of sale receipts, withholding and complementary documents and which are established by a resolution issued by the Internal Revenue Service.

For the purposes of the Act, the transport of hydrocarbons and their derivatives by oil pipelines, gas pipelines, or pipelines, will be considered freight transport.

Services of postal mail and parallel, understanding as such the receipt, collection, transport and distribution of correspondence, are taxed with rate 14%.

7. - Fiscal credit applicable to fees increase originated in the payment of the tax to rural values of the land paid for tax of rural land will constitute a fiscal credit, for the payment of the fees of the subsectors of the agricultural contributors, of fishing or acuaicultor sector.

When that tax credit greater than designated quotas, it may be used up to two fiscal years following, and in any case will be subject to repayment or claim of improper payment or in excess.

8. - Vehicles of public property service from professional chauffeurs, at the rate of a vehicle by each holder, as well as the property of the operators of public transport of passengers and taxis legally constituted, in accordance with the procedure and the requirements to determine the tax administration will be exempt from this tax.

17. MISCELLANEOUS MATTERS

17.1. Foreign Exchange Controls

Ecuador does not have exchange controls. All transactions in Ecuador must be conducted in US dollars, which replaced the "Sucre" and is the official currency of Ecuador since January 2002.

17.2. Foreign Investment:

Ecuador does not impose any limitation or pre-requisites to foreign investors. A foreign individual or corporation can own 100% of a local corporation. Tax and Legal treatment, in general, is equal for Ecuadorians and foreigners. Repatriation of profits and capital invested has no limitation whatsoever.

17.3. Tax Stability

The Tax Stability consists in granting to foreign and local investors the maintenance, for a fixed period of time, of the applicable income tax rate in force at the time of making the investment.

17.4. Declaration of Personal Equity

According to Resolution issued by the Internal Revenue Service on June 6, 2017, it indicates that they are required to submit a financial declaration, with closing on January 1 of the current year, all natural persons whose total assets exceed 20 fractions not taxed. Income tax US $ 225,800 for 2017 and if a conjugal partnership is maintained, the amount of US $ 451,600 (40 Basic Fractions not taxed).

The assets to be declared are: Real Estate: Land and buildings, movable goods: cash, cash in banking accounts and other deposits in financial institutions, other deposits, investments, stock, participations, commodities, portfolio, credits and receivables, motor vehicles, planes, boats, movable goods, and home furniture, machineries and equipment, merchandises and raw materials, animals.

The only exemptions are library collections and music collections owned by declarer, jewelry, paintings, precious metals, art works, etc., rights: usufruct, rights of use and housing, authorship rights, inheritance rights, etc. The Internal Revenue Service alleges that this Declaration of equity has the purpose to compare the increase in the equity of an individual versus the income declared in the Income Tax Return, and that there is no intention to create a tax on equity.

17.5. Special Zones for Economic Development (ZEDE)

The December 2010 Tax Reform created the establishment of Special Zones for Economic Development (ZEDE) as a custom destination, in specific locations of the national territory, for the settlement of new investments granting them several tax incentives, provided the specific objectives set forth in the tax reform are met.

Standards for accounting differentiation of rents from activities carried out within the territory of the ZÉDÉ and out by ZEDES operators

The application of the reduction of five points percentage of its tax rate to the income and others benefits tax; must distinguish in its accounting them operations performed within it ZÉDÉ, on which is apply such benefits, of those made out of the same, and must for such effect:

1. Create specific ledger accounts other than those where the operations carried out outside that territory are recorded in the chart of accounts developed operations within the territory of the ZÉDÉ.
2. Register revenues of the taxable person within the territory of the ZÉDÉ accounted for separately from the registration of income earned outside this territory.
3. Register accounted for by cost center operations carried out within the territory of the ZÉDÉ independently to log by operations carried out outside such territory.

4. Disclose in the notes to the financial statements the operations, indicating if they were executed within or outside the territory of the ZÉDÉ.

17.6. New Tax Havens

The Internal Revenue Service incorporated to its list of Tax Havens or Lesser Taxation Jurisdictions: BONARE, SABA Y SAN EUSTAQUIO, CURAZAO, MANCOMUNIDAD DOMINICA (associated state), and SAN MARTIN.

Additionally, preferential tax regimes will be considered and will have tax haven treatment, the following:

1.- HONG KONG is considered a Tax Haven
2.- Preferential tax regimes will be considered and will have tax haven treatment, the following:

1. With regard to the Netherlands:
    a. The tax regime applicable to investment companies, exempt or qualified for a zero rate of income tax.
    b. Regimes subject to advance tax decisions or "tax rulings".
    c. Regimes of "innovation box" or "innovation box".

2. With respect to the United Kingdom:
    a. Regimes that allow companies to maintain capital representative rights with nominal or formal holders that do not support the economic risk of the property and of which it is not known who their effective beneficiaries are.
    b. Regimes of "innovation box" or "innovation box".

3. With respect to New Zealand, the tax regimes applicable to trusts or "Trusts".

4. With respect to Costa Rica, the regimes of private companies, created under their laws, but not registered with the Costarricense Tax Administration.

17.7. Rules governing the procedure of the companies considered for tax as nonexistent or Phantom effects.

For the identification of the companies considered to effect tax such as nonexistent or phantom, as well as natural persons and companies with alleged activities and/or non-existent transactions, the Internal Revenue Service be carried out an analysis of actual execution of activities or economic transactions with own taxpayer or third party information which consists of their databases.
The tax administration may consider the absence of the designated place as tax domicile, as well as the absence or insufficiency of assets, staff, infrastructure, which are necessary for the provision of services, production or marketing of goods that justify the execution of economic activities or the transactions, among other elements.

17.8. Limit applicable to prices for exports of bananas to parties related to the year 2019

The limit of export prices of bananas to parties related to the year 2019 will be 0.45 USD per kilogram of bananas 22XU.

17.9. Conditions, deadlines and exceptions to inform the corporate composition, and approve the "annex to shareholders, participants, partners, Board members and administrators" and its contents.

1. You are required to submit these annex societies, in accordance with the definition of article 98 of the tax law

2. Subjects bound to present information, must report through the annex to shareholders, participants, partners, members of Directors and members of Board of managers and administrators, the following:

1. Designation, company name or names and full names
2. Number of single registry of taxpayer (RUC), or number, or tax identification code issued in your country of residence.
3. Type of person (natural or legal), and in the case of foreign legal entity not resident in Ecuador, specify the type of company concerned and its legal;
4. Country and jurisdiction of residence tax;
5. Fiscal regime, identifying if it is in a general scheme, tax haven, in a preferential tax regime or lower taxation jurisdiction;
6. Percentage of participation of each one of the holders or beneficiaries;
7. Signs on whether its owners or beneficiaries of rights representing capital, Board members or administrators.

17.10 The agreements, agreements for the promotion and reciprocal protection of investments, subscribed between the Republic of Ecuador and the different governments are terminated.

Report and therefore declare terminated the Agreement for the Promotion and Reciprocal Protection of Investments between the Government of Ecuador and the following governments:

- Republic Venezuela
- Argentine Republic
- Canada
- United States of America
- Kingdom of Spain
- Republic of Peru
- Republic of Bolivia
- Italian Republic

17.11 The following taxpayers, which are in the business of credit card; financial institutions (except mutualists of savings and credit for the housing); special contributors; the exporters; and other contributors who realize sales through the internet, shall sent credit notes, debit notes, referral guides and retention proofs only through data messages and signed electronically, according to the following calendar:

- As of October 1, 2017: credit notes and withholding vouchers.
- As of January 1, 2018: debit notes and referral guidelines.

17.12. All entities that compose the national financial system of reporting information to the Local IRS is established by transactions carried out by these or their customers; towards or from tax havens. The individually amount equal or exceed the five thousand dollars of the United States of Ame-

rica (USD 5,000.00) or its equivalent in other currencies and transactions carried out by these or their clients. The countries with which the Ecuador maintains a convention to avoid the double taxation, which individually equals or exceeds the fifty thousand dollars of the United States of America (USD 50,000.00) or its equivalent in other currencies.

17.13. The administrative procedure is established for natural or legal persons required to report to the UAFE, for the purposes of registration in this unit, their risk prevention system and the manual for the prevention of money laundering and financing of crimes

The procedure for the registration of the Risk Prevention System or Manual for the Prevention of Money Laundering and the Financing of Crimes before the Financial and Economic Analysis Unit (UAFE) will be fulfilled with the guidelines stablished by UAFE.

According to the Local Law it indicates that the policy adopted by the controlled companies to prevent money laundering, the financing of terrorism and other crimes must consider the following parameters:

- Establish guidelines that allow them to analyze, evaluate, monitor and effectively treat the risks that have been identified.
- Ensure that the members of the company have knowledge of the legal and regulatory norms related to the prevention of money laundering and the financing of terrorism and other crimes and comply with it.
- Minimize the degree of exposure inherent to money laundering and the financing of terrorism and other crimes.
- Establish the policies to know the client, supplier, collaborator, market and correspondent, as the case may be; and define those responsible for its implementation.
- Guarantee the confidentiality and confidentiality of the information reported in accordance with the provisions of the Organic Law on the Prevention, Detection and Eradication of the Crime of Money Laundering and the Financing of Crimes, as well as that information generated in compliance with the policies and processes of prevention.
- Establish sanctions for collaborators who do not comply with the policies and procedures approved by the company.

The same person may exercise the office of compliance officer of several companies, in the following cases:

- In a business group, when one or several partners or shareholders, directly or indirectly, own more than 40% of the shares or shares in other companies, whether they are national or foreign, or when such companies are linked by administration; The business group may not exceed 5 companies for the designation of the position.
- In the case of parent and subsidiary companies. Should be considered as a subsidiary to one or more companies controlled by the parent and the latter must have at least 50% stake in the financial and operating decisions of the subsidiary.

External audit

The business (individual or corporation) which have to present external audit reports of their financial statements; will have to contract another external audit that will verify compliance with the policies, procedures and mechanisms implemented by the regulated entity for the prevention of money laundering, the financing of terrorism and other crimes.

Different external auditors may carry out these external audits.

The operations or transactions detected during the audits carried out by the external auditors, which in their opinion constitute unusual and unjustified activities, must be reported to the compliance officer of the obligated party.

The external audit reports for compliance with this Standard are not part of the financial statements and will be entered into the institutional system until May 30 of each year.

EL SALVADOR CHAPTER

MAYORA & MAYORA, S.C.

EL SALVADOR CHAPTER
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HIGHLIGHTS

National Level Tax Rates: 2019

Income Tax	25% on rents
Legal Entities	under US$150,000 and 30% on rents over US$150,000
Income Tax	
Natural Person	According to retention tables
Income from Capital Gains	10%
Advance payment on Income Tax	1.75% on gross income
Income from dividends	5%

Withholding Taxes on:

Interests	10 %
Prices	15%
Incomes of Non-Residents	20%
Software	5%
Professional Services	10%
VAT on Sales	13%
VAT on Services	13%
VAT on Imports	13%

Local Level Tax Rates:

Tax on Industrial Activities:	Not applicable
Tax on Commercial Activities:	Not applicable
Tax on Service Activities:	Not applicable
Real Estate Tax:	3% on the surplus of US$28,571.43
Taxes on Other Property:	Not applicable
Document Registration:	Rates applicable at several Register Offices
Special contribution to Citizen security:	5%
Tourism Tax:	5%

OVERVIEW

1. INCOME TAX

1.1 General Aspects

The criteria for income tax collection in El Salvador is the territoriality or the source.

The Income Tax Act identifies as taxpayers those who carry out economic activities whether they are: a) natural or legal persons, domiciled or not in El Salvador; b) successions or trusts, domiciled or not in the country; c) artists, athletes or similar persons, domiciled or not in the country, whether they are present as individuals or in a group; or d) irregular or *de facto* companies and other unions.

1.2 Payment and Filing

The Income Tax Act identifies the following taxable incomes regimes:

- Those obtained from labor, such as wages, salaries, fees, commissions and all kinds of compensation for personal services;
- Those obtained by business activity, whether it is commercial, agricultural, industrial, or services of any other nature;
- Those generated from capital such as rents, interest, dividends, or participations; and
- Those obtained from all kinds of products, profits, benefits or utilities, no matter the origin, forgiven debts, undocumented liabilities or provisions of excess liabilities, as well as unjustified increase of assets and expenses.

The State, municipalities, foundations of public law and corporations and foundations of public utility are exempt from income tax.

Employees are liable to pay income tax using their gross income as a taxable base, without counting exempt income, then applying the correspondent tax rate to obtain the payable tax. Employees cannot deduct any expenses. This regime has a monthly tax period, so the taxpayer must declare his taxes on an annual basis, no later than April 30th of the following fiscal year.

Legal entities are liable to pay income tax using gross income as a taxable base, without counting exempt income, deducting all costs and expenses that are related, useful, indispensable and necessary to generate income or conserve source of income, then applying the correspondent tax rate. The tax rate depends on the income, if it is less than US$150,000.00, the applicable tax rate is 25%, and if it is greater than US$150,000.00 the applicable tax rate is 30%. Although under this regime the tax period is annual, taxpayers still must make quarterly payments, which are then credited in the annual income tax return, which has to be submitted to the tax agency no later than April 30th of the following year.

Capital gains are identified by the Income Tax Act, as those obtained by a natural or legal person from an unusual source of income, such as the sale, exchange or other forms of negotiations on movable or immovable property, as long as such transaction are carried out after 12 months from the date of acquisition of the property. The applicable tax rate on capital gains is 10%, that has to be withheld at the moment of their payment or at the time of the capital increase.

1.3. Non-Resident Income

The Income Tax Act establishes that non-residents, whether natural persons or legal entities, must pay a tax rate of 20% on their Salvadorian income. However, according to the Tax Code, if the non-resident is domiciled in a territory with a preferential tax regime, low or no taxation or tax havens, they must pay an income tax rate of 25%.

1.1.5. Transfer Pricing

Since 2009, the Tax Code of El Salvador has transfer pricing regulation, which follows the OECD rules on transfer pricing, including valuation methodology, reporting requirements and criteria on company groups.

It establishes the possibility of entering into advance valuation agreements and mandates that the taxpayers must have, at the moment of filing their declaration and annual liquidation of Income Tax, the transfer pricing study that supports the valuation applied to transactions carried out between related parties.

These provisions only apply to related parties and those domiciled in a State or territory with a preferential tax regime, low or no taxation, or tax havens

According to the Tax Agency, in El Salvador the transfer pricing rules were implemented to avoid the manipulation of the taxable base, assistingthe Salvadoran government to collect the taxes that is entitled to collect.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

The Value Added Tax, hereinafter VAT, is a general indirect tax on consumption, which is based on the transfer of tangible personal property.

According to the Transfer of Personal Movable Property Law, a transfer of ownership of tangible per-

sonal property is considered as not only those transfers resulting from a purchase agreement, but also those transfers resulting from any acts, conventions or contracts that have the purpose of transferring partial or totally the domain of the goods.

VAT´s tax base is the price of the taxed act and the applicable tax rate is 13%. According to the law, it is understood that any price on goods or services has the VAT tax included.

2.1.1. Taxable Transactions

For purposes of the VAT tax Law, taxable services are operations, such as:
- Regular, permanent, periodic or continuous rendering of services of any kind.
- Providing technical advice and the elaboration of projects and plans.
- Leasing of tangible personal property with or without promise of sale.
- Leasing or subleasing of real estate for commercial activities.
- Leasing services in general.
- Making or executing a movable material work.
- Executing engineering projects or others of similar nature.
- Repairing, transforming, extending or other improvements on properties that are less than the construction of a new one.
- General construction or building contracts.
- Cargo or freight transport, by land, air or sea of passengers.
- Leasing, conceding or any other form of assigning the use or enjoyment of trademarks or patents.

2.1.2. Taxable Base

The VAT taxable base is calculated as follows:

Sales and rendering of services: the price on the sale or the service, excluding any discounts granted in accordance with trade practices, and including amounts charged separately to the acquiring party, including other taxes than VAT.

Imports: the CIF value of the imported goods, plus customs duties and other related charges.

The leasing of movable or immovable property: the rent plus any financing charge.

With respect to withdrawals of movable goods from a business firm, the taxable amount is the acquisition price or the production cost of goods.

The payable VAT tax is the difference between the generated fiscal debits and the generated fiscal credits.

2.1.3. Creditable VAT

As a general rule, the VAT taxpayer is entitled to a credit on the VAT tax paid to its suppliers for tangible movable assets bought or imported and for services acquired, provided that they constitute a cost or expense of the taxpayer's income producing activity. The VAT paid in the acquisition of goods that will become fixed assets for the buyer is creditable to the VAT account.

VAT credit is the sum of the tax charged to the taxpayer on imports and/or purchases of local goods

and services (which need to be directly related to his/her production, distribution and/or sale process). This is determined on a monthly basis.

VAT debit is the sum of the tax charged by the taxpayer on his/her transactions subject to VAT in the same period.

The difference between the total VAT credit and debit is the amount of tax to be paid for the corresponding month.

2.2. Payment and Filing

VAT has a monthly taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT return must be filed and paid in full on the filing date, 10 days after the closing of the month.

3. OTHER TAXES

3.1. Property Taxes

The Tax on the transfer of Real Estate, hereinafter TBR, is a direct and local tax levied on real estate.

The tax rate on the transfer of real estate is 3% on the surplus of US$28,571.43 of the property value.

The taxpayers must submit a written and signed tax return, using the form provided by the General Direction, within a period of 60 days from the transfer, attaching a copy of the public deed.

3.2. Excise Taxes

In El Salvador, the production, import, commercialization or execution of certain activities may be subject to *Ad-Valorem* taxes and/or special contributions, among them:

a. Production and marketing of alcohol and alcoholic beverages. The law establishes a tax rate of 8% on the final sale price to the public and on the price differential between the official suggested price and the final price to the public. It also establishes fixed rates that change depending on the type of alcoholic beverage, and can be between US$0.0325 and US$0.16 per liter.

b. Soft drinks, isotonic and energizers, juices and concentrates or powders for beverages. This tax is levied with different rates and/or fixed rates according to the type of product; for example, energy drinks and/or stimulants are taxed with a specific tax for a value of US$0.20 per liter of product or its proportion for containers with less content than 1 liter.

   In the same way, it levies Ad-Valorem taxes at a rate of 10% on the sale price to the consumer of carbonated drinks, simple and/or sweetened soft drinks and energy drinks and stimulants, as well as concentrated or powdered preparations. It also taxes the sale of isotonic beverages, sports or fortifying, juices, nectars, drinks with juice or soft drinks and concentrated and powdered preparations, with a 5% rate on the final sale price to the public.

c. Tax on tobacco products. The law establishes a specific tax of US$0.0225 per cigar, cigarette or cigarillo. In the same way, it establishes Ad-Valorem tax with a rate of 39% on the sale

value to the consumer, excluding the VAT tax and for products such as cigars the value of the tax will be 100% on the final sale price to the public.

d. Tax and/or special contribution on fuel, The Road Maintenance Fund. This is a special contribution that establishes a fixed tax rate of US$0.20 for each gallon of fuel, which aims to raise money for a fund for the repair and maintenance of roads.

e. Contribution to transportation. This is a special contribution that is levied with a fixed rate of US$0.10 per gallon of fuel, aiming to help maintain the stability of the tariffs that users pay for the transport public service.

f. Stabilization and Economic Growth Fund. This is a special contribution that is levied with a fixed tax rate of US$0.16 per gallon of fuel.

g. Firearms and explosives. An Ad-Valorem tax of 30% is established on the transfer price of these goods, excluding VAT tax.

h. Tax on Tourism. This establishes two taxable events: hosting services at hotels and a special contribution to all persons leaving the country by air. The first one is taxed with a 5% tax rate on the service, on a daily basis. The exit tax is a fixed tax of US$7.00 per person leaving the national territory by air.

i. Special Contribution for Citizen Security. This is a 5% fixed tax rate on the value of telecommunications services, transfers, hospitalizations or imports of technological items.

3.3. Custom Duties

El Salvador is part of the Central American Integration System, which is based on a series of treaties that regulate, among other things, international trade among member states, and between member states and non-member states. The full members of the system are Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Belize, and the Dominican Republic.

There is a Central American Uniform Customs Code and a common customs product nomenclature across the region. Both have been developed to comply with basic World Trade Organization rules and policies. Trade among the member states is now basically free of any import duties, except for a few products that have a sensitive character for the economy of member states.

In addition, there are several free trade agreements, as follows:

a. The Central American states (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), the Dominican Republic and the United States (CAFTA).
b. The Central American states and Mexico.
c. The Central American states and the EU.
d. The Central American states and Chile.
e. Guatemala, El Salvador, Honduras and Colombia.
f. El Salvador and China.

All of these agreements create a fairly open international trade environment with only a few products subject to import duties, which will be gradually reduced over time.

In addition to VAT, imports are also subject to custom duties that range between 0% and 40%; for most goods, the average rate is 20%. There is also the application of zero rating to certain goods in the context of Free Trade Treaties.

Custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties.

3.3.1. Filling and Payment

An import tax return must be filed upon nationalization of the goods, and all import procedures must be performed through an authorized customs agent.

4. PAYROLL TAXES /WELFARE CONTRIBUTIONS

4.1. Social Security System

The Salvadoran Social Security Institute manages and operates the Social Security System and the National Health System. These systems provide services and benefits related to illness treatment, disability and pensions system, old age, maternity, and death insurance. Social Security contributions are applicable to employers and employees. The contributions are based on the monthly salaries with 7.50% apportioned to the employer and 3.00% to the employee.

If the company has more than 10 employees on its payroll, an additional 1% must be added as a contribution in favor of the employer.

4.2. Payroll Tax

The income on labor services is taxed in accordance with a Progressive Taxable Tariff.

The applicable tax rate is determined depending on the amount of salary, with a tax rate between 10% and 30%. In addition, the tax due is complemented with a fixed amount established accordingly with a Taxable Tariff, as shown below:

	TAX BASE		TAX RATE SURPLUS PLUS FIX AMOUNT		
	From	**To**			
I Stretch	$0.01	$472.00		Exempt	
II Stretch	$472.01	$895.24	10%	$472.00	$17.67
III Stretch	$895.25	$2,038.10	20%	$895.24	$60.00
IV Stretch	$,2038.11	Hereinafter	30%	$2,038.10	$288.57

As mentioned above, the employer must calculate the monthly withholding that will be made throughout the year, but a final payment is made at the end of the fiscal year, if more or less of the required tax was withheld.

GUATEMALA CHAPTER

MAYORA & MAYORA, S.C.

GUATEMALA CHAPTER

HIGHLIGHTS

NATIONAL LEVEL TAX RATES: 2019

Corporate Income Tax	25% (or 5% or 7% Flat Tax)
Capital Gains Tax	10%
Capital Income Tax	10%
Branch Profit Tax	25% (or 5% or 7% Flat Tax)
Dividends Tax	5% (income tax)
Withholding Taxes on:	
Interests	10 %
Royalties	15%
Technical, scientific, administrative Services	15%
Imports	0%
Labor services	15%
Others	25%
Tax Loss carry-forward term	Not available
Tax Losses carry-back term	Not available
Tax-free Reorganizations	Not available
VAT on Sales	12%
VAT on Services	12%
VAT on imports	12%

LOCAL LEVEL TAX RATES:

Tax on Industrial Activities:	Not applicable
Tax on Commercial Activities:	Not applicable
Tax on Service Activities:	Not applicable
Real Estate Tax:	GTQ.2 to GTQ.9 per GTQ.1,000
Taxes on Other Property:	Not applicable
Document Registration:	Rates applicable at several Registrar Offices

TREATY TAXATION:

Guatemala has approved the Convention on Mutual Administrative Assistance in Tax Matters. The

Convention was adopted by Guatemala on December 5, 2012 at the headquarters of the Organization for Economic Cooperation and Development (OECD) and ratified by Congress on June 5, 2017, when official Decree No. 9-2017 was published in the Official Gazette.

No double taxation treaties are in force yet. Nevertheless, according to tax authorities, several double taxation treaties are being negotiated. The first treaty was signed with México in 2015. However, it is not mandatory yet because it has not been ratified by Congress.

OVERVIEW

1. INCOME TAX

1.1. General Aspects

In general, Guatemalan income tax is a territorial and objective tax. Therefore, all income generated in Guatemala is taxable according to its origin.

According to the Income Tax Act, the notion of taxpayer extends to all resident or non-resident individuals and corporations, partnerships, trusts, de facto corporations, joint ventures, permanent establishments and, any other business firm or establishment deriving Guatemalan-sourced income.

Guatemalan Law considers three main categories of income taxable: a) business income; b) Wages and other compensation; and c) income from capital.

a) Business Income from any for-profit Activity: This category would include professional services (such as financial, insurance, etc.), commercial and industrial businesses, agriculture and farming activities, mining, international trade, and transportation services.

b) Payroll and Other Compensation: such as ordinary salaries, bonuses, and commissions. Employees are taxed on Guatemalan-sourced income.

c) Passive Income from Capital Investments and the Sale and Disposition of Fixed Assets: This category would include income made from the renting or leasing of property, interest, royalties, profit distributions, capital gains, and prize

1.1.1. Income Tax Rate

The Guatemalan income tax has an applicable rate for different kinds of income. For income from profitable activity, there are two types of regimens: a) the general statutory corporate income tax regimen with a tax rate of 25% on net income; and b) the flat rate regimen with tax rates of 7% or 5% on gross income, minus exempt income. Under this regimen, the applicable tax rate will depend on the amount of taxable income. When the taxable income is less than US$3,870.96, the applicable tax rate is 5%. When the taxable income is equal to or above that amount, the applicable tax rate is 7% on the surplus, plus a fixed amount of US$193.54.

Tax-resident employees are liable to pay income taxes at 5% or 7%, depending on the amount of the taxable income. Employees with income equal to or above US$38,709.68 are taxed at a rate of 7%; all other employees are taxed at a rate of 5%.

1.1.2. Deductions

For the 25% Regime, as a general rule, all costs and expenses related, useful, relevant and necessary to the income producing activity, are considered deductible expenses. Every cost and expense must be proven by relevant legal documentation, i.e., authorized invoices, special invoices, non-residents' invoices, import permits, payroll receipts, etc. Excluded and/or exempted items of income are not deductible, and the lack of appropriate apportionment could lead to a proportional rejection on overall deductible costs and expenses. Some costs and expenses are limited to quantitative ceilings; e.g., royalties and unrecoverable debts. However, for the 5% or 7% regime, there are no available deductions.

In regards to deduction of interest payments, income tax has assumed an undercapitalization rule, which allows for a maximum deduction equal to the rate determined by the Monetary Board applied to the net asset value multiplied by three.

As a resident employee, the only allowable deductions are: a) cost of living allowance—about US$6,193.54 yearly; b) social security contributions and contributions to pension funds; and c) life insurance premiums, which do not provide for a rescue value.

1.1.3. Depreciations

For the 25% regime, tangible and intangible fixed assets´ depreciation is deductible. The depreciation term varies depending on the nature of the assets.

1.1.4. Transfer Pricing

Since 2013, Guatemala has transfer pricing rules applicable to transactions between Guatemalan entities and non-resident, foreign related entities. Such rules do not apply to related Guatemalan resident entities. Documentation supporting the price must be ready at the moment of submitting the tax return.

The system follows approximately the OECD rules on transfer pricing, including valuation methodology, reporting requirements and criteria on company groups.

There are different methods to apply for the arm´s length principle, as well as different definitions for related parties. Income tax also contains rules regarding advance pricing agreements.

The Guatemala income tax law does not provide a closed definition of permanent establishment and, as a result, article five from the OECD Model Tax Convention on Income and Capital can be used for guidance.

1.1.5. Inflation Adjustments

Guatemala does not have inflation adjustment mechanisms.-However, it permits the revaluation of tangible or intangible assets.

1.2. Payment and Filing

For tax payers under the 25% regime, the ordinary tax year covers the period from January 1st to December 31st, with an annual filing deadline three months after the close of the corresponding tax year. Tax payers under the 5% or 7 % regimes must file their returns on a monthly basis.

1.3. Interest and Penalties on Unpaid Tax or Tax Paid Belatedly

Unpaid taxes are subject to an interest charge that assessed at rate established by law, roughly the average of the lending interests charged by banks, plus a fine that, subject to some qualifications, may be up to 100% of the unpaid taxes.

Late payments (where no inspection has taken place yet) are subject to a fine calculated by multiplying the unpaid tax times the number of days of delay by a factor of 0.0005.

1.4. Dividend Tax /Branch Profits Tax

Payment of dividends is considered taxable income for income tax purposes. A 5% withholding tax is levied on dividends paid to both residents and non-resident shareholders, as well as on the remittances made to the parent corporation of local branches.

Dividends received from foreign companies, not operating in or residing in Guatemala, are considered foreign sourced income and not subject to taxation in the country. Dividends are not deductible.

1.5. Cross-Border Payments

1.5.1. Withholding Taxes

Withholding of non-residents
A business vehicle must pay income tax in Guatemala on Guatemalan-sourced income, regardless of its nationality or residence. However, the tax regimes applicable to residents differ from those applicable to non-residents. While tax-resident vehicles are taxed according to the nature of their income (whether derived from their main business activity or from capital investments, etc.), non-tax resident vehicles are subject to withholding taxes, the rates of which vary according its category (interest, dividends, remuneration for services, royalties on IP, etc.). Tax-resident businesses do not pay tax on worldwide income.

Residence depends broadly on: a) being physically present in Guatemala for more than 183 days in a year; b) carrying on business activities in Guatemala on a habitual basis; c) having a company's main business interests or administrative headquarters in Guatemala and; d) organizing a business under the laws of Guatemala and establishing its tax residence there.

Because the income tax law has adopted a definition of resident for tax purposes, two different regimes have evolved: a) non-residents with permanent establishment; and b) non-residents without permanent establishment.

When Guatemalan sourced income is remitted abroad to a beneficiary that is a non-resident without permanent establishment, payment is subject to a withholding tax. On the other hand, if the alien has a permanent establishment in Guatemala, the poll of non-residents with permanent establishment, sets that taxes have to be paid as a resident.

Withholding of Tax-resident employees

The employer must calculate the monthly withholding for the year, but a final payment is made to the tax administration at the end of the fiscal year, if more or less than the required tax would have been withheld. Employers must withhold and pay on behalf of their employees the applicable income tax and social security contributions, including the employer's social security contributions.

1.5.1.1. Royalties

Royalty payments, as intellectual property royalties paid to non-residents, are subject to a 15% withholding tax.

1.5.1.2. Dividends

Please refer to numeral 1.4 above.

1.5.1.3. Technical, Administrative, Scientific, Financial or Econom Services.

Payments made to a non-resident without permanent establishment for technical, administrative, scientific, financial or economic services are subject to a 15% withholding tax.

1.5.1.4. Other

Other payments made not to a non-resident without permanent establishment are subject to a 25% residual withholding tax.

In all cases, the payer must withhold the tax on credit or payment and pay it on behalf of the non-resident (the actual taxpayer) to the tax administration within the first ten working days of the following month of the withholding date.

1.5.2. Interest payments.

As a general rule, the payment of interest is subject to 10% tax withholding, whether paid to residents or non-residents, with some exemptions, such as:

1. Government bonds;
2. Insured mortgage backed securities, for the development of low income housing projects; and
3. For foreign financing, interest on loans granted by fully licensed banks or financial institutions to Guatemalan companies (though it is recommended that a ruling is sought from the tax administration).

However, if a resident regularly charges interest, the income will be subject to corporate income tax.

1.5.3. Equity Reimbursements

Although tax liabilities may arise within this context, they would not be subject to withholding obligations.

1.5.4. Tax Havens

Guatemalan tax regulations do not have tax haven provisions.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

VAT´s general rate is 12%. There is as reduced rate for minor tax payers (roughly under US$16,375.00 yearly income) of 5%. There are also some VAT exemptions for specific entities.

2.1.1. Taxable Transactions

The law provides for the following taxable events:

a. Sale or in-kind exchange of personal property, real property (for the first sale only) and/or rights over them.
b. Provision of services within Guatemalan territory.
c. Import of goods.
d. Lease of movable property (chattels) and real estate.
e. Judicially or otherwise mandated in-kind payments.
f. Inventory discharges by a taxpayer or by the owner, partner, director or employee of a company for personal use and consumption.
g. Destruction or loss of inventory, except for perishable goods or losses caused by force majeure or criminal events.
h. Gifts of movable property and real estate.

Among the general exemptions are the following:

a. Temporary imports.
b. Exports of goods and services.
c. Transfer of ownership of movables and real estate resulting from mergers, acquisitions, contributions to corporations and other entities, and inheritance.
d. Services provided by supervised financial institutions, reinsurance and counter-guarantee operations.
e. The issue or transfer of negotiable instruments and of any kind of shares, except negotiable invoices.
f. The creation of trusts and the reversion of trust assets to the grantor.
g. Contributions and donations made to non-profits.
h. Retail sales of raw food and vegetables in municipal markets.
i. Services provided by non-profits.
j. Sale of assets of financial institutions subject to bankruptcy proceedings.

2.1.2. Taxable Base

With respect to sales and services, the taxable amount is the price, excluding any discounts granted in accordance with trade practices, and including amounts charged separately to the acquiring party that also includes taxes other than VAT.

With respect to imports, the taxable amount is the CIF value, plus customs duties and other related charges.

With respect to the leasing of movable or immovable property, the taxable amount is equal to the rent plus any financing charge. With respect to withdrawals of movable goods from a business firm, the taxable amount is the acquisition price or the production cost of goods.

The VAT tax liability is the difference between the total fiscal debits and the total fiscal credits generated.

2.1.3. Creditable VAT

As a general rule, the VAT taxpayer is entitled to a credit, on the VAT tax paid to its suppliers, for tangible movable assets bought or imported and for services hired, provided that they constitute a cost or expense of the taxpayer's income producing activity. The VAT paid in the acquisition of goods that will become fixed assets for the buyer is creditable to the VAT account.

VAT credit is the sum of the tax charged to the taxpayer on imports and/or purchases of local goods and services (which need to be directly related to his/her production, distribution and/or sale process). This is determined on a monthly basis.

VAT debit is the sum of the tax charged by the taxpayer in his/her transactions subject to VAT in the same period.

The difference between the total VAT credit and debit is the amount of tax to be paid for the corresponding month.

Exporters have the right to request a tax refund for the VAT credit in their favor. The refund is made on a monthly, quarterly or semi-annual basis depending on the applicable tax regime.

The refundable tax credit originates from the tax charged on the invoices for purchased goods and services destined to the exporter's commercial activity.

2.2. Payment and Filing

VAT has a monthly taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT return must be filed and paid in full on the filing date, 30 days after the closing of the monthly period.

