MANAGING CORPORATE TAXATION IN LATIN AMERICAN COUNTRIES

AN OVERVIEW OF MAIN CORPORATE TAXES IN SELECTED JURISDICTIONS 2012

LATAXNET®

LATIN AMERICAN TAX & LEGAL NETWORK

MANAGING CORPORATE TAXATION IN LATIN AMERICAN COUNTRIES

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES: 2012

Corporate Income Tax:	35 %
Capital Gains Tax:	Regular corporate income tax rate
Branch Profits Tax:	35 %
Dividends Tax:	0 %[1]

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[2]

Tax-free Reorganizations:i) mergers; ii) divisive reorganizations, and iii) sales and transfers within an economic group.

VAT on Sales:	21%[3]
VAT on Services:	21%
VAT on Imports:	21%

Custom Duties:	from 0% to 35%
Excise Taxes4:	4% to 70%

1 Dividends and profits distributed by local branches are not subject to tax in Argentina, except for those distributed in excess of the company's net taxable income which are subject to an equalization tax of 35%.

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

3 There are lower and higher differential rates, as set forth below.

4 Goods subject to excise taxes are: leaded and unleaded fuel (62%-70%); cigarettes (60%), alcoholic beverages (4%-25%), cars and certain engines (10%); insurances (0.1%-23%); among others. The digital, technological, and electronic assets considered as "luxury assets" are taxed with Excise Taxes at a 17% rate.

Bank Debits and Credits (Transfers) Tax Rate: 0.6%5
Personal Assets Tax:6 0.5%

Local Level Tax Rates[7]:

Stamp (Documentary) Tax: 1%
Gross Turnover Tax: 1% to 3%
Real Estate Tax: 1.5%

Treaty Taxation:

Countries	Interest	Dividends	Royalties
Australia	12%	10% - 8/15%	10/15%
Austria:	Repealed as of 1.1.09	Official Gazette: 7.22.08	
Belgium	12%	10%9/ 15%	3/ 5/ 10/ 15%
Bolivia10	No limits	No limits	No limits
Brazil11	No limits	No limits	No limits
Canada	12.5%	10%12/15 %	3/5/ 10/15%
Chile13	No limits	No limits	No limits
Denmark	12%	10%14/ 15%	3/ 5/10/ 15%
Finland	15%	10%15/15%	3/5/10/15%
France	20%	15%	18%
Germany	10%16/15%	15%	15%
Great Britain	12%	10%17/15%	3%/5%/10%/15%

5 An increased rate of 1.2% applies whenever there has been substitution for the use of a checking account. These rates are partially creditable against other Federal Taxes.

6 This rate applies on the equity interest Argentine individuals and non-residents have in Argentine incorporated entities and local branches. In other cases, the rate schedule varies from 0.5% up to 1.25%, depending on the value of the taxable assets.

7 Reference is made to the most usual rates, but other rates may be applicable in certain jurisdictions.

8 If they are franked, according to Australian income tax laws and subject to a maximum of 15% in other cases. Note that in Argentina dividend distribution is generally not subject to tax.

9 In Belgium, 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. Note that in Argentina dividend distribution is generally not subject to tax.

10 This treaty does not establish specific limits on the taxes but rather specifies which country has jurisdiction to impose taxes.

11 This treaty does not establish specific limits on the taxes but rather specifies which country has jurisdiction to impose taxes.

12 In Canada, 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. Note that in Argentina dividend distribution is generally not subject to tax.

13 This treaty does not establish specific limits on the taxes but rather specifies which country has jurisdiction to impose taxes.

14 In Denmark, 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. Note that in Argentina dividend distribution is generally not subject to tax.

15 In Finland, 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. Note that in Argentina dividend distribution is generally not subject to tax.

16 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.

17 In Great Britain, the tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25%

Countries	Interest	Dividends	Royalties
Italy	20%	15%	10%/18%
Netherlands	12%	10%18/15%	3/5/10/15%
Norway	12.5%	10%19/15%	3/5/10/15%
Russia20	15%	10%21/15%	15%
Spain	12.5%	10%22/15%	3/5/10/15%
Sweden	12.5%	10%23/15%	0/3/5/10/15%
Switzerland24	12%	10%25/15%	0/3/5/10/15%

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 **35%**.

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 35% statutory corporate tax rate is applied. The result of applying the 35% tax rate is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the Income Tax Liability.

of the capital and 15% in other cases. Note that in Argentina dividend distribution is generally not subject to tax.

18 In the Netherlands, 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. Note that in Argentina dividend distribution is generally not subject to tax

19 In Norway, 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. Note that in Argentina dividend distribution is generally not subject to tax.

20 The Treaty is yet awaiting notification of Russian government. It will enter into force on the subsequent date on which the Russian government notifies the Argentine government that all Russian internal proceedings for DTT approval are duly fulfilled. This is expected to happen soon.

21 In Russia, 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. Note that in Argentina dividend distribution is generally not subject to tax.

22 In Spain, 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. Note that in Argentina dividend distribution is generally not subject to tax.

23 In Sweden, 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. Note that in Argentina dividend distribution is generally not subject to tax.

24 The Treaty was not approved by the Argentine Congress. An Additional Protocol stated the DTT would apply on a provisional basis as of January 1st, 2001. However, the Argentine Government, on January 16, 2012 notified the Swiss Government its intentions not to become party to the treaty. As to the effects of such notification with regards to the application of the treaty over time, see "Argentina Terminates Provisional Application of Tax Treaty with Switzerland", by Cristian E. Rosso Alba and Lucía Ibarreche; Tax Notes International, February 2012.

25 In Switzerland, 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. Note that in Argentina dividend distribution is generally not subject to tax.

[+] Sum of All Revenues
[=] Gross Income
[–] Deductible Expenses
[–] Exempted Items of Income
[=] Net Taxable Income (Minimum Presumptive Income Tax)
[=] Taxable Base
[*] 35% 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 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 tax law 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[26] applicable to: i) transactions with related companies, ii) transactions with parties located in tax havens; 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.

In the case of exports of cereal, seeds, hydrocarbons or other commodities, with a set price in transparent markets, where an international middleman who is not the beneficial owner of the good takes part in the transaction, the best method deemed to assess the Argentine source income is the quotation of the value in the transparent market of the good on the day of shipment, or the price agreed upon with the middleman, only if this price was greater.

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. Parties in tax havens are deemed as related parties for these purposes.

Law 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

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

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

debts, taxes, prices, services, etc.; because of its authority to determine the value of the currency and 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 to the case subject to analysis. Tax planning is of the essence to avoid pitfalls and to take advantages of circumstantial opportunities.

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 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 tax treatment of a financing operation 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. 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 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 for.

Amongst penalties for incompliance with substantial obligations: i) tax omission is fined with a penalty from 50%-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; ii) furthermore, the TPL sets the penalty for tax fraud at 2 to 10 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.

1.5 Dividends Tax / Branch Profits Tax.

The distribution of dividends, profits or branches' remittances are generally not subject to taxes in Argentina. Exceptionally and whenever such profits are distributed in excess of a company's net taxable income a withholding rate of 35% is applied (i.e. equalization tax).

1.6 Cross-border Payments.

1.6.1 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.

1.6.1.1 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.

1.6.1.2 Royalties

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

1.6.1.3 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.

1.6.1.4 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).

1.6.1.5 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).

1.6.1.6 Rental Payments on moveable property

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

1.6.1.7 Rental Payments on real estate property

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

1.6.1.8 Proceeds from the sale of any type of property

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

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

Moreover, a “technology tax” was passed increasing the rate from 10.5% to 21% of imported technology-related goods considered as “luxury products”. Hence, for enterprises engaged in the business of technological importation, the digital, technological and electronic assets considered as “luxury assets” under the tax reform, would be taxed at a higher rate within the VAT, whilst the ones manufactured in the territory of Tierra del Fuego would be exempted.

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.

In some cases, services rendered outside Argentina are deemed as subject to VAT because they are effectively used or exploited in Argentina. Imports of services are taxable when the importer is a VAT registered taxpayer.

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 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 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 applicable amount.

During 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).

2.3 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.

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 may vary from jurisdiction to jurisdiction, the general rate 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 formula in order to allocate income between the different provinces.

3.3 Property Taxes.

This tax levies the transfer of property rights referred to Argentine real estate property and provided that the owners are physical persons (resident or non-resident) or undivided estates. The tax rate is 1.5% and the tax applies whenever the transaction has not been subject to income tax.

3.4 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.

3.5 Stamp Tax.

The Stamp Tax is a local tax levying the instrumentation of onerous contracts. In the City of Buenos Aires,[27] 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 4%). The tax is paid by means of sworn statements or fiscal stamps. During 2004, several Federal Supreme Court rulings[28] 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).

3.6 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 vary according to a set schedule, from 0.5%, 0.75%, 1% or 1.25%, as the case may be. Taxable assets include both assets held within the country and abroad. Foreign residents shall be subject to a 1.25% rate on the value of all their assets held in Argentina; except for shares and equity holdings in Argentine companies, which are taxed differently. Non-resident aliens, in general, are subject to an annual 0.5% 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 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.

3.7 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 21.925% 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 **35%** (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.

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

28 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".

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:

a) 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

b) 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: 2012

Corporate Income Tax:	
Capital Gains Tax:	25%
Branch Profits Tax:	25%
Dividends Tax:	25%

Withholding Taxes on:	12.5%
Interest:	12.5%
Royalties:	12.5%
Technical Assistance:	12.5%
Technical Services:	12.5%
Other Services:	13%
Imports:	Three Years
Tax losses carry-forward term:	Not applicable
Tax losses carry-back term:	Not developed – based on an arms
Transfer Pricing Rules:	length basis
	Mergers, Spin offs and Transformations
Tax-free Reorganizations: VAT on Sales	13%
VAT on Imports:	from 5% to 10%
Custom Duties: Net-worth (Assets)	None
Tax: Stamp (Documentary)	None
Tax: Bank Debits (Transfers) Tax Rate:	0.15%

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
Taxes on Other Property:	According to Periodical Charts issued by Municipal Governments
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%.

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.

1.1.5 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.

1.1.6 Transfer Pricing

Bolivia has not developed any transfer pricing rules. As a basic premise, all transactions carried out through by related parties should be carried out as if they were deemed to be independent parties.

1.1.7 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. 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.

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.

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.

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), the Penalties (M) when applicable, expressed in U.F.V's (Housing Promotion Unit, a referential index) and the interests (r), according to the following:

$$DT = TO \times (1 + r/360)n + M$$

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 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

There are no specific rules regarding Tax Havens.

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 or 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.

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 funds 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 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 n 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 0.15 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 234 extended this term for another period, this time of 36 months commencing on July 24, 2012.

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.

Tax 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 not developed any transfer pricing rules. As a basic premise, all transactions carried out through by related parties should be carried out as if they were deemed to be independent parties.

4.4 Filing and Payment

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 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: 2012

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

Contribution for Social Security Funding (COFINS)[6]	
Non-cumulative system	7.6%
Cumulative system	3%[7]
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 39%[8]
Tax on Services (ISS)	from 2% to 5%[9]
Tax on Urban Property (IPTU)	from 1% to 1.5%[10]
Tax on Vehicles' Ownership (IPVA)	from 1.5% to 4%[11]
Tax on Real Estate Transfer (ITBI)	2%[10]
Tax on Donation and Inheritance (ITCMD)	from 4% to 8%[12]
Import Taxes	
Imports of services (except communication and transport services)	
Withholding Income Tax (WHT)	15% or 25%[13]
ISS	from 2% to 5%
PIS-Import	1.65%
COFINS-Import	7.6 %
Economic Intervention Contribution (CIDE)	10%[13]
IOF	0.38%[13]
Imports of goods	
II	from 0% to 35%
IPI	from 0% to 300%
ICMS	from 17% to 39%[14]
PIS-Import	1.65 %
COFINS-Import	7.6 %[15]

1 The regular rate is 15% but a 10% surcharge is applicable to taxable profits exceeding BRL 240,000 per year (approximately USD 120,000 - estimated exchange rate: BRL 2.00 for each USD 1.00).