3. OTHER TAXES

3.1. Property Taxes

There is a real estate tax paid on a quarterly basis. The tax rate ranges from to US$0.25 to US$1.22 per US$129.03 a year, calculated on a fiscal basis, which can be appraised according to different procedures contained in the law.

3.2. Stamp Tax

This is a documentary tax applicable to all written agreements and payment vouchers. The Stamp Tax has fixed rates for some specific documents and agreements; for documents which are not subject to a fixed rate, there is a general tax rate of 3%. The taxable base is the full amount of the con-

sideration agreed in the document. The general exemption for this tax is that all transactions subject to VAT are not levied with the Stamp Tax.

This tax is levied exclusively on documents representing transactions and contracts and, therefore, the no document means no tax liability.

The second sale (and those subsequent) of real estate is subject to stamp tax.

3.3. Excise Taxes

Guatemalan law levies taxes on the distribution of specific consumer goods: crude oil, fuels and other derivatives; alcoholic beverages; non-alcoholic beverages of various kinds; and cement. There is also a specific tax on the manufacture and import of tobacco products.

Tax rates range from 8% to 100%.

3.4. Custom Duties

Guatemala is part of the Central American Integration System, which is based on a series of treaties that regulate, among others, international trade among the member states and between the member states and non-member states. The full members of the system are Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Belize, and the Dominican Republic.

There is a Central American Uniform Customs Code and a common customs product nomenclature across the region. Both have been developed to comply with basic World Trade Organization rules and policies. Trade among the member states is now basically free of any import duties, except for a few products that have a sensitive character for the economy of the member states.

In addition, there are several free trade agreements, in particular between:

a. The Central American states (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), the Dominican Republic and the United States (CAFTA).
b. The Central American states and Mexico.
c. The Central American states and the EU.
d. The Central American states and Chile.
e. Guatemala, El Salvador, Honduras and Colombia.
f. Guatemala and Taiwan.

All of these agreements create a fairly open international trade environment with only a few products subject to import duties, which will be gradually reduced over time.

In addition to VAT, imports are also subject to custom duties that range between 0% and 30%; for most goods, the average rate is 15%. There is also the application of zero rating to certain goods in the context of Free Trade Treaties.

Custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties.

There are no export duties, but there are products, such as sugar, which are subject to export quotas.

3.4.1. Filling and Payment

An import tax return must be filed upon nationalization of the goods, and all import procedures must be performed through an authorized customs agent.

3.5. Alternative Flat Income Tax

A minimum tax creditable to income tax, called *Impuesto de Solidaridad* (ISO), is levied on commercial or agricultural activities with a gross margin of more than 4% of gross revenue.

The tax base is the greater amount of either 25% of the net asset value, or 25% of the gross revenue and, when the net asset value exceeds four times the gross revenue, the tax base is 25% of the gross revenue.

The ISO tax is due on a quarterly basis and is creditable to income tax, in the 25% regime. Taxpayers affiliated with the gross income regime are exempt from the ISO tax.

4. PAYROLL TAXES /WELFARE CONTRIBUTIONS

4.1. Social Security System

The Guatemalan Social Security Institute manages and operates the Social Security System and the National Health System. These systems provide services and benefits related to illness treatment, disability and pensions system, old age, maternity, and death insurance. Social Security contributions are applicable to employers and employees. The contributions are based on the monthly salaries with 12.67% apportioned to the employer and 4.83% to the employee.

4.2. Labor Risks Insurance

This mandatory insurance is covered under the state owned monopoly of the Guatemalan Social Security Institute, and covers the entire labor force.

4.3 Payroll Tax

In regard to labor income, the Guatemalan income tax establishes that tax-resident employees are liable to pay income taxes at 5% or 7%, depending on the amount of the taxable income. Employees with an income less of US$40, 518.75 are taxed at 5%. Those making that amount or more are taxed at 7% on the surplus, plus a fixed amount of US$2,025.94. It should be noted, however, that the only deductions allowed are: a) cost of living allowance of about US$8,103.75 per year; b) social security contributions and contributions to pension funds; and c) life insurance premiums (that do not provide for rescue value). As mentioned above, the employer must calculate the monthly withholding to be made through the year, but a final payment is made at the end of the fiscal year, if more or less than the required tax would have been withheld.

HONDURAS CHAPTER

MAYORA & MAYORA, S.C.

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HIGHLIGHTS

NATIONAL TAX RATES 2019

Resident or domiciled corporation	25%
Resident or domiciled individuals' income base exempt	L.158,995.06 (US$ 6,487.77)
Resident or domiciled Capital Gain Tax	10%
Non-resident or non-domiciled Capital Gain Tax	4% of the total operation value[1]
General sales tax	15%
Sales tax for beer, hard liquor, compound liquor, and other alcoholic beverages, cigarettes and other tobacco elaborated products.	18%
Sales tax for national or international business class, first class or other of similar standards airline ticket sales	18%
Population Security rate	Lps. 2.00 (US$0.09) per Lps.1000.00 or fraction
Real State Tradition Tax	1.5%
Dividends Tax	10%

1 Honduran capital gain tax limit of liability is 10% of the net profit.

OVERVIEW

1. HONDURAN TRIBUTARY JURISDICTION

Honduras is ruled by the principle of territorial income since the approval of the new Tributary Code (Decree 170-2016), in force since January 1st, 2017.

This principle states that Honduran tax imposition can only be within its territorial jurisdiction, in other words, in order for tax obligations to occur in this State, it is imperative that the income comes from a Honduran source.

Equally important as the described principle, the Honduran tax base must be determined according to the principle of economic reality, normal and ordinary business usage, as well as accounting rules, principles, good practices and regulations.

Therefore, the Honduran tax base must respond to the economic nature of the transactions rather than to the legal nature of the act.

No double taxation treaties are in force yet. Nevertheless, the Honduran tributary code makes reference that double taxation should be avoided, as a result of this, several double taxation treaties are being negotiated.

2. INCOME TAX

2.1. General Aspects

According to the Income Tax Law, the notion of taxpayer extends to all resident or non-resident, domiciled or non-domiciled individuals and corporations, partnerships, trusts, joint ventures, permanent establishments and, any other business firm or establishment that perceives incomes deriving from Honduran sources.

There are three types of Honduran income sources, which are:
a. Capital;
b. Labor and services; and/or,
c. Combination of both sources.

a. Capital income: It is Honduran income when the assets which constitute the capital are under Honduran jurisdiction; as well as the gain or profit that the transfer of shares or stocks from Honduran corporations may produce.

The income from assets under Honduran jurisdiction is considered as a Honduran income; that includes the gains or profits obtained by the transfer of shares or stocks issued by Honduran corporations, regardless of the place of sale.

b. Labour & services income: The incomes from services and labour are considered as Honduran income when they are rendered in Honduras. The incomes from those services are also stated as Honduran when they are performed outside the country but payed from Honduran source.

c. **Combination of both sources' income:** The source location will be determined according to capital income regulations.

2.2. Income Tax Rate

2.2.1. Resident and domiciled tax rate

The Honduran income tax has a specific rate for corporations and individuals.

a. 25% of the total net taxable income is the income tax rate for Honduran corporations;

b. For individuals the tax authority has established a progressive rate of 15%, 20% or 25% depending on the amount of the taxable income. This rate is increased year by year by the same tax authority.

The exempted income for 2019 is of L.158,995.06 (US$ 6,487.77), so when residents or domiciled individuals have less or equal to the tax-exempt base amount, the income tax rate is not applicable to them.

2.2.2. Dividends tax rate

In Honduras the payment of dividends or any other type of profit or reserves perceived by a resident or domiciled individual or corporation, are subject to a withholding tax of 10%, that have to be withheld and payed by the corporation.

2.2.3. Non-resident or non-domiciled tax rate

Article 5 of the Income Tax Law establishes the applicable tax rate for individuals or corporations' non-residents or those non- domiciled in Honduras for income tax in gross incomes from a Honduran source as:

No.	Classification	Tax rate
1	Incomes from **movable or immovable property**, except those in numbers 5 and 7 from this list.	25%
2	Royalties from **mining operations, quarries or other natural resources.**	25%
3	**Payments, salaries or other monetary compensation from provided services,** whether inside or outside Honduras, except remittances.	25%
4	**Incomes or earnings** obtained by foreign enterprises **through branches, subsidiaries, affiliate offices, agencies, legal representatives, and others that operate in Honduras.**	10%
5	**Incomes, earnings, dividends** or other type of **share in revenues or reserves** from individuals or corporations.	10%
6	Royalties and other monetary compensation provided by the **use of patents, designs, and processes, trade secrets, trademarks, copyrights**, except those in number 12 of this list.	25%
7	**Interests** over commercial operations, bonuses, security titles or other type of obligations.	10%
8	Incomes from **aircrafts operations, boats and cars.**	10%
9	Incomes from **communication enterprises operations, software use, IT Solutions, telematics and others from the area of telecommunications.**	10%

10	**Insurance and bond premiums** or any other type of subscribed policies.	10%
11	Incomes coming from **public shows.**	25%
12	Movies and video-tapes for cinemas, television, video clubs and rights for **cable television.**	25%
13	**Any other** income not mentioned in the previous numbers.	10%

2.3. Income tax deductible expenses

As a general rule, all costs and expenses needed to produce incomes are deducted from the income tax base.

2.3.1. Corporations can deduct from their taxable base, the following costs and expenses:

a. Wages, Propaganda and Maintenance:
Reasonable salaries, wages, commercial propaganda expenses, material usage, repair and maintenance of machinery or equipment and all costs and expenses related, useful, relevant and necessary to the income producing activity;

b. Insurances:
Insurance premiums on source goods paid to national and foreign insurance companies that are duly incorporated in the country;

c. Interests:
The interest paid or accrued on the amounts owed by the taxpayer, if the debts have been contracted to obtain the income;

d. Depreciation value:
The depreciation value of the goods that are the source of income, considering their nature, usage and normal wear;

e. Taxes and contributions:
The amounts paid for taxes and/or tax, district or municipal contributions;

f. Verified damages:
Verified damages in the goods source of income;

g. Allowance for uncollectible accounts:
1% of the credit sales value done during the correspondent fiscal year, to constitute an allowance to write off uncollectible accounts;

h. Amortization

i. An amortization of 10% for every contribution period during 10 consecutive years, over the value of new edifications made for the usage and shelter of workers;
ii. An amortization of 20% for every contribution period during 5 consecutive years, over the value of all the works made with the objective of enhancing the social, hygienic and cultural workers conditions;
iii. A reasonable amortization to compensate the depletion, wear or destruction of the properties and other goods used in the business activity that cannot be depreciated;

Bonuses:
Bonuses granted to workers, if it does not exceed the workers' wages during a period of 6 months;

d. Donations:
Donations made to the state, municipalities, educational, charity, sportive institutions legally constituted;

e. Social security:
Social security fees; and,

f. Representative expenses:
Verified representative expenses; bonuses forming part of the owners, shareholders, managers, directors, executives or other employees' salaries.

2.3.2. Individuals income tax deductible expenses:

The individuals can deduct from their taxable base, the following costs and expenses:

a. Educational and medical expenses for US$ 1,632.19;
b. Verified expenses incurred in the exercise of a profession, art or occupation;
c. Donations made to the state, municipalities, educational, charity, sportive institutions legally constituted for an amount of 10% of the net taxable base; and,
d. For ranchers and farmers, the production and maintenance expenses for their farms.

3. CAPITAL GAIN TAX

3.1. Resident and domiciled capital gain tax rate

Honduran Income Tax Law states that the capital gain obtained by a corporation or individual must be taxed with a 10% of the total obtained gain.

According to the income tax law, Capital gains are generated from the benefits, rents, utilities, or any other increment in the corporation's patrimony or assets, coming from the disposition or alienation of real state, mining belongings, rights, shares or stocks in corporations, assets of the corporations fixed assets, water rights, intellectual and industrial property rights, goodwill, and any other positive results from activities that are not the corporations' commercial purpose over goods or shares that does not fit with the corporations' commercial main purpose, such as immovable property, shares or stocks, production goods among others.

3.2. Non-resident and non-domiciled capital gain tax rate

When the alienation of real estate or rights and securities are made by a non-resident, the seller must proceed to retain 4% of the total operation value, to afterwards declare and pay the withhold amount to the tributary authority within 10 days after the operation was made.

The aforementioned applies without affecting the Honduran capital gain tax liability of 10% of the net profit; which must be completed or retrieved whether a positive or negative difference arises from the equation.
This tax is also binding to real estate sales. Seller has to pay it within 10 days from receiving the profit.

4. SALES TAX

4.1. Sales tax rate

Article 6 of the Sales tax law establishes the application of this tax to every activity that represents a sale.

The general sales tax rate is 15% over the value of the tax base from the imports or goods and services sales.

When importing or selling beer, hard liquor, compound liquor, and other alcoholic beverages, cigarettes and other tobacco elaborated products, the sales tax rate scales to 18%.

For national or international business class, first class or other of similar standards airline ticket sales, the rate also scales to 18%.

For telecommunication services, there is a specific chart according to the type of service.

TELEPHONE SERVICE AND MOBILE TELEPHONE SERVICE

Mode type	Monthly consumption	Tax rate
Postpaid	From US$0.01 to US$40.00	15%
	From US$40.01 onwards	15%
Prepaid	-	15%

INTERNET SERVICE WITH BANDWIDTH AND/OR VELOCITIES

Velocity type	Tax rate
Bandwidth and/or velocities until 1.024 Mbps	15%
Bandwidth and/or velocities greater than 1.024 Mbps	15%
Television service by subscription with monthly consumption, in its different type of difussion: • From L.0.01 until L.500.00 • From L.500.00 onwards • Other telecommunication services, except supplementary and vertical services performed by the personal communication service operators.	15%

4.2 Sales tax rate exemption

Article 5-A of the Sales tax law indicates that whenever the goods or merchandise are already used, they are exempt of the sales tax.

Article 15 of the referred sales tax law establishes the exemption for this type of tax rate:
a. Pharmaceutical products for human use, including surgical healing material;
b. Machinery and equipment for activities to generate electric energy;

c. Construction services,
d. Professional fees obtained by individuals;
e. Teaching services;
f. Raw material and tools for the agricultural and agroindustry production;
g. Sportive events income; and,
h. Diplomatic agents.

5. TAX INCENTIVES FOR RENEWABLE ENERGY PROJECTS

5.1. Sales tax exemption:

Individuals and corporations who develop or operate projects for the generation of renewable energy are exempt from sales tax for the equipment, materials, services and any other type of good and services intended or directly related to the needed infrastructure for the generation of renewable energy, excluding vehicles whose main function is to transport people, used in the study, development, design, engineering, construction, installation, administration, operation and maintenance of the renewable electric power plant.

5.2. Import duties exemption:

Exemption of all taxes, fees, contributions, tariffs and import duties for the equipment, materials, spares and any other goods acquired locally or abroad related to the needed infrastructure for the generation of renewable energy.

5.3. Income Tax, capital gain tax, supportive contribution tax, net assets tax exemption:

Individuals and corporations can request an exemption for the Income Tax, capital gain tax, supportive contribution tax, net assets tax exemption for 10 years.

5.4. Income and Withholdings tax exemption:

Individuals and corporations may request the exemption from income tax and withholdings on payments for services or fees contracted with foreign individuals or corporations, necessary for the studies, development, design, engineering, construction, installation, administration and monitoring of the renewable energy project.

5.5. Solar energy systems import duties exemption:

The equipment and materials needed for the installation of solar energy systems as solar photovoltaic and solar thermal, for rural, residential and industrial use and / or self-consumption or generation of energy are excluded import duties including sales tax.

The corporations supplying these systems may also apply for this benefit.

6. TRANSFER PRICING

The Transfer Pricing Law was created with the purpose of regulating the commercial and financial operations that are carried out between related parties, valued in accordance with the principle of free or full competition (arm's length).

Honduras has transfer pricing rules applicable to transactions between Honduran entities and non-resident, foreign related entities, as well as the related Honduran resident entities.

The referred law establishes in what cases the involve parties would be considered related:
a. An individual or corporation directly or indirectly participating in the direction, control or capital of another, duly documented or legalized;
b. Corporations that individually constitute a decision unit, where one company is a partner of another and have direct or indirect participation greater than 50% and are related;
c. Direct and indirect commercial and financial operations are carried out between taxpayer's resident or domiciled in the national territory and people or corporation located in another jurisdiction qualified as a tax haven;
d. A resident corporation in the country that has permanent establishments abroad;
e. Whenever a corporation is related to another corporation that has the same directors or administrators;
f. When an agent, distributor or concessionaire has it has exclusivity for the sale of goods, services or rights by another, if the contractual relationship between them has preferential rights;
g. When contractual clauses of preferential nature are agreed, in relation to those granted to third parties in similar circumstances;
h. When there is financial or economic dependence, derived from joint action agreements, trust deposits, among the main ones; and,
i. The counterparty is constituted in a country or territory classified as a tax haven.

Being said the above, individuals or corporations that carry out commercial or financial operations with their related parties inside or outside the country must determine the amount of taxable profits according to the said principle.

The transfer pricing law states that Honduras must follow as general market practices and customs, the ones established in the OECD guidelines for transfer pricing, including valuation methodology, reporting requirements and criteria on company groups.

7. INDUSTRY, COMMERCE AND SERVICES TAX

Honduran Municipality Law establishes the Industry, Commerce and Services tax, which has to be paid monthly by any individual or merchant, for its commercial, industrial, mining, agricultural, and private or public service activities, electronic communication, urban development builders, casinos, savings and loan banking institutions, insurers and any other lucrative activity.

To determine the Industry, Commerce and Services tax rate, the current arbitration plan of each municipality should be taken as a basis for calculation.

8. POPULATION SECURITY RATE

The security tax, taxes all transfers or financial movements in national or foreign currency, within the country, done through a financial entity. This Tax is now permanent due to the reform issued by Decree 31-2018 from April 20, 2018, stated it as temporary.

The contribution rate is of Lps. 2.00 (US$0.09) per L.1,000.00 or fraction of a thousand based on the transfered amount.

9. REAL STATE TRANSFER TAX

The transfer of property is subject to the real state tradition tax. The applicable tax rate is the 1.5% on the total value of the transaction.

The seller entity is liable for the payment of the tax, which is due within the 3 days after the sale.

10. SUPPORTIVE CONTRIBUTION TAX

Corporations, except those in special regimes, that have a net taxable income greater than L. 1,000,000.00 (US$40,804.83), must pay a supportive contribution tax, equal to the 5% of the L. 1,000,000.00 (US$40,804.83) surplus.

11. NET ASSETS TAX

The net assets tax, taxes the total net assets of the Honduran corporations that has as their main purpose of business, the acts of commerce (merchants).

The applicable tax rate is 1% on the corporations' net assets established in the balance sheet updated on December 31st of every year.

This tax is declared and paid jointly with the income tax.

12. INTEREST TAX

Since the decree number 93 Honduras has applied the interest tax on rents, securities, sight deposits, saving deposits and term deposits, accrued by individuals or corporations, in national or foreign currency, with a tax rate of 10% calculated over the total of those values.

13. CUSTOM DUTIES

Honduras is part of the Central American Integration System, which is the institutional framework of the Central American Regional Integration, created by the States of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. Subsequently, Belize became a full member in 2000 and Dominican Republic in 2013.

Honduras has subscribed several free trade agreements with other countries, between:

a. TLC RD – CAFTA; subscribed by United States, Dominican Republic and Honduras;
b. TLC Mexico; subscribed between Honduras and Mexico;
c. TLC Dominican Republic; subscribed between Honduras and Dominican Republic;
d. Custom tariff preference between Central America; subscribed by Honduras, Guatemala, El Salvador, Nicaragua and Costa Rica;
e. TLC Chile; subscribed by Honduras and Chile;
f. TLC Taiwan; subscribed between Honduras and Taiwan;
g. TLC Panamá, subscribed between Honduras and Panama
h. TLC Colombia; subscribed between Honduras and Colombia;

i. Partial agreement scope Venezuela; subscribed Honduras and Venezuela;
j. Partnership agreement with European Union; subscribed between Honduras and European Union;
k. TLC Canada; subscribed between Honduras and Canada; and,
l. TLC Peru; subscribed between Honduras and Peru.

The free trades agreements, grant tariff preferences between the Parties, which means an open international trade environment offering low custom duties in the import of products produced in the territories of the parts.

The custom duties vary according to the products; however, this preference treatment does not exonerate them from the sales tax, which has to be paid if the products are subject to it.

14. EXCISE TAX

The excise tax in Honduras is applicable for the imported products, this tax will be based on the resulting amount from adding to the CIF value the correspondent custom duties plus the customs administrative service.

The obtained estimation from the previous calculation must be multiplied by 10% and the resulted value is the excise tax.

MEXICO CHAPTER
TURANZAS, BRAVO Y AMBROSI., S.C.

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	30%
Capital Gains Tax:	30%
Branch Profits Tax:	30%
Dividends Tax:	Not taxed if derived from CUFIN. (i.e. previous corporate taxed profits) Otherwise 30% on the grossed-up dividend.

Tax Withholdingto foreign residents on:

Interest:	From 4.9% to 35%
Royalties:	5%, 25% or 35%
Rental property and assets:	25%
Sale of real estate and shares of stock:	25%
Other Services:	25%

Net Operating Tax Losses Carry-Forward Term:	10 years
Transfer Pricing Rules:	Yes
Tax Free Reorganizations:	Mergers, spin-offs, transfer of shares, etc., provided that certain requirements are met.

VAT on sales, services, use and enjoyment of goods, and imports:	16% (general rule)
VAT on exports:	0%

Treaty Taxation

	Dividends		Interest [1]	Royalties
	General	Substantial shareholding		
	(%)	(%)	(%)	(%)
Australia	15	0	10/15	10
Austria	10	5	10	10
Bahrain	---	---	4.9/10	10
Barbados	10	5	10	10
Belgium	15	5	10/15	10
Brazil	15	10	15	**10/15
Canada	15	5	10	10
Chile	10	5	**5/10/15	**10/15
China (People'sRep.)	5	5	10	10
Colombia	---	---	5/10	10
Czech Republic	10	10	10	10
Denmark	15	0	5/15	10
Ecuador	5	5	10/15	10
Estonia	---	---	4.9/10	10
Finland	---	---	10/15	10
France	---	5/15	**5/10/15	**10/15
Germany	15	5	5/10	10
Greece	10	10	10	
Hong Kong	---	---	4.9/10	10
Hungary	15	5	10	10
Iceland	15	5	10	10
India	10	10	10	10
Indonesia	10	10	10	10
Ireland	10	5	5/10	10
Israel	10	5/10	10	10
Italy	15	15	**10/15	15
Japan	15	–/5	10/15	10
Korea (Rep.)	15	0	5/15	10
Kuwait	---	---	4.9/10	10
Latvia	10	5	5/10	10
Lithuania	15	0	10	10
Luxembourg	15	5/8	10	10
Malta	---	---	5/10	10
Netherlands	15	5	5/10	10
New Zealand	15	---/5/15	10	10
Norway	15	---	10/15	10
Panama	7.5	5	5/10	10
Peru [30]	15	**10/15	**10/15	15
Poland	15	5	10/15	10
Portugal	10	10	10	10
Qatar	---	---	5/10	10

Romania	10	10	15	15
Russia	10	10	10	10
Singapore	---	---	5/15	10
Slovak Republic	---	---	10	10
South Africa	10	5	10	10
Spain	15	5	**5/10/15	10
Sweden	15	–/5	10/15	10
Switzerland	15	---	5/10	10
Turkey	15	5	10/15	10
Ukraine	15	5	10	10
United Arab Emirates	---	---	4.9/10	10
United Kingdom	–/15	–/15	5/10/15	10
United States	10	–/5	4.9/10/15	10
Uruguay	5	5	10	10

** A most favored nation clause may be applicable with respect to dividends, interest, or royalties.

OVERVIEW OF THE MEXICAN TAX SYSTEM

INCOME TAX

1.1.a) Corporate taxation (Mexican resident entities)

A legal entity is deemed as a tax resident when it has established in Mexico its principal administration or its effective place of management.

Joint venture contracts, or *"asociación en participación",* shall be treated as corporations for tax purposes.

Resident corporations of Mexico are subject to Mexican corporate income tax on their worldwide revenue.

The corporate rate is 30%.

All entities must use the calendar year. There exists the obligation to make monthly provisional (or advance) tax payments on account of the annual tax. The annual tax return has to be filed and the tax paid within 3 months after year-end.

Taxable profit shall be determined by subtracting from gross income earned in the fiscal year, the authorized deductions and the employee profit sharing.

Taxable revenues include all types of income, whether received in cash, in kind, in services or in credit, as well as income received from abroad. This includes all profits from transactions, income from investments not relating to the regular business of the corporation, and capital gains.

Ordinary business expenses are deductible if they are properly recorded and supported. Typically, deductions are fully taken on an annual basis; however, investments are deducted on the corresponding depreciation coefficients throughout the corresponding number of tax periods.

1.1.b) Optional tax treatment for small size sole proprietorships

A special tax treatment based cash flows based may be adopted by corporations formed exclusively by individuals (as partners or shareholders), and whose annual income does not exceed 5 million pesos.

These taxpayers shall accrue the income obtained when effectively obtained, and shall apply their authorized deductions when effectively paid. No inflationary adjustments shall be made at the end of the fiscal year.

Investment depreciation shall begin in the year in which the taxpayer begins to use the assets or in the following year, even if the acquisition value of the investment has not been totally paid in such fiscal year.

Instead of applying the cost of sales system (deduction of goods and supplies until the fiscal year of the sale of the inventory), the corresponding deductions shall be applied in the fiscal year when the costs of production are actually incurred.

Monthly payments in advance of the annual income tax may be determined by subtracting the authorized deductions from income obtained in the corresponding period.

This tax treatment is subject to the compliance of certain requirements, including notification of its application by the taxpayer to the tax authorities.

1.2 Interest regime

Interest tax treatment is applied to the following elements:

- Inflationary annual adjustment.
- Interest income and interest expense.
- Exchange gains and losses.

A comparison of the annual average balance of debts and the annual average balance of credits has to be made. If the former is higher than the latter, the difference is multiplied by the inflation factor of such year, and the result is the accruable inflationary annual adjustment.

Loss from inflation is deductible (deductible inflationary annual adjustment). In accordance with the above mentioned procedure, if the annual average balance of credits is higher than the annual average balance of debts, the difference is multiplied by the inflation factor of such year and the result is the deducible inflationary annual adjustment.

Interest income is included in the taxpayer's taxable income on accrual basis.

Accrued interest is deductible (at its nominal value, without any adjustment, since it will be subject to the inflationary annual adjustment) providing the funds obtained from the loan are invested in the business' corporate purposes.

As mentioned, exchange gains and losses resulting from financial assets and liabilities are deemed as interest for income tax purposes. If a Mexican company has foreign currency liabilities, a devaluation of the peso will result in an exchange loss. The exchange loss is recognized on an accrual basis and is added to the interest expense for the month.

If a company has an exchange gain resulting from a financial asset denominated in a foreign currency (i.e., a Mexican company with accounts receivable in U.S. dollars), then the gain is added to interest income.

1.3 Capital Gains

An inflation adjustment is made to the acquisition cost of (i) shares of stock or (ii) fixed assets to compute the gain on their sale. Capital gains and losses are treated as ordinary income.

1.4 Depreciation

The basis for deductible depreciation is the acquisition value as defined in the law, adjusted for inflation.

Depreciation should be computed using the straight-line method at the maximum rates.

Examples of such rates are:

Buildings and other related structures	5%
Office furniture and fixtures	10%
Computer equipment	30%
Peripheral computer equipment	30%
Patents, trademarks, copyrights, etc.	15%
Automobiles, heavy trucks, tractor trucks, tow trucks, buses	25%
Anti pollution equipment and equipment for conversion to natural gas consumption	100%
Equipment used in research of new products and development of technology	35%

In the cases of the railway system, telephone and satellite communications, depreciation rates are subdivided, according to the different kinds of assets they involve.

Automobile investments are limited to $175,000 pesos. Regarding automobiles powered by rechargeable batteries, electric with internal combustion engine or hydrogen-powered engines, the investment deduction is limited to $250,000 pesos.

A temporary tax incentive consisting in the accelerated deduction of fixed asset investments is granted to Mexican resident individuals and corporations who qualify as "small and middle scale enterprises" (those whose annual income does not exceed 100 million pesos), as well as to taxpayers involved in the transportation infrastructure and energy industries. The tax incentive will apply in fiscal years 2017 and 2018.

1.5 Cost of Sales

Mexican corporate income tax follows at cost of sales system treats the purchase of inventory as deductible when sold. As such, it is necessary to compute the cost of goods sold for tax purposes.

1.6 Employee Profit Sharing

Profit sharing contributions to employees may be subtracted from revenues obtained in order to determine the taxable profit. Thus, said contributions have a deductible effect for corporate income tax matters.

1.7 Specific Deductible and Non-deductible Expenses

1.7.1 Provisions

Provisions to create or increase asset or liability reserves are not deductible.

1.7.2 Payments for Labor Benefits

Payments made in the benefit of employees that in turn are considered as exempt income for such individuals will be deductible for Mexican entities only up to 47% of the disbursement made (or 53% when the benefits are not reduced with respect to the previous tax year). It is important to note that for income tax purposes, payments considered as labor benefits encompass fringe benefits, savings funds, separation payments, bonuses, overtime, and vacation and Sunday bonuses, amongst others.

1.7.3 Contributions for retirement plans

These are only deductible up to 47% of the disbursement made (or 53% when the contributions are not reduced with respect to the previous tax year) and when companies comply with the following requirements:

- Contributions should be funded through an irrevocable trust ("fideicomiso") in a Mexican banking institution, or be managed by mutual insurance companies or institutions, brokerage houses, mutual-fund operators, or retirement fund management companies authorized to operate in Mexico
- Contributions must be computed based on an actuarial study
- At least 30% of said reserves should be invested in government securities or in investment in shares of debt securities mutual funds (the difference is subject to specific rules when it comes to its investment)

1.7.4 Other Non-deductible Items

- Expenses incurred for renting airplanes that do not have a permit or concession from the Federal Government to be commercially exploited.
- Social security fees owed by employees but paid by the employer.
- Goodwill.
- Expenses incurred abroad and allocated on a pro-rata basis.
- Payments to members of the board of directors, bondholders or other parties where the payments represent shares of profits or are contingent upon the taxpayer's profits.
- Sanctions, indemnities for damages and contract penalties unless imposed by the Law.
- Disbursements made by a Mexican entity when such expenses are also considered as deductible items for a related party.
- Certain interest, royalty or technical assistance payments made to residents abroad when (i) such entity is not considered as a taxpayer in its country of residence; (ii) the payment made is considered non-existent; or (iii) the expense incurred is not considered as accruable income for the foreign entity.

1.8 Dividends

It is established that when corporations distribute dividends, they must calculate the related tax by applying the 30% tax rate to the amount resulting from multiplying said dividends by a factor of 1.4286; which derives in an actual (or economic) effect of taxation at a 42.86% rate.

This tax can be considered as a tax credit against the income tax of the year of dividend distribution and carried forward for the 2 subsequent tax periods.

Dividends paid from the net taxable income account (CUFIN), which is defined as the income for which corporate tax has already been paid in past years, are not subject to the corporate tax on dividends as previously referred.

Mexican resident entities must withhold an additional 10% income tax on dividends paid to both (i) individuals resident in Mexico and (ii) legal entities or individuals resident abroad.

A temporary tax incentive consisting in a credit against the additional 10% tax on dividends is granted to Mexican resident individuals for dividends distributed by Mexican resident entities derived from profits generated from January 1st, 2014 to December 31st, 2016, as long as said income is reinvested in the productive unit, and the distributing entity complies with certain formal obligations. The tax credit will be determined according to the following chart, and will not be considered as accruable income for tax purposes:

Fiscal year	Amount of Tax Credit
2017	1% of distributed dividend
2018	2% of distributed dividend
2019 onwards	5% of distributed dividend

1.9 Tax Integration

Mexican law allows corporate groups to be taxed under an *integration* regime that allows the companies part of the group to differ a part of their income tax due for that tax year over a three year period.

For income tax purposes, an integrated group consists of the Mexican holding company and the subsidiaries in which it has effective direct or indirect ownership interests in excess of 80% of the voting shares. It is important to note that the integration regime works on a proportional basis, based on the percentage owned directly or indirectly by the controlling company.

Only companies resident in Mexico can be part of the integration regime.

1.10 Losses carry forward

Tax losses can be carry forwarded 10 years. The amount of the tax loss that can be carried forward to a given year is inflationary adjusted. Loss carry backs are not allowed.

1.11 Permanent Establishments

A permanent establishment of non-residents can be created due to the following circumstances:

i. By conducting business activities, in whole or in part, within Mexico.

ii. By performing construction or installation projects, maintenance or assembly activities on real property or supervisory activities in connection therewith, should such activities last more than six months (including working days of subcontractors), consecutive or not, in a twelve-month period.

iii. When performing business activities in Mexico through a *"fideicomiso"*.

iv. When conducting business activities in Mexico through a dependent agent.

v. When conducting business activities in Mexico through an independent agent that does not act pursuant to the ordinary course of his own activities; considering that such occurs when the agent:

- Exercises the authority to enter into contracts on behalf of the foreign entity.
- Assumes risks in the name of the resident abroad.
- Acts under instructions or general control of the resident abroad.
- Performs activities that economically correspond to the foreign resident, not to its own activity.
- Obtains guaranteed remuneration, regardless of the results of his activities.
- Having inventories with which deliveries are made on behalf of a foreign entity.
- Carries out operations with the resident abroad, establishing prices or compensation different from those that would be used between independent parties in comparable transactions.

vi. Insurance companies that obtain insurance payments from within Mexico or issue insurances on risks located within Mexico through a person other than an independent agent, except in the case of reinsurance.

Basically, permanent establishments are subject to the same taxing rules as Mexican resident companies or Mexican resident individuals, as the case may be.

The income tax treaties that Mexico has in force ordinarily establish narrower hypotheses under which a permanent establishment is deemed to exist.

1.12 Non-Residents Having Taxable Source of Wealth Located in Mexico

Non-residents, either legal entities or individuals that do not have a permanent establishment located in Mexico may be taxed on certain specific sorts of revenues.

Generally, the Mexican payer must withhold the corresponding tax on the gross payment made to a foreign resident.

Mexico's income tax treaties with other countries reduce the withholding tax rates on certain Mexican source payments made to non-residents.

A Mexican payer that is subject to tax withholding must deliver the income tax (i) when the payment becomes due or (ii) when the payment is actually made, whatever occurs first. In addition, the gross payment is subject to tax withholding without deductions.