2 This contribution is also levied on corporate profits. The applicable rate to financial institutions and insurance companies is 15%.

3 See Section 1.1.2.3.

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

5 The tax rate varies according to the tax classification number and, in general, the bottom rate is applicable to food and medicine meanwhile the top rate is applicable to superfluous products, such as clothes and cigarettes.

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

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

8 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.

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

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

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

12 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.

13 WHT rate is 15% if the service is technical or 25% if not. CIDE (see Section 2.5) is only charged in case of technical services. IOF (see Section 2.6) is levied on the amount of the foreign currency exchange agreement.

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

15 Some products are currently subject to a temporary surcharge of 1,5%.

Treaty Taxation

Items of Income[1]					
Countries	**Interest**	**Dividends**	**Royalties**	**Technical Services**	**Technical Assistance**
Argentina [14]	15% [2, 3]	0%	15% [3]	15% [3, 4]	15% [3, 4]
Austria [14]	15% [2]	0%	10/15% [5]	15% [6]	15% [6]
Belgium [10]	10/15% [7, 17]	0%	10/15% [8]	10% [4]	10% [4]
Canada [9, 14]	10/15% [2, 7]	0%	15%	15% [4]	15% [4]
Chile [9]	15% [11, 12]	0%	15% [11]	15% [4, 11]	15% [4, 11]
China [9]	15% [2]	0%	15%	15% [4]	15% [4]
Czech Rep.[9]	10/15% [2, 7]	0%	15%	15% [4]	15% [4]
Denmark [14]	15% [2]	0%	15%	15% [4]	15% [4]
Ecuador [9, 14]	15% [2]	0%	15%	15% [4]	15% [4]
Finland [9]	15% [18]	0%	10/15% [8]	15%	15%
France [14]	10/15% [7, 17]	0%	10/15% [8]	15% [6]	15% [6]
Hungary [9]	10/15% [2, 7]	0%	15%	15% [4]	15% [4]
India [9]	15% [2]	0%	15%	15% [4]	15% [4]
Israel [9, 13]	15% [2, 12]	0%	10/15% [15]	10% [4]	10% [4]
Italy [9, 14]	15% [2]	0%	15%	15% [4]	15% [4]
Japan [14]	12.5% [2]	0%	12.5/15% [16]	12.5% [6]	12.5% [6]
Luxembourg [14]	10/15% [2, 7]	0%	15%	15% [4]	15% [4]
Mexico [9]	15% [2, 11, 12]	0%	10/15% [11, 15]	10% [4, 11]	10% [4, 11]
Netherlands [9]	10/15% [2, 7]	0%	15%	15% [4]	15% [4]
Norway [9, 14]	15% [2]	0%	15%	15% [4]	15% [4]
Peru [9, 13]	15% [11, 12]	0%	15% [11]	15% [4, 11]	15% [4, 11]
Philippines [9]	15% [2]	0%	15%	15% [4]	15% [4]
Portugal [9, 10]	15% [2, 12]	0%	15%	15% [4]	15% [4]
Slovak Rep.[9]	10/15% [2, 7]	0%	15%	15% [4]	15% [4]
South Africa[9,13]	15% [2, 11, 12]	0%	10/15% [11, 15]	10% [4, 11]	10% [4, 11]
South Korea [9]	10/15% [2, 7]	0%	10/15% [15]	10% [4]	10% [4]
Spain [14]	10/15% [2, 7]	0%	10/15% [15]	10% [4]	10% [4]
Sweden [14]	15% [2, 3]	0%	15% [3]	15% [3, 6]	15% [3, 6]
Ukraine [9]	15% [2, 11, 12]	0%	15% [11]	15% [4, 11]	15% [4, 11]

Additional Remarks

Brazil has signed tax treaties with the following countries which have not been ratified yet and, therefore, are not currently in force: Paraguay, Russia, Trinidad and Tobago, Turkey and Venezuela.

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 is 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 Brazilian tax authorities do not treat service fees as business profits. Such income is either treated as royalties or other income, giving cause to double taxation issues on a case by case basis. Currently, there are discussions about the matter in the administrative and judicial courts.

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.
2 Exemption is granted if the beneficiary is the government of the other State, its political subdivisions or government owned entities.
3 There is no specific limitation in the treaty, thus the domestic tax rate applies.
4 Deemed as royalties according to the corresponding royalties article of the treaty or the treaty protocol.
5 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.
6 Deemed as royalties according to a local ordinance.
7 The 10% rate applies to loans that meet some conditions (e.g., minimum repayment terms).
8 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.
9 Such reductions are only applicable to the beneficial owner of the income.
10 The treaty applies to the CSLL.
11 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.
12 Applies to interest on net equity.
13 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.
14 It is possible to argue that the treaty applies to the CSLL. However, Brazilian tax authorities may not have the same understanding.
15 The 15% rate applies to royalties arising from the use, or right to use, trademarks and 10% for other cases.
16 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.
17 Exemption is granted if the beneficiary is the government of the other State.
18 Exemption is granted if the beneficiary is the government of the other State or the Bank of Finland.

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 (approximately USD 120,000[1]) or BRL 20,000 per month (approximately USD 10,000) in case of base periods shorter than one year. CSLL is due at a 9% rate (except for financial institutions and insurance companies which are subject to a 15% rate).

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.
Laws 11638/07 and 11941/09 introduced relevant changes in the BR GAAP, seeking the convergence of Brazilian rules with the International Financial Reporting Standards (IFRS) adopted by the International Accounting Standards Board (IASB).

Such rules have already been:

(i) considered in the latest instructions and opinions of the Brazilian Securities Exchange Commission ("CVM") and the National Accounting Committee ("Comitê de Pronunciamentos Contábeis" or "CPC"); and

(ii) regularly approved by the Brazilian Federal Accounting Council ("Conselho Federal de Contabilidade" or "CFC"), being, thus, applicable to all Brazilian companies and legally considered as Brazilian Accounting Rules.

As from 2010, all companies, regardless of the taxation regime adopted (Actual, Deemed or Arbitrated Profit) must use the Transitory Tax Regime ("RTT"), established by Law 11941/09. Under this regime, the calculation of the IRPJ, CSLL, PIS and COFINS is made using the net profits ascertained according to the accounting rules in force on December 31, 2007 (i.e., prior to the changes mentioned above).

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 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.

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 IPRJ 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 exempted income. Some expenses, however, are subject to some 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).

(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 Central Bank of Brazil ("BACEN") and the Brazilian Patent and Trademark Office ("INPI"). 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 or in the case of introduction of a special production process. Limits are not applicable to the CSLL.

(E) Bonus or Profit Sharing: if paid to officers are not tax deductible for IRPJ purposes; whereas, if paid to employees are fully tax deductible[4] .

(F) Depreciation: straight-line method must be used. The main rates acceptable by tax authorities are[5]: (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).

(G) Losses Resulting from the Equity Pick-up Method of Accounting: such expenses are non-deductible.

(H) Premium ("ágio") paid by Brazilian companies for the acquisition of equity stakes in other companies (investments subject to the equity pick-up method of accounting): the premium 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, in relation to the premium paid for the market value of the target company's assets (higher than their book value) or for the target company's expected future profitability.

After the merger, the surviving company shall:

(i) add the premium paid for the market value of the target company's assets to the value of these assets, to deduct such premium jointly with respective depreciation, amortization or write-off, when calculating its IRPJ and CSLL;

(ii) deduct the premium paid for the target company's expected future profitability at maximum rates of 1/60 per month, when calculating IRPJ and CSLL.

Although the tax rules above remain in force, there are several debates about their application, inclusively in light of the changes introduced in the BR GAAP regarding the premium calculation and allocation. Therefore, this controversial issue must be carefully reviewed on a case by case basis.

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

(A) Profits arising from the sale of fixed 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 termination 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 Anônima") and that the amount received is registered in a special or 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 20%; (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 20%; (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 20%; 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 of the Federal Revenue Service, dated June 4, 2010 (as amended) lists the jurisdictions considered as tax havens[6] and privileged tax regimes[6].

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 thin capitalization rules (see Section 1.1.2.5), even if the involved parties are not related, to limit deductions of interest owed to beneficiaries of said regimes.

The presumption described above 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 not registered with the Central Bank of Brazil and interest revenues

Transfer pricing rules do not apply to royalty and know-how payments made by Brazilian companies to the parties above or received by Brazilian companies from the parties above (Federal Revenue Service has extended the exemption to the exports).

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):

- affiliated 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.

Transfer pricing rules have recently been changed. Such changes shall apply as from January, 2013, but the taxpayer has the option to adopt such rules in 2012. The main changes passed by Provisional Measure ("MP") 563 refer to: (i) a new Resale Less Profit Method (New PRL); (ii) amendments in the calculation of benchmarks based on Comparable Independent Prices ("PIC"); (iii) new transfer pricing methods for imports and exports of commodities and; (iv) new transfer pricing rules applicable to interest on financial transactions with related parties or parties domiciled in tax heavens or subject to privileged tax regimes (which will become subject to transfer pricing control, even if registered with the Central Bank of Brazil).

Considering that the relevant changes were introduced by a MP, attention shall be given to the developments resulting from the analysis of the act by the National Congress and new regulations passed for the implementation of the new rules.

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, 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 Sections 1.1.2.3 and 1.1.2.4 above.

The thin capitalization rules also reach debts with third parties, if a related party or a party resident in a tax heaven or subject to a privileged tax regime is liable for the total or partial payment of the debt due to their intervention in the transaction, e.g. as guarantor. The Federal Revenue Service clarified that, in such case, the thin capitalization rules only apply as of the date the intervening party settles the debt and becomes a creditor of the Brazilian legal entity.

Generally, transactions between Brazilian legal entities are outside the scope of the thin capitalization rules except for the case described in the former paragraph or back-to-back cases (if the Brazilian lender is a mere intermediary or agent in a financing actually granted by a related party, a resident in a tax haven or a non-resident subject to a privileged tax regime). The following transactions are also excluded from the thin capitalization rules, as long as certain requirements are met (i) foreign credit granted to financial institutions to be lent to Brazilian borrowers; and (ii) issuance of bonds by Brazilian companies in foreign markets.

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:

<table>
<tr><th></th><th colspan="3">Creditor</th></tr>
<tr><th>Limit</th><th>Related party with (direct) equity stakes in the Brazilian company</th><th>Related party with no equity stakes in the Brazilian company</th><th>Resident in tax haven or subject to privileged tax regime (related or unrelated party)</th></tr>
<tr><td>Individual</td><td>Debt shall not exceed twice the value of the equity stake held by the related party in the Brazilian company's net worth</td><td>Debt shall not exceed twice the value of the Brazilian company's net worth</td><td rowspan="3">Debt shall not exceed 30% of the Brazilian company's net worth</td></tr>
<tr><td>Collective: debts with related parties with equity stakes or not (direct) in the Brazilian company</td><td colspan="2">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</td></tr>
<tr><td>Collective: exclusively for debts with related parties with no (direct) equity stakes in the Brazilian company</td><td>Not applicable</td><td>Debts shall not exceed twice the value of the Brazilian company's net worth</td></tr>
</table>

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 (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 branches, affiliate or controlled companies abroad. Such income must be taxed on December 31 of the year when they are accrued and, in the case of profits from the investment in foreign branches, controlled or affiliate companies, according to the balance sheet of the invested legal entity. Exchange variations must be studied on a case-by-case basis.

Losses from Brazilian investments abroad cannot be offset against local profits, but they can be offset against foreign profits derived from the same investment.

The legality of the taxation of profits of foreign legal entities is being discussed before the Brazilian Supreme Court, based on some articles of the Federal Constitution and the Brazilian Tax Code. However, a final decision on this matter has not been granted yet. It is important to note that if the investment is made in a country with which Brazil has signed a treaty to avoid double taxation, its provisions must be analyzed to determine the tax treatment of such income in Brazil.

1.1.2.7. Foreign Tax Relief

Taxes paid abroad on profits of foreign subsidiaries or branches, which are included in the taxable basis of IRPJ and CSLL, can be offset against IRPJ and CSLL due (limits must be observed).

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 permanent assets) 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's tax losses forfeit 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 capital increase with profits arising prior to that date is exempt but subsequent capital reductions can be taxable according to specific provisions. Capital refunds in assets are allowed either at book or market values. In the latter case, the difference between the market value and the book value shall be considered as a taxable capital gain for the invested company, rather than for the recipient shareholder (individual or legal entity).

1.2. Payment and Filing

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

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[7].

Taxpayers that calculate their corporate taxes annually must make advance monthly payments until the last business day of the month following that on which the taxable event occurs. Such advance payments are calculated on either on estimated income (calculated as in the Deemed Profit system)[8] 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 calculated on the annual tax return and the advance payments must be paid up to the last day 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.

In general, the Corporate Income Tax Return must be filed up to the last business day of June 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 2011, the SELIC corresponded to 11,04%.

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 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.

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. A higher 25% rate is applicable to remittances made to tax havens. According to local legislation, technical service is any work which execution depends on specialized professional knowledge, regardless of any technology transfer.

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. A higher 25% rate is applicable to remittances made to tax havens. Certain reductions are granted to foreign investors provided some requirements are met, e.g., in case of bonds issued to fund investments and R&D.

1.4.1.5. Capital Gains

Capital gains are subject to a 15% WHT (rate is increased to 25% if the seller is domiciled in a tax haven).

Until Law 10833/03 was passed, capital gains deriving from the sale of a Brazilian asset closed between two non-residents were not subject to taxation. However, article 26 of this law provides that the attorney-in-fact of the non-resident buyer is responsible for the payment of the income tax on the capital gains earned by the non-resident seller, thus raising controversies regarding this matter.

1.4.1.6. Tax Treaties

Treaties to avoid double taxation generally limit the WHT on certain remittances to 15%.

2. OTHER TAXES

2.1. Excise Tax (IPI)

IPI is a federal tax charged on the import 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, 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:

(a) imports of goods;

(b) domestic circulation of goods (note that the tax triggering event is the shipment of the goods, which includes the sales or other taxable transactions);

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

(d) 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' ICMS 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:

(a) for imports of goods: the CIF price, plus II, IPI, PIS/COFINS and ICMS itself (which must be included in its own taxable basis);

(b) for the 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 taxa-

ble basis in case of goods for resale or manufacturing inputs; IPI must be included in ICMS taxable basis on transactions with end customers);

(c) 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, circulation of goods within the territory of the same State and interstate transactions whenever the recipient is not an ICMS taxpayer vary from state to state. Generally ICMS rates are:

(a) 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 and interstate transactions whenever the recipient is not an ICMS taxpayer;

(b) 25% on communication services; and

(c) 12% on transportation services.

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

(a) 4% on interstate transactions carried out with imported goods (in force as from January, 2013);

(b) 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

(c) 12% on other interstate transactions.

In case of imports of goods, ICMS shall be paid to the state where the importer is based. Disputes among States arise when the recipient is not the ultimate importer.

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, liquid gas and energy.

In case of transportation services, ICMS shall be paid to the state where the service starts, 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 user is domiciled, when the service is rendered through satellite; (ii) where the service is charged; or (iii) where the service provider is based, in case the service is pre-paid by card or similar.

ICMS has also been designed based on the principle that the overall tax burden shall be the same, irrespectively of where the goods are produced or the services are performed. For this reason, in case of interstate transactions with fixed assets and goods for own consumption between ICMS taxpayers, the recipient of the goods must pay the ICMS for the state of destination on the value of the transaction at a rate corresponding to the difference between the internal rate and the interstate rate.

ICMS is a value added tax. Hence, taxpayers shall book (i) credits for the ICMS paid on imports or passed on to the price of goods and services and (ii) debts for sales or other taxable transactions. Ge-

nerally, 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 operations and 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 rules. This system consists in the collection of the ICMS by certain participants in the supply chain, determined by law, that shall calculate and pay the tax due in former or subsequent transactions with the goods.

In general, the manufacturers and importers are subject to the tax substitution system. They shall pay the ICMS levied on their own operations, as well as the tax levied on subsequent taxable operations within the State until the product is delivered to the end consumer (ICMS due by tax substitution).

In case of interstate sales, if the state where the supplier/taxpayer is based does not impose the tax substitution system, the company's establishments based in said State only shall pay the tax levied on their own operations (interstate circulation of products).

As determined by Supplementary Law 87/96, in general, the State of destination, where this system is applicable, charges the ICMS-ST (for subsequent taxable transactions carried out within the State until the product is delivered to end consumers) from the purchaser upon the arrival of the goods in its territory.

ICMS incentives and benefits can only be granted by Conventions signed by all federal states to avoid harmful competition between them. Several Brazilian states, aiming at attracting new investments, grant ICMS incentives, such as ICMS refunds, deemed credits, tax exemptions, without proper approval.

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 maximum rate at 5% and the minimum rate at 2% (some municipalities adopts lower rates- against the law - to attract investments) and ruled the ISS exemption on exports, defining exports as the rendering of services to non-residents 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".

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:

(a) revenues earned by legal entities, with few exceptions (e.g. dividends and revenues derived from exports of goods or services are not taxed, 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) and

(b) imports of goods and services. In such cases, taxable basis are, respectively: (i) customs value of the goods plus ICMS and the contributions themselves (PIS and COFINS must be included in their own taxable basis) and (ii) amounts paid or credited for imports of services, plus WHT, ISS and the contributions themselves (PIS and COFINS included in their own taxable basis). The Federal Revenue Service has described how PIS and COFINS shall be calculated in this case.

PIS and COFINS are mainly calculated according to the non-cumulative or cumulative systems, which may coexist on a case by case basis. Exemptions and specific rules apply to certain businesses and certain income on a case-by-case basis.

PIS and COFINS are highly regulated taxes and represent a significant share of the overall Brazilian tax collection. Disputes and controversies are frequent in this field, especially regarding the right to use tax credits.

2.4.1. Non-cumulative System

PIS and COFINS are levied on gross revenues of legal entities at rates of 1.65% and 7.6% respectively. Nowadays, financial revenues are subject to a zero percent rate, except for a few cases.

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:

(a) contribution paid on (i) domestic purchases or imports 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;

(b) expenses with electric energy, rent of buildings, rent or lease of machines and equipments used for the activities of the taxpayer and transportation costs relating to sales; and

(c) 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 (alternatively, such credit can be calculated at 1/48 per month of the cost of acquisition of the relevant fixed asset – general rule – or at 1/24 per month of the same cost in certain cases).

As the law restricts tax credits, the PIS and COFINS tax burden is significant.

Generally, legal entities that calculate their corporate taxes (IRPJ and CSLL) based on the actual profit system are subject to PIS and COFINS based on the non-cumulative system. However, the cumulative system is mandatory in some cases, irrespectively of the method chosen for the calculation of the IRPJ and CSLL.

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

2.4.2. Cumulative System

In the cumulative system, operational revenues earned by legal entities are taxed at the rates of 0.65% (PIS) and 3% (COFINS). The taxpayer has no tax credits for the contributions paid on imports or relating to domestic purchases and expenses incurred. Nowadays non-operational revenues are not taxed with the cumulative PIS and COFINS

Generally, legal entities that calculate their corporate taxes (IRPJ and CSLL) based on the deemed profit system are subject to PIS and COFINS according to the cumulative system (in some cases, the cumulative system is mandatory, irrespectively of the method chosen for the calculation of the IRPJ and CSLL – e.g. civil construction until the end of 2015).

2.4.3. Specific PIS and COFINS Rules

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

(a) financial institutions;

(b) pharmaceutical, automotive, beverage, and tobacco industries;

(c) fuel industry; and

(d) hygiene and cosmetics products.

Among such specific rules, we highlight:

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

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

Such tax centralization 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

According to Law 10865, since 2004 PIS and COFINS are due on imports of goods and services generally at the rates of 1.65% and 7.6%, respectively.

Regarding these transactions, the taxpayer subject to the non-cumulative system is usually entitled to tax credits.

2.4.5. PIS and COFINS Withholdings

Among other cases, PIS and COFINS withholdings are required:

(a) on payments for certain professional services rendered by legal entities to other legal entities, at rates of 0.65% and 3% respectively, as prepayments of the beneficiary's contributions, regardless of whether such beneficiary is taxed based on the cumulative or non-cumulative system; and

(b) on payments made by the federal administration to Brazilian legal entities for goods supplied or services rendered, at rates of 0.65% and 3% respectively, regardless of whether such beneficiary is taxed based on the cumulative or non-cumulative system (state and municipal administration may comply with this withholding obligation as agreed with the federal administration).

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[9] and any agreement involving royalty payments, except for payments for software licenses and for the commercialization and distribution of software which are not connected with a transfer of know-how to develop the program.

A 30% tax credit is granted for the CIDE paid on royalties for patents and trademark licenses from January 1, 2009 to December 31,2013 which may be offset against the amounts to be paid as CIDE in subsequent remittances of the same nature.

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 – in June 2012 this term was fixed in 720 days - approximately 2 years). 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. IOF-Securities has been extended to transactions with certain financial derivatives executed in Brazil related to the national/foreign currency exchange rate or to the interest linked to the national/foreign currency exchange rate. Such tax is levied at 1% on the adjusted notional value of such financial derivatives upon its purchase, sale or maturity which, individually, increase the currency exchange exposure of the taxpayer's short position or decrease of the taxpayer's long position.

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 (calculated as provided by the Municipal law) and use of the relevant property.

2.7.2. Tax on Vehicles' Ownership (IPVA)

IPVA is a state tax levied annually on the ownership of vehicles (car, trucks, buses, tractors, boats, yachts and aircraft [10]). 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 to 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)	Above 80	Above 65 up to 80	Above 50 up to 65	Above 30 up to 50	Up to 30
Up to 50	0.03	0.20	0.40	0.70	1.00
Above 50 up to 200	0.07	0.40	0.80	1.40	2.00
Above 200 up to 500	0.10	0.60	1.30	2.30	3.30
Above 500 up to 1,000	0.15	0.85	1.90	3.30	4.70
Above 1,000 up to 5,000	0.30	1.60	3.40	6.00	8.60
Above 5,000	0.45	3.00	6.40	12.00	20.00

Constitutional Amendment 42/03 has confirmed ITR progressive rates and granted an ITR tax exemption to small sized rural property exploited by its owner, who does not have any other real estate. Note that 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 2%.

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 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 charged at 4%.

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 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 contribution due by companies is composed of a fixed rate of 20% supplemented by rates varying from 6.8% to 11.8%, in case of compensations paid to employees. The criteria to establish such variable rate depends 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.

For some specific sectors, such as agricultural, agro-industrial, IT, call center, hospitality and companies engaged in the manufacturing of certain goods, the ordinary payroll contribution levied at 20% rate is partially or totally replaced by a rate of up to 2.5% levied on the company's gross revenues (export revenues are not included). The calculation of the social contribution based on the gross revenues is definitive for agricultural and agro-industrial sectors and temporary (until December, 2014) for the other sectors.

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 430.78 (approximately USD 215.39).

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 or unfair dismissal.

In case of unfair dismissal, 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 Brazilian Constitution until 2023 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 in the region and on shipment of products manufactured in ZFM to other regions within the national territory;

- IRPJ: 75% reduction for applications filed with the ZFM until December 31, 2013;

- PIS and COFINS: 0% on imports from ZFM of inputs to be used in manufacturing activities within the region and certain new fixed assets ; 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; presumed credit for the tax that would be paid if the tax exemption above 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, to which similar benefits apply. Similar IPI benefits are also granted to taxpayers based in the West Amazon region (States of Acre, Rondônia, Roraima and Amazonas).