In specific cases, the non-resident may be subject to taxation under a "net" basis, and not on a "gross" income which is the general rule. This usually occurs when the non-resident has a representative in Mexico, who remains as jointly liable of the tax so triggered.

Some of the relevant tax rates levied on gross income are as follows:

- Services on real estate projects, 25%
- Rental of property and assets, 25%
- Sale of real estate and shares of stock, 25%
- Technical assistance, 25%
- Royalties for the use of patents, invention or improvement certificates, trademarks, and commercial names, 35%
- Other royalties, 25%
- Interest paid to foreign banks, 4.9% or 10%.
- Interest from certain securities, 4.9% or 10%
- Interest paid to suppliers of machinery and equipment, 21%.
- Interest paid to other creditors, 35%
- Any payment to residents of territories with preferential tax regimes (tax havens), 40%

Shareholders resident abroad that receive dividends or profits derived from capital redemptions paid by a Mexican entity will be subject to an additional 10% income tax on the amount received. The tax due will be withheld by the Mexican entity.

Profit obtained from the transfer of shares in the Mexican Stock Exchange will be taxed at a 10% rate; however, when the seller is resident in a country with which Mexico has a Treaty for the Avoidance of Double Taxation, such tax will not be triggered subject to the completion of certain formal requirements.

1.13 Transfer Pricing

In interpreting / applying this regime, tax authorities and taxpayers use the OECD Commentaries; this pursuant to administrative rules issued by the Federal Executive Branch that so establishes it.

Throughout the period in which transfer pricing rules have been adopted, the Mexican tax authorities have been taking a more international approach, rather than a local one (Mexican) to audit related parties transactions.

1.13.1 Persons and/or entities subject to transfer pricing

The transfer pricing rules apply to related resident and nonresident legal entities and individuals, as well as to permanent establishments in Mexico of nonresidents.

The term legal entity includes commercial and civil entities, governmental agencies developing commercial activities, credit institutions, and associations. Nonprofit organizations and mutual funds are not subject to the rules of transfer pricing.

Mexican joint ventures (*"asociación en participación"* agreements) are treated as taxpayers, and thus, subject to transfer pricing regulations themselves.

The pricing of transactions is regulated only in the case of transactions between related parties.
It should be stressed that Mexican resident companies are obliged to apply this system not only with

respect to their transactions with related parties residing abroad, but also with other related parties resident in Mexico.

Two or more parties are related when one party participates directly or indirectly in the management, control or capital of the other, or when one party or group of parties participates directly or indirectly in the management, control or capital of others.

It is worthwhile to mention that when related parties enter into transactions, they are obliged to determine their taxable revenues and/or deductible items considering the prices and/or considerations that would have been agreed upon unrelated parties in comparable transactions.

1.13.2 Transactions subject to transfer pricing

Transfer pricing rules are applied to any import or export or goods, services and rights entered into between related parties.

1.13.3 Methods

The arm's length nature of a transaction between related parties (i.e., a controlled transaction) is tested by comparing the pricing, terms, and other characteristics of the transaction in question with the pricing, terms, and other characteristics of comparable transactions entered into between unrelated parties (i.e., uncontrolled transactions).

The comparable uncontrolled price method preempts the applicability of other methods; and only if said is not suitable for the taxpayer's circumstances, the taxpayer should elect any other of the five additional methods contemplated by the law.

Herein are the acceptable methods for price fixing under transfer pricing rules:

a. Comparable Uncontrolled Price Method. The CUP method requires comparison of pricing in the controlled transaction to pricing in uncontrolled transactions.
b. Resale Price Method. Under the Resale Price Method, the resale price charged by the controlled party to unrelated purchasers is reduced by an appropriate gross profit amount to arrive at the deemed sales price on the sale between the controlled parties.
c. Cost Plus Method. Under the Cost Plus Method, the cost of the company selling to the related party is first determined and then an appropriate gross profit margin is added to this amount, to arrive at the appropriate deemed sale price on the sale between the controlled parties.
d. Profit Split Method. Under the Profit Split Method, the profitability of a related company group is allocated among members of the group in accord with their economic contributions to the enterprise.
e. Residual Profit Split Method. Consists in assigning the operation profit obtained by the related parties in the proportion in which it would have been assigned among unrelated parties.
f. Operation Marginal Transactional Method. Consists in determining in transactions among related parties, the operational profit that would have obtained comparable unrelated companies in comparable transactions, based on profitability factors taking into account variables such as sales and costs.

1.13.4 Standards of comparability

The lack of comparable data in Mexico is one of the problems that Mexican taxpayers are facing.

The current sources of comparable used by the taxpayers are the following: (i) internal comparable,

(ii) data from the Mexican Stock Exchange (approx. 300 companies are publicly trading in the Stock Exchange) and (iii) public Mexican company's data basis (information from approx. 90% of companies belonging to the public sector). If no comparable are found in these sources of information, Mexican taxpayers are using foreign databases (US and Europe) and are making price adjustments taking into account the specific characteristics of the Mexican market.

Mexican law allows the use of secret comparable. Secret comparable have not yet been used by the Mexican authorities and according to officials of the Tax Administration; they are viewed as a last resort information resource.

There are rules stating that confidential information obtained either by the taxpayers as well as tax officials during transfer pricing procedures, should remain secret, and their improper use is subject to penalties.

1.13.5 Arm's length range

In some cases, application of a pricing method will produce a single result that is the most reliable measure of an arm's length result. However, in other cases, application of a method may produce a number of results from which a range of reliable results may be derived. A taxpayer will not be subject to adjustment if its results fall within such range (the arm's length range).

Mexico has included in its regulations the concept of the arm's length range and have also provided for statistical methods in order to increase the reliability of the analysis made (i.e. interquartile range).

The Mexican regulations only make reference to adjustments made to the median of the results, in case statistical methods are applied; in this respect, it should be mentioned that these methods are not always applied. Also, the income tax law does not include a detailed description on how to reach the arm's length range, and does not make any differences between class A and class B comparables.

Mexican regime includes the possibility of using multiple year data when analyzing the comparability of transactions or entities.

1.13.6 Advanced Pricing Agreements ("APA")

The current APA regulations empower the issuance of rulings approving APAs for the effective year requested, as well as for one prior year and three subsequent years.

1.13.7 Information and documentation requirements

Only with respect to transactions with non-residents, Mexican law provides for information and documentation requirements in order to be able to demonstrate if required, that the arm's length principle has been accomplished.

There is no specific legal provision establishing that this information / studies need to be obtained when performing transactions with Mexican resident parties as in the present case; however, factually, they are needed in order to prove –in its case- before the Mexican tax authorities proper compliance with the applicable transfer pricing rules.

Derived from the recent international standards set forth by the Organization for Economic Cooperation and Development ("OECD") to avoid tax evasion, additional reporting obligations are included for certain taxpayers regarding transactions carried out with related parties residing in Mexico and abroad.

The taxpayers subject to these reporting obligations are the following:

i. Mexican resident corporations that have reported accruable income equal or greater than $644,599,005 pesos in the last fiscal year (this amount will be annually updated for inflation purposes), as well publicly traded corporations.
ii. Business entities subject to the "integrated entities regime".
iii. State-owned entities of the Federal Public Administration.
iv. Foreign residents with a permanent establishment in Mexico.

The relevant informative returns must be filed on December 31st of the applicable fiscal year, at the latest (starting on December 31, 2017 regarding fiscal year 2016) and consist of the following:

- Master informative return of related parties in a multinational business group ("Master File"). It is intended to provide a general view of the multinational business group to assist the tax authorities in the evaluation of the existence of any significant risk for transfer pricing purposes.

- This file shall contain information regarding the organizational structure of the business group, the description of the activity, the intangible assets and financial activities with related parties, and the fiscal and financial position of the business group.

- Local informative return of related parties ("local file"). Its main purpose is to provide information related with intercompany transactions. This information will be useful to verify proper compliance of the applicable transfer pricing rules.
  This file shall contain information regarding the description of the organizational structure, business and strategic activities, description of the transactions with related parties, and financial information of the taxpayer and the entities or transactions used as comparables in the analysis.

- Country-by-country informative return of the multinational business group -only applicable to multinational entities that generate annual consolidated income equal or greater than 12 million pesos- ("country by country report" / "CbC").

- The entities obliged to file this report are (i) Mexican-resident controlling entities having subsidiaries or permanent establishment abroad, that report consolidated financial statements and obtained consolidated income for an amount greater than 12 thousand million pesos in the preceding fiscal year, as well as (ii) legal entities residing in Mexico or residing abroad with a permanent establishment in Mexico, that are designated for such purposes by the controlling entity of the multinational group residing abroad.

- The information to be provided in this report includes information by tax jurisdiction on the global distribution of income and taxes paid; location indicators of economic activities in the tax jurisdictions in which the multinational business group operates in the taxable year; and, a list of all entity-members of the multinational business group and their permanent establishments, including the main economic activities of each of the entities of the multinational business group.

- Tax authorities may require the CbC report to the Mexican resident legal entities that are subsidiaries of a company resident abroad, or to the foreign residents with a permanent establishment in Mexico, when the authorities are unable to obtain the relevant information through the information exchange mechanisms established in international treaties in force in Mexico. The taxpayers required to submit the CbC report in these terms will have a period of 120 working days for the filing.

Non-compliance of these reporting obligations will derive in economic penalties and the prohibition to

conclude procurement agreements, leases, services or public works with the Federal Public Administration and the Attorney General of the Republic.

1.13.8 Secondary adjustments

Pursuant to transfer pricing principles, when a principal adjustment is made by the tax authorities, it is logic / reasonable that a secondary adjustment needs to be done.

However, under the income tax law, the possibility of this secondary adjustments are only expressly provided with respect to international transactions in which a contracting party is a resident of a country with which Mexico has in effect a treaty in income tax matters.

Accordingly, with respect to local adjustments, this secondary adjustment is not expressly provided for under current law; however, we are of the opinion that the related party is legally empowered to do it once its correspondent counterparty has been subject to a principal adjustment by the tax authorities.

Effectively, under the income tax law transfer pricing rules taxpayers are obliged to (i) accrue as taxable income principal adjustments pursuant to transfer pricing rules, as well as to (ii) deduct the taxable items considering the same transfer pricing amounts.

1.14 Tax-Haven Rules

Mexican tax residents are subject to this special tax treatment when (i) income is generated through foreign legal entities or legal figures in which they participate directly or indirectly, in the proportion of their participation in such legal entities or figures, as long as said income is subject to preferential tax regimes ("PTR") or (ii) income is obtained through fiscally transparent foreign entities or legal figures.

a. Income subject to PTR

   It is deemed that income is subject to PTR if it is generated indirectly through foreign entities or legal figures in which Mexican tax residents participate directly or indirectly, in the proportion of their participation in such entities or legal figures, as long as said income (i) is not taxed abroad or (ii) the income tax triggered and paid abroad results in less than 75% of the income tax that would have been triggered and paid in Mexico in accordance with the provisions of the income tax law.

   In order to determine whether or not their foreign source of wealth income should be subject to this tax regime, a comparison needs to be done between (i) the effective income tax paid abroad, and (ii) the tax that would have been due if such income would have been subject to Mexican taxation rules.

   Although the sole fact of indirectly generating income subject to PTR triggers the application of the special tax regime, the income tax law establishes some exceptions to this general rule (e.g. lack of control exception, active income exception, royalties' exception, etc.).

b. Income obtained through tax transparent entities or legal figures

   Income obtained through foreign entities or legal figures fiscally transparent is subject to this tax special treatment, even if such income is not subject to PTR (i.e., even if it is taxed abroad in more than 75% of the applicable Mexican income tax).

   Tax transparent legal figures or entities are those that: (i) are not considered as income taxpayers in

the country in which they are incorporated or where their main administration or seat of effective direction is located, and (ii) the revenues generated through such entity or legal figure are attributed to its members, partners, shareholders or beneficiaries.

Based on the above, generating income through foreign tax transparent vehicles triggers the application of the special tax regime. The law establishes two extremely narrow exceptions to said general rule (i.e., corporate reorganizations exception and financial institutions exception), same that require proper disclosure to the tax authorities. In addition, the Regulations of the law include a lack of control exception to this regime.

c. Tax consequences

In general terms, income under this special tax treatment is subject to tax in the fiscal year in which such income is generated abroad, even though the income has not yet been distributed. The payment of the corresponding income tax has to be made together with the annual tax return of the fiscal year in which the income is generated abroad.

d. Informative tax return

Taxpayers must file in the month of February of each year an informative return before Mexican tax authorities regarding: (i) income generated in the previous tax year subject to PTR, (ii) income generated in jurisdictions of the “Black List”, or (iii) transactions carried out through tax transparent foreign legal entities or figures.

1.15 Thin Capitalization Rules

Companies are required to meet the 3:1 proportion (debt / net worth ratio).
The main features of the regime are the following:

- Interest derived from debts with foreign related parties, which exceed three times the net worth of the company, is not deductible.
- The procedure established to determine the non-deductible interest may produce awkward effects contrary to the spirit of the provision. In certain events, the higher the proportion of debt contracted by a company with its foreign related parties is, the higher will the proportion of non-deductible interest be, and the lower the proportion of debt is, the lower will the proportion of deductible interest be.
- Debt contracted (i) by the members of the financial system in the performance of their activities, and (ii) for the construction, operation and maintenance of the productive infrastructure linked with strategic areas or for the generation of electric energy, will not be considered for thin capitalization purposes.

1.16 Tax Treaties

Mexico has a wide array of tax treaties in income tax matters; such treaties may only provide benefits with respect to the regime set forth in the Mexican law. Thus, such treaties may not impose burdens not established in the Mexican law.

Examples of treaty benefits are:
- Lower rates than those provided in the local law.
- Stringent cases (compared with those established under the local law) under which a permanent establishment is deemed to exist.
- Revenues not subject to taxation as the local law provides, example: “technical assistance”

services payments.
- Non-discriminatory principle, which entails that the treaty partners' resident may not be taxed higher than local tax residents.

2. VALUE ADDED TAX

Mexico has a federal VAT based in the European VAT tax systems.

It is known that, VAT has a keen territorial feature whereby taxed acts / activities are those performed within the applicable territory (Mexico) and without transferring its effect to outbound operations, reason why exports of goods and services are taxed with the 0% tax rate.

Thus, the following acts / activities furnished in Mexico will be subject to VAT:

i. Transfer of goods.
ii. Rendering of independent services.
iii. Granting the use of goods.
iv. Import of goods / services.

VAT is triggered in each phase of their production, with the right of crediting the tax so transferred to the acquirer / recipient of the goods / services; thus the ultimate person that bears the economic burden of the VAT is the final consumer of the goods / services.

Given (i) the right to credit VAT transferred to the taxpayer, and (ii) its transfer to the customers, VAT basically creates a financial effect and does not imply a remarkable economic burden for the taxpayers. This is true except for VAT exempted taxpayers that not being able to transfer VAT to their customers, need to integrate in their cost structures the VAT so transferred to them by their suppliers.

As a general rule, VAT is triggered at a 16% rate calculated over the consideration received as payment (i.e. on cash flow basis); however, there are special rules (e.g. in loans from financial institutions VAT is triggered on accrued interests.)

3 OTHER TAXES

3.1 Estate Taxes

Mexican law does not provide estate taxes; moreover, revenues obtained *mortis causa* by Mexican resident individuals are income tax exempted.

Notwithstanding the above, it is important to consider that residents abroad that acquire shares issued by Mexican entities or properties in Mexico as part of an estate will be subject to income tax at a 25% rate.

3.2 Special Taxes

Special taxes are levied on the sale of vehicles, alcohol, alcoholic beverages, beer, flavored (sugared) beverages and energy drinks, foods with a high caloric content, manufactured tobacco and certain fuels.

4. NORTHERN BORDER ZONE DECREE

4.1 Introduction[1]

a. Motivation

On December 31, 2018 the Decree of Tax Incentives for the Northern Border Region of Mexico ("Decree") was published in the Federal Official Gazette ("FOG"). The Decree aims to establish mechanisms to strengthen the economy of those taxpayers in the northern border region of Mexico, in order to stimulate and increase investment, promote productivity and contribute to the creation of new sources of employment.

In accordance with the Decree, the northern border region of the country has been strongly affected by high levels of violence and a loss of dynamism in the economic activity.

Likewise, the north border region of Mexico has experienced a negative impact on the manufacturing industry due to China's entry as a commercial competitor, which results in a decrease in the sources of employment generated by this industry and an increase in violence in this region.

It is also alleged that the employment rate in the municipalities adjacent to the country's northern border region fell approximately 2% in the period from 2010 to 2015. The decrease in job opportunities generated an increase in crime and violence, which affected companies' production and inhabitants' jobs and income, which is reflected in the fall of the gross domestic product ("GDP") in the region.

Furthermore, the Decree establishes that the border with the United States of America generates differences between the taxpayers living within the northern border area and those living in the rest of the country, affecting their general welfare and making the lives of those living in this area more expensive, slowing down the commercial activity, and discouraging the tourism. Therefore, the northern border maintains a distinct economic dynamic from the rest of the country, as a result of the direct competition with the border states of Southern United States.

Thus, the Decree seeks to: (i) improve competitiveness against the United States' market and retain the consumer in Mexican commerce, (ii) reactivate the domestic economy and raise income, (iii) generate jobs and a greater general welfare, (iv) attract tourism and investment, and hence to (v) achieve a greater tax collection (revenue).

b. General overview of the tax incentives

Based on the aforesaid considerations, the Decree establishes two tax incentives for the benefited taxpayers consisting of a reduction of a third part of the income tax (by means of an authorization) and the crediting of the 50% of the value added tax's ("VAT") rate (through the filing of a notice).

c. No taxable income or filing of a notice[2]

1 Statement of reasons of the Decree.

2 Art. Fourteenth, of the Decree.

The tax incentives set forth in the Decree will not be considered as taxable income for income tax purposes.

Therefore, as an administrative simplification measure, taxpayers will be relieved from the obligation to file the notice to credit tax incentives[3].

d. Northern border region concept

The following municipalities are deemed to be comprised in the norther border region[4]:

i. Baja California:
- Ensenada
- Playas de Rosarito
- Tijuana
- Tecate
- Mexicali

ii. Sonora:
- San Luis Río Colorado
- Puerto Peñasco
- General Plutarco Elías Calles
- Caborca
- Altar
- Sáric
- Nogales
- Santa Cruz
- Cananea
- Naco
- Agua Prieta

iii. Chihuahua:
- Janos
- Ascensión
- Juárez
- Praxedis G. Guerrero
- Guadalupe
- Coyame de Sotol
- Ojinaga
- Manuel Benavides

iv. Coahuila de Zaragoza:
- Ocampo
- Acuña
- Zaragoza
- Jiménez
- Piedras Negras
- Nava

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3 Art. 25, paragraph I, of the Federal Fiscal Code.

4 Art. First of the Decree.

- Guerrero
- Hidalgo

v. Nuevo León:
- Anáhuac

vi. Tamaulipas:
- Nuevo Laredo
- Guerrero
- Mier
- Miguel Alemán
- Camargo
- Gustavo Díaz Ordaz
- Reynosa
- Río Bravo
- Valle Hermoso
- Matamoros

4.2 Income Tax Incentive

4.2.1 Categories of benefited taxpayers

a. Taxpayers receiving income exclusively in the border zone[5]

The Decree establishes that individuals, legal entities and foreign residents with a permanent establishment in Mexico who exclusively obtain income in the border zone may apply a tax credit consisting of one third of the income tax caused in the same year or in the provisional payments.

For such purposes, these persons must pay taxes under the following tax regimes:

i. The general tax regime applicable to legal entities, pursuant to Title II, of the Mexican Income Tax Law ("ITL").
ii. The regime applicable to individuals with business activities, pursuant to Title IV, Chapter II, Section I, of the ITL.
iii. The elective regime applicable to legal entities that chose to accrue income on a cash-flow basis, pursuant to Title VII, Chapter VIII, of the ITL.

The tax credit is applied in the proportion that the total income obtained in the border zone represent from the total income obtained by the taxpayer during the fiscal year ("FY") or the period corresponding to the provisional payments.

For these purposes, it is deemed that income is exclusively perceived in the border zone when the income obtained in the border zone represents at least 90% of the total income obtained by the taxpayer in the immediate previous FY.

It is important to note that in order to benefit from this tax incentive, within this category of taxpayers, the beneficiaries must demonstrate that they have had their tax address in the border zone for at least 18 months prior to their registration date in the "Register of beneficiaries of the tax incentives

5 Art. Second of the Decree.

for the northern border region", which will be addressed latter on this document.

b. Individual taxpayers receiving different income from those derived from carrying out business activities in the border zone[6]

In the case of individuals, since the tax incentive is established for individuals carrying out business activities, the Decree provides for an additional rule that establishes how to apply the tax incentive for income other than those referred therein.

For such purposes, individuals receiving income other than those derived from carrying out business activities within the northern border region, are required to pay tax for said income in terms of the ITL, according to the tax regime that corresponds to them considering the totality of the income obtained by the latter.

In these cases, the tax incentive referred to in the Decree will be one third of the tax caused, in the proportion that the total income obtained by the taxpayer in the aforesaid zone represent from the total income received by the taxpayer during the FY or the period corresponding to the provisional payments.

c. Taxpayers having their tax address outside the border zone, and their establishment in the northern border region[7]

Taxpayers who have their tax address outside the border region, but have a branch, agency or any other establishment within the northern border region may benefit from this tax incentive, but solely for the proportion represented by the income corresponding to the border area.

For this, taxpayers will need to prove that the branch, agency or any other establishment has existed for at least 18 years prior to their registration in the "Register of beneficiaries of the tax incentives for the northern border region".

d. Branches, agencies, establishments[8]

Taxpayers who have their tax address in said border region, but have branches, agencies or any other establishment outside it, may benefit from the benefits established in the Decree, provided that they have had their tax address in the northern border region for at least 18 months prior to the date of registration in the "Register of beneficiaries of the tax incentives for the northern border region", and only in the proportion that the income corresponding to the branch, agency or any other establi-shment represents from the income attributable to their tax address, located in the northern border region.

e. Taxpayers initiating operations[9]

Taxpayers initiating activities in the northern border region may request for their registration in the "Register of beneficiaries of the tax incentives for the northern border region", provided that they have economic capacity, assets and facilities to perform their operations and activities thereat.

6 Art. Second of the Decree.

7 Art. Fifth of the Decree.

8 Art. Fifth of the Decree.

9 Art. Third of the Decree.

In these cases, taxpayers will have to demonstrate that they use new fixed assets to carry out their activities within the northern border region, and that the total income generated in that region represents at least 90% of their total income for the FY, in accordance with the general rules that will be issued by the Mexican Tax Administration Service ("SAT").

Goods are deemed to be new when used for the first time in Mexico. Taxpayers may also acquire fixed assets that have been used in Mexico, provided that the seller is a non-related party of the acquiring taxpayer.

Taxpayers registering in the Federal Taxpayers' Registry ("RFC") and constituting their tax address in the northern border region, or opening a branch, agency or establishment in said region, after the entry into force of the Decree, are also required to demonstrate that they use new fixed assets to carry out their activities within the northern border region, in order for them to benefit from the tax incentive.

Taxpayers must request for SAT's authorization to be registered in the "Register of beneficiaries of the tax incentives for the northern border region" within the month following the date of their registration in the RFC or the date in which the notice of opening a branch or establishment in the norther border area was duly filed.

Although this rule is set forth in the second paragraph of Article Three of the Decree, and it refers in its first paragraph to taxpayers having their tax address in the northern border for at least 18 months, we understand that this facility applies to all categories of taxpayers who choose to apply this tax incentive (also those taxpayers who have establishments inside or outside the northern border region).

4.2.2 Persons excluded from the benefit[10]

For income tax purposes, the following persons cannot benefit from the incentive provided for in the Decree:

a. By Regime

i. The applicable to credit, insurance and bonding institutions, general bonded warehouses, financial leasing companies and credit unions[11].
ii. The applicable to groups of companies, which allows the latter to defer the payment of income tax on charge of companies of the same group[12].
iii. The applicable to the coordinated entities, consisting of jointly fulfilling on behalf of their members[13].
iv. The regime of agricultural, livestock, forestry and fishing activities[14].
v. The tax incorporation regime[15].

b. Maquila

10 Art. Sixth of the Decree.

11 Pursuant to Title II, Chapter IV of the ITL.

12 Pursuant to Title II, Chapter VI of the ITL.

13 Pursuant to Title II, Chapter VII of the ITL.

14 Pursuant to Title II, Chapter VIII of the ITL.

15 Pursuant to Title IV, Chapter II, Section II, of the ITL.

The maquiladora companies that, complying with the requirements established in article 181 of the ITL, avoid the constitution of a permanent establishment for their non-resident Principal derived from the legal or economic relations hold with the latter, through the application of the "safe harbor" options provided for in Article 182 of the ITL[16].

c. FIBRA's[17]

The regime applicable to taxpayers performing activities through a Trust Engaged in the Acquisition or Construction of Real Estate ("FIBRA") [18].

d. Production Cooperatives[19]

The operative-stimulus regime applicable to Production Cooperatives, pursuant to Title VII, Chapter VII, of the ITL.

e. Delinquent Taxpayers

i. Taxpayers to whom the data protection (reserve) is not applicable, and thus their name, denomination or corporate name and tax ID are published on SAT's web page, in accordance with article 69 of the Federal Fiscal Code ("FFC")[20].
ii. Taxpayers who were subject to tax audit procedures within the five FYs preceding the entry into force of the Decree, to whom unpaid contributions were assessed, and have not corrected their tax situation.

f. EFCOS

Taxpayers that issue digital tax invoices and to whom the presumption of non-existent operations was applied, pursuant to article 69-B of the FFC.

Taxpayers that have a partner or shareholder who falls within the aforementioned legal presumption.

Taxpayers who entered into transactions with the above-mentioned taxpayers, but did not proved to SAT that they actually acquired the goods or received the services covered by the corresponding digital tax invoices.

Taxpayers to whom the presumption of undue transmission of tax losses was applied, in terms of article 69-B bis of the FFC.

g. Trusts carrying out business activities

Taxpayers performing business activities through trusts.

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16 Pursuant to Arts. 181 and 182 of the ITL.

17 Pursuant to Title VII, Chapter III, of the ITL.

18 Consisting of: (i) a deferral to pay IT on the gains arising from the sale of real estates until the moment in which the certificates or the real estates are actually sold; an (ii) exemption on profit derived from the sale of the certificates in stock exchange or recognized markets; and, (iii) trustees' non-existing obligation to make provisional payments.

19 Title VII, Chapter VII, of the ITL.

20 Taxpayers with unpaid or unguaranteed tax assessments; non-located taxpayers; taxpayers who committed fiscal offenses; and, taxpayers whose debts were cancelled due to insolvency or condoned.

h. By source of income

Individuals and legal entities, for the income derived from intangible assets.

Individuals and legal entities, for the income derived from their digital commerce activities, excluding those determined by SAT through general rules.

Taxpayers providing personnel through an outsourcing scheme or taxpayers that are deemed to be intermediaries pursuant to the Federal Labor Law.

i. By application of other tax incentives

Taxpayers benefiting from other fiscal regimes that grant tax benefits or incentives, including exemptions or subsidies.

j. Other

Taxpayers who are in liquidation at the time of requesting the authorization to apply for the income tax incentive provided for in the Decree.

Legal entities whose partners or shareholders individually lost the authorization to apply for the income tax incentive established in the Decree.

State's Productive Companies and their respective Subsidiary Productive Companies, as well as Contractors, in accordance with the Hydrocarbons Law.

Taxpayers whose income derive from the provision of professional services, pursuant to Article 100, section II, of the ITL.

4.2.3 Opportunity to obtain and keep the registration by authorization

Individuals and legal entities seeking to obtain the benefits of the Decree must request SAT's authorization to be registered in the "Register of beneficiaries of the tax incentives for the northern border region."

Therefore, taxpayers who intend to apply the benefit of the Decree for FY 2019 must apply for the aforesaid authorization by March 31, 2019, and the same shall be done for its renewal in FY 2020.

The authorization will be valid solely for the FY in which it was obtained. If the taxpayer intends to continue benefiting from the tax incentives provided for in the Decree, the former must request the renewal of such authorization[21].

4.2.4 De-registration from the "Register of beneficiaries of the tax incentives for the norther border region"[22]

Taxpayers may request, at any time, their de-registration from the "Register of beneficiaries of the tax incentives for the northern border region" to SAT.

21 Art. Seventh of the Decree.

22 Art. Ninth of the Decree.

In this case, or when the taxpayers no longer fulfill the requirements to apply the tax incentive, the stimulus will cease to apply for the entire FY, and the taxpayers will have to file their tax returns and make the corresponding income tax payments without considering the application of the Decree, no later than the month following that in which the de-registration request was filed.

4.2.5 Procedure and requirements to apply and maintain the tax incentive[23]

a. Registration procedure by authorization

SAT shall issue a resolution to the request for authorization no later than the month following the date in which the request was filed. For such purposes, the authority may request individuals and legal entities additional information and documentation within 5 business-days following the date in which the request was filed; in this case, the term for the issuance of the authorization will be suspended as of the effective date in which the requirement of information and documentation was notified[24].

If SAT does not issue a resolution on the aforementioned request for authorization, it will be understood that the request was unfavorable resolved[25].

b. Registration requirements

In order to benefit from the tax incentive set forth in the Decree, taxpayers must comply with the following requirements:

Request for the registration in the "Register of beneficiaries of the tax incentives for the northern border region." The SAT must solve said request no later than the month following that in which the request for authorization was submitted.

Taxpayers with a tax address in the northern border region must prove that they have had their tax address thereat for at least 18 months prior to the filing of the request for registration in the "Register of beneficiaries of the tax incentives for the northern border region."

Those taxpayers whose residence time in their tax address, branch, agency or establishment, is lesser than 18 months from the date in which the request for registration in the "Register of beneficiaries of the tax incentives for the northern border region" was filed, or those who register in the RFC and constitute their tax address in the northern border region, or open a branch, agency or establishment in that region, after the entry into force of the Decree, must demonstrate to SAT that they have (i) the economic capacity , (ii) assets and (iii) facilities to carry out their operations and business activities in said region.

Have an advanced electronic signature, a positive opinion of compliance with their tax obligations, and access to their tax mailbox.

Collaborate with SAT's real-time verification program on a semi-annual basis.

Non-existence of fraudulent conducts to evade compliance with their tax obligations.

23 Statement of reasons and Art. Seventh of the Decree.

24 Art. Eighth of the Decree.

25 Art. Eighth of the Decree.

Request for the authorization no later than March 31 of the FY in question.

4.2.6 Transitional regime applicable at the termination date of the tax incentive[26]

Taxpayers who benefited from the income tax incentive, but executed acts prior to the termination date of this tax incentive without receiving the income derived from such acts, can benefit from the incentives provided for in Article Eleventh of the Decree, with regard to such income, whenever said income is received within 10 calendar-days following the termination date of the income tax incentive.

Limitations to the IT incentive

The application of the benefits established in the Decree will not give rise to any refund or compensation different from the one that would have resulted from not applying said benefits[27].

Taxpayers that did not benefited from the tax incentive provided for in the Decree, despite been able to do so, will lose the right to apply it in the FY or the period corresponding to the provisional payments. The foregoing shall apply even if the referred taxpayer is in suspension of activities[28].

The simultaneous application of other tax incentives can turn this tax incentive inapplicable.

4.3 VAT Incentive

4.3.1 Scope[29]

There is also a tax incentive consisting of a credit equivalent to 50% of the general VAT rate (the 16% general VAT rate is reduced to 8%) on the value of the acts or activities regulated in the Value Added Tax Law ("VATL"), applicable to taxpayers engaged in the sale of goods, provision of independent services, or grating of the temporary use or enjoyment of goods at establishments located within this region.

For these purposes, the material delivery of the goods or the provision of services must be carried out in the northern border region[30].

In our understanding, there must be an office, branch or tax address in the northern border region in order to benefit from the Decree.

As indicated in the Decree, the tax credit will be applied directly on the tax rate, for administrative simplification purposes.

4.3.2 Formal requirements[31]

26 Second Transitory Provision of the Decree.

27 Art. Fifth of the Decree.

28 Art. Fifth of the Decree.

29 Art. Eleventh of the Decree.

30 Art. Twelfth of the Decree.

31 Art. Twelfth of the Decree.

In order for the taxpayers to benefit from said tax incentive, they must comply with the requirements established in general rules, as well as with the following requirements:

Submit a notice of application of the tax incentive within 30 calendar-days following the entry into force of the Decree. The deadline expires on January 30, 2019 (there is a possibility that this deadline will be extended subject to the rules governing the procedure to file the aforesaid notice).

In the case of taxpayers initiating their activities after the above-mentioned date, they will have to file the notice together with their registration application before the RFC.

Taxpayers may only benefit from the tax incentive, provided that they filed their notices on time. Failure to submit such notices will result in the imposition of penalties, in accordance with the tax provisions (FFC).

4.3.3 Cases and persons excluded from the benefit[32]

This tax incentive does not apply in the following cases:

The sale of real estate. The benefit aims to encourage consumption in the northern border region and to prevent consumers from displacing to the United States to acquire goods, which does not occur with real estate.

The sale of intangible assets. By its nature, intangible assets can be used outside the northern border region.

The supply of digital content such as audio and video, through downloads or temporary reception of files. By its nature, digital content and audio can be used outside the border region.

Taxpayers that fall under articles 69, 69-B and 69-B Bis of the FFC. This limitation applies in similar terms to those foreseen in the IT incentive.

4.3.4 Transitional regime applicable at the termination date of the VAT incentive[33]

Taxpayers who benefited from the VAT incentive, but engaged in the sale of goods, provision of services or granting of temporary use or enjoyment of goods prior to the termination date of this tax incentive without receiving the payment of their respective considerations, can benefit from the incentives provided for in the Decree, with regard to such considerations, provided that the payment of said considerations is made within 10 calendar-days following the termination date of the VAT incentive.

5. DECREE GRANTING TAX INCENTIVES TO TAXPAYERS

On January 8, 2019 a presidential decree was published in the FOG whereby the following incentives were granted:

a. Elimination of withholding income tax on interest derived from bonds issued by

32 Art. Thirteen of the Decree.

33 Third Transitory Provision of the Decree.

Mexican Companies

Mexican residents are legally required to make income tax withholdings to foreign residents receiving interest income from bonds issued by Mexican companies, whenever such bonds are placed among the general investing public through stock exchanges operating under concession, in accordance with the Securities Market Law ("SML")[34].

In order to encourage a greater number of investors to acquire corporate bonded debt, a tax incentive is granted to Mexican residents that are required to make the income tax withholdings consisting of a tax credit equivalent to 100% of the tax caused by the foreign resident. The amount of the credit is solely creditable against the payable tax corresponding to the income tax withholding.

Requirements:

i. No withholding should be made.
ii. Interests payments shall be made to a resident in a country or jurisdiction that has entered into a Treaty to Avoid Double Taxation or an Exchange of Information Agreement. From wording used in the Decree, it is unclear if this requirement excludes the possibility of applying the tax incentive when the withholding obligation is triggered by the enforceability of the interest and not by its payment.

The tax incentive neither will be deemed as taxable income for those required to make the income tax withholding, nor for the foreign taxpayer. Furthermore, the application of this tax incentive will not give rise to any refund or compensation.

If the Mexican resident that is legally required to withhold the income tax does not credit the tax incentive in the FY, the former will lose the right to do so, up to the amount of the tax credit generated by the specific operation.

From the wording used in the Decree, it seems that not withholding is required when the beneficial owners of the interest income, directly or indirectly, individually or jointly with related persons, receive more than 5% of the interest derived from the bonds and are (i) shareholders, directly or indirectly, individually or jointly with related persons, of more than 10% of voting shares or (ii) legal entities whose shares (more than 20% of their shares) are, directly or indirectly, individually or jointly with related persons, owned by the issuer.

If no withholding was made to the foreign taxpayer, it is to be expected that the crediting of the tax abroad is not allowed.

b. 10% IT rate on capital gains derived from the sale of certain stock shares

For FYs 2019 to 2012, foreign residents and Mexican resident individuals will be subject to a 10% income tax rate on the sale of shares issued by Mexican resident companies, provided that such sale takes place in stock exchanges operating under concession, in terms of the SML, and that the following conditions are met:

The sale must be made through an initial public offering made by an issuer who has not previously traded on stock exchanges or in recognized markets, pursuant to the SML.

34 Art. 166 of the ITL.

Issuer's equity capital shall correspond to an amount of $ 1,000,000.00 pesos (amount that may be modified by means of the MFR). We assume that by means of the MFR it will be clarified that this is a minimum amount and not a fixed amount as foreseen in the Decree.

The Decree also comprises the sale of shares that are not deemed placed among the general investing public, whose acquisition has not been carried out in stock exchanges operating under concession, in terms of the SML, or in foreign stock exchanges that have been authorized and operating from at least 5 years in accordance with the laws of the country in which they are located, where prices determined are of public knowledge and cannot be manipulated by the contracting parties of the derivative financial transactions, although in these cases exceeds 1% of the outstanding shares of the issuer.
Excluding the foregoing, the benefit does not extend to (i) a person or group of persons that, directly or indirectly have 10% or more of the voting shares of the issuer within a 21-month period, and transfer 10% or more of the shares paid or when the control of the issuer is disposed of, (ii) sales carried out outside the stock exchange and (iii) mergers and spin-offs.

c. Extensive application of the tax incentive (10% rate) to capital gains for the sale of certain stock shares for the participation of FICAPS or similar vehicles

The aforementioned tax incentive is also applicable to the person or group of persons who, directly or indirectly having 10% or more of the shares representing the share capital of the issuer, in a 24-months period, sales 10% or more of the shares paid or when the control of the issuer is transferred provided that:

At least 20% of the shares have been acquired by a FICAP, whose certificates are placed among the general investing public through a stock exchange operating under concession, pursuant to the SML, or in recognized markets, and that the sale corresponds to a disinvestment transition process by the FICAP, in order to directly initiate the public listing of the company object of investment.

The shares of the company subject to investment have been acquired by another investment vehicle similar to the FICAPS that, in addition to the aforementioned conditions, meets the following requirements: (i) The investment in the shares is maintained by at least 2 years before the shares are sold through the initial public offering, (ii) the investment vehicle is constituted in Mexico in accordance with national legislation and, in the case of trusts, the trustee is a credit institution or a brokerage house resident in Mexico (which leaves out foreign partnerships), (iii) invest at least 80% of its assets in shares of Mexican resident companies that were not previously listed in the stock exchange and (iv) the other requirements established by means of the MFR

PANAMA CHAPTER

RIVERA, BOLÍVAR Y CASTAÑEDAS

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES 25%

Corporate Income Tax:
Corporations engaged in:

1. Generation and distribution of electricity;
2. Telecommunications;
3. Insurance and reinsurance;
4. Financial regulated by Law No. 42 of 2001;
5. Manufacture of cement;
6. The operation and management of games of chance;
7. Mining in general;
8. Banking business and
9. The subsidiary or affiliate of any company engaged the services involved in the activities mentioned above.

The Income Tax (ISR) of the companies describe above will pay the following rate:

Rate Tax Periods	RATE
Effective January 1, 2010	30%
Effective January 1, 2012	27.5%
Effective January 1, 2014	25%

Companies in which the state has a stake greater than 40% of the shares, will pay the income tax rate to 30%.

Capital Gains Tax: 10%

Capital Gains Tax in real estate 10%
Or the higher between the total value of the transaction and the total property value. 3%

If the transaction is within the ordinary ordinary course of business of the taxpayer.	General tax rate

Branch Profits Tax:

Dividends Tax: Definitive withholding	Nominative Shares 10 %
	Bearer Shares 20%
Dividends paid members or shareholders in respect of income from Foreign source or export operations.	5%

Withholding Taxes on:

Interest: (general rule). Rates applies on	50%
Royalties: Rates applies on	50%
Other Services. Rates applies on	50%

Tax losses carry-forward term:	5 years

Transfer Pricing Rules:	YES
treaties to avoid double taxation	YES
Tax-free Reorganizations: "fusion and spin off company")	YES

Local Level Tax Rates:

Real Estate Tax: (**at national level**). Progressive tariff	0.60 % to 1.00%
Real Estate transaction within the ordinary course of business of the taxpayer.	General Tax Rate.

OVERVIEW

1. INCOME TAX

1.1. Corporation Income Tax

Companies will pay the Income Tax at a rate of **25% .**

1. **Net taxable income** calculated by the method established in this title. The first step is to reduce from the gross income (only from Panamanian source) the deductible costs and expenses, what gives the **taxable income**. Then, you may proceed to deduct tax incentives and carry over losses from the taxable income. The result is the net taxable income (traditional method).
2. CAIR (Alternative Calculation on Income Tax) has been eliminated, however, remains an estimate calculation for corporations whose taxable income exceeded US$ 1.5 million annual.

These corporations will pay the higher amount between:

3. The taxable net income calculated by the traditional method, and
4. The taxable net income resulting from applying 4.67% to the total taxable income.

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

1.2. Loss Carry-forward.

Losses of the tax payer will be able to be deduced in the 5 following fiscal years at the rate of 20% of the loss per year.

1.3. Foreign Gains and Losses

Panama applies the principle of territorial source, in such a way that only the income generated within the Republic of Panama is taxable. (Article 694 of the Fiscal Code).

The same Article 694 of the Fiscal Code had a modification by means of which it will be considered produced in Panama (Panamanian source income), the income received by individuals or corporations domiciled outside Panama, derived from any service or act that benefit persons within the Republic of Panama. Income includes among others, fees and incomes for copyrights, commercial and trade names, patents of invention, know-how, technology and scientific knowledge, commercial or industrial secrets, in the way that these services affect the production of income of Panamanian source and its value has been considered deductible expenses by the person in Panama who received them.

As a consequence, individual and corporations in Panama who benefits of the service, will have to apply the rates settled in Articles 699 (27.5% - 25%) and 700 (progressive tariff) of the Fiscal Code on the fifty percent (50%) of the amount to be transferred to the beneficiary outside.

Individuals or corporations that, due their activities of **international businesses**, performs activities outside Panama that are required with the purpose to get income in Panama, will not be subject to withholding taxes.

1.4. Payment

Income tax is set up through an annual tax return to be filed out before March 15. (individuals). Together with the annual tax return, taxpayer must present an estimated income tax. The estimated income must be paid on June 30, September 30, and December 31, respectively (individuals).

1.5. Transfer pricing

In Panama the operations that a taxpayer performs with related parties that are fiscal residents of other jurisdictions, are subject to the transfer pricing regulation, provided that such operations have effects such as income, costs or deductions in the determination of the taxable base for of the income tax, of the fiscal period in which the operation is declared or carried out.

The Transfer Pricing Guidelines for Multinational Enterprises and tax administrations of the Organization for Economic Cooperation and Development in 2010, or those that substitute them, are applicable as a technical reference.

When referring to corporations, annual tax return must be presented within three months after the closing of the fiscal year (12 months).

Under the OECD transfer pricing rules, the Panamanian party must keep and file supporting documentation with the tax authorities; it must also perform a transfer pricing report and/or study showing that its prices or profit margins on the transactions are within the comparable arm's-length prices or profit margins ranges for its activity and similar transactions.
The Fiscal Code sets forth a wide range of penalties aimed at compelling taxpayers to comply with transfer pricing rules and regulations; be they compliance-type of provisions or substantive ones.

1.6. Dividend Tax

Dividends are subject to a final (definitive) income tax withholding of 10% (in the case of nominative shares) or 20% (bearer shares).

The Dividend tax is 5% in case of distribution of proceeds from tax exempt income or income from a foreign source.

In the case of income derived from services and other activities rendered outside Panama, that benefits persons in Panama, payments made from persons in Panama are subject to a definitive withholding applied on 50% of the amount transferred and according to the rates settled in Articles 699 (25%) if beneficiary abroad is a corporation or progressive rates if beneficiary is an individual.

If there are no dividends, or the distribution is under 40% of the fiscal income, the corporation must pay a special tax (Impuesto Complementario), as an advance tax on Dividend Tax.

All loans or credits that a company grants to its shareholders will pay a 10% dividend tax.

The dividends distributed and corresponded to nominative preferred shares received an equal tax treatment that applies to deductible interests. Also, the amount distributed as a dividend will be exempt from income tax rates.
For this purpose, the nominative preferred shares must observe the following conditions:

1. That their maturity is not more than five (5) years
2. It must not be part of the capital, according to the International Financial Reporting Standards (IFRS)
3. Belonging to common stockholders of the issuer.
4. That performance earned no more than 6%.
5. Not Transferable.
6. The issuance of such preferred shares does not exceed 40% of equity.

1.7. Capital Gains

Income from the occasional sale of real property, shares and other movable goods, are subject to a capital gain tax of 10%.

Capital Gains tax in Real Estate:

The taxpayer will be required to pay a sum equivalent to three percent (3%) of the higher between the total value of the transfer and the property value, as an advance of the income tax.

The taxpayer may choose to pay 3% of the total value of the transaction as the final capital gain tax.

If the transaction is within the ordinary course of business of the taxpayer, the taxpayer paid under the general tax rate established by the tax code (25%).

In the case of **first sale** of homes and business premises the following rates apply:

Value of new housing	Rate
Value that do not exceed US$. 35, 000.00	0.5%
More than US$. 35, 000.00 up to B/.80, 000.00	1.5%
Over B/.80, 000.00	2.5%
New Business	4.5%

This rate applies only to the first sale of residential and business premises with building permit given in 2010.

Real estate related to agricultural activities, and real estate devoted to residential use, located in rural areas with rate value of up to ten thousand dollars
(B/10, 000.00) will pay capital gain tax at a definitive rate of three percent (3%).

Law 70 of 2019

In compliance with the international commitments acquired, Panama adopted Law 70 of 2018 that modifies the Criminal Code to add to crimes against the Treasury the crime of tax evasion and related, as well as the consideration that they are a preamble to a felony, money laundering.

The new law states that whoever personally or interposed receives, possesses, deposits, negotiates, transfers or converts monies, securities, assets, and other financial resources knowingly that they come from crimes against the National Treasury in order to hide their Illegal origin will be sanctioned with a penalty of two to four years in prison.

The person who, for his own benefit or that of a third party and with intent, incurs tax fraud against

the National Treasury and affects the correct determination of a tax obligation to stop paying, in whole or in part, the corresponding taxes shall be punished with imprisonment of two to four years.

In the event that the authorities determine that the anticipated crime has been committed, through one or more legal persons, the penalty will be imposed on the legal person in question will be a fine of one to three times the amount of the defrauded tax.

Anyone who fraudulently obtains a waiver, refund, enjoyment or approval of undue benefits will be punished with imprisonment of 2 to 4 years and with a fine of one to three times the amount of the tax evaded.

When a legal entity is used in some of the behaviors described above, or benefited by these, will be penalized with a fine not less than the amount of the fraudulent tax, nor greater than the amount of the amount defrauded.

However, the penalties provided above will only be applicable when the amount defrauded of the tax in a fiscal period is equal to or greater than $ 300,000,000, without including fines, surcharges and interest in the calculation of the amount.

2. OTHER TAXES

2.1. Transference of Movable Goods and Services Tax. (ITBMS)

ITBMS (for its Spanish abbreviation) is a type of Value Added Tax. The rate is 7% applied on the amount of goods transferred and services performed within Panama, including goods imported.

Exception:
The producers, traders and service providers whose gross annual income is less than thirty-six thousand dollars (US$ 36,000.00) are not considered as taxpayers of this tax

This tax will be paid monthly in case of corporations or quarterly in case of liberal professionals.

In the tax return, taxpayer will determine the tax by difference between the tax debit and tax credit.

a. The tax debit will be constituted by the amount of the taxes accrued in the sales of goods and services rendered in the fiscal period (month or quarterly).
b. The tax credit will be composed by:

    1. The amount of taxes including in the invoices of purchase made in the internal market of goods and services corresponding to the same period, whenever they fulfill the exigencies anticipated in Paragraph 13 in the matter of documentation.
    2. The tax paid in the referred period regarding the import of goods.

Tax credit will be apportioned to the goods or services that are affected directly or indirectly to the taxable operations.

2.1. Selective Consumption Tax (ISC)

This tax applies on the transfers of several goods and services performed considered luxurious or not essentials.

For instance, in addition to the ITBMS, the companies of cable television service, by satellite and microwaves, as well as the cellular services are subject to the ISC on the amount of the invoice in such concepts. The Jewelry, the guns and the cars also pay ISC at a variable rate depending on the value and type of the consumer goods.

2.2. Property Tax (national level).

With the changes given by Law 66 of the 17th of October of 2017 and Executive Decrees 362 and 363 of 2018, which regulate it, the taxable rate was reduced.

The new law also introduced two new figures the “Tributary Family Patrimony” (TFP) and the “Primary Residence” (PR) under these figures, the exemption was increased on the initial US$120,000.00 (Previously $30,000.00) of the registered value and a reduced tax rate it´s also applicable.

Effective 2019 to calculate the tax rates Panama has a Progressive Combined Tax:

TAX RATE FOR PRIMARY RESIDENCE (DECLARED AS TRIBUTARY FAMILY PATRIMONY OR PRIMARY RESIDENCE)

Property Value	Property Tax
Up to $120,000.0	0%
$120,001-$700,000.00	0.5%
$700,001 or more	0.7%

TAX RATE FOR OTHER PROPERTIES

Property Value	Property Tax
Up to $30,000.0	0%
$30.001-$250,000.00	0.6%
$250,001 - $500,000	0.8%
$500,001 or more	1%

Condominium properties are also eligible for the Tributary Family Patrimony or Primary residence benefit; however, no immovable property may enjoy two exemptions from this tax at the same time.

2.3. Transfer of Property Tax.

This tax applies on the transfer of real estate property. The tax rate is 2%.

2.4. Operation Announcement Tax (Aviso de Operación)

Annual tax applied with a rate of 2% on the Net Wealth of individuals and corporations engaged in commercial activities. The maximum tax is B/60,000.00 (American dollars).

Exceptions:

a. Individuals and corporations with invested capital lower than B/10,000.00(American dollars).
b. The person or company established or to be established within international free trade areas that owns or operates the Colon Free Zone or any other zone or free zone established or to be created in the future, does not required to obtain an "Aviso de Operación". Nevertheless, these companies are obliged to pay 1% (annually) on the capital of the company, with a minimum of B/ 100.00 (American dollars) and a maximum of B/.50,000.00 (American dollars).

3. SPECIAL ECONOMIC REGIMES

What sets Panama apart from the rest of its regional neighbors is its privileged geographical position, therefore, Panama has promoted several strategies to developed its economy, such as an enviable port and logistics system, a service-based economy, tax incentives, among other benefits, which are now some of the reasons companies view Panama as a strategic location from where they can oversee their investment.

As part of an incentive to attract foreign investment and promote international trade, Panama has three different legislations for Special Economic Zones. One for the Colon Free Trade Zone, another for the Panama Pacifico special economic area and another one for the Free Zones. Additionally, we have a special legislation for the Multinational Headquarters regime.

3.1 Colon Trade Free Zone (Zona Libre de Colón)

Conceived as a free zone and a port dedicated to re-exporting a wide variety of merchandise to Latin America and the Caribbean, the Colon Free Trade Zone it´s a large autonomous institution, located in Colon, near the Atlantic entrance to the Panama Canal.
Created by Decree Law No. 18 of June 17th, 1948, the Colon Free Trade Zone is the second largest Free Zone in the world and it allows the development of export and import activities, manufacturing, re-export, sale, manufacture and distribution, among other activities of international trade.

Due to its privileged location, the Colon Free Zone has access to four important ports in the Caribbean and one in the Pacific, allowing those who perform their activities from the Colon Free Trade Zone to easily access the five continents.

The Colon Free Zone allows companies to save money by avoiding a large number of tax obligations related to their commercial activity without rescinding the extensive facilities and rights offered by this customs area.

Among the tax benefits offered by the Colon Free Zone we can mention:

- Exemption from taxes on imported products for re-export.
- Exemption from the Operation Announcement Tax
- No import or export fees or quotas are paid.

- No taxes are paid for services that have effects abroad
- Taxes are not paid for the profits obtained in operations abroad. The municipal taxes are not applicable to the companies that operate in the Free Zone.

Transfer pricing rules

With the amendments to the Fiscal Code introduced by Law 69 of 2018, the companies operating under any preferential tax regime (including the Colon Free Trade Zone) will be subject to transfer pricing rules on their operations with related parties located in Panama, abroad or in any other preferential tax regime.

3.2 Panama Pacifico Special Economic Area

Created through Law 41 of 2004, the Panama-Pacific Special Economic Area is a special legal, fiscal, customs, labor, migration and business regime for the establishment and operation of a Special Economic Area in the district of Arraijan, province from Panama.

The main purpose is to encourage and ensure the flow and free movement of goods, services and capital, in order to attract and promote investment, generate jobs and make the Republic of Panama more competitive in the global economy.

The Panama-Pacific Area is an area free of all taxes for the Companies located on the Panama-Pacifico Area, the Operator and the Developer, except for the provisions of Article 60 of Law 41 regarding Income Tax, Dividend Tax, Complementary Tax and Foreign Remittances Tax and in matters of services inherent to the exercise of professions regulated in a special way by the current national legislation.

Among the activities exempted from the Income Tax, Dividend Tax and Complementary Tax and Foreign Remittances or the Transfer of Movable Goods and Services (I.T.B.M.S.) tax we can mention:

- Sale or transfer of the shares of Companies located on the Panama Pacific Area, the Operator and the Developer
- Sale of all types of merchandise and goods, as well as the provision of services to visitors, passengers or crew in transit to a foreign destination, except in the event that the sale is made by the manufacturer of the goods or a company located at the Panama Pacifico Area that belongs to the same economic group of the manufacturer.
- Sale of all types of merchandise and goods, as well as the provision of services to ships that cross the Panama Canal or airplanes that use authorized airports in the Republic of Panama with destination abroad, except in the event that the sale is made by the manufacturer of the goods or a company of the Panama Pacific Area that belongs to the same economic group of the manufacturer.
- Office Management Services
- Services related to aviation and airports
- Call center services for commercial use
- Capturing, processing, storage, switching, transmission and retransmission of data and digital information
- Research and development of resources and digital applications for use in networks
- Logistic and multimodal services
  - The Dividend Tax or participation fees or the complementary tax applies
- Import, export and re-export of merchandise activities, as well as sales transactions abroad of

non-manufactured merchandise in the Panama-Pacific Area
  - The Dividend Tax or participation fees or the complementary tax applies.

Transfer pricing rules

With the amendments to the Fiscal Code introduced by Law 69 of 2018, the companies operating under any preferential tax regime (including the Panama Pacific Economic Area) will be subject to transfer pricing rules on their operations with related parties located in Panama, abroad or in any other preferential tax regime.

3.3. Multinational Headquarters regime

With the purpose of attracting and promoting investments, the employment generation and the transfer of technology, the is a Special Regime for the Establishment and Operation of the Headquarters of Multinational Companies in Panama is focused on multinational companies that set its headquarters in Panama or operates from Panama offering some services described in the Law 41 of 2007 to its headquarters, subsidiaries, affiliates or associated companies.

Companies that hold a Regional or Multinational Company Headquarters License must pay the income tax in Panama on the net taxable income derived from the services rendered at a special rate of 5%.

Additionally, within the deductible expenses in the annual income tax declaration, companies may include the expenses incurred as compensation for all employees, in accordance with the Fiscal Code, even when their salary -workers- is exempt from income tax. In addition, the amounts paid for this concept abroad can be applied as an income tax credit with respect to the taxable income generated in Panama derived from the provision of services to non-residents and the amounts withheld by taxpayers in Panama as income tax. the rent.

When tax credits are applied, the company with the SEM License must pay at least 2% of the net taxable income as income tax. These credits cannot be considered as carry-forward credits nor can they be returned.

On top of that, the companies with the SEM License has other benefits and exemption like:

- Exemption from dividend and complementary taxes
- Exemption for branches tax
- They are not required to obtain an Operation Announcement for the provision of the services established in Law 41 of 2007, therefore, they are exempt of the Operation Announcement tax.

Transfer pricing rules

In accordance to Law No. 57 of 2018 transfer pricing rules apply starting with tax year 2019, to any related-party transaction that an individual or entity conducts with companies with an MHQ license. With the amendments to the Fiscal Code introduced by Law 69 of 2018, the companies operating under any preferential tax regime (including Multinational Headquarters Regime) will be subject to transfer pricing rules on their operations with related parties located in Panama, abroad or in any other preferential tax regime.

3.4 Free Trade Zones

Governed pursuant Law 32 of 2011free trade zones are part of a simplified and integrated system that

promotes the establishment and operation of companies to contribute to the country's development, and promotion of investment opportunities.

These zones offer a set of tax benefits, migratory and labor incentives that make more attractive the establishment of this special area within the national territory, mainly addressed to foreign trade activities.

The Processing Zones are tax-free zones which offer multiple tax benefits for companies that wish to export their products to other countries. With the exception of commercial operations of sales and services carried out abroad or between free zones, companies that benefit from the regime are subject to the payment of:

- Income Tax (ISR) and Transfer of Movable Goods and Services (I.T.B.M.S.) on local lease and sublease operations. These taxes are not applicable to the promoters of the free zones.
- Dividend tax at 5% regardless of the source of origin, and 2% of complementary tax, in case there is no distribution.
- Annual tax of 1% of the capital of the company, with a minimum of ($ 100.00) and a maximum of $ 50,000.00.
- Selective Consumption Tax (ISC) of certain goods and services.
- Special Interest Compensation Fund, except for loans guaranteed with bank deposits.
- Contributions derived from labor relations between the employer and the worker, and the conditions established in the social security system.

Transfer pricing rules

With the amendments to the Fiscal Code introduced by Law 69 of 2018, the companies operating under any preferential tax regime (including the Free Trade Zones) will be subject to transfer pricing rules on their operations with related parties located in Panama, abroad or in any other preferential tax regime.

4. LAW 76 OF 2019

The Law creates Panama's first Tax Procedures Code, which is applicable to all national taxes and establishes the basic rules and principles that constitute the legal regime for Panama's tax system.

In this sense, it establishes a classification of the different kind of taxes, as well as indicates the types of taxpayers obligated to the tax authorities, modernizes the methods for the personal notification of taxpayers, sets general rules that defend the fiscal domicile in Panama, among another wide variety of changes.

In addition to this, it establishes various guarantees such as the Taxpayer Advocacy, an institution that must be guarantor of compliance with the rights and procedural guarantees of the taxpayers, the burden of proof in cases such as tax evasion or fraud, the legal connection of the opinions issued by the General Directorate of Income to the consultations carried out by Individuals, the ability to access alternative methods to the resolution of conflicts after meeting some requirements, among others.

This code will take effect as of January 1st, 2020, however some articles related to the concept of tax debt, expiration of the right to receive a refund from the Authority, tax regulation, and crimes and tax sanctions, which will come into force three months after the enactment of the law.

PARAGUAY CHAPTER

FERRERE ABOGADOS

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	10%
Capital Gains Tax:	N/A
Dividends Tax:	5%
Withholding Taxes on:	
Dividends:	15%
Royalties:	Income Tax 15%, 30%; VAT 10%
Technical Assistance:	Income Tax 15, 30%, VAT 10%
Interest:	Income Tax 30%, 15%, 6%; VAT 10%
Other Services:	Income Tax 15%, 30%, VAT 10%
Tax losses carry-forward term:	N/A
Transfer Pricing Rules:	N/A
Tax-free Reorganizations:	0%
VAT on sales:	5%, 10%
VAT on Services.	5%, 10%
VAT on Imports:	5%, 10%
Custom Duties:	0-40%
Net-worth (Assets) Tax:	N/A
Stamp (Documentary) Tax:	N/A

Local Level Tax Rates

Tax on Industrial Activities	National Level
Tax on Commercial Activities	National Level
Tax on Service Activities	National Level
Real Estate Tax:	0,5 - 1%

TREATY TAXATION:

Items of Income			
Country	**Interest**	**Dividends**	**Royalties**
Chile	6% and15%	10%	15%

OVERVIEW

1. INCOME TAX

1.1. General Aspects.

Paraguay collects taxes following the source principle. Therefore, tax is due, with some exceptions, on income derived from activities performed, property situated or economic rights used in Paraguay, regardless of the domicile, residence or nationality of those participating in the operations or where contracts are concluded.

1.1.1. Corporate Income Tax Rate.

The general statutory corporate income tax rate for entities incorporated in Paraguay including branches or permanent establishments of foreign companies is 10%

1.1.2. Taxable base.

This tax is paid on an annual basis on profits that companies earn in the year before. That is, on the positive difference between revenues and expenses for carrying out commercial, industrial or service activities.
We illustrate the process for further clarification:

(+) Sum of all revenues
(-) Costs
(=) Gross Income
(-) Total Expenses
(=) Net Income
(+) Non deductible expenses
(-) Exempt Income
(=) Net Taxable Income
(x) Corporate Tax Rate (10%)
(=) Income Tax Charge Payable.

1.1.3. Deductions.

As a general rule all expenses necessary to obtain and preserve taxable income are deductible in determining net income, provided they are duly documented and are included at market prices.

In addition to the general rule, the following deductions, among others, are expressly admitted:

1. Any taxes and social security contributions applicable to the business activity, assets and goods

involved in the generation of income, except Income Tax;
2. Organization expenses;
3. Personnel compensations provided that contributions were made to the Social Welfare Institute (Instituto de Prevision Social – IPS). Also deductible shall be any compensation paid to owners, partners or directors and to relatives and spouses, as limited by regulatory decree.
4. Expenditures on interest and rents;
5. Extraordinary losses not covered by insurance;
6. Bad debts under certain conditions;
7. Depreciation;
8. The amortization of intangible property such as trademarks and patents;
9. Expenses and payments made overseas whenever necessary to produce taxable income from export and import operations;
10. Travel expenses, per diem, and other similar payments in cash or kind;
11. Donations to the Stateor to entities dedicated to social welfare or education;
12. Expenses and contributions paid to staff for health care, education, cultural development, or training;

The following items, amongst others, are expressly not allowed as deductions:

1. Penalties imposed because of fiscal infringements;
2. Earnings in any fiscal period retained in the business as capital increases or reserve accounts;
3. Goodwill amortization;
4. Personal expenses of the owner, partners or shareholders;
5. Expenses for obtaining tax exempt income;
6. Value Added Tax (hereinafter "VAT"), except when it is affected directly or indirectly by untaxed transactions (not applicable for exportation) as well as the 5% tax credit surplus occurred at the end of the year.

1.1.4. Depreciation.

The percentage of depreciation of fixed assets will be equal and constant, and determined by the number of years of expected useful life of the asset.
The depreciation of each of the assets will start from the month after, or fiscal year, to its incorporation to the company's fixed assets, or after the total or partial construction in the case of buildings, at the option of the taxpayer.
Useful life periods on the basis of which the relevant annual rate of depreciation will be applied are:

1. Fixed Assets

a. Movable property: 4 or 10 years.
c. Ground transport: 5 or 10 years.
d. Air transport: 5 or 10 years.
e. Maritime and fluvial transport: 5 or 20 years.
f. Real State: 10, 25 or 40 years.

2. Intangible Property

Intangible assets, such a trademarks, patents and copyrights are amortizable up to 4 years.

1.1.5. Transfer Pricing.

Paraguay has not developed any transfer pricing rules. As a basic premise, alltransactions carried out

through by related parties should be carried out as if they were deemed to be independent parties.

1.1.6. Tax Loss Carry-forward.

The carry-forward and carry-back of losses is not permitted in Paraguay.

1.1.7. Tax-Free Reorganizations.

Transfers resulting from company reorganization or capital contributions to a company will not be considered taxable. In these cases, the predecessor's tax credits will be transferred to the successor in proportion to the net assets transferred in relation to the total net assets of the predecessor.

1.1.8. Leasing Tax Treatment.

The taxable base of an operating or financial leasing is equal to each of the net payments accrued, which includes both the capital and the financial portion and all other amounts charged to the borrower. Lease Back operations are treated as a sale of goods.

1.2. Foreign Exchange Gains and Losses.

Profit or losses resulting from exchange differences of transactions in foreign currency are determined by the annual revaluation system of balances, including differences apply to payments or collection made during the year.

Sell exchange rate shall be applicable to payments made by the taxpayer, and buy exchange rate shall be applicable to charges made by the taxpayer, according the rates published by the tax authority.

1.3. Payment and Filing of Tax Returns.

The fiscal year generally coincides with the calendar year, but certain industries are required to use specific fiscal years.
A company must make 4 advance payments based on the previous tax year's liability. A return sheet must be filed for corporate income tax purposes. In general, the return is due within 4 months of the end of the taxpayer's tax year, but the taxpayer's identification number determines the exact due date.

Consolidated returns are not permitted; each company must file a separate return.

1.4. Penalties on Unpaid Tax or Tax Paid Belatedly.

Penalties range from 4% to 14% of the total tax due, plus monthly interest at 1.5%

1.5. Dividends Tax / Branch Profits Tax.

In addition to the 10% Corporate Tax, the dividends distributed among the shareholder, either local o foreign, are subject to a 5% surcharge on the net amount thus credited or paid. Dividend remitted, credited or paid to foreign shareholders will be subject to an additional 15% withholding on the net amount remitted.

1.6. Cross-border Payments.

1.6.1. Withholding Taxes.

1.6.1.1. Dividends.

Dividends paid abroad are subject to a 15% withholding tax.

1.6.1.2. Royalties.

Royalty payments are subject to a 30% withholding tax imposed on 50% of the payment, resulting in an effective rate of 15%.

Royalties paid to the parent company or its shareholders are subjected to a 30% withholding tax imposed on 100% of the payment (i.e., an effective 30% rate).

In both cases the applicable VAT rate is 10%.

1.6.1.3. Services and Technical Assistance.

Technical assistance and other services provided by the employees of foreign companies are considered to be performed in the national territory (and thus subject to an effective 15% withholding tax) when such assistance and services are utilized or taken advantage of in Paraguay. In case that the service is rendered by the parent company, the effective withholding rate will be of 30% (30% of the taxable base of 100%).

These services are also subject to 10% VAT. The local company will be required to operate as an Income Tax and VAT withholding agent.

1.6.1.4. Interest on Loans obtained abroad.

When a loan is granted by the parent company or its shareholders, a 30% tax is levied on 100% of interest payments (i.e., an effective 30% rate), plus a 10% VAT.

When a loan is granted by a foreign third party, the 30% tax is levied on 50% of the interest payment (i.e. an effective 15% rate), plus a 10% VAT.

When the loan is granted by a well-known financial institution, a 30% tax is levied on 20% of the interest payment (i.e. an effective 6% rate), plus a 10% VAT.

1.6.1.5. Payments to non-residents:

A payment made to a non-resident that provided services in Paraguay is subject to withholding tax at an effective rate of 15% (30% of the taxable base of 50%) on the gross amount. In case that the nonresident is the parent company, the withholding will apply at the effective rate of 30% of the gross amount (30% of the taxable base of 100%).These services are also subject to 10% VAT. The local company will be required to operate as a VAT withholding agent.

1.7. Law 60/90 on Promotion of Investment for Economic Development.

1.7.1. Purpose

The purpose of Law 60/90 is to promote investment and reinvestment of capital by granting special tax benefits. To obtain these advantages the foreign investor must submit its investment project to the Ministry of Industry and Commerce and the Ministry of Finance. The benefits granted are irrevocable provided investors comply with the obligations established by the Law.
Investment projects are generally approved within a term of 45 days as of the date of submission of the project.

1.7.2. Forms of Investment

Investments can be made in:
- money, supplier credits or financing;
- capital goods, machinery, industrial installations, office equipment, electrical and electronic equipment, transportation equipment, etc.;
- manufacturer's trademarks and other forms of technology transfer;
- lease of capital goods, particularly of interest for the operation of river way and air transportation.

1.7.3. Tax Incentives

The tax incentives granted are as follows:
- Exemption from national and municipal taxes on organization, filing and registration of companies;
- Total exemption from customs duties on imports of capital goods;
- Exemption from taxes on remittances of dividends and profits provided the amount of the investment is at least USD. 5,000,000;
- Total exemption from the Tax on Acts and Documents for the beneficiary on acts, contracts and obligations documenting investments.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects.

The VAT is levied upon the sale of goods, the rendering of services, excluding those of personal character that lend in dependency relation, and the introduction of goods in to the country. The sale of goods and the rendering of services performed within Paraguayan territory and the introduction of goods regardless of the place where the contract was entered into or the parties' domiciles, residence or nationality will be taxed.

2.1.1. Tax Rates.

The standard rate is 10%, with a lower 5% rate applying to supplies of basic foodstuffs, pharmaceutical products, agricultural products in its natural state, hunting and fishing animals, alive or not, in natural state, and the transfer of the right to use goods or immovable property. Exports are zero-rated. Exemptions include raw farm products, some fuels, foreign currency, books and newspapers.

2.1.2. Natural and legal persons subject to VAT:

VAT taxpayers are:

a. Individuals on personal services.
b. Sole proprietorships.
c. Companies, with or without legal personality, and private entities in general.
d. Autonomous entities, government corporations that engage in commercial, industrial or service activities.
e. Importers of goods to Paraguay.