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 the IRPJ, and taxpayers can apply for this incentive until 2013. In general terms, a 75% IRPJ reduction can be granted for a period of up to 10 years to activities considered of priority (as defined by Presidential Decrees) for the development of those regions (in certain cases an exemption can be granted). The benefit shall be approved by the Federal Revenue Service based on a prior technical analysis of the Amazon and Northeast Development Superintendence (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 profit reserve and can only be used to offset losses or increase the company's capital (cannot be distributed to its partners).

5.3. Technological Innovation Incentives

Applicable to legal entities that carry out researches 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;
- 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% income tax withholding 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 and PIS/COFINS levied on imports. 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.

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

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:

(a) 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

(b) exemption of Customs duties, IPI and PIS/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 Customs duties, IPI, PIS/COFINS 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 and PIS/COFINS levied on imports and acquisitions in the domestic market of inputs used for manufacturing certain goods to be sold in the domestic market or exported (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

Culture, Sports and Audiovisual Activities	Reduction of the IRPJ due of percentages of the amounts invested in approved cultural or sports projects or approved Brazilian independent films. Conditions must be met.
Informatics and Automated Products	IPI exemption for products manufactured in the regions under the jurisdiction of the Amazon and Northeast Development Superintendencies (SUDAM/SUDENE). IPI reductions for products manufactured in other regions: 80% to 95% (until 2014), 75% to 90% (2015), 70% (until 2019). Reductions are granted regardless of the maintenance and use of credits derived from the purchase of raw-material, packaging and intermediate products. Requirements must be met. IRPJ and CSLL deduction of up to 160% of the expenses with technological R&D. Further rules can provide for a deduction of 180%, depending on the number of employees and researchers hired by the taxpayer.
PROUNI (Educational Activities)	IRPJ, CSLL, PIS and COFINS exemption on income/revenues arising from educational courses. Requirements must be met.
RECAP (Special Regime for the Purchase of Capital Goods by Exporters)	Zero percent PIS and COFINS on imports of certain fixed assets by the beneficiaries of the regime and on sales of fixed assets in the domestic market to such beneficiaries if requirements are met. Regime applicable to Brazilian exporters (whose exports represent generally 50% or more of their annual sales) and Brazilian shipyards in relation to new capital goods listed by decree.
REIDI (Infrastructure Development)	Zero percent PIS and COFINS on imports, by the beneficiaries of the regime, of new fixed assets (including under a lease agreement), construction material and services. The zero percent taxation also applies to sales or lease in the domestic market, to the beneficiaries of the regime, of the same assets and services, if certain requirements are met. Regime applicable to infrastructure projects in the following areas: transportation, ports, energy, sanitation and irrigation.
REPORTO (Modernization of Brazilian Ports)	II and IPI exemption and zero percent PIS and COFINS rates on imports of certain machinery, equipment and other assets used in port activities and sales of the same assets in the domestic market, for the same purposes, to beneficiaries of the regime.
REPETRO (Import and Export operations related to the Oil & Gas Industry)	Industries of the O&G sector can import certain equipment, machinery and parts under the drawback suspension regime (see 5.4.2 above), export certain equipment, machinery and parts without shipment of these goods overseas, and use the temporary admission regime (see 5.4.1) to use the exported items within Brazil.

REINTEGRA (Special Tax Regime for exporting companies)	The companies that export certain industrial goods may require reimbursement or offset with other federal taxes of the total or part of the residue of tax on their production chain. Such amount will be calculated considering 3% over the export sales of the industrial goods manufactured by the exporting company. It is important to stress that the REINTEGRA will be applied over the goods manufactured in the country in which the total cost of the imported input used on their production does not exceed the limit of the export price. In this case, the inputs from countries of the Common Market of South ("Mercosul") which comply with the requirements of the Mercosul Origin Regime will be considered as a national input.
SIMPLES (Special Tax Regime for Small Businesses)	Payment of federal, state and municipal taxes and of payroll contributions under a simplified regime (in one single collection document). Taxes are calculated based on progressive rates (varying per type of company, activity, tax and gross revenue ceiling) on the gross revenues of the taxpayer. Regime applicable to small and medium sized companies with annual gross revenues in the preceding year and current year not exceeding R$ 360,000 (USD 180,000) or R$ 3,600,000 (USD 1,800,000) respectively. Not applicable to certain companies or activities (e.g. corporations, companies with foreign shareholders and companies engaged in consulting services).

It is worth mentioning that the Brazilian legislation provides for other tax incentives, such as:

- PADIS: Program to Support Technological Development of the Industry of Semiconductors;
- PATVD: Program to Support Technological Development of the Industry of Equipment for Digital TVs;
- REPES: Special Tax Regime for the Export Platform of Information Technology Services;
- Incentives for the 2013 FIFA Confederations Cup / 2014 World Cup;
- RECOPA: Incentives to the Construction, Reform or Modernization of Sport Stadiums;
- PRONON: National Program for the Cancer Prevention and Treatment;
- PRONAS: National Program for Protecting the Health of Disabled People;
- RETAERO: Special Tax Regime for the Brazilian Aviation Industry;
- REICOMP: Special Tax Regime for Computers to be used in Public Schools;
- RETID: Special Tax Regime for the Defense Industry;
- REPNBL-Redes: National Broad Band Plan;
- RENUCLEAR: Special Tax Regime for the Development of Nuclear Industries;
- RECINE Special Tax Regime for the Development of the Cinematographic Exhibition Activity);
- Inovar-Auto: Program to Support the Technology Innovation and Strengthening the Production Chain of Automotive Vehicles; among others.

6. PUBLIC DIGITAL BOOKKEEPING SYSTEM (SPED)

Since 2000, the Union, States and Municipalities have harmonized their electronic systems and share a common database, where accounting and tax information is received, validated and stored. This common data base can also be used by other governmental agencies

The Public System of Digital Tax-Accounting ("SPED") was officially launched by Decree 6022/07, later supplemented by Normative Instruction of the Federal Revenue Service 787/07 and its amendments.

As part of the SPED, all legal entities that pay corporate taxes based on the actual profit system must keep their accounting records in digital format and submit such files to the Federal Revenue Service since 2009.

The implementation of e-tax books also started in 2009, for the legal entities expressly listed by State law. Moreover, commercial invoices started to be issued electronically, per economic activity, gradually.

It is worth mentioning that, at present, some of the most important tax returns, such as the legal entities' income tax return, are already filed electronically. In some cities, such as São Paulo, service invoices are also issued electronically.

A cut of administrative costs is expected with the full implementation of SPED, that could simplify the transit of goods within the Brazilian territory, reduce paperwork and prevent inconsistencies resulting from the provision of the same information through multiple returns.

The Federal Revenue Service – responsible for managing SPED – is frequently working on the improvement of the digital system and issuing new rules for its regulation.

On the other hand, taxpayers cannot oppose their commercial secrecy against Brazilian tax authorities, as a general rule. The banking secrecy has also been relaxed by Supplementary Law 105/01. In light of such framework, taxpayers must be alert to the need of receiving adequate protection as regards their secrecy rights.

1 Estimated exchange rate: BRL 2.00 per each USD 1.00.

2 Usually applicable to small-size companies with total revenues of less than BRL 48 million (approximately USD 24 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 The profit sharing or bonus paid to employees is taxable for the respective beneficiaries.

5 An experts' report can be used to support different rates.

6 Under the new list, the countries or locations considered as tax havens are: Andorra, Anguilla, Antigua and Barbuda,

Netherlands Antilles, Aruba, Ascension Island, Bahamas, Bahrain, Barbados, Belize, Bermuda Island, Brunei, Campione D'Italia, Channel Islands (Alderney, Guernsey, Jersey and Sark), Cayman Islands, Cyprus, Singapore, Cook Islands, Costa Rica, Djibouti, Dominica, United Arab Emirates, Gibraltar, Granada, Hong Kong, Kiribati, Labuan, Lebanon, Liberia, Liechtenstein, Macao, Madeira Island, Maldives, Man Island, Marshall Islands, Mauritius, Monaco, Montserrat Islands, Nauru, Niue Island, Norfolk Island, Panama, Pitcairn Island, French Polynesia, Qeshm Island, American Samoa, West Samoa, San Marino, Saint Helen Islands, Saint Lucia, Saint Kitts and Nevis Federation, Saint Pierre and Miquelon, Saint Vincent and Grenadines, Seychelles, Solomon Islands, Swaziland, Switzerland, Sultanate of Oman, Tonga, Tristan da Cunha Islands, Turks and Caicos, Vanuatu, US Virgin Islands and British Virgin Islands. The privileged tax regimes are in Denmark and in the Netherlands: regime applicable to holding companies that do not perform substantial economic activities; in Iceland: the regime applicable to the International Trading Company (ITC); in Hungary: the regime applicable to the Offshore KFT; in the United States: State LLCs (Limited Liability Companies) owned by non-residents and not subject to federal income tax; in Spain: the regime applicable to the Entidad de Tenencia de Valores Extranjeros (ETVE), and in Malta: the regime applicable to the International Trading Company (ITC) and International Holding Company (IHC). 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, Switzerland has been temporarily excluded from the list of tax havens and Netherlands, Spain and Denmark entities have been temporarily excluded from the list of privileged tax regimes until a final decision is granted to their requests.

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

8 The taxable basis is calculated by applying certain percentages on the gross sales revenues (similar to the Deemed Profit System – see footnote 2 above). The general percentages are 8% (for IRPJ) and 12% (for CSLL). In case of services the percentage is 32% for both taxes. Other revenues shall be fully added to the taxable basis.

9 Even if they do not involve technology transfer (as of January 1, 2002). In the case of computer programs, the tax shall only be levied in case of transfer of technology (as of January 1, 2006).

10 Although Brazilian Superior Court has decided that IPVA is not due on the ownership of aircraft and boats, but only on land vehicles ownership, some States are still charging this tax on these vehicles and the taxpayers should discuss the matter in Courts.

CHILE CHAPTER
ESPINOSA & ASOCIADOS ABOGADOS Y CONSULTORES

CHILE

1. INCOME TAX
2. VALUE ADDED TAX (VAT)
3. OTHER TAXES
4. PAYROLL TAXES / WELFARE CONTRIBUTIONS AN OVERVIEW

CHILE

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES: 2012

Corporate Income Tax	
(First Category Tax):	17%[1]
Capital Gains Tax:	17%[2][3]
Branch Profit Tax:	35%[4]
Dividend tax:	35%[5]

Withholding Taxes on:	
Interest:	35% or 4%[6]
Royalties:	15% or 30%
Technical Assistance:	15% or 20%
Other Services:	35%
International leasing:	1,75%[7]
Tax loss carry-forward term:	No time limit
Tax loss carry-back term:	No time limit
Transfer Pricing Rules:	Yes
Tax-free Reorganizations:	Mergers, stock-for-stock, divisions, changes of the legal characteristics

1 For commercial year 2011 (fiscal year 2012) the rate will be 20%, for commercial year 2012 (fiscal year 2013) the rate will be 18.5%, from commercial year 2013 thereafter (fiscal year 2014 thereafter) the rate will be back to 17%.

2 See 1 above,

3 If the shares of stock are sold on a non customary per thousand basis, otherwise, capital gains are taxed with regular taxes.

4 Withholding tax on dividend distribution is taxed with 35% withholding tax, however the 17% First Category Tax could offset this tax, which results in a real 18% tax rate.

5 Idem.

6 4% on bank or financial institution loans; 35% as a general rule.