2.1.3. Taxable Transactions:

The taxable event occurs with the earlier of delivery of the goods, issuance of the invoice or any equivalent act. In services, the obligation is specific to the first occurrence of any of the following acts:

a. Issuance of invoices.
b. Payment of the total or partial payment of the service provided.
c. Upon expiration of the deadline for payment.
d. With the conclusion of the service.
e. In the case of imports, the tax liability occurs at the moment of numeration of the customs declaration of goods at the Customs.

2.1.4. Taxable Base:

This tax is calculated on net amounts invoiced for sales and services. The tax base shall in all cases include the value of other taxes applicable to the transaction but excluding VAT.

In the case of imports the taxable base shall be the Customs value plus Customs duties in addition to other taxes applicable to the delivery of goods, but excluding VAT.

2.1.5. VAT Credits:

Tax Credit shall consist of:

- Tax included in the purchase bill's of goods or services during the month before.
- The tax paid within the month of the importation of goods.
- The tax included in the purchase invoices in case of adjustments.
- The tax included in an invoice that verify the concept of un-collectibility.
- The withholding tax payments made to beneficiaries residing abroad for carrying out taxable transactions in Paraguay.

The tax credit cap: Taxpayers who apply a rate lower than 10% may use 100% tax credit up to the amount depleted corresponding tax debit. Surplus for the tax credit, produced at the end of fiscal year for income tax, shall not be used in subsequent assessments, nor shall be requested its return, becoming a cost for the taxpayer. Refund in the event of closure or termination of the activity of the taxpayer will not correspond.

The Tax Authority will return the VAT credit of exporters and equivalent included in the purchase of goods or services applied to goods exported.

2.2. Selected VAT Benefits:

Amongst others, the following transactions are VAT exempted:

Sale of goods:

a. Foreign currency and public and private values.
b. Assets of an estate in favor of heirs of specific devise or legacy, or heirs of general legacy or devise, excluding cessionaries
c. Credits cession.
d. Educational, cultural, and scientific interest magazines, books and journals.
e. Capital goods produced by domestic manufacturers of direct application in the industrial or agricultural production cycle made by investors who are protected under the Law 60/90.

Services:
a. Interests of public and private values.
b. Deposits to banks and financial institutions regulated by Law No. 861/96, as well as in Cooperatives, entities of savings and housing loans, and public financial entities.
c. Those provided by permanent staff or employed by embassies, Consulates and international organizations accredited by the national government.

Imports of:
a. Goods whose sales are VAT exempted.
b. Traveler's luggage.
c. Goods introduced into the country by members of the Diplomatic Corps, Consular and International Organizations, accredited by the national government in accordance with the law.
d. Capital goods directly applicable in industrial or agricultural production cycle made by investors who are protected under the Law 60/90.

2.3. Payment and Filing:

VAT filing and payments are due monthly, with the due date determined according to the taxpayer's registration number.

The deduction of the Tax credit is conditional to the fact that the same comes from goods and services affected directly or indirectly to the transactions subject to the tax.

When the tax credit exceeds the tax debit, such excess may be used as such in the next tax liquidation, from the month immediately following, but without generating right to reimbursement under any circumstances.

If a credit arises from the deduction of VAT credit assimilated to export, it can be returned by the delivery of certificates of credit or against the payment of others taxes of the exporter.

In the case of import VAT will be liquidated and pay in the Customs Office prior to removal of goods.

3. OTHER TAXES

3,1, Personal Income Tax

Law Nº 4673/2012 on Personal Income Tax (hereinafter "IRP" for its Spanish acronym) was passed on July 23, 2012 and is in force as of August 1, 2012.

3.1.1. This tax applies to the following:

- Individuals residing in Paraguay;
- Professional corporations: those which do not have features from other entities regulated by the Paraguayan Civil Code or special laws, and whose purpose does not involve a commercial or agricultural activity.

IRP applied, during the first period, to taxpayers whose income exceeds 10 monthly legal minimum wages[1] or 120 annual legal minimum wages, the latter equals to approximately USD 41,880[2]. This threshold will decrease annually in 12 monthly legal minimum wages up to 36 monthly legal minimum wages per annum.

3.1.2. Base of calculation

Deductive expenses admitted by law and duly documented are subtracted from the total gross income from the activities performed. The result of the latter is net income. IRP's rate applies to the total net income.

3.1.3. Taxable Income

- Taxable income will be Paraguayan-source income derived from:
- Income derived from personal services rendered either as an employee or free-lance contractor from public or private entities, decentralized entities, autonomous or semi-public companies or binational entities.
- Fifty (50%) percent of the dividends, utilities, or surpluses, obtained by shareholders or partners of entities engaged in activities subject to Income tax on commercial, industrial and service activities (IRACIS for its Spanish acronym) and or Farm Income Tax (IRAGRO for its Spanish acronym), distributed or credited, including activities from cooperatives.
- Capital gains arising from the occasional sale of immovable assets and from rights, shares or quotas of capital from corporations assigned.
- Interests, commissions and savings income.
- Any other income exceeding 30 legal minimum wages[3], approximately USD 10,470.[4]

3.1.4. Rates

- IRP's rate is 10% of the net income of the relevant fiscal year when income exceeds 120 annual legal minimum wages (approximately USD 41,880), and 8% of the net income of the relevant

1 Legal minimum wage established in July 2018 is Gs. 2.112.562 (USD 349 approximately)

2 Exchange rate USD 1 = Gs. 6.051

3 Legal minimum wage established in July 2018 is Gs. 2.112.562 (USD 349 approximately)

4 Exchange rate USD 1 = Gs. 6.051

fiscal year when income are equal or lower than 120 annual legal minimum wages (approximately USD 41,880).
- Non-residents who occasionally receive Paraguayan source income are subject to income tax at a twenty (20) tax rate over the 50% of the gross income received.

4. AGRICULTURAL ACTIVITIES INCOME TAX (IRAGRO)

4.1. General Aspects

On October 7th 2013, Paraguay enacted Law No. 5061/2013 ("Law") which modifies the Income Tax on Agricultural Activities ("IMAGRO") established by Law No. 125/91 and provides a new tax regime denominated Agricultural Income Tax ("IRAGRO").On December 27 2013, Paraguay enacted Decree No. 1031/2013 ("Decree") which regalement the Law.

The IMAGRO taxed incomes obtained from agricultural activities performed in Paraguayan territory.

For tax purposes, the IMAGRO considered agricultural activities to those performed with the purpose of obtaining commodities, vegetable or animal, through the use land, capital and labor.

While IRAGRO maintains this definition and most of the provisions of the IMAGRO it also implements modifications mainly extending the application of VAT to the agricultural industries well as adopting other tax measures designed to achieve price controls on export operations.
In sum, the main changes implemented by the Law are:

4.1.1. New taxable events

One of the innovations of the Law is the inclusion of new taxable events that were previously exempted such as breeding of new animal species and certain business activities related thereof. Italso taxes the income generated by the fixed assets involved in agricultural activities.

4.1.2. Unified tax rate

Under the previous regime, the income earned by the owners of real estate properties that were deemed to be "medium" or "undeveloped" were subject to a tax rate of 2.5%. With the enactment of the Law, such distinction between medium or undeveloped real estate properties disappears and tax rates are unified. Accordingly, income of taxpayers is subject to VAT at a rate of 10%, regardless of the size of their real estate properties.

In addition, taxpayers with an income of less than 36 times the minimum wage throughout the period of a year are exempted from IRAGRO.

4.1.3, New liquidation regime

Under the IMAGRO, income of owners of medium real estate properties and undeveloped properties earned in a rational manner were calculated on a presumptive basis taking into account the size, location and characteristics of the land as parameters. IRAGRO eliminated the presumptive method of taxation. Instead, income is always calculated on an actual income basis.

Taking into account this modification, the simple possession of undeveloped property is no longer

taxed by the IRAGRO as it previously was by the IMAGRO presumptive taxation regime.

4.1.4. Application of VAT is extended to the sale of agricultural products

The domestic sale of "unprocessed" or "natural" agricultural products is now taxed at a rate of 5%over the sale price. The Law also provides that the tax authority -in accordance with its regulatory powers- is entitled to increase this percentage to a rate of up to 10%.

4.1.5. 50% of recoverable VAT on exports instead of 100% refund provided by the IMAGRO

Under the IMAGRO, taxpayers were entitled to recover 100% of their VAT tax credits obtained in local procurement of goods and services affected to their export operations at the time them exported the agricultural products.

The IRAGRO provides that the VAT refund is reduced to 50% regardless if exports are related to agricultural products in their natural state or if they are undergoing basic industrialization processes.

4.1.6. New price assessment system for export operations

For the purposes of determining the IRACIS, the Law empowers the tax authorities to adjust the agreed prices of export operations of commodities

4.2. Tax Rates

The standard rate is 10% applied to agricultural activities performed in Paraguayan territory and the income from agricultural activities as a pig farm, cuniculture, flower farming, sericulture, aviculture, apiculture, and silviculture, when this activities are carried out by the producer and the income from these activities do not exceed 30% of the total revenue of the establishment.

The activities that involve manipulation, processes or treatments are under the IRAGRO, except when the activities are performed by the producer for the conservation of those goods.

4.3. Taxpayer of the IRAGRO

IRAGRO taxpayers are:

a. Sole proprietorship;
b. Companies with or without legal personality;
c. Corporations, private entities in general;
d. Publicly owned corporation, independent entities, decentralized entities and a mixes economy society;
e. Individuals or entities incorporated or domiciled abroad and their agencies or establishments in Paraguay.

The foreign headquarter will pay the taxes for their taxable activities obtained from their independent activities.

4.4. Taxable Base

This tax is paid on an annual basis on profits that taxpayers were accrued in the year before. The tax

liability is set on June 30 of every year.

When the taxpayer of the IRAGRO is also a taxpayer of IRACIS, IRPC or IRP, the closing year of the fiscal year shall be on December 31 of every year.

4.5. Tax Regime Liquidation

The taxpayers of the IRAGRO settled tax basis of the following regimens settlement:

a. Liquidation regime of countable result: this is mandatory for companies in general. To the sole proprietorship, when their income earned in the previous calendar year are more than Gs. 1.000.000.000 (USD. 165,261 approximately[5])
b. Liquidation regime of medium rural taxpayer: this regime is for the sole proprietorship, when their incomes earned in the previous calendar year are equal to or more than Gs. 500.000.000 (USD. 82,630 approximately), and not more than Gs. 1.000.000.000 (USD. 165,261 approximately).
c. Liquidation regime of small rural taxpayer: this is for the sole proprietorship when their total incomes earned in the previous calendar year are lower than Gs. 500.000.000 (USD. 82,630 approximately).

To computing the total income amounts mentioned above, will be added the income from activities as a pig farm, cuniculture, flower farming, sericulture, aviculture, apiculture, and silviculture, when these activities do not exceed 30% of the total revenue of the rural establishment.
The amounts of the income mentioned above is calculated without taking into account the VAT included in the corresponding sales receipts.

5. REAL PROPERTY TAX

Real property is subjected to an annual tax administered and collected by the municipalities where the property is located, at a rate of 1% (0.5% for certain rural properties) of the cadastral value. This value shall be increased annually until they match prices set by the market following the consumer price index. Increases shall not exceed 15% per annum. In the case of rural properties any improvements or buildings shall not be computed in the tax base. Tax payers are the owners, any of the co-owners in case of shared ownership, or usufructuaries of the land.

5.2. Selective Consumption Tax

A selective consumption tax it's applicable to certain products, whether imported or produced locally. This tax is levied on the importation of these goods, and in the case of domestic products, on their initial sale. The export or subsequent sales of these products will not be levied by this tax.

The rates are set by Executive Decree within the limits established by Law.

Goods and tax rate applicable:

Goods	Tax rate
Cigarettes and cigars	8 to 22%
Tobacco	13%

5 Exchange rate USD 1 = Gs. 6.051

Soft drinks or drinks with up to 2% alcohol	5%
Beer	9%
Ciders, wine and liquor products	11%
Whisky	11%
Champagne and equivalents	13%
Alcohols in different forms	10%
Fuel oil	50%
Perfumes, eau de toilette and makeup preparations	5%
Natural pearls and precious stones in general	5%
Luxury watches	5%
Air conditioning equipment	1%
Appliances	1%
Arms and ammunition	5%
Musical instruments, toys, games and recreation products	1%

Importers and manufacturers of the taxable domestic products shall be liable for this tax. In the case of imports the taxable base shall be the value for the customs plus Customs Duties and fees for services. In the case of domestically manufactured goods the taxable base shall be the ex-factory price excluding VAT and this tax. In the case of fuel oil the taxable base shall be the sales price to the public established by Executive Decree, except on items not subject to price controls, which shall be subject to the rules governing imports.

This tax shall be liquidated on a monthly basis except in the case of fuels, which shall be liquidated weekly, from Sundays through Saturdays.

6. CUSTOMS REGIME – GENERAL ASPECTS

6.1. Custom Duties.

All imported goods, except those expressly exempted, are subject to a customs duty. The maximum rate of this tax is 30% on the taxable value of the goods, according to the classification and tariff classification of them.

Categories	**Ad valorem rates**
Intrazone Tariff (MERCOSUR)	0%
MERCOSUR's Common External Tariff (CET) averages	0-30%
Average basic list of exceptions	10%
Capital goods	0-2%
Telecom & IT	0-2%
Exceptions List	0-25%
Average automotive sector - Intrazone	0-20%
Average automotive sector - Extrazone	0-28%
Sugar sector	30%
Raw materials	0-14%

Imports from MERCOSUR (Intrazone), with some exceptions, have a general rate of 0% and the average Common External Tariff for member countries to products from third parties (Extrazone) is 10% - 18%. In addition to the custom tariff rates other taxes must be paid:

Categories	Rates	Observation
Valuation Services	0,5%	On the value determined by Customs
VAT (General)	10%	On the value determined by Customs and on customs duties that affect the operation, prior to the withdrawal of goods from the customs area
VAT (Tourist regime)	1,5%	It applies to products that are sold to nonresident foreigners.
Selective Consumption Tax	18%	Average applied to the affected goods on the customs value determined prior to the withdrawal of goods from the customs area.
Advance income tax	0,6%	On the value determined by Customs
National Indigenous Institute Tax	7%	On the cost of consular fees
Fiscal Patent	2%	On vehicles whose value exceeds USD 30.000

6.2. Taxable Base.

The customs tax base is the value CIF or CIP of the goods.

6.3. Filing and Payment.

A custom declaration must be filed and the pertinent tax must be paid in cash.

6.4. Selected Custom Duties Regimes Available.

6.4.1. Ordinary Importation Regime.

It applies to all goods that will remain permanently in Paraguayan territory. Full payments of customs duties and import VAT are required upon filing of the custom declaration.

6.4.2. Temporary Importation Regime.

This regime allows the suspension of duties and taxes on imports of certain goods aimed for a specific purpose and intended for re-exporting within a specified period, either without or having undergone a process of transformation, repair or manufacture. Prior authorization is required, and this regime shall not exceed 12 (twelve) months, renewable only once for the same term. For capital goods this regime could not exceed 3 (three) years, renewable only once for the same period.

Regardless of the filing of a request for a temporary admission, the temporary importer must present the production and export plan for the review and supervision of the competent authority.

The Maquila regime, a special economic regime created to promote foreign investment, allows the temporary entry of goods, products and services into the country to be assembled, repaired, improved and manufactured or be used in manufacturing processes, for subsequent export after incorporation of value added or national components.

6.4.3. Drawback regime.

The Drawback regime is not applicable in Paraguay.

6,4.4. Free Trade Zone Regime.

Companies operating in the Paraguayan free zones are exempted from any tax levied on the formation of societies, profit remittances, payment of commissions and fees and all other remuneration for services, technical assistance, technology transfer, loans and financing and any other service provided to them from third countries.

Companies involved exclusively in exportation are taxed on a single tax called the "Tax Free Zone", where the rate is 0.5% of total gross revenues from those sales.

Imports into the customs territory from companies located in export processing zones are subject to all import taxes. Capital goods introduced into the free zones are exempted from all taxes. Exports of any kind from the customs territory of a zone are made as if exports to third countries.

7. PAYROLL TAXES/WELFARE CONTRIBUTIONS

7.1. Retirement and Health Fund Contributions.

The Social Security Administration (Spanish acronym IPS) is the ruling public body of the social security system, collecting the installments made by companies and employees and keeping up to date the record of the labor history of each member.
Generally, income from any source, whether in money or in kind, received by an employee in remuneration for services performed in the country, is subject to the Social Security Tax.
The employer must make part of the contribution to Social Security and the employer must make the other part. The respective contribution rates are as follows:
- Employee contribution: 9.00% of salary received.
- Employer contribution 16.50% of salary paid.
Payments are done on a monthly basis.

7.2. Labor Risks Insurance System

Social Security contributions cover risks of non-occupational illness, maternity, on-the-job accidents and occupational illness, disability, old age, and death of salaried workers in Paraguay.

7.3. Family Bonus.

Workers are entitled to collect a supplement equivalent to 5% of the minimum monthly legal wage (approximately USD. 349[6]) for each marital, non-marital or adopted child, up to 18 years of age when the worker earns less than 200% of minimum monthly legal wage amongst other legal requirements.

7.4. Benefits

The most important benefits are:

6 Exchange rate USD 1 = Gs. 6.051

a. 13th month salary. It is also called complementary annual salary (in Spanish "Aguinaldo"), equivalent to 1/12 of annual salaries paid by the employer during calendar year for all items (salary, overtime, commissions, other income), which must be paid before December 31, or upon termination of the employment relationship if earlier.
b. Paid annual vacations – workers have the right to vacations per year after having completed one year of continuous work at the service of the same employer. Duration of vacations are as follows:

- Workers with up to 5 years of service: 12 consecutive business days;
- Workers with more than 5 and up to 10 years of service: 18 consecutive business days;
- Workers with more than 10 years of service: 30 consecutive business days.

c. In the event of contract termination without having made use of the vacation days generated, compensation in money is to be provided for same based on current salary.

Vacations can be accumulated at the worker's request for two years if it is not detrimental to the interests of the company.

PERU CHAPTER
RUBIO, LEGUÍA, NORMAND & ASOCIADOS

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	29.5 %
Dividends Tax:	5 %
Withholding Taxes (Non Resident) on:	
-Interest:	4.99% or 30%
-Royalties:	30%
-Technical Assistance:	15% or 30%
-Independent personal services:	24%
-Employment:	30%
-Imports:	N/A
-Capital Gains - sale of shares	
- Lima Stock Market:	5%
- Others:	30%
Tax losses carry-forward term:	4 years or for unlimited time up to 50% of the net income each year
Tax losses carry-back term:	Not permitted
Transfer Pricing Rules:	OECD Guidelines
Tax-free Reorganizations:	Merge and Spin offs
VAT on Sales:	18%
VAT on Services:	18%
VAT on Imports:	18%
Custom Duties:	0%, 6% or 11%
Depending on the tariff classification of the goods	
Temporal Net Assets Tax:	0.4% of the value of the total assets over PEN 1M
Stamp (Documentary) Tax:	N/A
Financial Transactions Tax:	0.005%

Local Level Tax Rates:

Real Estate Property Tax:	Up to 1%
Motor Vehicular Property Tax:	1%
Real Estate Transfer Tax:	3%. The first 10 tax units are exempted

Treaty Taxation:

	Item of Income				
Countries	**Interest**	**Dividends**	**Royalties**	**General Services**	**Technical Assistance**
COLOMBIA	Unlimited source taxation only(*)				
BOLIVIA	Unlimited source taxation only(*)				
ECUADOR	Unlimited source taxation only(*)				
CHILE	No more than 15%	10% or15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
CANADA	No more than 15%	10% or15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
BRASIL	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State. In case of Technical Assistance services, no more than 15%	
SOUTH KOREA	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State. In case of Technical Assistance services, no more than 10%	
PORTUGAL	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
MEXICO	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
SWITZERLAND	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State. In case of Technical Assistance, no more than 10%	

(*) Under Andean Community Decision to avoid international double taxation.[1]

OVERVIEW[2]

1. INCOME TAX

1.1. General Aspects.

Companies and legal entities resident in Peru are subject to tax on their worldwide taxable income. This includes business profits and capital gains obtained during a fiscal year (i.e. calendar year) calculated on an accrual basis.

1 Andean Pact Commission, Multilateral Act No. 578 - 2004.

2 Please note that this section is intended to be a merely informative summary of the Peruvian main tax dispositions. It does not include or intends to provide any kind of legal advice.

Companies and legal entities non residents in Peru are levied only on their Peruvian source income, as it is defined in the Peruvian Income Tax Law. Furthermore, domestic branches, agencies and any other permanent establishment of non-resident entities which are established in Peru are also subject to tax only on their Peruvian source income.

The tax year as well as the accounting year must be considered on the basis of the calendar year. No exception is allowed regarding this matter.

1.1.1. Income Tax Rate.

29.5% rate applicable to resident companies including Peruvian branches, agencies and other permanent establishments of non-resident companies. Dividends and profit distribution are subject to a 5% withholding (not applicable to resident companies).

For permanent establishments, branches and agencies of foreign companies, a distribution of profits is deemed to occur on the deadline for filing their annual corporate income tax return (generally, at the end of March – beginning of April of the following year).

The tax on dividends is basically applied through a withholding mechanism. The withheld amount is considered a final payment. Nevertheless, for dividends related to expenses not subject to further tax control, the 5% dividend tax is paid directly by the resident corporation, branch or permanent establishments (i.e., as a surcharge).

1.1.2. Taxable Base.

Income derived from commercial or business activities are deemed taxable income. This includes income from sale of goods, rendering services, capital gains and results of transactions entered into with third parties. All revenues are subject to income tax unless otherwise excluded by law.

For local corporate purposes, income is recognized on an accruals basis.

1.1.3. Expenses Deductions.

As a general rule, all costs and expenses are tax deductible provided that they are necessary to produce taxable income, or to maintain its source. Any costs or expenses related to exempted income are not deductible. Some costs and expenses are limited (e.g. as vehicles expenses, donations, directors fees, travel and recreation expenses, etc.); or forbidden (e.g. expenses without invoices, expenses derived from transaction with companies resident in tax havens).

Organization expenses, initial pre-operating expenses, pre-operating expenses resulting from the expansion of a company's business and interest accrued during the pre-operating period may be deducted, at the taxpayer's option, in the first taxable year, or they may be amortized proportionately over a maximum term of 10 years.

The amortization period runs from the year when production starts. Once the amortization period is fixed by the taxpayer, it can only be varied with the prior authorization of the tax authorities. The new term comes into effect in the year following the date that the authorization was requested, without exceeding the overall 10-year limit.

It is necessary to use certain means of payment for the deduction of expenses in excess of approxi-

mately PEN 3,000 or US$ 930. The permitted means of payment include deposits in bank accounts, fund transfers, payment orders, debit and credit cards issued in Peru, non-negotiable (or equivalent) checks issued under Peruvian legislation and other means of payment commercially permitted in international trading with non-resident entities (e.g., transfers, banking checks, simple or documentary payment orders, simple or documentary remittances, simple or documentary credit cards).

1.1.4. Depreciation.

Tangible fixed assets depreciation is deductible, provided that it does not exceed the maximum rates and it is registered in the accounting books. Depreciation term varies depending on the nature of the asset. The maximum annual depreciation rates are 20% for vehicles, 25% for cattle and fishery nets, 25% for hardware, 20% for machinery and equipment used in the mining, oil, construction industries, 10% for other machinery and equipment acquired since 1991, and 10% for other fixed assets. Buildings are subject to a fixed 5% depreciation rate. Intangibles amortization is also deductible only if the intangible asset is deemed as limited useful life intangible, such as software, patents and author copyrights. The amortization rate is 100% in the first year or 10% during 10 years.

1.1.5. Transfer Pricing.

Although Peru is not an OECD member country, as of 2017 Peruvian transfer pricing ("TP") formal obligations are aligned with the three-tiered approach contained in Action 13 from the BEPS Action Plan.
In this sense the Local File, the Master File and the Country-by-Country Report compose the three-transfer pricing annual formal obligations which certain taxpayers are required to file before the Peruvian Tax Authority (hereinafter, "SUNAT") in case certain quantitative thresholds are exceeded. Peruvian TP rules apply both to transactions carried out with foreign and domestic related parties and to all transactions carried out with residents in tax havens. As of 2019, these rules also apply to transactions carried out with residents located in "non-cooperative" jurisdictions and with entities whose income or profits are subject to a tax preferential regime.

Situation	A	B	C
Requirements	If the taxpayer: - Registers annual revenues in the fiscal year greater than 2,300 tax units (USD 2.73 million, approx.), and - The total amount of its intercompany transactions is equal to or greater than 400 tax units (USD 474 thousand, approx.).	If the taxpayer: - Registers annual revenues in the fiscal year greater than 2,300 tax units (USD 2.73 million, approx.), and - The total amount of its intercompany transactions is equal to or greater than 100 tax units (USD 120 thousand, approx.) and lower than 400 tax units (USD 474 thousand, approx.).	If the taxpayer: - Registers annual revenues in the fiscal year greater than 2,300 tax units (USD 2.73 million, approx.), and - There no limitation to the amount of intercompany transactions, but if these operations consist on sell of goods which market prices are below to the computable cost, they must submit the Local File.
Documents to submit	Information contained in the Appendix I of the Resolution 014-2018-SUNAT	Information contained in the Appendices II, III and IV of the Resolution 014-2018-SUNAT	Information contained in the Appendices II, III and IV of the Resolution 014-2018-SUNAT

A TP return ("electronic form 3560") has to be completed with quantitative data obtained from the Local File and submitted with the Local File (as a PDF archive) and the supportive analyses (excel archive).
In case the taxpayer does not meet the above revenue threshold, it will have to file nothing.
Once obliged to prepare a Local File, the taxpayer has to assess every intercompany transaction regardless its type or materiality (no safe harbors apply). For such purpose, Peru's recognizes the OECD's TP methods.
The Local File should contain the information and follow the structure described in Resolution 014-2018-SUNAT, which is largely aligned with Action 13 from the BEPS Action Plan.

The **Local File** is to be submitted to SUNAT if the taxpayer:

1. Registers annual revenues in the fiscal year greater than 2,300 tax units (USD 2.73 million, approx.), **and**
2. The total amount of its intercompany transactions is equal to or greater than 400 tax units (USD 474 thousand, approx.).

The Local File is due during the 2nd and 3rd week of June of the following year. A TP return ("electronic form 3560") has to be completed with quantitative data obtained from the Local File and submitted with the Local File (as a PDF archive) and the supportive analyses (excel archive).

In case the taxpayer meets the above revenue threshold but not the intercompany transaction threshold, it will only have to submit electronic form 3560 but neither the Local File nor the supportive analyses. In case the taxpayer does not meet the above revenue threshold, it will have to file nothing. Once obliged to prepare a Local File, the taxpayer has to assess every intercompany transaction regardless its type or materiality (no safe harbors apply). For such purpose, Peru's recognizes the OECD's TP methods.

The Local File should contain the information and follow the structure described in Resolution 014-2018-SUNAT, which is largely aligned with Action 13 from the BEPS Action Plan.

The **Master File** is to be submitted to SUNAT if the taxpayer:

1. Is a "member of a group of companies", which will be the case if the taxpayer's financial statements are consolidated by a controlling entity, **and**
2. Registers annual revenues in the fiscal year greater than 20,000 tax units (USD 23.7 million, approx.), **and**
3. The total amount of its intercompany transactions is equal to or greater than 400 tax units (USD 474 thousand, approx.).

The Master File is due during the 2nd and 3rd week of October of the following year. A TP return ("electronic form 3561") has to be submitted with the Master File (as a PDF archive).

The Master File should contain the information and follow the structure described in Resolution 163-2018-SUNAT, which is largely aligned with Action 13 from the BEPS Action Plan.

The **CbC Report** is to be submitted to SUNAT if the taxpayer:

1. Is a "member of a MNE group of companies", which will be the case if the taxpayer's financial statements are consolidated by a controlling entity and it has more than one entity operating

abroad, and
2. The domiciled parent company has registered annual revenues in the previous fiscal year greater than PEN 2,700 million (USD 772 million, approx.).

If the local taxpayer has a mother company that is located into one of following 36 countries: Argentina, Australia, Belgium, Brazil, Bulgaria, Colombia, Denmark, Estonia, France, Germany, Greece, Guernsey, Iceland, India, Indonesia, Ireland, Italy, Japan, Jersey, South Korea, Lithuania, Luxemburg, Malaysia, Malta, Mexico, Norway, Netherlands, New Zealand, Pakistan, Poland, Portugal, Singapore, Slovakia, Slovenia, United Kingdom, Uruguay; there is no obligation to submit the CbC Report since those countries have signed international treaties with Peru.

The CbC Report is due during the 2nd and 3rd week of October of the following year. A TP return (“electronic form 3562”) has to be submitted with the CbC Report (as a XML archive).

Peru follows the CbC Report’s structure proposed in Action 13 from the BEPS Action Plan.

Peru has signed in 2018 the Convention on Mutual Administrative Assistance in Tax Matters. It is expected that in the following months Peru will adhere to the Multilateral Competent Authority Agreement on the Exchange of CbC.

1.1.5. Benefit test requirement

The benefit test must be accomplished when a domiciled entity receives a service rendered by any of its related parties. Such test is considered complied when the rendered service provides economic or commercial value to the recipient of the service, improving or maintaining its commercial position, which occurs if independent parties have satisfied the need for the service. The providers’ cost structure must be proved. If the domiciled entity complies successfully with the benefit requirement test, then the deduction of the cost or expense incurred for the services rendered would be accepted. Low value services must not exceed the margin of 5%.

1.1.6. Thin capitalization.

Interest derived from loans entered into between related parties will not be regarded as deductible expenses for tax purposes whenever the loan exceeds three times the net equity of the borrower (debt-equity ratio 3:1). Thin-cap rules are also applied in the context of local financing among related parties that are resident or established in Peru.

Pursuant to the recent changes to the PITL, the thin capitalization rule will be applicable to all loans (related or unrelated debt). The new thin cap rule will apply for loans entered or renewed as of September 13, 2018, until December 31, 2020. The thin capitalization rule, will not apply to: a. Insurance and Banking companies. b. Taxpayers whose net income is equal to or less than 2500 tax units (approximately USD 3.1 MM). c. Taxpayers who develop public infrastructure projects, public services, services related to public services, applied investigation and/or technological innovation through Public-Private Entrepreneurship Associations. d. Interest arising from loans required to finance the activities mentioned in the previous point. e. Indebtedness arising from the issuance of debt securities, subject to certain requirements.

3. The Peruvian recipient of the service shall have a report issued by an auditors’ company of international prestige certifying that “technical assistance” has been effectively provided, in case the retribution of the service is above 140 UIT.

Additionally, a limitation on interest deduction applicable as of January 1, 2021, has been established. Such limit will be 30% of the company's EBITDA for related and unrelated debt. For purposes of this new rule, EBITDA is defined as the net income after setting off net operating losses, plus net interest, depreciation and amortization. Non-deductible interest exceeding the aforementioned limit may be carried forward to the following 4 years

1.1.7. Tax Losses Carry-forward / Carry-back.

Carry-back losses are not allowed under Peruvian tax legislation, but only carry forwards. There are two systems: (a) carry forward for four consecutive years, beginning with the following year from the one the loss has arose; or, (b) indefinitely carry forward, but with an annual limit of such loss equivalent to the 50% of the taxable income in each tax year.

1.2. Payment and Filing

1.2.1. Monthly Advance Payments on net income.

1.5% on every month net income of start- up companies and companies with tax losses in the last year. For the other cases, tax contributors should determine the advance payments with a ratio (annual income tax over annual net income) and said resulting amount should be compared to the one resulting from the use of aforementioned percentage. The companies should choose the higher amount as the payable advance payment.

1.2.2. Annual Tax return and payment.

During the first three months of each next calendar year.

1.3. Penalties.

Monthly lateness interest rate is of 1.2 %, and penalties may range from 5% up to 100% of the corresponding tax liability.

1.4. Cross-border Transactions

1.5.1. Withholding Taxes.

Peruvian companies that pay or accrued Peruvian sourced income to nonresident individuals or entities must withhold the respective Income Tax, which rate depends on the type of income.

Income	Company	Individual
Interest Loans	4.99 %	N/A
Preferential Interest (up to Libor + 7)	4.99%	30%
Non Preferential Interest	30%	30%
Dividends and other profits distribution	5%	5 %
Gains of Transfer of Real State	30%	30%

Capital Gains - sale of shares - Lima Stock Market: - Others:	5% 30%	5% 30%
Royalties	30%	30%
Technical Assistance within or abroad Peru -If certain requirements are met[3]	30 % 15%	24% N/A
Digital Services within or abroad Peru	30 %	30%
General services within Peru	30%	30%
Independent / professional services	N/A	24%
Employment	N/A	30%
Live Shows performed by Artists	15%	15%
Others	30%	30%

1.5.2. Tax Treaties.

See a brief in the highlights section.

1.5.2.1. Regime within the Andean Community.

Decision No. 578 determines the regime to avoid double taxation among Member Countries of Andean Community (Bolivia, Colombia, Peru and Ecuador). This regime is based on the State-of-source taxation principle. Therefore, income which is taxed in one Member Country will be regarded as non-taxable income in the other Member Country.

1.5.2.3. Stability Agreements.

Companies and Investors may enter into Tax and Legal stability agreements with the Government provided they comply with minimum requirements. The stability regime guarantees for at least a 10 years period the following conditions: (i) application of a permanent rate of the Income Tax Regime that would be settled at the beginning of the agreement; (ii) no exchange controls; (iii) non discrimination; (iv) application of custom duties in force at the time the agreement is settled; and, (v) setting disputes in national and international arbitration tribunals.

1.6. Related Taxes

1.6.1. Temporal Net Assets Tax (TNAT):

A 0.4% tax applies of the net assets set forth in the company balance sheet as of December 31 of the

prior year, provided it exceeds S/. 1 000 000.00 (one million Peruvian Soles), or approximately US$ 340 000 (three hundred forty thousand Dollars). It is to be noted that the tax works as a Minimum Income Tax, because the amount paid by the company is creditable to offset its Income Tax and the excess may be reimbursed by the Tax Administration. Companies at a pre-operative stage are no subject to TNAT.

1.6.2. Financial Transactions Tax.

A 0.005% tax applies to the value of most of financial transactions such as: bank accounts credits or debits, certified checks, bank certificates, travel checks, wire transfers, payment orders, credit cards, etc. Payments over S/. 3 500 or US$ 1 000 shall be made through financial transactions, in order to be deductable for Income Tax purposes.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.2.1. Tax Rates.

The General SaleTax (known as IGV) is a value added tax. The tax rate is 18%.

2.1.2. Taxable Transactions.

The following transactions are subject to IGV: (i) import and sale of goods within the country; (ii) services rendered within Peru; (iii) services rendered by non-resident economically used by a resident; (iv) construction contracts; and, (v) the first sale of real estate property by the constructor. There are exempted goods and services such as basic goods, agriculture and fishery goods, individual professional services, financial services, passenger transport.

2.1.3. Debit/credit system.

IGV paid on purchases of goods and services (input IGV) can be deducted from IGV charged on taxable transactions (output IGV). The output IGV which is not offset in certain month can be carried forward without limitation; but as a general rule it cannot be reimbursed in cash by the Tax Administration.

2.1.4. Tax base - consideration.

Everything received as retribution for the supply of goods or the provision of services will be regarded as the taxable base for IGV purposes.

2.1.5. Payment and Filing.

Tax must be self-assessed on a monthly basis.

2.1.6. Zero-rated goods and services.

Exports of goods and services are taxed at zero-rated. IGV paid on purchases to produce goods to be exported is eligible to be recovered from: (i) output IGV; (ii) Income Tax; (iii) other tax debts; and/or,

(iv) cash or check refund from the Tax Administration.

2.2. Early Recovery System.

Companies on a preoperative stage may qualify to an Early IGV Recovery System. In order to be entitled to this system, the companies: (i) shall enter into an investment agreement with the Peruvian government for projects of a minimum invest cost of US$ 5M; and, (ii) must have not less than two years of preoperative stage.

3. OTHER TAXES

3.1. Real Estate Property Tax.

Local Authorities require owners to pay a tax up to 1% on their real estate property within their jurisdiction. Rates depend on the property value 0.2%, 0.6% and 1%.

3.2. Motor Vehicular Property Tax.

Motor vehicles are subject to a tax of 1% on the value of the vehicle. This tax will be imposed only for the first three years after the registration of the vehicle into the National Public Registry.

3.3. Real Estate Transfer Tax.

Sale of real estate is known as Alcabala Tax and it is subject to a tax of 3%. The taxable base is the transfer value, which cannot be less than the taxable value (autovalúo) of the property. The first 10 tax units are exempted. For the year 2019, the Tax Unit rises to S/. 4 200.00 (four thousand and two hundred Peruvian Soles). The Alcabala tax must be paid by the purchaser within the calendar month following the month in which the transference takes place.

4.CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties.

Ad Valorem Custom Duties are levied on the customs value of the imported goods with rates of 0% (i.e. capital goods), 6% (i.e. mobile phones, agriculture, fishery goods, raw materials, chemicals etc.) and 11% (i.e. fabrics, footwear, fruits, dairy products etc.). Some products such as sugar, milk and corn are subject to a plus value fix by the Government.

4.2. Customs Valuation.

For customs duties the value of imported goods is determined according to WTO´s Customs Valuation Agreement methods, and other regulations approved by the Customs Administration for such purpose.

4.3. Temporary Importation Regimes.

Peruvian regulations allow the entrance of goods duty free for a limited period of time for: (i) the production of exportation goods; (ii) warehouse; or, (iii) use of machinery in industry, mining or other activities.

4.4. Drawback.

A drawback regime applies to producer/exporter companies to recover the import duties paid for the importation of materials to produce the exported goods. The restitution tax applicable is 4 %.

4.5. Restricted or Prohibited Goods:

Restricted or Prohibited Goods: Some goods that are imported into the country may be considered by legal mandate to be restricted or prohibited, for reasons of national security or public health, among others reasons. Restricted goods are those that require special authorizations, licenses, permits, etc., from pertinent institutions, depending on the goods to be imported, in order to be imported to the country.

5.PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Retirement Contributions.

The employee might choose between a private pension fund (AFP) or a public pension Fund (SNP). In the first case, the employee must contribute 13.22% approximately of their salaries, depending on the respective AFP. In the SNP, employees must contribute a 13%. The employer is responsible for withholding the employee's corresponding contribution in a monthly basis.

5.2. Health Contributions.

9% of the total payroll shall be paid by the employer to the National Health System (ESSALUD). In addition, employers might acquire further coverage with private health care companies (EPS). In this case, employers can use part of the fees paid to the private system as a credit against the contribution, but not in excess of the 25% of it.

5.3. Labor Risks Insurance System.

The employer must provide an insurance coverage to its employees that carry out activities involved in a significant level of risk.

5.4. Other legal benefits.

During the employment relation, employees are entitled to the following benefits:

- Salary: A minimum monthly payment of approximately US$ 285 (PEN 930).
- Legal Bonuses: Legal bonuses to be paid in July and December, each one equal to one monthly salary.
- Compensation for Time of Services: The employer must deposit in a bank account elected by the employee an amount equal to one monthly salary per year. This amount must be paid on May and November.
- Family Allowance: To be paid monthly to employees with children under 18 years old, it is

equal to approximately US$ 25.8 (10% of the minimum legal salary).

- Profit-Sharing: Employees are entitled to share in the profits of the company through the distribution of a percentage of the annual income before taxes. The distribution percentage varies from 5% to 10% depending on companies activities.
- Vacation Leave: Employees who work more than 4 hours per day for the same employer are entitled to 30 calendar days of paid vacation leave for each full year of service.

Under the "Integral remuneration Peruvian regulations" it is possible to negotiate an integrate amount remuneration, which substitute all mentioned benefits.

5.5. Employment contracts.

Employment contracts can be entered for an indefinite term, fixed term and part-time work. Fixed term contracts may be entered into whenever it is required by the market needs or because of the increase of the production activities of the company, as well as whenever it s required by the temporary or occasional nature of the services to be provided, or work to be performed. These contracts must be made in writing and submitted to the Administrative Labor Authority.

Foreign personnel contracts are limited to the 20% of the total number of workers and the remuneration must not exceed 30% of the cost of the total payroll. These contracts must be entered into in writing and for a fixed term. There are specific cases in which the foreign worker is not considered in the aforementioned limitations, among others, this is the case of specialized professional or technical staff, and directors and managers of a new business or in the case of business reorganization.

5.6. Labor Stability.

Dismissals in Peru can only be due to justify causes, expressly stated in the law. If the employer performs an unjustified dismissal the employee can file a claim in order to be hired again in the company or to obtain an indemnity payment, which in case of employees without a fixed term equals to one and a half remuneration for each year of services or in case of employees under a fixed term contract, said indemnity payment could go up to to one and a half remuneration for each month of services until de expiring date of the contract. In any case said indemnity payments could not exceed twelve remunerations.

URUGUAY CHAPTER
FERRERE

URUGUAY

FERRERE

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	25%
Capital Gains Tax:	25%
Branch Profits Tax:	25%
Dividends Tax:	0
Withholding Taxes on:	
- Dividends	7%
- Interest:	12% / 25%
- Royalties:	12% / 25%
- Technical Assistance:	12% / 25%
- Technical Services:	12% / 25%
- Other Services:	12% / 25%
Tax losses carry-forward term:	5 years
Tax losses carry-back term:	0 years
Transfer Pricing Rules:	OECD like
Tax-free Reorganizations:	Depends on chosen way[1]
VAT on Sales:	22%
VAT on Services:	22%
VAT on Imports:	22%
Custom Duties:	0-35%
Net-worth (Assets) Tax:	1.5%
Local Level Tax Rates:	
Tax on Industrial Activities:	National Tax Level
Tax on Commercial Activities:	National Tax Level
Tax on Service Activities:	National Tax Level

1. Please refer to 1.1.9.

Real Estate Tax:	Enforced by the Municipal Government
Taxes on Other Property:	N/A
Document Registration Tax:	N/A
Excise Taxes:	Depending on the goods

Treaty Taxation:

	Items of Income			
Countries	**Interest**	**Dividends**	**Royalties**	**Tech.Services**
Germany	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Hungary	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 10%
Spain	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	No withholding
Mexico	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	No withholding
Switzerland	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Ecuador	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 15%	No withholding
Liechtenstein	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Malta	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Portugal	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Romania	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Finland	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Korea	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
India	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	Shall not exceed 10%
United Arab Emirates	Shall not exceed 10%	Shall not exceed 7%	Shall not exceed 10%	Shall not exceed 10%
United Kingdom	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Vietnam	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%
Belgium	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Luxemburg	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Singapore	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Chile	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 10%	Shall not exceed 10%

OVERVIEW

1. INCOME TAX

1.1. General Aspects

Uruguay collects taxes following the principle source: investments located, and activities performed outside Uruguayan territory are not subject to taxation. However, since 1st January 2011 there is an extension of the source principle and some investments located outside Uruguayan territory from Uruguayan fiscal residents are subject to taxation.

1.1.1. Corporate Income Tax Rate.

Annual tax at a rate of 25% is imposed on income from industrial or commercial activities of Uruguayan source as well as on income from agricultural activities.

1.1.2. Taxable Base.

Tax is levied on profit or net income of any economic activity of any nature (Economic Activities Income Tax - Spanish acronym: IRAE). Income resulting from activities performed, assets situated at or rights economically exercised within the Republic shall be considered as coming from a Uruguayan source, regardless of the nationality, domicile or residence of parties in the transactions and of the place where the legal business takes place. The taxable amount is determined by the net income, estimated according to fiscal regulations, which in practice is usually similar to accounting standards with the addition of specific limitations as to the deduction of certain expenses.

We illustrate below this assessment process for further clarification:

[+] Net income
[–] Tax-exempt Income (Income not included, income from foreign source, Tax exempt Income).
[+] Expenses for obtaining tax exempt income
[+/–] Inflation adjustment[2]
[–] Tax losses from previous years
[–] Savings Channeling[3]
[–] Tax exemption for Investments[4]
[=] Net taxable income
[*] 25% Corporate Tax
[=] Income Tax Charge Payable

1.1.3. Minimum Taxable Income.

Income obtained by tax payers whose annual income does not exceed a certain minimum amount established by the Executive Branch will be tax exempt. Notwithstanding that, the Executive Branch may establish a minimum number of dependants or any other indexes for determining the existence of a reduced economic capacity that may justify such exemption.

These taxpayers will pay taxes on a notional basis.
The following are not included in the abovementioned exemption:

a. Professional land cargo carriers
b. Those whose income arises from agricultural activities.
c. Those who have decided to be levied by the Economic Activities Income Tax.
d. Those whose income does not come from business operations.

1.1.4. Deductions.

As a general rule, all expenses necessary to obtain and preserve taxable income are deductible in determining net income, provided they are duly documented.

2 Inflation adjustment is calculated on the basis of balance sheets at the beginning of the financial year.

3 The Executive Power may determine that physical or legal persons conducting industrial activities deemed of national interest and that make capital contributions may deduct some amount of their investments from their taxes (within a maximum amount established by Law).

4 A maximum amount of 40% of income destined for acquiring certain assets or perform some improvements from the investment made during the financial year is tax exempt.

In application of the so-called "padlock rule", the only expenses that can be deducted are those that constitute for the other party (resident or non-resident), income levied by business or personal income tax, and in the proportion resulting from applying to the expense the ratio between the maximum rate applicable to income of the other party and 25% corresponding to the IRAE rate.

Certain expenses are not subject to this proportionality rule.

The following items are expressly not allowed as expense deductions:

- Expenses for obtaining tax exempt income.
- Personal expenses of owners, partners, shareholders or relatives.
- Losses stemming from illegal operations.
- Penalties imposed because of fiscal infringements.
- Amounts drawn by stockholders that may be deemed profit distributions.
- Books profits credited to capital or reserves.
- Income tax, specific additional Income tax on large scale mining and Net Worth tax provisions.
- Goodwill amortization.
- The amounts paid in respect of leases, subleases and credit agreements for use of properties; if it has not been provided for in the respective contract that the corresponding amounts agreed in money are to be accredited into an account in a financial intermediary institution or it has not been made effective through this modality.
- The amounts paid for freight and fees for services provided by free-lance professionals if not made effective by means of electronic payment or through accreditation into an account in financial intermediaries' institutions or by electronic money instrument.

1.1.5. Depreciation.

The straight line method must be applied. However, an alternative method may be authorized by the Tax authorities.

Acquired intangible assets, such as trademarks, patents and copyrights are amortizable on a straight-line basis over five years, if they represent an actual investment and the sellers are identified. Capital goods other than real estate are depreciated on a straight-line basis considering the presumed remaining useful life of such assets. Rates of write-offs allowed are 2% per year for urban and suburban properties, 3% per year for rural properties and up to 10% per year for new vehicles.

1.1.6. Transfer Pricing.

Uruguay has developed transfer pricing rules in Law number 18,083.
Transfer pricing rules are applicable to: i) transactions with related companies, ii) transactions with third parties located in tax havens. The Executive Branch, per Decree Nº 56/2009 has issued the list of jurisdictions considered tax havens for the purpose of applying transfer pricing rules.

While some aspects differ from the OECD transfer pricing directives, the rules generally reflect those guidelines, which can be used as a reference and relevant precedent when interpreting the Uruguayan rules. The rules adopt the five methods suggested by the OECD guidelines:

- The comparable uncontrolled price method.
- The resale price method.
- The cost-plus method.

- The profit-split method.
- The transactional net margin method.

The regulations establish no preferential order for applying the methods, stating only that the "most appropriate" method should be chosen. The analysis can include the situation of the local company as well as that of the foreign entity. Also, for some commodity import and export transactions, the transfer price must be adjusted to the quotation for the commodity on an internationally recognized transparent market at the date of execution of the contract, provided the adjustment generates a higher taxable amount for income tax purposes.

In addition, Law number 19,484 establishes an annual obligation for the IRAE taxpayers, which are part of a multinational group with a large economic dimension, to submit a "Master Report " and a "Country-by-Country Report ".

1.1.7. Inflation Adjustments.

This is used as a fiscal adjustment in the computation of the taxable base. It is calculated based on the the balance sheet at the beginning of the financial year in order to show the currency changes, calculated by using the increase/decrease in the wholesalers´ price index between the previous year and the current year.

This calculation is made by applying the variation percentage of the price index between the months from the ending of the previous financial year to the current month that is being calculated regarding the differences between:

a. The value of the assets adjusted for tax purposes less the assets affected for obtaining non-taxable income, fixed assets and livestock.
b. The amount of the liabilities at the beginning of the financial year composed of debts of sums of money or in kind, reserves and temporary liabilities.

In the event of such result being positive, tax losses will be calculated by inflation, otherwise, benefits will be calculated for the same concept.
This adjustment will only be made in those years in which the percentage change in the Consumer Price Index (CPI) accumulated in the thirty-six months prior to the closing date exceeds 100%.

1.1.8. Tax Losses Carry-forward / Carry-back.

A Uruguayan taxpayer can carry-forward the tax losses which can be deducted as an expense from gross taxable income of the following five financial years (refer to 1.1.2). There is no carry-back possibility. The deduction for tax losses is limited to 50% of the net taxable income obtained after making all other adjustments for net income.

Therefore, the taxable income will depurate/set apart the tax losses from previous years already computed. Tax losses will be adjusted for each year, using the wholesalers' index price between the moment when the losses occurred and the date of the fiscal year we are calculating. In short, a tax loss deduction cannot generate further tax losses.

Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations. In the case of mergers, sometimes tax losses are transferable to the new or surviving entity under some conditions.

Please note, that in all cases, inflation adjustments are applicable to update tax loss amounts and that the deduction is computed on the adjusted amounts.

1.1.9. Tax-Free Reorganizations.

Acquisition or merger operations may trigger income tax (IRAE) and value-added tax, but taxation will depend on the way chosen to carry out such operations. Reorganization of companies (mergers, acquisitions or demergers) can be exempted from Uruguayan income tax only by decree of the Uruguayan government as established in Law 16,906.

In case of selling a corporation, for the seller the excess of the price received, or the value of the shares received in the case of a merger, over the fiscal value of the net assets transferred (assets less liabilities) is treated as taxable income. For the buyer this excess is treated as goodwill, which cannot be amortized, not even in the case of a merger.

An acquisition or a merger can always be affected in a more tax effective manner by transferring the shares or the capital quotas. In case of an acquisition by transfer of assets, or assets and liabilities, Uruguayan commercial law provides for certain procedures to protect the buyer from the risk of contingent liabilities. In case of an exchange of shares or capital quotas, this protection obviously cannot be obtained.

In the case of a branch of a foreign company, since it is not a Uruguayan entity, the transfer of the branch can only be applied by transferring its assets and liabilities.

In case of selling shares of a company, if the seller is an individual or a non resident entity such sale will be subject to a 12% withholding tax or 25% if the transfer is made by entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The General Revenue Service has published the list of jurisdictions that meet these conditions.

If there is an acquisition in cash of assets, the buyer cannot change the fiscal value or the valuation and depreciation criteria for tax purposes. For the seller, the price received in excess of the fiscal value for the assets transferred is considered gross taxable income. For the buyer, the excess is treated as goodwill, as explained before.

1.1.10. Leasing Tax Treatment.

Operating leases are treated as a sale of goods or as a lease depending upon the terms of the agreement (i.e. purchase option).

Under some conditions, leasing operations performed by financial institutions are VAT exempt. Likewise, it has been provided that financial entities granting goods under the leasing regime have a VAT credit included in the procurement of goods which are the object of tax exempt contracts.

1.1.11. Investment Law Nº 16,906.

This law grants two types of tax benefits:

General benefits for investments

There is no need to file any investment project to obtain these benefits, since they apply generally and automatically. They are applicable to all payers of Economic Activities Income Tax (IRAE) which carry out whether industrial, manufacturing or extractive activities.

General benefits consist of exemption from the Net Worth Tax, Value Added Tax (VAT) and Excise tax (IMESI) when importing goods or data-processing equipment and the refund of VAT included on local purchases of goods. Likewise, the government may approve exemptions from net worth tax on assets that involve improvements related to industrial activities, brands, patents and any other goods that contribute to technological enhancement.

Other benefits include an accelerated amortization schedule for fixed assets or the possibility to reduce employer Social Security payments for manufacturing industry.

Furthermore, Law No. 18,083 provides for an Exemption for Investments granted to all taxpayers at a maximum rate of 40% (from IRAE) upon the investments carried out during the financial year for obtaining:

a. Machines and premises for commercial, industrial and services activities (excluding financial activities and leasing of real properties).
b. Farming Machines.
c. Fixed improvements in farming sector.
d. Utility vehicles.
e. Personal property used for equipping and re-equipping hotels, motels and tourist restaurants.
f. Capital assets for improving the services rendered to tourists.
g. Equipment for electronic data processing and communications.
h. Machines, premises and equipment for the productive innovation and specialization.
i. Phosphate fertilizers (only for livestock producers).

The exemption provided above comprises exclusively taxpayers whose incomes within the previous year of the investment execution, not exceed 10 million indexed units. This limitation does not extend to professional charge transport companies.

Benefits for specific investments, Law No. 16,906

These benefits may be granted to industrial, agricultural and services-related activities, provided the investment project to be carried out is approved first.

The tax benefits that the Executive Branch may grant through this procedure are the following:

- Exemption of fees, other taxes (VAT) and duties on importation of machinery and capital assets required for the project approved, in the event the same are certified as not competitive with Uruguayan national industry.
- Exemption of income tax (depending on the investment sum and the filed project).
- Net Worth Tax: movable property included in the Project is exempted during its entire useful life. Also, real property (construction or repair) located in Montevideo is exempted for 8 years and real property located in the interior of the country is exempted for 10 years. This does not include the land.
- Reimbursement of the Value Added Tax included in the acquisition of services exclusively used in construction works.

Projects of great economic significance (investments of over us$ 730,000.000 approximately) will receive a special treatment.

1.1.12. Notional dividends

Until 2016, the profits shareholders receive on their stakes in companies were taxed at 7% upon formal approval of their distribution by a shareholders meeting.

According to Law N° 19437, profits generated as of 2007 are deemed to have been distributed upon lapsing of three years from their generation and taxed at a 7% rate. The only exception is if they are reinvested in line with the conditions set forth in the rules.

1.2. Payment and Filing of Tax Returns.

Nationwide taxes are administrated by the General Tax Office (DGI).

All information furnished by taxpayers to the Tax authorities or obtained by them during of their investigations, is required by law to be treated as secret and cannot be divulged under any circumstances, except before the courts dealing with criminal or family cases or special property rental cases, and only if the information required is considered essential.

The tax system operates on the basis of definitive self-assessment, which may be audited by the Tax authorities. The basis for assessment is the financial year of the business, provided proper accounting records are kept. Otherwise, the financial year is deemed to be the same as the calendar year. However, Tax authorities may establish financial year-closings in periods other than the calendar year. The same basis is applicable for the deduction of expenses.

For any given taxable year the corresponding income tax return must be filed and paid within 4 months after the closing date, according to the filing and payment dates set out by the tax authorities in the corresponding schedules (for instance if the closing date is January, then the payment and filing should be made on May).

The filing schedule is issued yearly by the tax authorities, in the schedule the paying and filing date should be the day determined according to the last figure of the Tax Sole Register number (Spanish acronym: RUT for "Registro Único Tributario").

Filing and payment dates are generally similar year after year.
Taxpayers must make advance payments monthly and pay the balance of these tax liabilities when filing their annual tax returns.

Withholding income tax on royalties, technical assistance fees, profits or dividends is due within the month following the payment to the foreign recipient's account; in general, there exist withholding agents determined by Law for these cases.

1.3. Penalties on Unpaid Taxes

Unpaid taxes are subject to penalty of 5% on the first 5 days, 10% on the 3 months after the payment date and 20% in all other cases, calculated over the unpaid tax amount. This penalty is subject to daily interests that shall be assessed at the official fixed rate.
Other penalties apply for non-filing or inaccurate or out of term filing; these penalties are not calcu-

lated depending on the amount on the taxes to be paid; but, it is a fixed amount established by the tax authorities, this amount is around US$ 13 (thirteen United Stated Dollars, amount fixed for 2019)

Tax liabilities related to any financial year prescribe five calendar years after the year of the closing date. This period is extended to ten calendar years in case the corresponding tax return was not filed to the corresponding Tax authorities or in case of fraud.

1.4. Dividends Tax / Branch Profits Tax.

Local branches of foreign companies are subject to income tax at the rate of 25% on annual net profits and may also be subject to withholding tax on profits when remitted or credited to the head office.

Local branches of foreign companies are also subject to Net Worth tax, which is levied on assets at year-end less certain debts. The tax rate is of 1.5%.

In short, local branches of foreign companies are ruled by the same tax regulations as the Uruguayan Corporations.

1.5. Cross-border Payments

1.5,1, Withholding Taxes (Income Tax)

Non-resident Income Tax (IRNR) is levied on Uruguayan-source income obtained by non-residents in Uruguay, and the services provided by the latter to Uruguayan companies.
Uruguayan source income is that derived from activities carried out, goods located or rights economically used in Uruguay, regardless of nationality, domicile or residence of the parties involved in the transactions or the place where these take place

Non-residents are individuals: (i) sojourning less than 183 days in Uruguay during the course of the year or (ii) who have Uruguay as his/her principal base of activities or interests (for example, when most of his/her income is Uruguayan sourced or his/her family – spouse and children - reside in Uruguay), foreign companies operating in Uruguay without a permanent establishment are considered non-resident.

1.5.1.1.Dividends.

Dividends paid abroad by Uruguayan companies are subject to a tax withholding of 7% applicable over income tax by IRAE at the company's level; the remitting company will be the withholding agent of said tax.

1.5.1.2. Royalties.

Royalty payments are subject to a 12% withholding tax or 25% for royalties paid to entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The DGI has published the list of jurisdictions that meet these conditions.

Income arisen from leasing, subleasing, assignment of use or possession rights upon tangible personal property or intangible property, such as goodwill, trademarks, patents, industrial models, copyri-

ghts, federative sportsmen rights, royalties and similar rights, is included within this classification.

1.5.1.3. Leases / Equity Growth

This income includes leases, subleases, or assignment of the right to use or possess real properties located in Uruguay. The applicable rate is 12% or 25% for entities incorporated or located in no-tax or low-tax jurisdictions.

Income arisen from equity growths are those resulting from transferring, promises to transfer, assignment of promises to transfer, assignment of inheritance rights of tangible and intangible assets. This income is levied at a 12% rate or 25% for entities incorporated or located in no-tax or low-tax jurisdictions.

An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The DGI has published the list of jurisdictions that meet these conditions.

1.5.1.4. Services and Technical Assistance

Payments of fees related to industrial and mechanical processes are subject to a 12% withholding tax, or 25% for entities incorporated or located in no-tax or low-tax jurisdictions. or 25% for entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The DGI has published the list of jurisdictions that meet these conditions.

Income obtained and related to technical services granted in a foreign country shall be considered of Uruguayan source only if these services are related to the obtaining of income included within the IRAE.

Therefore, services and technical assistance rendered by non-residents individuals will be taxed at a rate of 12% or 25%, which shall be withheld by the entities subject to the Economic Activities Income Tax who pay for the services and technical assistance rendered by non-residents. The withholding may be eliminated or reduced to 0.6% (or to 1.25% in the case of no tax or low tax jurisdictions) if the entity that receives the services has no or less than 10% income subject to IRAE.

1.5.1.5. Earnings of local branches to their parent companies:

Same conditions as in dividends are applied (25% of the branch's local income tax and 7% on distribution).

1.5.1.6. Interest Payments:

These incomes are considered capital returns, including the income obtained from monies or in kind coming from deposits, loans and in general any capital or credit collocation of any kind and nature. The general tax rate for interest payments is 12% (25% withholding applicable to interest payments made to entities incorporated or located in no tax or low tax jurisdictions).

Interests from loans granted to Uruguayan companies, whose assets affected for acquiring tax-exempt income exceed 90% of the total of assets are tax exempt.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

Value Added Tax will be levied upon the internal circulation of goods, the rendering of services within national territory, the importation of goods, and the increase of value arisen from building on real property.
Exportation of goods and services is subject to a "zero rate" system to allow for recovery of VAT included in the acquisition of goods and services directly or indirectly applied to the goods and services to be exported. Any VAT credit in favor of the exporter can be returned by credit certificates or assigned to payment of other taxes payable by the exporter.

Executive Branch regulations establish a restrictive list of services considered as "service exports" and thus included in the "zero rate" system. By way of example, the list includes:
Consultancy services provided in relation with activities undertaken abroad.

- Services provided abroad for designing or developing software to be used abroad.
- Assignment of software use and exploitation rights in favor of foreign individuals.
- Services provided abroad by International Call Centers.
- Quality control services, advisory services, commission agent activities provided exclusively to persons abroad relating to export of goods and services.
- International freight for the export of goods, ship maintenance or provisioning; insurance and reinsurance for exported or imported goods, freight for transportation of goods abroad.
- Data processing services if data corresponds to activities carried out, goods located or rights used abroad insofar as the processed product is enjoyed exclusively abroad.
- Services which must be provided exclusively within the free trade zone.

2.2. Tax Rates.

VAT is the principal source of state revenue in Uruguay. The standard VAT rate is 22%. However, a reduced rate of 10% (minimum rate) is imposed on sales of specific products and services (for instance, this minimum rate levied certain items of the family basket, health services, medications, travel packages and the provision of hotel services).

Law No. 18,083 reduced between 2 and 4 points of VAT applicable to purchases of goods and services to final clients provided such goods or services are paid through credit or debit cards, or other similar instruments.

2.3. Individuals and legal entities subject to VAT.

All business entities that are Income tax payers are also VAT payers. VAT also applies to professionals, self-employed individuals or associations of individuals rendering professional services. Legal entities that carry out taxable activities will be also included, although they do not have permanent establishments.

2.4. Taxable Transactions.

This tax is levied on imports, sales of goods, and the rendering of services in Uruguay.

The VAT liability arises at the time of delivering goods, rendering services and delivering or introducing goods through Uruguayan borders.

2.5. Taxable Base.

This tax is calculated on net amounts invoiced for sales and services, and must be specified in the invoice.

The tax paid to suppliers regarding goods and services purchased which are directly or indirectly included in the cost of goods sold or services rendered by the taxpayer (provided it is clearly specified in the purchase invoice), is compensated with the tax invoiced by the taxpayer on their own sales and services.

2.6. Creditable VAT.

VAT paid on imports, local purchases of goods, raw materials and services grants tax credit, provided that imports and purchases are supported by the vouchers and invoices accepted by the Tax Law.

In the case of Zero-rated Exports, the VAT is not computed on the net amounts invoiced, thus allowing for the refund of the VAT included in the purchase of goods or services when these are part of the cost of exports.

In the case of tax exempt goods or services, the tax invoiced for goods or services purchased must be computed as a cost factor of the exempt goods and/or services.

2.7. Selected VAT Benefits

The following transactions are VAT exempted, among others:

- Interest on Public and private bonds, securities and deposits.
- Rental of real state
- Banking operations except for interest from loans to individuals
- Services rendered by hotels in low seasons related to lodging
- Personal remunerations related to cultural events performed by resident artists.
- Foreign currency, precious metals
- Agricultural machinery and accessories
- Fuel derived from oil (except from fueloil and gasoil)
- Milk and goods to be used on agricultural production and its row materials.
- Books, newspapers, magazines and educational material.
- Water supply for family consumption.
- Mutton, pork, white meat (bird and fish), fruits, vegetables, and horticultural products in their natural state.
- Firewood.

2.8. Payment and Filing.

The DGI administrates the VAT. Tax returns are filed monthly (semiannually for smaller business) by the end of the following month. If the tax return shows a credit, it will have to be carried forward (without any inflation adjustment) to the following months until VAT offsets itself on sales.

In the case of exporters and agricultural income taxpayers, the credit certificates issued by Tax authorities regarding the paid VAT on purchases can be used to compensate other tax liabilities or be endorsed to the exporter as a mean of payment.

These certificates can be requested monthly by exporters and annually by farming income taxpayers. They are generally issued within two or three months after the application date.

3. OTHER TAXES

3.1 Net-worth Tax

This is a national level tax assessed at a flat rate of 1.5% per year. This tax rate arises from the difference between taxable assets located in Uruguay and deductible fiscal liabilities. In the case of banks or financial institutions the rate is 2.8% calculated over the net equity. The applicable rate for liabilities and debentures, saving documents and any other similar bearer documents will be of 3.5%.

Individuals will also be taxpayers of this tax (please, see item 3.5 Taxation on Individuals).

The following liabilities are deductible from the tax computation: an average of the value of the loans from local banks at the end of each month, debts owed to suppliers of goods and services (except for loans, loans, guarantees and balances on the imports), debts from taxes and rendering to non-governmental public entities, debts issued as from the effective date of the law documented in liabilities, debentures and any other securities if they were issued by public subscription and are quoted at the Stock Exchange, and any particular conditions and debts incurred with foreign financial institutions for the financing of long-term productive projects.

Assets located abroad are not taxable.

This tax must be paid within 120 days after the closing balance sheet date and monthly payments of 11% of the tax paid in the last fiscal year must be made.

3.2. Trading companies ' tax

For offshore trading activities, it is also possible to use regular Uruguayan corporations under a regime that allows them to compute their Uruguayan source taxable income on a notional basis.

Under this regime, the taxable income of trading companies is deemed to be equal to 3% of their gross margin (i.e. sales less cost of goods sold). This taxable income is subject to the regular Uruguayan 25% corporate tax rate. Dividends paid by these trading companies are subject to the general withholding tax (only for the part considered as Uruguayan income –3%-).

Uruguayan income source is defined at 3% of the difference between the selling price and the purchase price of the goods or services in the following cases:

- Operations involving the purchase and sale of goods that are not physically transferred through Uruguay
- Intermediation in the rendering of services provided these are rendered and economically used outside Uruguay.

3.3. Corporations Control Tax (ICOSA)

This tax is mandatory for all Uruguayan domestic corporations and for foreign companies redomiciled in Uruguay, and is levied on the minimum capital established by the Government to incorporate a domestic company.

ICOSA is applied:

i. upon incorporation of the corporation, at a rate of 1.5% on a base established by law (the tax is approximately US$ 1,090), and
ii. at the close of each corporate year at a rate of 0.75% on a base established by law (the tax is approximately US$545)

Corporations can deduct the amount paid for the Corporate Oversight Tax when computing their Net Worth Tax.

This tax is not levied on free zone corporations, pension fund administrators, -or foreign entity branches.

3.4. Taxation on individuals

Before Law No. 18,083 there was a partial system of personal income tax that was withheld by employers at the time of paying their duties. This applied to any dependent individual or employee, but individuals with a non-dependent relationship were not taxed.

As from the Tax Reform that entered into force on July 1st 2007, individuals are taxed in two categories of income, pure capital income and labor or personal services income. Although the territorial principle is maintained, since 1st January 2011 there is an extension of the source principle and some investments located outside Uruguayan territory are subject to taxation. Also, Uruguayan residents dependent of local companies must pay income tax over activities performed abroad.

The first category, pure capital income, includes lease, equity growth, interests, royalties and dividends (among others).

The applicable rate of the capital income will be as follows:

Concept	Rate
Interests corresponding to local currency deposits and deposits in pegged units for more than one year.	7%
Interests from liabilities and other debt documents, issued for terms longer than three years by means of public subscription and quoting at the Stock Exchange.	7%
Income of participation certificates issued by financial trusts by public subscription and quoted in a stock exchange on national entities, for terms over three years	7%
Interests corresponding to a one-year term or less constituted in local currency without the adjustment clause	7%
Concept	**Rate**
Dividends or profits paid by Uruguayan commercial companies	7%
Income from copyright of literary, artistic or scientific works	7%
Dividends or profits paid or credited by Corporate Income Tax payers originated in returns from movable capital, arising from deposits, loans and generally in all equity placement or any kind of credit, such as returns that come from non-resident entities and constitute passive income.	12%
Other Income	12%

The second category includes income derived from a dependent activity or non-dependent relationship.

Work incomes are taxed with progressive rates applicable to each income stage. There is a non-taxable minimum for these incomes. The applicable rate goes from 0% to 36%, notwithstanding the advance payments that shall be made during the year.

Furthermore, there exists a deductions system based on progressive rates; the deductible expenses are included in a short restricted list and capped at 10% or 8% depending on the income level.

There is also a net-worth tax levied on assets of individuals, family units and undivided estates that is applied on assets located in the country less certain liabilities and also on nominated bank accounts. Only assets located, placed or economically used in Uruguay are subject to tax.
The rate applicable to IP is annual and progressive from 0.7% to 1,5% according to a scale.

3.5. Excise Tax (Domestic Specific Tax)

This tax levied the first transfer, at any title, made by the manufacturer or the importer of certain goods in the local market, namely vehicles, drinks, tobacco, perfume, cosmetics and fuel.

Also, this tax levied the destination of the taxed goods to the personal usage and the import of such goods by non-taxpayers.
Neither exports nor subsequent transfers are subjected to this taxation. The rates vary by item and are usually set by the government within certain ceilings established by Law.