7 Legal presumed income equivalent to, 35% applied on 5% of each rental payment of the good

VAT on Sales:	19%
VAT on Services:	19%
VAT on Imports:	19%
Customs Duties:	6 % flat rate8
Stamp (Documentary) Tax:	0.05 up to 0.6 %9
Real Estate Tax:	15 per thousand on fiscal appraisal value %

Local Level Tax Rates:

Municipal Tax:	0,25 a – 0,5 X mil10

TREATY TAXATION

Items of Income

Countries	Interest	Dividends11	Royalties	Tech. Services and Assistance
				(Local Rules are applicable)
Argentina*	4/35%	35%	15/30%	15/20/35%
Bélgica	5ª a aa b/15%	0/15%	5/10%	15/20/35%
Brazil	15%	10/15%	15%	15/20/35%
Canada	10a/15%	5/15%	10%	15/20/35%
Croatia	5a a/15%	5/15%	5c /10%	15/20/35%
Colombia	5a/15%	0/7%	10%	10%
Denmark	5ª aa b/15%	5/15%	5c /10%	15/20/35%
Ecuador	5ª aa b/15%	5/15%	10%	15/20/35%
Ireland	5a/15%	5/15%	5c/10%	15/20/35%
Malasia	15%	5/15%	10%	15/20/35%
Mexico	5a aa/10b /15%	5/10%	10%	15/20/35%
Norway	5a/15%	5/15%	5c /10%	15/20/35%
Paraguay	10aa/15%	10%	15%	15/20/35%
Peru	15%	10/15%	15%	15/20/35%
Poland	5a/15%	5/15%	5c /10%	15/20/35%
Portugal	5/10/15%	10/15%	5c/10%	15/20/35%
Spain	5a aa b/15%	5/10%	5c /10%	15/20/35%
South Korea	5a aa b /15%	5/10%	5c /10%	15/20/35%
Suiza	5a aa b/15%	15%	5/10%	15/20/35%
Tailandia	10aa/15%	10%	10/15%	15/20/35%
United Kingdom	5a aa b/15%	5/15%	5c /10%	15/20/35%
France	5a aa b/15%	15%	5c/10%	15/20/35%
New Zealand	10a/15%	15%	10%	15/20/35%
Sweden	5aa/15%	5/10%	5c/10%	15/20/35%

8 However, Chile has entered into over 55 Free Trade Agreements with several countries under which the tax rate for most goods imported from those countries will be 0%.

9 . These rates are permanent from July 1, 2010 thereafter.

10 Calculated on the Tax Owner's Equity up to 8,000 MTUs (equivalent to approximately US$ 640.000 with an exchange rate of US$ 1 = 500 Chilean pesos)

11 Considering that this tax in Chile is an advance to the withholding tax paid by person not domiciled or not residents in Chile upon paying or remitting the dividend, Chile has negotiated will all countries (save for Argentina) a special clause under which the reductions stated in article 10 of the Conventions do not apply to dividends paid or remitted from Chile abroad, however, the general 35% withholding tax rate shall apply. The corporate tax may be used as credit against the referred withholding upon making the payment or remittance referred to above.

a The 5% rate applies if the interest is derived from loans granted by banks or insurance companies; or is derived from bonds or securities that are regularly and substantially traded on recognized securities market or with respect to sales by suppliers of machinery and equipment. The 15% rate applies to other interest.

aa The 5% rate applies if the interest is derived from loans granted by banks or insurance companies.

b The 10% rate applies if the interest is derived from bonds or securities that are regularly and substantially traded on recognized securities market or with respect to sales by suppliers of machinery and equipment. The 15% rate applies to other interest.

c The 5% rate applies to royalties for the use of, or the right to use, industrial, commercial, or scientific equipment.

1. INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate

The general statutory corporate income tax (First Category Tax) rate for Chilean entities including Chilean branches of foreign companies is 17%.[12]

1.1.2. 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.

1.1.3. 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. However, automobile expenses are not deductible.

1.1.4. Depreciation

Depreciation of fixed assets is allowed according to the useful life determined by the Chilean IRS. Accelerated depreciation may be elected by the taxpayer with respect to new or imported assets, applying one third of the regular period of depreciation.

1.1.5. Transfer Pricing

Chile has special transfer pricing rules applicable to all transactions between a Chilean party and a foreign related party. Under such transfer pricing rules, the Chilean party must keep and file supporting documentation with the tax authorities. Parties in tax havens are deemed as related parties for these purposes. The Chilean transfer pricing regime has a list of situations where two parties are deemed related which is complex and its application should require a more detailed analysis on case-by-case basis.

1.1.6. 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.

12 Iden footnote N° 1

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).

1.1.7. Tax Loss Carry-forward / Carry-back

A Chilean taxpayer can carry-forward indefinitely. Losses must be carried-back offsetting undistributed profits from prior years.
Tax losses cannot be transferred to other taxpayers (not even to the shareholders).
Keep in mind that in all cases, inflation adjustments are applicable to update the tax loss amounts and deduction is computed on the adjusted amounts.

1.1.8. Tax-Free Reorganizations

A Chilean group of companies may implement statutory mergers and spin-offs, stock-for-stock and assets-for-stock reorganizations tax free, including Income Tax and VAT taxes.

1.2. Payment and Filing

For any given taxable year the corresponding income tax return and tax liability must be filed and paid on the first date of the next year, according to the filing and payment dates set out by the tax authorities in the corresponding schedules (e.g., the filing corresponding to the 201 taxable year must be verified in 2012).

All entities including corporations must file their income tax return and pay the corresponding tax liability every April regarding the prior taxable year.

1.3. Additional Tax / Withholding Tax

There is a 35% remittance tax on any distribution, dividends, and profit income and branch profits remitted abroad to non-resident alien entities or individuals. It applies only on all dividends remitted abroad, and on taxable profits actually remitted or distributed abroad. The 17%[13] First Category Tax may be offset to 35% Additional Tax, thus resulting in an actual 18%[14] tax rate and the final tax burden for shareholders is 35%.

If profits are capitalized in another Chilean company, the withholding tax is deferred until they are withdrawn from the same or the second company.

Law No 20154, reduces the Withholding Tax rates in order to facilitate access to Chile of state-of-the-art technology from overseas as well as to drive the development of the software industry.

This reform specifically reduces the Withholding Tax rate from 30% to 15%, as provided in the Income Tax Law, that levies the amounts associated to the use, enjoyment or exploitation of invention patents, models, drawings and industrial designs, layout sketches or layout of integrated circuits, and new vegetable varieties.

On the other hand, the Withholding Tax rate applicable to the use, enjoyment or exploitation in Chile of software is reduced to 15%, where software is defined as a set of instructions to be used directly or indirectly in a computer or notebook in order to make or obtain a given process or outcome contained in a cassette, diskette, disc, magnetic tape or any other material tool or means pur-

13 Idem footnote N° 1

14 15% for commercial year 2011 (fiscal year 2012) and 16.5% for commercial year 2012 (fiscal year 2013) to return to 18% from commercial year 2013 (fiscal year 2014) thereafter.

suant to the definition or specifications contemplated in the Intellectual Property Statute. It is worth noting that prior to the Law amendments, the Internal Revenue Service through a great number of pronouncements sated that for customized software the applicable withholding tax rate was 20% for the same was deemed a "technical assistance". On the contrary, the payment for the use of standard software was subject to a 30% withholding tax rate for it was considered as a payment for the use of intangible assets.

Likewise, according to the last amendment to the law , 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%.

1.4. Cross-border Payments

14.1. Withholding Taxes

When Chilean 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.

14.1.1.Royalties

Royalty payments are subject to an effective 30% withholding tax for income and remittance taxes[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.[16]

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

Payments made to cross-border leasing agreements are subject to a 35% withholding on a deemed basis equivalent to 5% of each installment, resulting in an actual 1.75% tax rate.

1.4.2. Tax Treaties

To January 2012, Chile has Tax Treaties to avoid the Double Imposition with Argentina, Bélgica, Brazil, Canada, Colombia, South Korea, Croatia, Denmark, Ecuador, Ireland, Spain, France, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, United Kingdom, Suiza, Sweden y Tailandia. They are subscribed but noneffective tax treaties with Australia, Russia and United States of America. Is in stage of negotiation concluded and pending of subscription tax treaty with South Africa. Finally, Chile is in process of negotiation with the following countries: Austria, China, Cuba, Finland, Holland, Hungary, India, Italy, Kuwait, Czech Republic, Uruguay, and Venezuela.

15 Except for the scenarios mentioned in paragraph four of number 1.3 above.

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

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

VAT is applied on the sale of corporeal movable goods or corporeal immovable goods owned by a construction company completely built by the same or that have been partially built by a third party on its behalf, a portion of domain over such goods or real rights on the same and certain services associated with activities specified in numbers 3 and 4 of article 20 of the Income Tax Law as well as some special taxable events.

2.1.1. Tax Rates VAT general rate is 19%.

Please keep in mind that in Chile there are some exempted and zero-rated goods and services, i.e. export of goods. The lists of Zero-rated and exempted goods are limited and should be checked in detailed on a case-by-case basis.

There are also some VAT exemptions for specific entities within the national or local territory, which may or may not be relevant depending on the entity that will act as a contracting party in any given project.

2.1.2. Taxable Transactions

These are: sale and import of movable tangible property and services other than such of an independent or professional nature rendered in Chile.

The sale of movable tangible property that is a fixed asset for the seller, is not subject to VAT under some conditions and requirements.

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

As a general rule the VAT taxpayer is entitled to credit to the VAT payable all such VAT paid to its suppliers 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 goods that will become fixed assets for the buyer is creditable to VAT.

There are limitations to the VAT credits available for VAT paid on costs and expenses, when incurred in a VAT exempted or VAT zero-rated activity.

2.3. 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.

3. OTHER TAXES

3.1. Property Taxes

There is a property tax on real estate. This tax rate is 15 per thousand a year calculated on a fiscal basis fixed by the Chilean IRS under a real estate appraisal procedure, paid on a quarterly basis.

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 0,25 up to 0,5 per thousand with a minimum of one Monthly Tax Unit (US$ 80 approximately) and a maximum of 8,000 Monthly Tax Units (US$ 640,000 approximately). This tax is usually paid twice a year.

3.3. Stamp Tax

This is a documentary tax applicable to all written agreements with includes the effects triggered by loans in Chile or for a Chilean party. The Stamp Tax levies the total amount of a cash loan equivalent to 0.05% per each month or fraction from the loan granting up to a ceiling of 0.6%.

3.4. Estate and Gift Taxes

Estate and gift tax is a unified tax assessed in brackets and at progressive rates.

Residents are subject to this tax on their worldwide assets. Nonresidents are subject to this tax on their local assets only. Rates vary from 1 to 25%.

3.5. Customs Duties

A general 6% rate is assessed on the CIF value of imported goods, including fixed assets to build pipelines, construction materials, machinery, etc. However, most goods from free trade agreements subscribed by Chile with i.e. Mercosur, CEU countries, EFTA countries, Canada, Mexico, United States and other countries are enjoying a zero rate. Charges made with regards to technical services separate from the price of imported goods, are not subject to customs duties.

3.6. 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.

3.7. Transfer Pricing

Chile has special transfer pricing rules that use the three basic methods established by the OECD, namely: uncontrolled prices among unrelated parties method, cost plus profit margin method and resale price method. In general, the burden of proof to determine the arms's length prices is on the Internal Revenue Service. These rules apply to transactions between related parties situated in Chile and overseas. The term "relation" is rather unrestrictive and includes, amongst others, ownership relations, control or administration, but also expressions like economic or financial dependency, joint venture agreements, exclusive contracts, etc.

3.8. Filing 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.

4. PAYROLL TAXES / WELFARE CONTRIBUTIONS

4.1. Retirement Contributions

The employees are subject to private pension funds. The contribution must be equal to at least 0.95% of the employee's wages up to 66 Unidades de Fomento (UF) which is approximately US$ 3,000. 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 employees' wages up to 66 UF, which is approximately US$ 3000. Contributions must be computed and paid to the HCP administering entity on a monthly basis. The employees must cover 100%. The employer is responsible for withholding and paying to the HCP administering entity 100% of the monthly health contribution. Filing and payment is made on a monthly basis.