Rates are applied to the real values or fixed values set by the Executive Branch taking into consideration the consumer's sale price.

4. CUSTOMS REGIME –GENERAL ASPECTS

4.1. Customs Duties

Uruguayan economy is free and open and there are no restrictions on imports and exports, therefore, there is freedom to import all kind of goods[5].

The exchange market is totally free and there are no restrictions of any kind regarding foreign trade transactions.

In terms of customs duties, Uruguay has made a great effort to reduce the tariff levels, something that has advanced with the creation of the Southern Common Market (Mercado Común Del Sur or MERCOSUR). The Treaty of MERCOSUR provides for the free circulation of goods, services and productive factors within the signatory countries (Argentina, Brazil, Paraguay and Uruguay), through the progressive elimination of tariff and non-tariff barriers.

Imports are subject to VAT at the rate of 22%, plus a mandatory VAT advance at a 10% rate. This advance is returned by way of "Credit Certificates".

In addition to import VAT, imports are also subject to a tariff ranging between 4,5% and 8%, from goods coming from MERCOSUR countries.

5 Notwithstanding regulatory requirements.

In case of products coming from outside MERCOSUR, the imposition of the Common External Duty (AEC Spanish acronym, which stands for Arancel Externo Común) established between 0 and 35%, is added to the rest of the rates.

4.2. Taxable Base

As Uruguay is a member of the WTO (World Trade Organization) and having subscribed the Agreement for the Application of Section VII of the GATT, custom valuation rules in Uruguay are those determined by the above -mentioned organisms. Therefore, the value of the goods is established on account of the price paid, if it is not possible, other methods of valuation and corresponding adjustments are applied.

Customs duties are computed on the CIF value of goods. If the importation comes from a country outside MERCOSUR, VAT is computed on the CIF value plus the corresponding Common External Duty.

4.3. Filing and Payment

An import tax return must be filed and the pertinent tax must be paid before the good is nationalized.

4.4. Selected Custom Duties Regimes Available

4.4.1. Ordinary Importation Regime

It applies to all goods that will remain permanently in Uruguayan territory without any use or jurisdictional restrictions. Full payments of customs duties and import VAT are required upon nationalization.

4.4.2. Temporary Importation Regime

The imports of consumables for the exports industry are subject to Temporary Admission Regime, which permits imports without custom duties. The condition is that imported goods must take part directly in the elaboration of the product to be exported.

The only entities that can use this regime are industrial companies or commercial companies registered within the Industrial and Commerce Chamber.

To apply to this regime one of these three conditions must be fulfilled:

1. The product to be imported does not exist in the local market
2. The product to be imported exists in the local market but the price is significantly expensive to produce the final product.
3. The product to be imported exists in the local market at a reasonable price but the productive process takes longer than if the product is imported.

Prior authorization is required and the final products must be exported within a period of 18 months.

Applying to this regime, manufacturing companies may introduce without duties: raw materials, parts, pieces, engines, containers and packing materials, molds, casts and models, semi-elaborated and intermediate products, cattle and farming products and products that are consumed during the productive process, taking part directly in the elaboration of the product to be exported and being in contact with it, but are not incorporated into the final product.

4.4.3. Draw-back regime

There is a DRAW-BACK regime for certain products, which allows the devolution of imports duties, when re-exported, after being industrialized or in the same state.

4.4.4. Exports regime

Regarding exports, Uruguay has a promotion policy through instruments of a diverse nature and reach, all of which satisfactorily fulfill the regulations of the WTO Subsidy Code.

The basic principle is freedom of exports with no impositions or bans. Exceptionally, the exports of certain derivatives from the cattle and farming sector are subject to taxes and payments destined to controller organizations, the incidence of which is not significant.

With regards to VAT, there is a special regime through which exports are exempt.

There is also a regime of refund of indirect taxes, by which the exporter may retrieve the internal duties that are included in the cost of the exported product. The amount to be retrieved is determined as a percentage of its FOB value, set by the Executive Power.

4.4.5. Free Trade Zone Regime

Companies operating in the Uruguayan free zones are exempt from all taxes "created or to be created" according to the provisions of Law 15,921 (Act of Free Trade Zones). In addition, products, raw materials and components may be brought into the free zones free from all customs duties provided that those items are used by the companies within such zones or are subsequently re-exported, either in their original form or after having been transformed at the free zones. They are also exempt from any type of withholding. Moreover, Intellectual Property rights and other intangible assets income are also exempt, if they stem from research and development activities performed within the Free Trade Zone.

Pursuant to the dispositions in force, the allowed activities for the Free Trade Zone Companies are:

- Trading of goods, deposit, storage, improvement and transformation within the place of the free trade zone.
- Rendering of several services from the free trade zones to other users of the free trade zone, to abroad or to IRAE tax payers.
- Rendering of telephonic or informatics' services from the free trade zones to the non-free zone of the Uruguayan territory.
- Ancillary activities, with a prior authorization of the Executive Branch.

Some Free Trade Zone Users[6] can develop complementary activities outside of the Free Trade Zone, in certain administrative offices specifically supplied to do it. Public relationships, storage of auxiliary documents, billing and collection of goods and services are considered "complementary activities". Sales and services transactions will not be considered as complementary activities under any circumstances.

The normal social contribution and payroll taxes are imposed on all employees working for companies

6 Free Trade Zone Users located outside of a the Metropolitan Area, a geographic zone within a radius of 40 kilometers from Montevideo.

that operate within the free zones. An exception to this rule is that expatriate employees may elect not to be subject to the Uruguayan social security system. However, the number of expatriates that companies operating in the Uruguayan free zones can employ is usually limited to 25% of their total number of employees. The Executive Branch is empowered to authorize an alternative limit of up to 50% of the total number of employees, considering the particularities of the activities of the company.

In addition to the tax benefits described above, the Uruguayan free zones offer other significant benefits in areas, such as, logistics, communications, and availability of skilled workforce. For these reasons, they have become one of the preferred locations where multinationals can set up different types of operations to serve their affiliates and/or customers throughout Latin America.

The types of operations that are conducted in the Free Zones include:

- in the case of multinationals that are setting up so-called entrepreneur or principal type structures for the Latin American region, Uruguayan Free Zones are possible locations for the principal and/or for the toll or contract manufacturer;
- treasury functions, such as, group lending, hedging and pooling activities may be conducted, on a regional basis, from regional treasury centers located in one of the free zones;
- these zones are also suitable locations for shared service centers where internal functions, such as, accounting systems, financial control services, invoicing, procurement of products and services, HR support and other administrative and clerical back-room type functions, may be centralized;
- service and calling centers may also be set up in the free zones to provide services to customers throughout the region. In this regard, it is important to point out that the government's telecommunication and electricity monopolies are not applicable in these zones and, as a result, companies may use other suppliers;
- for internet-related companies with activities, such as, e-commerce (B2C or B2B), portals, incubators and software houses,
- it is, in many situations, advantageous for multinationals to set up assembly or manufacturing plants in the free zones to centralize production.
- Storage and warehousing facilities may also be used to deliver products to affiliates and, in many cases, defer the payments of custom duties in the countries where those affiliates are located.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Retirement and Health Fund Contributions

The Social Security Bank (Spanish acronym: BPS), is the ruling public body of the social security system, collecting the installments made by companies and employees and keeping up to date the record of the labor history of each member.

Generally, income from any source, whether in money or in kind, received by an employee in remuneration for services performed in the country, is subject to the Social Security Tax.

Employers and workers are required to make social security contributions to the Social Security Administration on up to a maximum monthly salary of approximately US$ 5,000.

Part of the contribution to Social Security must be made by the employer and part must be made by the employee. The respective contribution rates are as follows:

Employer:

1. Retirement: 7.5%

2. Health: 5%

3. Labor Reconversion Fund: 0.125%

Employee:

1. Retirement: 15%

2. Health: Between 3% and 8%

3. Labor Reconversion fund: 0.125%

The ceiling of US$ 5,000 is applied exclusively to retirement contributions. The contribution for medical insurance, the tax on personal wages and compensation, and labor reconversion fund must be paid on the total amount of income.

Filing of Tax returns and payments are done monthly.

5.2. Health Contributions

Employees must choose from a list of private hospitals that are affiliated to the public organism; therefore, employees and their children are covered for all medical assistance.

For contributions to the Health Fund, please refer to 5.1 above.

5.3. Other contributions

There is an additional contribution that finances the reproach of the unemployed segment of the population. The Spanish acronym for this contribution is FRL "Fondo de Reconversión Laboral". Employers and employees must make payments of 0.125% of the gross salary.

5.4. Labor Risks Insurance System

Companies are obliged to purchase insurance for labor risks which exclusively refer to labor accidents in the place of work and related to the work done. The State Insurance Bank ("Banco de Seguros del Estado", Spanish acronym BSE) is the only organism to which the companies can purchase the insurance.

The cost of labor insurance depends on parameters such as the type of activity involved, number of workers, working conditions, etc. The BSE establishes, considering these parameters, a rate to be paid over the wages of the employees. Filing and payment is done on monthly.
The applicable law establishes that, having complied with the referred system, the employer is exempt from civil responsibility. Furthermore, this insurance covers 100% of the wage of employees during their absence of the place of work.

5.5. Child and Family Protection Services

These contributions are made by the State; and they are financed with the retirement contributions.

5.6. Unemployment Insurance

After the working relationship is finished the State covers for a period of 6 months 50% of the average of the last six received salaries. If the worker is married or in charge of an incompetent person there is a 10% supplement. These contributions are financed with the retirement contributions.

5.7. Benefits

The most important benefits are:

- 13th month salary – It is also called complementary annual salary, equivalent to 1/12 of annual salaries paid by the employer during the 12 months prior to the first day of December of each year.
- Paid annual vacation - workers have the right to twenty days paid vacation per year.
- Vacation Salary – It is an additional sum equal to 1/30 of the monthly salary per day of vacation.

VENEZUELA CHAPTER

TORRES, PLAZ & ARAUJO

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	Bracket # 2 – 15% to 34%
	Upstream Oil Activities at 50%
	Local banks and Insurance companies at 40%
	Overseas Insurance Companiesat 10%
Capital Gains Tax:	Bracket #2 – 15% to 34%
Branch Profits Tax:	(equalization tax) 34%
Dividends Tax:	(equalization tax) 34% (50% oil)

Withholding Taxes on (for non resident entities payees):

Interest:	Bracket 2 (top 34%)
Interest to Qualified Financial Institutions	4.95%
Royalties:	30.60%
Technical Assistance:	10.20%
Technical Services:	17.00%
Services Other than Professional Services:	30.60%
Professional Services:	30.60%
Commissionaire Agent:	5.00%
Insurance Premiums (and payment upon reinsurance):	3.00%
Lease of property (immovable)	Bracket 2 (top 34%)
Lease of property (immovable)	5%
Sale of Shares in a Venezuelan Company	5%
Sale of Shares in Venezuelan Stock Exchange	1%

Tax losses carry-over term:	3 years / with limitations
API losses	No API loss carryover
Tax losses carry-back term:	No loss carry-back

Transfer Pricing Rules: Yes (OECD Guidelines apply supplementary)
Tax-free Reorganizations: Statutory mergers, change of legal form to partnership (see-through), and contributions to equity at cost

VAT on Sales: 16% (WHT applies)
VAT on Services: 16% (WHT applies)
VAT on Imports: (reverse charge) 16%

Custom Duties: from 0% up to 20% (reductions provided under MERCOSUR[1] and Cooperation treaties)
Net-worth (Assets) Tax: Repealed in 2004
LargeFinancial Transactions Tax (corporate) 2%
Special Petroleum Windfalls Taxes 20% / Excess of Avg. price Ven basket over budget price
80% / Price Venezuelan basket btwn 80 and 100 USD
90% / Price Venezuelan basket btwn 100 and 110 USD
95% / Price Venezuelan basket for USD 110 and in excess

Excise Taxes:
Spirits & Alcohol (on retail sale price) 8.5 - 10%
Spirits & Alcohol 0.0006 – 0.102 T.U.[23]/liter
Tobacco (Cigarettes & Tobacco Products) (on retail sale price) 30 - 45%

Science & Technology Contribution (on Large Ventures)
Alcohol, Tobacco & Gambling (on turnover) 2%
Oil, Gas & Mining by private parties (on turnover) 1%
Oil, Gas & Mining by State owned & General activities (on turnover) 0.5%

Anti Drug Enforcement Contribution
In General (on net earnings) 1%
Alcohol & Tobacco Companies (on net earnings) 2%
Sports Law Contribution (on net earnings) 1%

Local Level Tax Rates:

Stamp (Documentary) Tax: Varies w. each transaction
States and Capital District Contribution

Tax on Industrial,
Commercial & Service Activities: Established by each Municipality, commonly 1% to 5% of turnover (proceeds)

1 Venezuela was suspended from MERCOSUR in early 2016 and remains suspended to date.
2 T.U. stands for Tax Unit, which must be adjusted on a yearly basis to reflect inflation on nominal tax amounts. Notwithstanding the foregoing, in 2018 T.U. value was adjusted four times through several Administrative Rulings on March 1st, April 30th, May 2nd and finally on September 3rd, As of Janurary 31st, 2019 one (1) T.U. is equivalent to VEB 17.00, which is equivalent to USD 0.005 (at the current exchange rate provided in Exchange Agreement 1).

Tax on Real State property (currently only urban property): Established by each Municipality, commonly 1% to 15% on assessed value
Motor Vehicles Tax: 1-4 Tax Units (T.U.) p/a
Legal Gaming & Gambling: 5-10% p/a
Commercial Advertisement Tax: Established by each Municipality, commonly 1 T.U. per Square Meter
Tax on Public Shows and Performances: Established by each Municipality, commonly 10%
Duties: Vary for each service

Treaty Taxation (Income & Capital):

Items of Income

Countries	Interest[1]	Dividends[2]	Royalties	Tech.Services	Tech.Assistance
Austria	4.95-10%	5-15%	5%	5%	0-5%
Germany	5%	5-15%	5%	No WHT	No WHT
Barbados	5-15%	5-10%	10%	10%	10%
Belgium	10%	5-15%	5%	No WHT	No WHT
U.A.Emirates	10%	5-10%	10%	10%	10%
Brazil	15%	10-15%	15%	15%	15%
Canada	10%	10-15%	5-10%	5-10%	No WHT
China	5-10%	5-10%	10%	10%	10%
Korea	5-10%	5-10%	5-10%	5-10%	0-10%
Cuba	10%	10-15%	5%	5%	5%
Denmark	5%	5-15%	10%	10%	5%
Spain	4.95-10%	0-10%	5%	5%	No WHT
USA	4.95-10%	5-15%	5-10%	No WHT	No WHT
France	5%	0-5-15%	5%	No WHT	No WHT
Indonesia	10%	10-15%	20%	20%	10%
Iran	5%	5-10%	5%	5%	5%
Italy	10%	10%	7-10%	10%	10%
Kuwait	5%	5-10%	20%	20%	20%
Malaysia	15%	5-10%	10%	10%	10%
Mexico	4.95-15%	5%	10%	0-10%	10%
Norway	5-15%	5-10%	12%	12%	9%
Netherlands	5%	0-10%	5-7-10%	No WHT	No WHT
Portugal	10%	10%	12%	12%	10%
UK	5%	0-10%	5-7%	5%	No WHT
Czech Republic	10%	5-10%	12%	12%	12%
Russia	5-10%	10-15%	15%	10-15%	10%
Sweden	10%	5-10%	7-10%	7%	7%
Switzerland	5%	0-10%	5%	5%	No WHT
Trinidad & Tobago	15%	5-10%	10%	10%	10%
Qatar	5%	5-10%	5%	No WHT	5%
Belarus	5%	5-15%	5-10%	5-10%	0-10%
Vietnam	10%	5-10%	10%	10%	10%
Saudi Arabia	5%	5%	8%	8%	No WHT
Turkey	10%	5-10%	10%	10%	10%

(*) Colored countries are treaties already ratified but where no exchange of notes have taken place.

(1) Interest: Lower cap rate is commonly related to loans from financial institutions. Additionally, many tax treaties provide for full relief at source if loans are either granted or received by the Contracting States, their instrumentalities of State Owned Financial Institutions or Agencies.
(2) Dividends: Lower cap is commonly applied in parent/subsidiary context. The test for affiliation (e.g. equity holding) varies among the different treaties.
(3) Treaty to be considered null and void. Negotiated and concluded by the Executive branch in 2018. It was not submitted to parliament (National Assembly) for approval as required under Article 154 of the Constitution; rather, it was approved by Foreign Affairs Ministry Ruling N° DM/498, published in Official Gazette N° 41.554, dated December 28th, 2018.

OVERVIEW

1. INCOME TAX

1.1. General Aspects

1.1.1. World Wide Income.

Since 2001 Venezuela adopted worldwide income taxation. Pursuant to the Income Tax Law provisions income (net accretions of wealth when realized pursuant to the tax law provisions) sourced in Venezuela is taxable regardless of whether the taxpayer is a Venezuelan resident taxpayer or an entity incorporated (set-up) in Venezuela or is a non resident alien or company; at the same time, income from foreign sources obtained by taxpayers residing in Venezuela or attributable to permanent establishments (P.E.) of foreign entities in Venezuela is subject to taxation in Venezuela.

With regards to foreign source income the law recognizes a primary right to tax in the country of source and therefore allows for crediting foreign taxes ("FTC") paid by the taxpayer in producing foreign source income. The FTC system provides for an overall limitation (ordinary credit) but for the case of income subject to a schedular rate as it is the case of dividends which are treated under a separate basket (also with an ordinary credit limitation), as per the formula:

FTC= (WWI x r)(FSI/WWI)

The FTC system, does not cover for indirect credits (i.e. credits for taxes paid by affiliates located overseas), requires foreign taxes to be effectively paid and does not allow for carry-over or carry-backwards of FTC, and it does not allow for the use of overall foreign losses to reduce domestic source income.

The system is coupled with an anti-deferral regime for income attributable to investment vehicles controlled by Venezuelan resident taxpayers and located in low tax jurisdictions (as per a "black list" issued by the Tax Authorities).

1.1.2. Income Tax Rate.

The general statutory corporate income tax bracket applicable to Venezuelan sourced income as well as overseas income obtained by a Venezuelan resident taxpayer or a P.E. in Venezuela of a non-resident taxpayer is bracket # 2, with three marginal rates, being the minimum marginal rate **15%** and the top marginal rate **34%**. Taxpayers engaged in upstream oil activities are subject to a schedular tax rate (bracket # 3) of **50%.**

In the last amendment of the Income Tax Law (published in the Extraordinary Official Gazette No. 6.210, dated December 30, 2015), Article 52 was amended adding a new paragraph to bracket # 2. Under the same net income resulting from banking, financial, insurance or reinsurance activities in

the country is subject to a flat 40% rate.Conversely, income sourced in Venezuela for foreign insurance and reinsurance companies (i.e. not domiciled in Venezuela) is taxable at a flat 10% rate.

1.1.3. Taxable Base.

All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income, i.e., the sum of All Items of Income realized by the taxpayer. The result is the Gross Taxable Income from which Costs and Expenses are deducted. The after-deductions result is the Net Taxable Income to which the statutory corporate tax bracket is applied. Net income may be further impacted by the result from the application of the Adjustment per Inflation System (API) to earnings and losses and balance sheet items, to be recognized as income or losses to be added to or subtracted from the taxable base (API application has been reduced to a minimum). The result of applying brackets #1, # 2 or #3 to the taxable base (net taxable income) is Income Tax from which applicable Tax Credits are subtracted to find the actual Income Tax Liability.

We illustrate below this assessment process for further clarification:

[+] Sum of All Revenues
[=] Gross Income
[–] Excluded Items of Income
[=] Gross Taxable Income
[–] Costs and Deductible Expenses
[=] Net Taxable Income
[–] Exempted Items of Income
[=] Taxable Base
[–] Conciliation API (increase/reduction taxable base)
[*] Corporate Tax Bracket (top marginal rate 34%)
[=] Resulting Income Tax
[–] Tax Credits
[=] Income Tax Liability payable

1.1.4. Minimum Taxable Income.

Currently there are no provisions requiring a minimum taxable income or providing for payment of a minimum alternative tax.

1.1.5. Credits for Activities and Investments.

The credits for activities and investments included in the Income Tax Law of 2007 were repealed in the December 2015 amendment.

Chapter I of Title IV, regarding the system of credits for activities and investments (industrial, tourism, agricultural and environmental), was deleted, along with the reference to the possibility of carrying forward such credits for up to 3 years).

1.1.6. Timing for taxation.

Under the December 2015 amendment of the Income Tax Law, there was a significant change in the timing for income recognition.

Under the same most scenarios under which income arises upon payment where repealed and income is hence triggered upon realization.

The following are now considered as triggered upon realization of the transactions giving rise to income, rather than payment: (a) the assignment of the use or enjoyment of movable or immovable property; (b) income derived from royalties or akin interests; (c) sales of immovable property; (d) income from professional services. Sources of income which continue to arise upon payment: (i) incomeresulting from dependent services; and (ii) income resulting from games and gambling.

1.1.7. Deductions.

As a general rule all costs and expenses are deductible provided that they are related, proportional and necessary to the income producing activity. Any costs or expenses related to Excluded and/or Exempted Items of Income are not deductible. In case the same are not clearly identifiable (i.e. allocable to taxable or excluded income) the law calls for an apportionment. Some costs and expenses are limited or disallowed, depending on the facts and circumstances for each case, e.g., related party charges, commissions, gifts, among others. All Other Taxes and Contributions, Customs Tariffs and Duties and Payroll Taxes and Welfare Contributions (see § 3, 4 and 5, below) are deductible for income tax purposes unless otherwise expressly provided in the law setting the tax or contribution.

1.1.8. Tax holidays.

The Venezuelan Income Tax Law was amended by the end of 2014 (Official Gazette of the Bolivarian Republic of Venezuela Number 6.152 (Extraordinary) of November 18, 2014). One of the amendments corresponds to the repeal of long standing tax holidays (exemption from tax) as applicable tonon-profit institutions devoted to religious, artistic, scientific, environmental conservation, fostering of technology, culture, education (including Universities and schools) or sports activities. The now repealed holiday conditioned the benefit so that said institutions acted for non-profit, and the income obtained to be a means of achieving their purposes, while the same were notto make any distributions to owners or partners. The rule remained the same in the December 2015 amendment of the Income Tax Law (currently in force).

1.1.9. Depreciation.

Tangible fixed assets' depreciation is deductible. Depreciation terms vary depending on the nature of the asset, and the same are not provided by Law nor Regulations but referred to Venezuelan GAAP (but for certain rules related to oil & gas assets); common practice is 20 years for real estate, 10 years for many other tangible fixed assets, except for motor vehicles and computers for which a term varying from 3 to 5 years, or 1 to to 2 years for the latter, is commonly applied. Globally used methods are generally accepted in Venezuela for tax purposes, e.g., straight-line method and UOP. Depletion is recognized for mining and hydrocarbon assets and investments, and other methods such as declining balance method or inverted digits method, *inter alia*, may be applied with the consent of the Tax Authority. While changes in useful life do not require from prior consent from the tax authority, changes in the method for depreciation or amortization do. The taxpayer may take an impairment on the basis of Venezuelan GAAP, any future changes would result in a recapture.

1.1.10. Transfer Pricing.

Venezuela has OECD like transfer pricing rules applicable to all transactions between a Venezuelan party (i.e. a Venezuelan resident taxpayer or company or a P.E. of a foreign company in Venezuela) and a foreign related party. In fact, the 1995 OECD Directives on transfer pricing are called in for application

in a supplementary manner as provided by the Law and the Regulations(as they may be adjusted over time, and hence presumably as the said directives were amended in 2010, and may be further amended under BEPS). Transfer pricing provisions do not apply to transactions between two parties who are Venezuelan resident taxpayers but solely on cross-border transactions. There are no particular rules regarding the tested party or comparable bases (local or overseas) to be used, but the Tax Authority extensively relies on international data bases as there is little local information and the marketplace is very small. Under the Venezuelan transfer pricing rules, the Venezuelan party must keep and file supporting documentation with the tax authorities (PT-99 transfer pricing return), as well as it must perform a transfer pricing study showing that its prices or profit margins on the transactions are within the comparable arm's-length prices or profit margins ranges for its activity and similar transactions, on a yearly basis. Parties in low tax jurisdictions are deemed as related parties for these purposes (an assumption the taxpayer may trump). The Venezuelan transfer pricing regime provides for a number of situations where two parties are deemed related. The catalog is complex and its application should require a more detailed analysis on case-by-case basis. Venezuelan provisions allow for corresponding adjustments when a transfer pricing adjustment is made by a tax treaty partner, and the law (Master Tax Code) allows since 2001 for the execution of Advance Pricing Agreements (APA) with the Tax Authority; not a single APA has been executed to date.

1.1.11. Thin Cap.

The transfer pricing section of the ITL includes a single provision regarding thin capitalization rules, under which interest owed/paid to related parties may only be deducted up to the amount corresponding to a debt to equity ratio of 1:1 (including all debt –related and unrelated-) averaged for the fiscal year. Any excess amount is treated as net equity for all purposes of the law, including API. In any case, the Tax Authority may reject deduction if debt with related parties is not entered into at "market conditions" (presumably arm's length), for which the statutes express the Tax Authority shall use as a proxy: (i) size of indebtness of the taxpayer, (ii) whether the taxpayer may have accessed the lending with a non-related party without the intervention of the relevant related party; (iii) amount of lending to which the taxpayer may have accessed with a non-related party without the intervention of the relevant related party, (iv) interest rate which the taxpayer would have obtained from a non-related party without the intervention of the relevant related party, and (v) other terms and conditions which the taxpayer would have obtained from a non-related party without the intervention of the relevant related party.

1.1.12. Inflation Adjustments.

Venezuela has since 1991 an inflation adjustment system applicable to all non-monetary assets and liabilities4 and to the taxpayer's net-worth. The yearly adjustment is determined by applying the inflation index (Venezuelan Consumer Price Index "CPI") to the cost basis of the non monetary assets and the result is a greater cost basis entered against a taxable income for the taxpayer. On the other hand, the non-monetary liabilities and the net-worth of the taxpayer are similarly adjusted and the corresponding increase is entered against an increase in expenses. The difference between the taxable income and the expenses originated in the yearly inflation adjustments should result either in a net item of taxable income or a net loss for inflation (this loss is deductible).

Effective for fiscal years beginning on March 2007 onwards, the API system is to recognize adjustments in value (i.e. exchange gain or loss) at the close of the fiscal year for assets and liabilities de-

4 Assets other than cash, deposits and accounts receivable, which are monetary assets. Up until 2001 all liabilities in foreign currency and foreign currency denominated debt where also considered non-monetary assets and liabilities and therefore adjusted (on the basis of the increase or decrease in foreign currency exchange rate), since 2002 these are not considered non-monetary, but rather the API system deemed any foreign currency exchange gain or loss as realized by the end of the fiscal year of the taxpayer (provided the same has not been disposed of during said fiscal year).

nominated in foreign currency –as a necessary balance since the same are to be treated as monetary assets and liabilities under the law-. The provision has been amended over time resulting in different interpretations about timing for recognition of DIE. The interpretative issues are compounded by the lack of clarity of the provisions dealing with foreign currency exchange under the F/X control system in place since 2003.

Under the Venezuelan Income Tax Law (ITL) passed at the close of 2014, banks, financial institutions and insurance and reinsurance companies were excluded from the API system, and the Tax Administration (SENIAT) issued authority regarding the adjustments to the taxable base pursuant to the exclusion.

Furthermore, the ITL amendment passed at the close of 2015coversan express exclusionfrom the API system for taxpayers qualified as special taxpayers by the Tax Administration (SENIAT), which encompasses most significant businesses.

In addition, the 2015 amendment established that Tax Authority was to issue regulationsdealing with the accounting adjustments to be made by the taxpayers due to the "suppression" of the inflation adjustment for special taxpayers (no such regulations have been issued to date -other than those referred above for banking and insurance companies).The exclusion covers a transitional provision under which advanced income tax to be filed in an "estimated tax return" recognize net taxable income for the prior year without taking into account the effects of API.

1.1.13. Tax Losses Carryover.

A Venezuelan taxpayer can carryover her tax losses for a maximum term of 3 taxable years. There is no carry-back.

Tax losses can be credited towards (and are capped by) the taxpayer's net income for the taxable year and the same are neither assignable nor transferable to third parties (they could only be transferred as a tax attribute through a statutory merger).The carryover term is not refreshed by the occurrence of a tax-free reorganization, e.g. statutory merger.

In addition to the 3 taxable years term limitation, an additional limitation now applies under the amendment introduced at the close of 2014, in the way of a cap or apportionment in any given carryover year. The carry-over losses may not exceed in any given year 25% of the net income resulting for the taxpayer for the given fiscal year.

The NOL deduction is allowed only when the tax loss arises from an income generating activity ordinarily taxable under the general income taxation rules. Should the tax loss lack such nexus, i.e., be related to a non-taxable or exempt income generating activity, the commonly applicable criteria by the Venezuelan Tax Authority is that the taxpayer is not allowed to take the tax loss deduction, nonetheless there is a trend in case law allowing for applying losses from exempted activities against other income of the taxpayer.

Venezuelan tax law and regulations provide for other limits (or conditions) for the computation and deduction of tax losses other than those generated as net operating losses (NOL), such as losses in the sale of shares in a Venezuelan company (which requires meeting a substantial activity and holding period tests), the sale of shares listed in stock companies (subject to a schedular rate of 1% on the amount of the sale), and losses which are the result of applying the API system (carryover was limited to 1 year prior to the Income Tax Law amendment of November 2014, with effect on FYs beginning of from February 2015).

While not exempted from risk, the common interpretation was that inflation adjustments were applicable to update the tax loss amounts and that the deduction was computed on the adjusted amounts, and that further, the 1 year carryover limitation was to apply solely if an income position –prior to API- ended turning into a loss as a result of the API system.

1.1.14. Tax-Free Reorganizations.

There is only one type of tax-free reorganization authorized by Venezuelan law, i.e. a statutory tax-free merger where the tax attributes of the target company are transferable to the surviving or resulting corporation. Statutory mergers are considered exempt from other taxes such as VAT (only if there is no increase in capital) or registered capital tax (stamp duty).

While other reorganization transactions are not expressly authorized under Venezuelan tax law and regulations, some advantages may be achieved from contributions to capital and distributions of capital of Venezuelan corporations since neither the law nor the regulations require for the same to be carried out at fair market value. In such sense, deferral may be achieved by transferring (contributing or distributing) assets at their tax cost (basis), which basis will be carried over (not stepped up) in the hands of transferee.

1.2. Payment and Filing.[5]

For any given taxable year the corresponding income tax return and tax liability must be filed and paid on the dates set out by the Tax Authority during the immediately following year, commonly corresponding with a term of three months following the closing of the fiscal year of the relevant taxpayer (e.g., the filing corresponding to fiscal year 2017 of a taxpayer closing on December 31st, 2017, could take place up until the last day of March, 2018, or the first half of April for Special Taxpayers.

There are special filing and payment schedules issued by the tax authorities for corporations and individuals classified as Special Taxpayers ("Contribuyentes Especiales"). All Special Taxpayers must file their return no later than on the day indicated according to their last digit of the TIN as expressed in the calendar published by the Tax Authorities in their web site www.seniat.gov.ve.

Filing and payment dates are ordinarily similar year after year. The Tax Authority has imposed filing of income tax returns exclusively through electronic means, which has resulted in additional restrictions for the taxpayers as SENIAT´s web site assumes certain interpretations which are not necessarily consistent with the law and/or the Constitution. Last year, the Venezuelan Tax Administration extended the filing date of returns for fiscal year 2017 to May 31, 2018 (extensions were common in the past, but this is the first extension granted in the last decade), it remains to be seen if a similar action will be adopted for FY 2018 filing.

In August 2018 a temporary regime for payment in advance of Value Added Tax (VAT) and Income Tax, applicable to special taxpayers, was enacted (Decree published in Official Gazette N° 6.396, dated August 21st, 2018), which entered into force since September 1st, 2018. While the regime is referred as temprary, no expiration date has been set forth for the same; hence, it will be in force

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51 According to Decree N° 3.719, published in Official Gazette N° 6.420, dated December 28th, 2018, individuals or entities engaged in authorized transactions in foreign currency or cryptocurrencies within the national territory, which constitute taxable events, must assess and pay their tax obligations in foreign currency or cryptocurrencies. Trading of securities in stock exchanges and exports of goods and services by government entities are excluded from the scope of Decree 3.719. It scope and application remain unclear to date. The same may also be considered null and void.

until repealed.[6] **Scope of Application**. The payment in advance regime for Income Tax applies to Special Taxpayers engaged in economic activities other than the exploitation of mines, hydrocarbons and related activities, and which are not recipients of royalties derived from said activities. Likewise, individuals under employment contracts will be excluded from this regime, even when qualifying as special taxpayers.

Tax assessment. The amount of Income Tax is to be advanced, on a weekly basis. The advance is computed as 1% on the gross revenue obtained from the local sale of goods and services during the previous week. The Decree covers that the 1% rate for advance payment may be modified by the Executive Branch at any time, between a low 0.5% and a high 2%.

Rules are different for financial institutions, banks, and insurance and reassurance companies, which must, on a daily basis, advance 2% on their gross revenue from the previous day.

Payments in advance are creditable against the final tax liability, as reported in the final Income Tax return.

Reporting and payment of advances. Taxpayers (other than financial institutions, banks, and insurance and reassurance companies) must report and pay income tax advances as follows:

i. Each week an advance return must be filed, reporting gross revenue derived during the previous week. The tax to be paid in advance will be 1% of said gross revenue.

ii. The amount to be advanced shall be paid in daily installments throughout the relevant week

Financial institutions, banks, and insurance and reassurance companies must report and pay daily advances, equal to 1% on the gross revenue of the prior day.

1.3. Penalties and Interest on Unpaid Tax or Late Payment.

Unpaid taxes are subject to late interest that should be assessed at the official rate fixed on a monthly basis by the corresponding regulations. Late payment interest rate is 1.2 times the banking rate posted by the government, currently somewhere between 20% to 25%.

Under the amendment of the Master Tax Code of November 2014 (Official Gazette of the Bolivarian Republic of Venezuela Number 6.152 (Extraordinary) of November 18, 2014), there is an increase in penalties applicable for non-filing or inaccurate filing, which may range from 100% up to 300% of the corresponding tax liability (which amount is adjusted per inflation on the basis of Tax Units (T.U.), depending on the facts and circumstances in each case.

1.4. Dividends Tax / Branch Profits Tax.

Since the amendment of the law in 1999 (and effective from 2001) both dividend and "deemed dividend" taxes where reinstated under Venezuelan income tax. The applicable rate is a flat 34%, which is ultimately to be applied on the excess of financial (accounting) income over net taxable income. i.e. the Venezuelan dividend tax is clearly not a classical system dividend tax, nor it is an imputation system dividend tax, it performs as an equalization tax.

52 The regime is to be considered null and void as the same was implemented by the Executive Branch without been delegated enabling Powers and the same has been repudiated by Congress (National Assembly).

Dividend tax arises on dividends paid by Venezuelan companies (corporations, such as the *sociedad anonima*, or LLC, such as the *sociedad de responsabilidad limitada*), and the same only arises on the excess –if any- of financial (accounting) earnings and profits of a Venezuelan corporation over net taxable income subject to income tax, and is a single tier dividend tax. i.e., dividends paid on the basis of already taxed dividends are not subject to dividend taxation. Allocation rules help identify earnings and profits to which the dividends will be attributed to, i.e., first to net taxable income, then to dividends received, then to any excess of financial income over net taxable income. Then with regards to timing, the allocation rules refer to a LIFO in earnings and profits, recognizing first the distribution of E&P of later years.

The amount of said dividend tax on dividends paid to overseas entities may be further reduced or removed on the basis of tax treaty provisions (Cf. tax treaties chart above).

While the tax is a tax on the shareholder, the same is withheld at source at company level, and the rate remains the same, i.e. 34% regardless of whether the shareholder is a Venezuelan resident taxpayer or an overseas individual or entity.

On the other hand, a dividend tax also applies on out-bound investments, such tax applies on dividends paid from overseas corporations to Venezuelan resident taxpayers or Venezuelan P.E. of foreign entities. The applicable rate is 34% on the gross dividend amount and any taxes paid on said dividends may be credited under the Venezuelan FTC system.

A tax on "deemed dividends" (or branch remittance tax) applies also to amounts which may be remitted overseas by branches or P.E. of foreign entities in Venezuela, at a flat 34% rate.

While the statutory provisions refer to the shareholders in the overseas entity as the taxpayers, the tax is applied regardless of whether or not dividends are paid by the overseas entity home office or even regardless of whether earnings are actually remitted overseas by the branch or P.E. In fact, the tax applies on any earnings subject to remittance provided the same are not reinvested in fixed assets in Venezuela (such reinvestment to be certified by an independent auditor) for a term of at least 5 years (after which said amounts could be remitted tax free).

The "deemed dividend" tax is applied on the excess –if any- of financial (accounting) earnings and profits of the Venezuelan branch or P.E. over its net taxable income subject to income tax.

As with the dividends tax, the amount of said deemed dividend tax on dividends paid to shareholders of overseas entities with a branch in Venezuela may be further reduced (say, for Canada or USA) or removed on the basis of tax treaty provisions (most other tax treaties).

1.5. Cross-border Payments

1.5.1. Withholding Taxes

When Venezuelan sourced income is remitted abroad to a beneficiary that is a non-resident alien individual or entity, the payment is commonly subject to a withholding tax, which is commonly deemed a final payment of tax in Venezuela for payee (based on the relevant facts and circumstances a return may also have to be filed with the closing of the fiscal year).

1.5.1.1. Dividends.

If the corresponding profits were taxed at the corporate level then no income tax withholding ap-

plies, otherwise a **34%** income tax withholding may apply (ultimately to be applied on any excess of financial income over net taxable income. i.e. the Venezuelan dividend tax is an equalization tax.), unless otherwise reduced or removed under a tax treaty. The applicable rate would be **50%** for dividends paid by companies engaged in upstream oil activities and **40%** for dividends paid by banks, financial institutions, insurance and reinsurance companies.

1.5.1.2. Royalties.

The domestic income tax definition of royalties is neither directly tied to the nature of the goods transferred (e.g. intellectual property, such as copyright rights, patented rights or trademarks) nor to the rights afforded with the transfer, but rather to the form of payment. Royalties are defined under the Venezuelan income tax law as the amount paid for the use or enjoyment of patents, trademarks, copyright rights and other procedures, fixed in relation to a unit of production or sale, whatever the denomination of the transfer under the relevant contract.

In this latter case –royalties, net income is a notional 90% -far more burdensome than the above- of the invoiced amount and the general tax brackets apply, with a commonly applicable top marginal rate of 34%. Therefore, royalty payments are subject withholding tax up to an effective **30.60%.**

As it should be clear, the term royalties used in our domestic tax laws is clearly not consistent with the understanding of such term in the international arena (e.g. OECD Model Tax Convention on Income and Capital, and even the U.N. Model Double Taxation Convention between the Developed and Developing Countries), and it is defined by the way payment is structured. In such sense, under Venezuelan domestic tax law, royalties may include transfers otherwise characterized as technological assistance or technological services, but at the same time it expands beyond covering trademarks.

1.5.1.3. Technical Services, Technical Assistance and Consulting Services.

Technical assistance is defined under the Venezuelan domestic income tax law as the supply of instructions, writings, recordings, movies and other similar technical instruments, destined to the elaboration of a work or product to be sold or the rendering of a specific service for the same sale purposes.

Furthermore, when referring to technical assistance the law provides that it may include the transfer of technical knowledge, engineering services (including execution and supervision of the assembly, installation and start up of machinery, equipment and production plants; the calibration, inspection, repair and maintenance of machinery and equipment; and to carry out tests and trial, including quality control), project R&D (including elaboration and performance of pilot programs; laboratory research and experiments; exploitation services and technical planning or programming of production units), advisory and consultation services (on overseas procurement, representation; advisory and instructions supplied by technicians, and the supply of technical services for the administration and management of corporations in any of the activities or operations thereof) and the supply of production procedures or formulas, data, information and technical specifications, diagrams, plans and technical instructions, and the supply of elements of basic and detailed engineering.

On the other hand, technological services cover the concession for use and exploitation of invention patents, models, industrial drawings and designs, improvements or perfection to the same, formulas, revalidation or instructions and all technical elements subject to patenting. As it is clear from the law, the focus is placed on the characteristic of patentability of the intellectual property so transferred.

Net income is a notional 30% of the invoiced amount in the case of technological assistance, while a 50% of the invoiced amount in the case of technological services. In either case the general tax

brackets apply, with a commonly applicable top marginal rate of 34%. Hence, technical services and technical assistance payments are therefore subject to withholding for income taxes up to 10.2 % (technical assistance) and 17% (technology services).

1.5.1.4. Other Services.

If rendered from abroad and not considered technical services or technical assistance, then withholding tax up to an effective **30.60%** should apply, unless otherwise provided by special rules.

1.5.1.5. Interest Payments.

As a general rule, payments performed pursuant to foreign debt agreements are subject to withholding on the full amount of interest and financial charges paid at the corporate rate (bracket # 2). A reduced **4.95%** withholding rate applies on interest paid to Qualified Financial Institutions ("QFI") incorporated overseas and not domiciled in Venezuela. A QFI would be an entity which is formally chartered in its home country to carry out financial, banking or insurance activities or an entity which is not otherwise limited from carrying out financial activities under the laws in place in its home country, and performs such financial activities. Thin Capitalization rules have been introduced earlier this year, with effect for fiscal years beginning on or after March 1st, 2007 (see under 1.1.7 above).

1.5.1.6. Equity Reimbursements.

Equity reimbursements not corresponding to dividend or profit distributions are not taxable items of income for the foreign shareholder. Therefore **no withholding** taxes should apply.

1.5.1.7. Low Tax Jurisdictions.

There are no provisions requiring for particular WHT on payments corresponding to items of income deemed from a Venezuelan source directed to a low tax jurisdiction beneficiary nor any particular limitations for deduction on said payments. In any case, any such payments are presumed –unless proven otherwise- among related parties and transfer pricing provisions apply. While there is a whole Chapter of the Venezuelan Income Tax Law dealing with Low Tax Jurisdictions and a "Black list" the same applies exclusively under worldwide income rules for foreign source income anti-deferral.

1.5.2. Tax Treaties.

Up to date Venezuela has in place and has negotiated closely to thirty income and capital tax treaties (i.e. other than treaties on maritime and/or air transport), and even-though little or no official information is easily available the following is a list as to the status of tax treaties:

a. Tax Treaties in place: Austria, Barbados, Belarus, Belgium, Brazil, Canada, China, Cuba, Czech Republic, Denmark, France, Germany, Indonesia, Iran, Italy, Korea, Kuwait, Malaysia, Netherlands, Norway, Portugal, Qatar, Russia, Saudi Arabia, Spain, Sweden, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, United Kingdom, United States of America and Vietnam.
b. Tax treaties ratified (pending exchange of diplomatic notes or beginning of following fiscal year): None.
c. Tax treaties finalized (initialed and pending from ratification): Netherlands Antilles.
d. Tax treaties under negotiation: Chile (negotiations have stalled), Mexico (adjustments to the treaty initially ratified have been under way during the last few years).

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1. Tax Rates.

VAT's general rate may be set by the National Executive between 8% and 16.5%. A surtax between 15% and 20% applies to luxury consumption goods and services as defined under the VAT law, which last reform took place on November 2014.
On August 17th, 2018, on the basis of the abovementioned vested powers to change the VAT tax rate as covered under the law, the National Executive issued Decree No. 3.584 (published in Official Gazette No. 6.395) which increased the general VAT rate from 12% to 16%. Decree No. 3.584 entered in force on September 1st, 2018, which resulted in the 12% rate being applicable until August 31, 2018.

As per Decree 3.584, the increased 16% general rate shall be in force for the remainder of fiscal year 2018 and for fiscal year 2019. The surtax rate remains at 15%.

On the other hand, there is a reduced 8% rate regime applicable to certain imports and local sales of cattle, meats and breeding fare, as well as professional services rendered to Government instrumentalities, as well as domestic air travel services.

In Venezuela there are exempted and exonerated goods. The VAT law provides for exemptions on most basic services and basic consumption goods (like unprocessed food and beverages), but the list has largely increased with exonerations on imports and local sales of goods and services (there are 28 Exoneration Decrees in place). Since the exempted and exonerated goods and services are extensive the same should be checked in detail on a case-by-case basis.

A zero rate regime applicable to domestic sales of crude oil was incorporated in the VAT law, and the Supreme Tribunal of Justice has ruled that sales and services to Free Trade Zones should receive zero rating treatment.

There are also some VAT exemptions for specific public entities of the national or local territorial level, which may or may not be relevant depending on which is the public entity that will act as contracting entity in any given project.

2.1.2. Taxable Transactions.

These are: sale and importation of movable tangible property; and services rendered in Venezuela.

In some cases, services rendered outside Venezuela are deemed as subject to VAT because of their nature and for being the beneficiary a party located in Venezuela, e.g., consulting, advising and auditing services. In these cases the VAT does not affect the foreign party as the Venezuelan party must cover and withhold 100% of the VAT and transfer to the tax authorities the withheld amounts.

The sale of movable tangible property that is a fixed asset for the seller is not subject to VAT.
Under the amendment of the law of November 2014, the luxury consumption surtax is expanded to cover certain services in addition to the sale or import of certain goods.

2.1.3. Taxable Base.

As a general rule, the taxable base is the price or value of the consideration paid for the goods or services, which should correspond to their Fair Market Value (FMV).

There are cases where certain items must be either included or excluded from the taxable base and/or cases with either mandatory or optional taxable bases, which should be analyzed on a case-by-case basis.

2.1.4. Creditable VAT.

As a general rule the VAT taxpayer has a right to credit against payable VAT all VAT paid to her providers for tangible movable property bought or imported and for services hired. i.e., in order to compute the VAT quota it is allowed to deduct from output VAT all input VAT, and any excess input VAT for a given month may be carried over to future months with no limitation.

The VAT paid in the acquisition of goods that will become fixed assets for the buyer is creditable against VAT regardless of whether the asset is capitalized for income tax purposes.

There are limitations in crediting input VAT paid on costs and expenses, when incurred in a VAT exempted or VAT zero-rated activity, the same need to be reviewed on a case-by-case basis.

Additional limitations in crediting input VAT were included in the VAT Law passed on November 2014 (Official Gazette of the Bolivarian Republic of Venezuela Number 6.152 (Extraordinary) of November 18, 2014), and effective from December 1st, 2014. Under the same: (i) there is an overall limitation which restrict crediting input VAT to 12 monthly periods from the moment the same was incurred; and (ii) there are other limitations, such as: (a) input VAT must correspond to habitual – customary- acquisitions from the taxpayer; (b) must be connected directly and exclusively with the activity of the taxpayer; (c) input VAT must not relate to consumables (beverages, food and shows).

2.2. Payment and Filing

Traditionally VAT had a monthly taxable period, which resulted in the tax being computed and a VAT return being filed monthly. The VAT used to be filed and paid in full on the filing dates scheduled by the tax authorities for these purposes, which were usually within the first 2 weeks following the corresponding monthly period's end. In the case of Special Taxpayers the filing and payment dates was scheduled by the Tax Authority depending on the last digit of the taxpayer's TIN.

Now, in August 2018 a temporary regime for payment in advance of Value Added Tax (VAT) and Income Tax, applicable to special taxpayers, was enacted (Decree published in Official Gazette N° 6.396, dated August 21st, 2018), it entered into force on September 1st, 2018. This regime is intended to be temporary, yet no expiration date has been set forth; hence, it will be in force until repealed. As explained below, Regulations to this Decree have introduced important changes to rules governing the taxable period, as well as filing and payment dates for VAT purposes.

Scope of Application. The payment in advance regime for VAT only applies to Special Taxpayers engaged in economic activities other than the exploitation of mines, hydrocarbons and related activities, and which are not recipients of royalties derived from said activities. Likewise, individuals under employment contracts are excluded from this regime, even when qualifying as special taxpayers.

Tax assessment. The amount of VAT to be advanced, on a weekly basis, will be equal to the final VAT reported for the prior week. Payments in advance will be credited against the final VAT liability, as reported in the final weekly VAT return.

Reporting and Payment of advances. Taxpayers must report and pay VAT advances as follows:

(i) Each week an advance return must be filed, reporting an amount equal to the final VAT liability reported for the prior week. The VAT to be paid in advance will be equal to that final liability of the prior week.
(ii) The amount to be advanced shall be paid in full on the first day of the week or in daily installments throughout such week.

Reporting and Payment of final VAT. Although VAT Law provides for a monthly taxable period, enactment of the Temporary Regime for payment in advance of Value Added Tax and Income Tax, has in fact changed such taxable period. Indeed, as a result of rules governing this regime, which include Ruling SNAT/2018/128 (published in Official Gazette No.41.468, dated August 27, 2018) which amended the calendar of obligations for Special Taxpayers for fiscal year 2018, VAT is now payable on a weekly basis, hence the taxable period for VAT has been reduced to 1 week. The change also affects VAT withholdings, which must be also reported and remitted on a weekly basis.

2.3. VAT Withholding for Special Taxpayers.

Based on the VAT law authorization for the Tax Authority to provide for VAT withholding, the Venezuelan Tax Authority has established a broad VAT withholding regime. Under the regulations, those taxpayers defined by the Tax Authority as Special Taxpayers ("Sujetos Pasivos Especiales") are required to withhold on their acquisition of taxable goods and services from VAT taxpayers. Tax to be withheld is commonly 75% of the input VAT for purchaser of goods or services, but under some circumstances it may be the full amount (100%) of VAT charged by the provider of goods or services. The VAT taxpayer may credit the VAT so withheld against its VAT quota, i.e., the excess –if any- of output VAT over input VAT, and outstanding amounts of VAT withheld for a weekly term may be transferred for their recovery in later periods (weeks), with no limitation in time; alternatively, any excess VAT withholding not credited during the following periods may be recovered by filing before the Tax Authority for setting off said amounts against any national taxes or assigning the same to third parties.

3.OTHER TAXES & CONTRIBUTIONS

3.1. Taxation of Large Financial Transactions

At the close of 2015, the creation of a tax upon large financial transactions was passed. The administration, collection, assessment and control of this tax is vested in the Federal Tax Authority.

Taxable Event The same include:

i. Debits from bank accounts, correspondent accounts, escrow accounts or any other sort of sight deposits, liquid assets funds, trust funds and in any other funds on the financial market, or in any other financial instrument, made in banks and other financial institutions.
ii. The assignment of checks, securities, escrow accounts paid in cash and any other negotiable instrument, as of their second endorsement.

iii. The acquisition of cashier checks with cash.
iv. Lending operations by banks and other financial institutions among each other, and subject to terms of no less than two bank business days.
v. The transfer of securities held in custody among various owners, albeit no disbursement be made through an account.
vi. The payment of debts made without mediation from the financial system, by payment or other means of extinguishment.
vii. Debits in accounts forming part of organized private payment systems not run by the Venezuelan Central Bank and other than the National Payments System.
viii. Debits to accounts for cross-border payments.

Taxpayers The law defines several categories of taxpayers, described as follows:

i. Legal entities and unincorporated economic entities qualified as special taxpayers, on the payments made against their accounts in banks or financial institutions.
ii. Legal entities and unincorporated economic entities qualified as special taxpayers, on the payments that they make without mediation from the financial institutions. Payment is deemed to include offsetting, novation and debt remission.
iii. Legal entities and unincorporated economic entities legally bound to a legal entity or unincorporated qualified as special taxpayers, on the payments that they make from their accounts at banks or financial institutions, or without mediation from financial institutions.
iv. Individuals, legal entities and unincorporated economic entities, which without being legally bound to a legal entity or unincorporated economic entity qualified as special taxpayers, make payments on their behalf, charged to their accounts at banks or financial institutions, without mediation by financial institutions.

Withholding Agents Under this Law, the Tax Administration may appoint withholding or receiving agents for this tax. Any persons involved in acts or operations where they are in a position to directly withhold or receive the tax directly or through an intermediary may be so appointed.

Exemptions
i. The Republic and all other political-territorial entities.
ii. Public entities with business purposes or otherwise, qualified as special taxpayers.
iii. The Venezuelan Central Bank.
iv. The first endorsement made on checks, securities, escrow accounts paid in cash and any other negotiable instrument.
v. Debits derived from the purchase, sale and transfer of the custody of securities issued or backed by the Republic or the Venezuelan Central Bank, and the debits or withdrawals relating to the liquidation of the capital or interest thereof, and the securities negotiated on the agricultural products stock exchange and the stock market.
vi. Operations of transfers of funds made by the owners between accounts, at banks or financial institutions organized and existing in the Bolivarian Republic of Venezuela. Such exemption does not apply to accounts with more than one holder.
vii. Debits in checking accounts of diplomatic or consular missions and their foreign officers accredited in the Republic.
viii. Debits to account for transfers or issues of personal or cashier's checks for the payment of taxes where the beneficiary is the National Treasury.
ix. Debits or withdrawals made from the accounts of the Bank Clearing House, credit card clearing houses, national correspondent bank accounts and the clearing accounts for the operations of the banks.

x. Purchases of cash in the sole accounts kept at the Venezuelan Central Bank by the Banks and other financial institutions.

Tax Base The aggregate amount of each account debit or taxable transaction. In the case of cashier's checks, it is determined by the amount on the face of the check.

Tax Rate As of September 1st, 2018, the tax rate of this particular tax was fixed at 1%, in accordance to the Amendment of the Law of the Tax on Large Financial Transactions, published in Official Gazette N° 6.396, dated August 21st, 2018. According to that amendment, the National Executive may, at its own discretion and by means of decree, fix the rate of this tax from a minimum of 0% to a maximum of 2%. On November 8, 2018, Presidential Decree N° 3.654 was published Official Gazette N° 41.520, which increased the rate to the maximum of 2%.

Taxation period Daily.

Deduction for Income Tax The Tax on Large Financial Transactions is not deductible for Income Tax.

Formal Duties

i. Keeping and delivering to the Tax Administration detailed reports on the bank or accounting accounts reflecting the amount of the tax paid or withheld.
ii. Meeting the formalities relating to the returns required to be filed to comply with the provisions of this Law.

The penalties applicable for breach of the obligations established in this Law shall be those contained in the Organic Tax Code.
Timing of application of this Law: This new Law shall be effective as of February 1, 2016.

3.2. Real Property Taxes

There are municipal (local territorial level) taxes on urban real estate. The rate for these taxes is set in municipal ordinances adopted by each locality, therefore they vary. Real estate tax usually ranges from **1 per thousand to 0.5 per cent**.

The taxable base in the case of real estate is the cadastral value of the property. These taxes are usually paid and a return filed yearly.

Incentives in these taxes are ruled by the ordinance of the municipality in which the property is located. Therefore, the availability of incentives must be checked on a case-by-case basis.

3.3. Local Activities Tax

This is also a municipal tax applicable to all industrial, commercial and services activities (but for professional services) performed in the territory of said municipality. The taxable base is the turn over (gross proceeds) received by the taxpayer and arising from the activity performed in said locality. The tax rates vary from locality to locality and range **from 0.5 to 15 per cent**. This tax is usually paid and a return filed yearly, and some basic rules regarding the same have been recently sanctioned by the Venezuelan *Asamblea Nacional* in order to avoid or reduce multiple taxation. In said sense, apart from tax base apportionment among different municipalities where an activity is carried out, and the formal recognition of the permanent establishment as a condition for the tax to arise, the

law (*Ley Orgánica del Poder Público Municipal*) allows for the National power to establish a cap rate for certain activities (e.g., electric utility services, such as power plant and transmission are capped at 2%, radio broadcasting at 0.5% and telecommunications activities at 1%).
Incentives in these taxes are ruled by the ordinance of the municipality in which the activity is performed and taxed. Therefore, the availability of incentives must be checked on a case-by-case basis.

3.4. Stamp Tax

This is a documentary tax applicable to all written agreements with effects in Venezuela or for a Venezuelan party which taxing power is vested on the States and the Metropolitan District (of Caracas). The tax rate varies on the basis of the acts and transactions. It is worth mentioning that under an interim arrangement some stamp taxes are charged by the National Government, such as the payment of a stamp tax of **1%** over the registered capital of a company on its incorporation or subsequently when the same is expanded with further contributions.

The taxable base may be the full amount of the consideration agreed in the document, unless otherwise indicated by law, in which it performs as a tax, or the same may perform as a duty which is calculated on a given amount of tax units (T.U.) per transaction.

3.6. Registration Tax

The registration of acts and documents with the civil law registry office or the commercial registry office, is subject to this registration tax. The tax rate ranges **between 0.5% and 1%** depending on the type of act or document. The taxable base is the amount of the price or consideration shown in the document. Very few documents that are subject to registration are exempted from this tax, but if the document is subject to registration tax it is automatically exempted from the above-commented stamp tax.

3.7. Science & Technology Contribution

The contribution on science and technology provided by the "*Ley Orgánica de Ciencia y Tecnología*" (2010), is confirmed in the last amendment of the aforementioned law published in the Official Gazette of the Bolivarian Republic of Venezuela Number 6.151 (Extraordinary) of November 18, 2014, which applies to entities defined in the law as Large Ventures "*Grandes Empresas*" (those companies with a turnover of T.U. 100,000 or more).

The contribution is a **2% on turnover** (gross proceeds) for entities engaged in the manufacturing or commercialization of alcohol and spirits, as well as that of tobacco and tobacco products; gambling activities are subjected to a similar rate. Hydrocarbon activities as well as mining activities, when carried out by private parties are taxed at **1% on turnover,** while when said activities are carried out by entities which capital is considered public capital (i.e. wholly or partially State owned, but controlled by the State) then the same are taxed at **0.5% on turnover;** any other industrial or commercial activities, i.e. activities in general are subject to the latter **0.5% rate on turnover**.

3.8. Anti-Drug Enforcement Contributions

A contribution for purposes of illegal drug enforcement and education is provided for, which contribution is computed as a **1% on net earnings** of the relevant taxpayer engaged in commercial, industrial or services activities, but for those taxpayers engaged in manufacturing spirits and liquor and those manufacturing cigarettes and tobacco a contribution is **2% on their net earnings** ap-

plies. The tax basis are net earnings (accounting income before taxes) as per Venezuelan GAAP, as it stems from the regulations (*Providencias 006-2011* and *007-2011* of March and May, 2011).

As a new anti-drugs enforcement law was passed on November 2010 ("*Ley Orgánica de Drogas*") the same covers in its Articles 32 and 34 the relevant contributions. Which contributions are to be paid in to the special fund created for that purposes ("*Fondo Nacional Anti-drogas*" or "*FONA*"), but the same is to be used in projects identified in the law, which may include reinvestment (up to 40%) in approved activities or projects within payor and payor employees (*Providencia 0001-2011*).

3.9. Sports Law Contribution

A contribution for purposes of funding a special Fund ("*Fondo Nacional para el Desarrollo del Deporte, la Actividad Física y la Educación Física*") was established in the Sports Law passed on August 2011.

The contribution under the Sports Law ("*Ley Orgánica de Deporte, Actividad Física y Educación Física*") arises upon the exercise in Venezuela of any commercial, industrial or service activity by any person (individual, companies, partnerships, *inter alia*) resulting in net earnings in a given year in excess of 20,000 T.U. and the same is computed as a **1% on net earnings** of the relevant taxpayer.

The tax basis are net earnings (accounting income before taxes) as per Venezuelan GAAP, as identified in Regulation #1 to the law, and the contribution may be paid in cash in full or part of the same, may be used in projects identified in the law and approved by the *Instituto Nacional del Deporte*, which may include reinvestment (up to 50%) in approved activities or projects within payor.

3.10.Special Petroleum Windfalls Contributions

On February 20, 2013(G.O. dated February 20, 2013, No. 40.114) the Asamblea Nacional passed an amendment windfall profits tax –dubbed contribution-. Such tax is divided into two different contributions, a so called contribution for extraordinary prices and a contribution for exorbitant prices, and the same apply to exporters and transporters of crude oil (including upgraded crude oil) and products (it does not apply to gas hydrocarbons or its byproducts), as well as on internal transfers of oil and products by *Empresas Mixtas* to PDVSA and its affiliates.

The contribution on extraordinary prices is triggered when the average monthly price of the Venezuelan basket of crude oil exceeds the price estimate provided for in Venezuela's annual budget law (e.g. for 2011 the same sits at USD 50/bbl) but is still below USD 80/bbl. The rate is **20%** and when triggered the contribution is computed as 20% over the monthly average price in excess of the price estimate provided for in Venezuela's annual budget law. The contribution is assessed by the Ministry of Petroleum and Mines to be paid on a monthly basis, in foreign currency.

The contribution on exorbitant prices is triggered when the average monthly price of the Venezuelan basket of crude oil exceeds or is equivalent to USD 80/bbl. The contribution is applied in three different brackets with rates being **80%**, **90%** and **95%**. This contribution is also assessed by the Ministry of Petroleum and Mines on a monthly basis, and payable in foreign currency.

The 80% rate applies over the monthly average price in excess of USD 80/bbl but under USD 100/bbl; the 90% rate applies over the monthly average price in excess of USD 100/bbl but under USD 110/bbl; and, the 95% rate applies over the monthly average price equivalent to or in excess of USD 110/bbl.

The law provides for certain tax holidays and it also establishes as a cap for the payment of royalties, severance tax and export registrar tax (all of them contributions and royalties under the *Ley Organica de Hidrocarburos*) the amount of USD 70/bbl.

4.CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties

As pointed out above, importation of goods is subject to import VAT at a general rate of **9%**, unless otherwise exempted or exonerated. In addition to import VAT, imports are also subject to custom duties that range between **5%** and **35%**, also depending on the type goods being imported.

It is important to point out that Venezuela has entered into multilateral or bilateral Preferential Custom Tariffs Agreements (PCTA) with many countries, reducing or fully removing the applicable custom duties for certain merchandises from a certified origin.

Among the same it is worth mentioning that Venezuela has been suspended from its status as member to MERCOSUR, and hence, Venezuela may not avail preferential customs treatments corresponding to MERCOSUR.

At the same time Venezuela has been entering into transition agreements to extend and be extended preferential customs treatments corresponding to the Andean Community, until a more definitive agreement is finalized and executed. An interim agreement was finalized with Colombia back in 2011 and the same remains in place.

4.2. Taxable Base

Custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties.

4.3. Transfer Pricing

Custom valuation rules in place in Venezuela are those of the GATT (1994) valuation code, which are similar to the current WTO valuation rules. For valuation purposes, the Andean Pact valuation rules in Decisions 378 and 379 are still applied even-though Venezuela is not a party to the Andean Community. These rules are substantially similar to the first mentioned rules.

4.4. Filing and Payment

An import return must be filed to begin the process of nationalization of the goods. As a general rule in the ordinary importation regime, custom duties and import VAT must be paid within the 5 days following the assessment and liquidation of custom tariffs and duties, when the payment slip is issued by the relevant Customs Office.

4.5. Selected Custom Duties Regimes Available

Importation of goods and equipment can be performed through a variety of customs regimes different to the ordinary importation regime. Each of these special custom duties regimes has a different customs duties and import VAT treatment.

For goods and equipment sold, the custom regime applicable will be ordinary importation. For leased equipment (or equipment and goods contributed as equity to a corporation or branch) the custom regimes applicable are either the ordinary or temporary regimes but with a non-reimbursable import license. Here are some of the most relevant importation regimes available.

4.5.1. Ordinary Import Regime.

It applies to all goods that will remain permanently in Venezuelan territory without any use or jurisdictional restrictions. Full payment of custom duties and import VAT is required upon nationalization.

According the Customs Organic Law, which last amendment took place on November, 2014 (published in the Official Gazette of the Bolivarian Republic of Venezuela Number 6.155 (Extraordinary) on November 19th, 2014) the value of goods that will be imported shall be determined according the appreciation methods of the World Trade Organization ("Organización Mundial del Comercio"), its general rulings, and the International Treaties on the matter.

4.5.2. Short-term Temporary Importation.

This regime applies to specific goods that will be used for a specific activity that will take no longer than 12 months, although a further year extension can be authorized. Therefore, the permanence in the country of the goods is limited to that 24-month maximum period. At the end of the temporary importation the goods must be exported or the importer must apply for a long-term importation regime, otherwise the goods will be forfeited or a fine will be imposed.

4.5.3. Short-term Temporary Importation for Active Transformation.

This regime applies to specific goods that will be used as supply or raw materials for their processing, manufacturing or transformation in a product to be exported, within a given term, commonly not extending beyond 12 months, although a further year extension can be authorized. At the end of the temporary importation the goods –as transformed or incorporated in new goods manufactured- must be exported or the importer must apply for a long-term importation regime, otherwise the goods will be forfeited or a fine will be imposed.

4.5.4. Draw-Back Regime.

The draw-back regime consists of the reimbursement of customs duties levied on goods used in the production process of goods to be exported. The beneficiaries are: i) Exporters who have paid the import tax directly; and ii) Exporters who have purchased finished goods for export, incorporating into them inputs, raw materials, parts or spare parts that have been cleared through customs through the ordinary import regime.

4.5.5. Free Trade Zone Regimes.

Venezuela has some convenient Free Trade Zone regimes that should be carefully explored by importers and other parties with business interest or permanent operations in Venezuela, such as the *Paraguaná*, *Mérida*, as well as *Nueva Esparta* and *Santa Elena de Guairén*. This regimes have proven to be useful in not few specific situations and in addition there are some VAT and income tax benefits attached to them that should be reviewed on a case-by-case basis.

4.6. Custom Returns.

According to Article 41 of the Customs Master Law, in order to determine the customs regime applicable for goods, they necessarily shall be object of a "Custom Return" through the Automatized Custom System ("*Sistema Aduanero Automatizado*").

In addition, under the aforementioned amendment there is an "advanced Customs Return" which must be submitted by the importer prior to the entrance of the goods in Venezuela, also through the Automatized Customs System ("Sistema Aduanero Automatizado") and assisted by the particular Customs Agency.

This "Advanced Customs Return" shall be submitted prior to the entrance of the goods into Venezuela, and according to the following schedule:

a. For goods which arrive into Venezuela by aerial or ground transportation, the "Advanced Customs Return" shall be submitted within a term of no more than 15 calendar days and no less than 1 calendar day, prior to the entrance of goods into Venezuela.
b. For goods which arrive into Venezuela by maritime transportation, the "Anticipate Custom Return" shall be submitted not exceeding the 15 calendar days and not less than 2 calendar days, prior the entrance of the goods to Venezuela.

There are some exceptions applicable to the submission of this "Advanced Customs Return" (e.g. imports by diplomatic missions and international organizations)

5.PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Social Security Contributions (IVSS)

This contribution is paid by both employer and employees. Employers must contribute to the Social Security Agency (*Instituto Venezolano del Seguro Social* or IVSS). These contributions vary depending on the risk of the companies' activities and are calculated based on the normal salary of each worker or employee, up to a limit of 5 minimum monthly salaries. The employer contributes between 9% and 11% of the portion of the worker's salary that does not exceed the cited minimum salary limit, depending on the risk of the company, and the worker contributes 4% of the same portion of salary. Filing and payment is done on a monthly basis.

5.2. Education & Apprenticeship Contributions (INCES)

Commercial or industrial employers with five or more workers must contribute **2%** of the total wages and remunerations of any kind (excluding mandatory profit sharing "utilidades" under Labor law and labor contracts) to the National Institute of Cooperative Education (INCE). Workers contribute **0.5%** of their annual profit sharing, which employers must withhold.

5.3. Labor Risks Indemnity Contribution

This contribution is established in the *Ley Organica de Prevencion Condiciones y Medio Ambiente del Trabajo* or LOPCYMAT, and is payable exclusively by the employer. The same varies **between**

0.75% and 10% (depending on the risks associated with the activity) of the worker or employee salary (with a minimum of a single minimum monthly salary -as provided in Regulations issued by the Government- and a maximum of 10 minimum monthly salaries.) and is computed and paid on a monthly basis.

5.4. Unemployment Contribution

This contribution is paid by both employer and employees as provided in the *Ley Organica del Sistema de Seguridad Social*. The contribution to the *Regimen Prestacional de Empleo* is a 2.5% of the normal salary of each worker or employee, with a minimum of a single minimum monthly salary (as provided in Regulations issued by the Government) and a maximum of 10 minimum monthly salaries. The employer contributes 2% of the same while the worker contributes the remaining **0.5%**. Filing and payment is done on a monthly basis.

5.6. Housing and Habitat Contribution

This contribution is also provided in the *Ley Organica del Sistema de Seguridad Social* and to be paid by both employer and employees. The contribution to the *Regimen Prestacional de Vivienda y Habitat* is a **3%** of the normal salary of each worker or employee, with a minimum of a single minimum monthly salary and a maximum of 10 minimum monthly salaries. The employer contributes **2%** of the same while the worker contributes the remaining **1%** via WHT. Filing and payment is done on a monthly basis.

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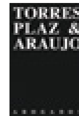
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