4.3. Labor Risk Insurance System

Employers must be affiliated to a labor risk insurance system of their election.

This contribution must range between 0.95% and 8.7% (depending on the activity) and is computed and paid on a monthly basis. Employers must cover 100% of this contribution and are responsible for paying it to the insurer.

4.4. Unemployment Fund Contribution

Employers must contribute to the unemployment fund 2.4% of each employees' monthly wages (for employees under a fixed term employment contract, a work or service employment contract, this percentage goes up to 3%) while they must contribute 0.4% of such wages with a ceiling in both cases of 90 UF to the unemployment fund elected by each employee. This contribution has to be withheld and paid by the employer on a monthly basis.

COLOMBIAN CHAPTER

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ADDITIONAL CORE PRACTICE AREAS: Foreign Investment Law, Foreign Exchange Law
Corporate and Business Law, International Trade and Customs Laws
Wealth and Estate Planning, Oil, gas and mining

HIGHLIGHTS

National Level Tax Rates: 2012

Corporate Income Tax	33%
Free Trade Zones Reduced Corporate Income Tax Rate	15%
Capital Gains Tax	33%
Regular Withholding Taxes on Cross-border Payments	
- After Tax Dividends (if untaxed at Corporate level)	0% (33%)
- Branch Profits	0%
- Interest	In general, in-bound credit facilitiesand leasing transactions are subject to a 14% withholding. Interest payments on certain Qualified Credit Facilities continue to be not subject to Colombian withholding tax
- Royalties (on software)	33% (26.4%)
- Technical Assistance, Technical and Consulting Services	10%
- Imports	no withholding
- Tax Havens	33%
Tax Loss Carry-forward Term	Unlimited
Tax Loss Carry-back Term	not available
Transfer Pricing Rules	yes, OECD-like
Tax-free Reorganizations	Statutory Mergers, Statutory Divisions, Transformations, and cash-for-stock reorganizations of "simplified stock companies"

General VAT Rate on Sales, Services and Imports	16%
Custom Duties	0% - 20%
Bank Debits Tax	4 per thousand
Stamp Tax	0%

Local Level

Tax on Industrial, Commercial and Service Activities	2-13.8 per thousand
Property Tax (including Real Estate)	0.5%-0.16%
Registration Tax	0.3%-1.5%
Local Stamp Taxes	1%, usually

Income Tax Treaties

Country	Dividends	Interest	Royalties	In Force
Bolivia	source	source	source	yes
Canada	up to 15%	up to 10%	up to 10%	no
Chile	up to 7%	up to 15%	up to 10%	yes
Czech Republic	Up to 25%	up to 10%	up to 10%	no
Ecuador	source	source	source	yes
Mexico	up to 33%	up to 10%	up to 10%	no
Peru	source	source	source	yes
Portugal	up to 10%	up to 10%	up to 10%	no
South Korea	up to 10%	Up to 10%	Up to 10%	no
Spain	up to 5%	up to 10%	up to 10%	yes
Switzerland	up to 15%	up to 10%	up to 10%	yes
India	up to 5%	up to 10%	up to 5%	no

Upcoming Tax Reform Topics

The Colombian Government announced the introduction of a major tax reform in Congress. The Government has not circulated the draft of the proposed reform yet, which is expected to be presented by mid 2012. However, according to unconfirmed rumors, the Government intends to amend, among others, the following issues:

1. Corporate income tax rate reduction from **33%** to **27%**.
2. Dividend taxation at a rate of **4%** upon distribution. A branch profits tax might also be introduced.
3. Thin Cap rules might be introduced.
4. An Alternative Minimum Income Tax Base System might be applied to both entities and individuals.
5. Possible introduction of a holding company regime for outbound investment.
6. Substantial changes on the taxation of salary payments.
7. Taxation of indirect sales of Colombian companies or assets.
8. Capital Gains Tax rate reduction (applicable to sale of fixed assets and on estate and gifts). Currently the rate is **33%.**
9. Stricter requirements for tax-free reorganizations.

1. INCOME TAX ON COMPANIES

1.1 Corporate Residence.

For Colombian Tax purposes, the place of incorporation of a company and its domicile and not its place of its effective management, will determine whether it is a resident in Colombia or elsewhere.

1.2 Income Tax Rate

As of January 1st, 2008, the general statutory corporate income tax rate is **33%**[1] Unless otherwise provided, all Colombian and foreign entities subject to income tax in Colombia, including Colombian branches of foreign companies are subject to this **33%**[2] rate. The reduced statutory corporate income tax rate applicable to entities that qualify as "industrial users" in Colombian "Free Trade Zones" is **15%**[3] Please bear in mind that there are statutory eligibility requirements in place for "industrial users"[4] wishing to benefit from the **15%** reduced income tax rate.

In 2010 a new regulation was enacted in order to encourage the formalization of businesses in Colombia. According to such regulation, as of 2011, small businesses (less than 50 employees and less than USD 1,5m[5] in assets) that complete the registration procedure in the merchants' registry after December 29, 2010 are entitled to a progressive income tax rate[6] as follows:

First two years	0% of the applicable rate
Third year	25% of the applicable rate
Fourth year	50% of the applicable rate
Fifth year	75% of the applicable rate
As of the sixth year	100% of the applicable rate
Additionally, payments made to such registered small business will not be subject to withholding for 5 years after the moment the small business is first registered in the merchant's registry.	

In order to determine whether an entity can benefit from the progressivity on the income tax rate and from the no-withholding treatment, the individual facts and circumstances of each case should be carefully considered.

1.3 Taxable Base and Income Tax Assessment Process

The Taxable Base is multiplied by the applicable statutory corporate income tax rate and 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. The NTI results from the sum of all revenues realized by the taxpayer, minus the sum of all specifically Excluded Items of Income, minus the sum of all costs and expenses allowed as Deductions. The Alternate Minimum Taxable Income computation is explained in §1.3. 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)

1 Tax code § 240

2 ibídem

3 Tax code § 240-1

4 Colombian Tax Service, Ruling 79604-2007, October 2, 2007.

5 The average currency exchange rate used is USD $ 1 x COP $ 2.000

6 Act 1429-2010, § 4

[-] Excluded Items of Income
[=] Gross Taxable Income
[-] Allowed Deductions
[=] NTI or Alternate Minimum Taxable Income (if greater)
[-] Tax Loss Carry-forward (if applicable)
[-] Exempt Items of Income
[=] Taxable Base
[*] 33% Corporate Income Tax Rate (or 15% or progressive if applicable)
[=] Income Tax Liability
[-] Tax Credits
[=] Income Tax Charge

1.4 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 **3%**[7].

If the AMTI is greater than the NTI, the difference between these two items generates a carry-forward against the taxpayer's NTI, which can be within the following five (5) taxable years[8]

1.5 Capital Gains

Short-term Capital Gains are deemed as a regular item of income subject to income tax. Long-term Capital Gains, i.e., gains realized on the sale or exchange of certain assets owned for at least two (2) years, are subject to the Capital Gains Tax.[9] 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.[10] Capital gains can be offset with capital losses only.[11] The capital gains tax rate is **33%**.[12] Except for certain isolated cases" the taxpayer's capital gains tax is assessed, filed and paid with the taxpayer's regular yearly income tax assessment.[13] Colombian tax law authorizes tax authorities to challenge through an audit the amount realized in the sale or exchange of assets and reported by the taxpayer, when they find evidence that they have breached certain statutory thresholds that use criteria such as the asset's fair market value, the greater of it's cadastral appraisal or the owner's self-appraisal in the case of real estate, and the "intrinsic" value in the case of stock or quotas. [14] There are special rules to determine capital gains in the sale or exchange of intangibles depending on whether the intangible is formed or acquired.[15]

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7 Idem,§ 188 and 189.

8 Idem,§ 189.

9 Idem,§ 300.

10 Idem, § 69 to 72.

11 Idem, § 311.

12 Idem, § 313.

13 These include the case of both short and long term capital gains realized on the sale or exchange of sock or quotas in Colombian companies by a non-resident alien ("NRA"). In this case the NRA most file an advanced income tax return reporting the transaction within the first month following the transaction. In this case, other Foreign Investment Control requirements apply. Tax Code, § 326. Decree 1242-2003. 12 Tax Code, § 5 and 596.

14 Idem, § 90.

15 Idem, § 74 and 75.

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.[16] Costs or expenses related to specifically Excluded and/or Exempted Items of Income are not deductible. [17] 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,[18] among others. Special limitations apply to the deduction of expenses incurred outside Colombia (see §1.18. below). [19]

1.7 Depreciation and Amortization

Tangible fixed assets' depreciation is deductible.[20] The applicable depreciation term varies depending on the nature of the asset; twenty (20) years for real estate, ten (10) years for all other tangible fixed assets, except for motor vehicles and computers for which regulations establish a Five (5) year term. [21] For tax purposes, regular methods used worldwide are commonly accepted in Colombia, e.g., straight-line method, declining balance method, etc.[22]Unless specifically restricted, double and triple shift accelerated depreciation is also available and can be combined with the declining balance method when the asset needs to be depreciated in full in the first years of its useful life.[23]

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[24] can be amortized through a minimum five (5) year period using any generally accepted amortization method.[25]

1.8 Transfer Pricing

Colombia has OECD-like transfer pricing rules that are applicable to all transactions between a Colombian party and a foreign related party.[26] A different set of rules applies to transactions between two Colombian related parties.[27] 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 prepare a transfer pricing study showing whether the corresponding prices or profit margins are arm's-length.[28] Parties domiciled in tax havens are deemed as related parties.[29][30]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.

16 Idem, § 107.

17 Idem, § 177-1.

18 Idem, § 124-124-1.

19 Idem, § 122.

20 Idem § 128

21 Decree 3019-1989

22 Tax Code, § 134

23 Idem, § 140.

24 These include expenses for the installation, organization and development or cost of acquisition or exploitation of mines and oil and gas exploration costs.

25 Tax Code, § 143

26 Idem, § 260-261

27 Idem, 260-4 and 260-8.

28 Idem, § 260-4 and 260-8.

29 Idem, § 260-6.

30 The government must issue a tax havens list, which as of June, 2011 had not been issued.

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.[31]

1.9 Inflation Adjustments

The mandatory income tax inflation index adjustment system was revoked on 2006.[32] Nevertheless, as of January 1st, 2007, income taxpayers can continue to use it to adjust the tax basis of fixed assets[33]. Such adjustment is not mandatory and will not have effect in the taxpayer's Profits and Losses statement.

1.10 Tax Loss Carry-forward

As of January 1st, 2007 an evergreen tax loss carry-forward against the taxpayer's NTI is available.[34] The tax loss must arise from an income producing activity commonly taxable under the regular income taxation rules. [35] 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[36] 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[37] There is no carry-back possibility.

Tax losses realized by December 31st, 2006 can be carried forward subject to: (i) an eight (8) year expiration term, and (ii) a cap equal to 25% of the tax loss in the year the loss was realized.[38]

Tax loss generated from the 30% Fixed Assets Investments special deduction can be carried forward without anytime limitation (see §1.12. below). Please bear in mind that the Fixed Assets Investment special deduction was eliminated in the 2011 tax reform currently in place[39].

Except as provided for reorganizations, tax losses are not transferrable to share or quota holders, or to other taxpayers (see §1.10. below).[40] In the case of tax-free mergers the above-mentioned general limitations continue to apply. Nonetheless, in this case part of the tax losses is transferable to the new or surviving entity.[41] For tax-free spin-offs a proportional part of the tax losses of the target entity are transferred to the resulting entity (ies).[42] In order to qualify for the tax losses transfer under reorganization tax rules, the corporate purpose of the merging entities should be the same.[43] For spin-offs the corporate purpose of the target entity and of the resulting entities should also be the same.[44.] The new, surviving or resulting entities will not be allowed to benefit from all of the tax losses accrued by the entities subject to the merger or to the spin-off. Only that part proportionally corresponding to their participation in the net-worth of the new, surviving or resulting entities,

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31 Colombian Tax Service, Ruling 53175-2009, July 3, 2009.

32 Act 1111, 2006.

33 Tax Code, § 68.

34 Idem, § 147.

35 Idem

36 Idem

37 Idem

38 Act 1111-2006, § 5 and Circular 9-2007.

39 Act-1430-2011, § 1

40 Tax Code § 68

41 Idem

42 Idem

43 Idem

44 Idem

should be deductible.[45] The tax loss expiration term (when applicable) is not renewed by a reorganization event.[46]

Colombian tax law limits (or in some cases sets special conditions) for the assessment and deduction of tax losses other than those generated by the net operating losses. We list some of these cases:

a Loss generated by acts of god damaging taxpayer's assets;[47]
b Loss generated in the sale of fixed assets;[48]
c Loss generated in the sale of assets (fixed or current) between related parties, or a corporation and its shareholders – not deductible;[49]
d Losses in the sale of stock- not deductible.[50]

1.11 Tax-Free Reorganizations

Tax-free treatment is available for statutory mergers, statutory divisions, corporate transformations,[51] and cash-for-stock reorganizations of "simplified corporations." Although most tax attributes should survive in the head of the beneficiary corporation pursuant to a tax-free reorganization, due care should be given to the restriction on the use of tax losses (see §1.10. above). Except for the proportionality and the corporate purpose matching requirements for the transferability of tax losses, currently in Colombia there are no requirements of continuity of business or continuity of interest as a requirement to qualify for tax-free reorganization treatment.

1.12 175% Research and technological investment special deduction. ("RTISD")

According to a recent Legislation, taxpayers are allowed to deduct 175% of their investments in Research and technological projects. The 175% deduction cannot exceed the 40% of the taxpayer's taxable income before the deduction. In order to benefit from the RTISD, the investment should be completed through centers and entities approved by the Colombian Science and Technology Department "Colciencias" and registered before the same authority.[52]

1.13. Special tax treatment for public performances and cinema

Under recent legislation public performances 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. A special withholding rate as well as a differential VAT treatment might 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, a bill known as the cinema law, which provides for important tax benefits for this industry, is currently being studied by Congress. If approved, further analysis would be needed to determine the advantages and requirements of this law.

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45 Idem
46 Idem
47 Tax Code § 148
48 Idem, § 149.
49 Idem, § 151.
50 Idem, § 153.
51 Idem, § 14-1 and 14-2, Act 222-1995, § 3.
52 Act 1450-2011 § 36.

1.14 Leasing Tax Treatment

Leased assets must be initially accounted for their value, both as an asset and a liability.[53] The lease payments portion allocated to principal decreases the liability while the portion allocated to interest is a deductible expense.[54] Depreciation and amortization deductions are available, as applicable.[55]

1.15 Certain Exempt Items of Income

Subject to eligibility and compliance by the taxpayer of the statutory requirements, income from the following activities is treated as an Exempt Item of Income:

(i) a fifteen (15) year exemption on income from power generation activities based on wind, biomass and agricultural waste technologies;[56]

(ii) as of January 1st, 2003,60 a fifteen (15) year exemption on income from fluvial transportation services using low draught boats;[57]

(iii) a thirty (30) year exemption on income from hotel services rendered in newly built or refurbished facilities, provided that the facilities were built or refurbished within the fifteen (15) year term following January 1st, 2003. [58]

(iv) as of January 1st, 2003, a twenty (20) year exemption on income from eco-tourism activities certified as such by the correspondent authority, available for twenty (20) years beginning on January 1st, 2003.[59]

(v) use of qualified new forestry plantations or investment in new sawmills for the use of said plantations.

1.16 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 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.[60] Usually, filing and payment dates are similar year after year.

For FY2011, all entities including corporations must file their income tax return on April 2012. 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 2012, observing the yearly payment schedule issued by the tax authorities.

There are special filing and payment schedules issued by the tax authorities for certain corporations in the list of "grand income taxpayers." For FY2011 all "grand income taxpayers" must file their return on April 2012. "grand income taxpayers" benefit from a three (3) installments payment facility. For FY2011 these installments are due on February, April (upon filing) and June 2012.

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53 Tax Code § 127-1.

54 Idem

55 Idem

56 Tax Code, §207-2

57 Decree 2755-2003, § 3.

58 Decree 2755-2003, § 4-6.

59 Decree 2755-2003, § 10.

60 Decree 4836-2010

1.17 Non-payment and Lateness Penalties

Unpaid taxes are subject to daily interests[61] at a rate equal to the highest legally accepted three (3) month rate certified by the Financial Regulatory Agency.[62]

Depending on the facts and circumstances of each case, other penalties apply for non-filing, late filing, or inaccurate filing, which may range from 5% up to 200% of the corresponding tax liability.[63]

1.18 Dividends Tax/ Branch Profits Tax

As of January 1st, 2007, there is no remittance tax charge on dividends and branch profits distributed to non-resident alien entities or individuals.[64]

Company profits are only taxed at the company's level. Nevertheless, if the earnings and profits of the company exceed the tax profits subject to income tax at the company level, the excess would be subject to income tax at the share or quota holder level.[65] If the shareholder is a foreign resident, the applicable rate is **33%**. In the case of a Colombian branch of a foreign company, there should be no home office level taxation on the excess of the branch's earnings and profits over the tax profits subject to income tax in Colombia at the branch level.

Please note that the dividends and profits tax regime might be amended in the upcoming tax reform.

1.19 Withholding Tax on Cross-border Payments

When Colombian sourced 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.

1.19.1 Dividends

If the corresponding profits were taxed at the corporate level then no withholding tax applies, otherwise a **33%** withholding tax would be applicable.[66]

1.19.2 Royalties

Royalty payments are subject to a **33%** withholding tax for income tax, with the exception of royalties on movies and software that are subject to an effective withholding tax rate of **19.8%** and **26.4%**, respectively.[67]

1.19.3 Technical Services, Technical Assistance and Consulting Services

Whether rendered in Colombia or abroad by non-residents, payments for technical services, technical assistance and consulting services are subject to **10%** withholding tax.[68]

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61 Tax Code § 634

62 Idem § 635

63 Tax Code, § 641 to 647

64 The 7% remittance tax on dividends and branch profits distributed to non-resident alien entities or individuals was eliminated by Act 1111, 2006

65 Idem, § 48 and 49.

66 Tax Code, § 408.

67 Idem

68 Idem

1.19.4 Other Services

If rendered from abroad and are not technical services or technical assistance or consulting services, then no withholding tax applies.[69] If the services were rendered in Colombia, then a **33%** withholding tax applies, unless otherwise provided by special rules.

1.19.5 Interest and Leasing Payments

Pursuant to the 2011 tax reform act and unless otherwise provided for in the applicable regulations, interest payments on certain inbound cross-border "*Qualified Credit Facilities*" and "*Qualified Leasing Transactions*" (*both as defined further below*), shall be subject to a **14%** withholding tax. If the **14%** withholding tax is not applied, the Colombian payer cannot deduct the corresponding interest payment, without prejudice of its joint and several liability for the tax that was not withheld[75].

For over 25 years, the Colombian income tax regulations privileged interest payments on certain Qualified Credit Facilities and Qualified Leasing Transactions, by deeming such payments as income not from a Colombian source thus not subject to Colombian Withholding Tax. If the cross-border inbound financing was not qualified or otherwise exempted, the corresponding interest payments were subject to a **33%** withholding tax.

Under the previous regime, the following cross-border inbound financings were deemed Qualified Credit Facilities and eligible for the withholding tax-free treatment:

(a) Short term bank overdrafts and short term financings (without any changes in the 2011 tax reform act).
(b) Exports financings or pre-financings (without any changes in 2011 tax reform act)
(c) Financings contracted abroad by Colombian financial institutions (in the 2011 tax reform act, Congress adopted certain modifications to this item to include Bancoldex and other financial type entities).
(d) Financings for foreign trade operations through Colombian financial institutions (in the 2011 tax reform act, Congress adopted certain modifications to this item to include Bancoldex and other financial type entities).
(e) Financings with foreign financial institution which funds were destined to a "Qualified Activity." Qualified Activities were those that according to the directives of the Colombian Council for Social and Economic Development (CONPES), were deemed of public interest for Colombia's social and economic development, which included all activities related to the primary, manufacturing and services sector, including transportation, engineering, lodging, tourism, health, trade, and housing construction.

Under the new regime, item (e) above has been revoked and no longer qualifies as a Qualified Credit Facility eligible for the withholding tax-free treatment, and any cross-border interest payments on such facilities made pursuant to agreements entered on or after January 1st, 2011, will be subject to a **14%** withholding tax, provided that the facility's term is equal or greater than 1-year. If the facility is not within items **(a)** through **(d)** and it's term is less than 1-year, the applicable withholding tax rate on the interest payments should be **33%**. For the avoidance of doubt, it is important to highlight that under the new regime, facilities within items **(a)** through **(d)** above with a term equal or greater than 1-year, will continue to be deemed as Qualified Credit Facilities eligible for the withholding tax-free treatment.

Under the previous regime, the following cross-border inbound leasing transactions were deemed Qualified Leasing Transactions eligible for the withholding tax-free treatment:

69 Idem § 418

(f) Leasing transactions with foreign leasing providers to finance investments in a "Qualified Activity" (as defined above).
(g) Leasing transactions to finance M&E investments in Colombian export activities.

Pursuant to the changes introduced by the 2011 tax reform act, both items **(f)** and **(g)** above have been revoked and no longer qualify as Qualified Leasing Transactions eligible for the withholding tax-free treatment, and the interest component of any cross-border leasing payments on such transactions made pursuant to agreements entered on or after January 1st, 2011, except otherwise provided by applicable regulations, will be subject to a **14%** withholding tax, and unless the equipment leased is a vessel, helicopter or airplane, case in which the reduced applicable withholding tax rate will be **1%**.

Any interest payments on inbound Facilities and Qualified Leasing Transactions under items **(e)**, **(f)** and **(g)** above (*and also items **(a)** through **(d)***), made pursuant to agreements entered on or before December 31st, 2010, shall continue to be eligible for the withholding tax-free treatment.

It is important to highlight that the new regime has made clear that offerings of notes, bonds and similar debt securities, are not deemed held in Colombia, provided that the offering is made by a Colombian issuer and that the securities are traded outside of Colombia. Nonetheless, please bear in mind that application of this rule should be carefully analyzed on a case-by-case basis.

Finally, cross-border interest payments on inbound cross-border financings where the borrowers/debtors are Colombian Governmental entities are eligible for withholding tax free treatment.

1.19.6 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.

1.19.7 Tax Havens[70]

Payments directed to a tax haven beneficiary corresponding to items of income deemed from a Colombian source, are subject to a **33%** withholding tax. Otherwise the corresponding deduction will not be allowed.[71] This higher withholding tax rate should not be applicable to interest and leasing payments corresponding to cross-border transactions duly registered with the Central Bank, provided that they meet the criteria to be deemed as income from a source outside Colombia (see §1.17.5. above)[72].

For the time being this provision is not applicable because the Government has not published a list indicating what countries are considered as tax havens for Colombian tax purposes. However, please note that this might change in the upcoming tan reform.

1.20. 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.

70 The Government must issue a tax havens list, which as of June 10, 2012 has not been issued

71 Tax Code § 124-2

72 Idem

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. [73]This 15% limitation does not apply whenever the payment abroad has been subjected to the corresponding statutory withholding tax, on certain commission payments, on interest and leasing payments that are deemed not from a Colombian source, and on payments on imported movable tangible property[74].

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. There are other limitations on interest to a related party abroad, among others, which need to be analyzed on a case-by-case basis. The application of this deducibility limitations should be carefully considered taking into account, among others, the transfer pricing regime and the application of tax treaties.

1.21 Statutory Foreign Tax Credit ("FTC ")

Provided compliance of the statutory requirements and subject to certain limitations, Colombian companies with operations outside Colombia are eligible for both a direct and an indirect statutory FTC for taxes levied by the source country on non-Colombian source income and dividends, respectively.[75]

The 2011 tax reform modified the Colombian unilateral foreign tax credit, among others, on the following aspects:

(a) Concerning individuals, the credit is now available to foreign individuals that have resided in Colombia for more than 5 years (they are taxed in Colombia on their worldwide income)

b) An "extra indirect tax credit" is given down the chain upon the tax levied at the level of the companies that are paying dividends to the foreign entity in which the Colombian entity participates.

c) The tax credit can be carry forward for 4 years.

d) In general, the direct tax credit applies on an overall basis and the indirect tax credit is given on "per investment" basis. However, a sort of pooling is allowed between the indirect tax credit and the "extra indirect tax credit".

1.22 Income Tax Treaties

Colombia's belated development of a network of OECD-like treaties has lead to the conclusion of income tax treaties with Spain, Chile, Switzerland, Canada, Mexico, India,Czech Republic, South Korea and Portugal. The treaties with Spain, Chile and Switzerland are already enforceable. The treaties with Mexico Canada and India are not yet enforceable because the ratification process has not yet concluded.

Colombia is 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.[76]

73 Idem § 122

74 Idem

75 Idem § 254

76 Currently, Bolivia, Colombia, Ecuador and Peru (Venezuela withdrew on April 22, 2006).

In addition, Colombia currently has limited scope income tax treaties to avoid double taxation on sea and air transportation activities with Argentina,[77] Brazil,[78] France (air),[79] Germany,[80] Italy, [81]Panama (air),[82] United States of America,[83] and Venezuela.[84]

1.23 Group Taxation.

Colombian Tax Law does not provide for a group taxation mechanism.

2. VALUE ADDED TAX ("VAT")

2.1 Tax Rates

VAT's general rate is **16%**[85] There are reduced **(10%)**[106] and increased rates for certain goods and services, e.g., motor vehicles rates range from **20%** to **35%**, depending on the vehicle type.[86]

2.2 Taxable Transactions

The sale and importation of movable tangible property, and services rendered in Colombia are subject to VAT[87]The sale of intangibles and seller's fixed assets is not subject to VAT.[88] Certain public entities of the national and local territorial level are not subject to VAT.[89]

Consulting, advising and auditing services, rendered outside Colombian territory to a Colombian party are subject to VAT. In these cases the VAT does not affect the foreign party as the Colombian party must cover and pay directly to the tax authorities **100%** of the accrued VAT.[90]

Certain goods and services are exempted ("Zero-rated")[91]or not taxable with VAT ("Excluded") goods.[92] The lists of zero-rated and excluded goods are extensive and should be checked in detail on a case-by-case basis. In the case of Excluded goods and services, any input VAT paid by the taxpayer to her goods and service 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 her goods and service suppliers generates a VAT credit (See §2.4. below).[93] In certain cases VAT credits from Zero-rated transactions may result in a refundable VAT balance. Exports are VAT exempt (exempt with credit).

77 Act 15-1970.

78 Act 71-1993

79 Act 6-1988.

80 Act 16-1970.

81 Act 14-1981.

82 Act 1265-2008.

83 Act 4-1988.

84 Act 16-1976

85 Tax Code §468.

86 Tax Code, § 468-1 and 468-3.

87 Tax Code, § 420

88 Idem

89 Act 21-1992, § 100. Act 30-1992, §92. m

90 Tax Code, § 437-2.

91 Idem, § 477 to 479 and § 481

92 Idem, § 423, 423-1, 424, 424-2/5/6, 425, 427, 428 and 480.

93 Tax Code, §489.

2.3 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 their fair market value.[94] There are cases [95]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.

2.4 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 her clients.[96]

Unless otherwise allowed by law (See §2.5. below), VAT paid on the acquisition and importation of goods that become fixed assets for the buyer is neither creditable against VAT nor income tax.[97] This VAT should be capitalized increasing the taxpayer's cost basis of the fixed asset.

There are certain limitations on the VAT credits available for zero-rated transactions.

2.5 Selected VAT Incentives

The following are some of the statutory VAT incentives available:

2.5.1 Temporary Importation of Heavy M&E

Temporary importation of "heavy"[98] M&E not produced in Colombia and effectively used in a "basic industry"[99] in Colombia, should not be subject to import VAT.[100]

2.5.2 Permanent Importation of Heavy M&E

Permanent importation of heavy M&E (whether or not produced in Colombia) is subject to VAT. But if the M&E's is going to be used in a "basic industry" and it's CIF value exceeds USD$500K, payment of the VAT can be deferred (40% upon importation, and 30% in each of the following 2 years).[101] 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.[102]

2.5.3. 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.[103]

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94 Idem, §447 and 453,

95 Idem, §448.

96 Idem, § 484.

97 Idem, § 491.

98 Qualified as such by the Ministry of Trade pursuant to a request filed by the importer.

99 i.e. mining, hydrocarbons, heavy chemistry, iron and steel industry, extracting metallurgy, electric generation and transmission, obtaining purification and conduction of hydrogen oxygen.

100 Idem § 428

101 Idem § 258

102 Idem

103 Decree 2532-2004, §4.

2.6 Payment and Filing

VAT has a bimonthly taxable period.[104] The VAT return must be filed and paid in full on the filing dates scheduled by the government for these purposes, which are usually after the first week immediately following the end of the corresponding bimonthly period.[105]

2.7 Andean Pact VAT Harmonization

In addition to Andean Pact Directive 578 to Avoid Double Income Taxation (see §1.20. above), Andean Pact Directive 599 establishes the framework for the near future harmonization of the VAT regimes in member countries.[106]

3. BANK DEBITS TAX

This is a national level tax. Colombian banks (and other savings institutions) must withhold the tax at source.[107] It applies on any funds deposited that are either withdrawn or transferred from checking or savings accounts.[108]The taxable base is the amount withdrawn or transferred. The tax rate is **4 per thousand.[109]**There are very limited exemptions to this tax.[110] It is an important tax to keep in mind when structuring a transactions' cash flow.

In the 2011 tax reform, the Colombian Congress approved the sunset of this tax through a phase-out tax rate scale that begins on 2014 with a reduction to **2 per thousand**, followed by a further reduction in 2016 to **1 per thousand**, and its final elimination beginning 2018.

4. LOCAL TAX ON INDUSTRIAL, COMMERCIAL AND SERVICE ACTIVITIES

This is a municipal (local) level tax applicable to all industrial commercial and service activities performed in the territory of a municipality. 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** to **10 per thousand[111]** (Bogota's rates go as high as **13,8 per thousand).[112]** This tax is usually paid and a return 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.

104 Tax Code § 600

105 Decree 4680-2004, § 23.

106 Andean Pact Directive 599 of 2004.

107 Tax Code § 876

108 Idem § 871

109 Idem § 872

110 Idem § 879

111 Act 14-1983, §33

112 Decree 352-2002, §53.

5. PROPERTY TAXES

There are municipal (local) level taxes on real estate[113] and vehicles. Each municipality adopts the applicable tax rates.[114] Therefore, they vary from one municipality to the next. Real estate tax rates usually range between **0,2%** and **1.6%,** however, certain exceptions may apply, which could increase the rate to up to 3.3%.**[115]**Motor vehicles tax rates range between **1 %** and **3.5%.** Unless otherwise specified, the taxable base in the case of real estate is the cadastral value of the property,[116] 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.

Local tax incentives available, 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.

6. REGISTRATION TAX

A taxpayer registering acts and documents with the cadastral registry or merchants' registry offices is subject to this tax.[117] Depending on the type of act or document, the tax rate ranges from **0.5%** to **1.5%**[118] (including registration rights) when the registration is with the cadastral registry office, and from **0.3%** to **0.7%** when the registration is with the merchants' registry office. 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.[149] If one of the parties to the document is a public entity, the taxable base is reduced to 50% of the regular taxable base.

7. LOCAL STAMP TAXES

Certain laws authorize departments[119] to enact local stamp taxes to support investments in hospitals, universities and other public entities and activities. [120]Such local stamp taxes are usually levied at a **1 %** rate on the gross income attached to the taxable event. Before engaging in activities, agreements or transactions with effects within the jurisdiction of any department in Colombia, the Taxpayer must confirm whether a local stamp tax is in place that could be triggered by such activity, agreement or transaction.

113 Colombian Constitution, § 317.

114 Act 44-1990, §4

115 Act 1450 -2011. §23

116 Act 44-1990, §3.

117 Decree 650-1996.

118 Idem

119 A separate type of local territorial entity.

120 Colombian Constitution, § 300. Act 645-2001.

8. ROYALTIES ON NATURAL RESOURCES EXPLORATION ACTIVITIES

Unless otherwise provided, all natural resources exploration activities are subject to the payment of royalties.[153] This summary does not cover the royalty regime. Prior to engaging on any natural resources exploration activity in Colombia, you must seek qualified legal advice on the royalty regime applicable to the specific activity and jurisdiction.

9. CONTRIBUTIONS

9.1 Retirement Contributions

The employee can elect between private or public pension funds.[121] The contribution must be equal to at least **16%** of the employee's wage;[122] both employer and employees can make additional voluntary contributions. Contributions must be computed and paid to the pension funds monthly.[123]The employer must cover **75%**[124] of the contribution, and the employee the remaining **25%**.[125]The employer must withhold the employee's **25%** and deposit **100%** of the monthly contribution in the pension fund.[126]

9.2 Health Contributions

The employee must be affiliated to a general Health Care Plan ("HCP").[127] Contributions to the HCP must be equal to **12,5%** of the employee's wage[128] Contributions must be computed and paid monthly. The employer must cover **2/3** of the contribution,[129] and the employee the remaining 1/3.[130] The employer must withhold the employee's **1/3** and pay 100% of the monthly health contribution[131]

9.3 Employment Risks Insurance System

The employee must be affiliated to an employment risk insurance system of her election.[132] Contributions must be between **0.348%** and **8,7%** (depending on the activity) and are computed and paid monthly[133]. The employer must cover and pay to the insurer **100%** of the contribution.

121 Act 100-1993, §59.

122 Act 100-1993, § 20. Decree 4982-2007.

123 Decree 1406-1999, §9.

124 Act 100-1993,§20.

125 idem

126 idem § 22

127 Idem, § 157 and 203.

128 Idem § 204

129 Idem

130 Idem

131 Idem, § 161. Decree 1406-1999, § 9.

132 Decree 1295-1994, § 4. Decree 1772-1994, § 3.

133 Decree 1406-1999, § 9. Decree 1772-1994, § 13.

9.4 Contributions to Child and Family Protection Services, Public Training System, and Compensation Funds

The employer must make these **3%,**[134] **2%**[135] and **4%**[136] contributions, respectively, on behalf of the employee. The employer must cover **100%** of these contributions. Filing and payment is done monthly.[137]

In 2010 a new regulation was enacted in order to encourage the formalization of businesses in Colombia[138]. According to such regulation, as of 2011, small businesses (less than 50 employees and less than USD 1,3m in assets) that complete the registration procedure in the merchants' registry after December 29, 2010 are entitled to a progressive payment of the contribution to Child and Family Protection Services, Public Training System, and Compensation Funds as follows:

First two years	0% of the value of the contribution
Third year	25% of the value of the contribution
Fourth year	50% of the value of the contribution
Fifth year	75% of the value of the contribution
As of the sixth year	100% of the value of the contribution

In order to determine whether an entity can benefit from the progressivity on the payment of the contribution, the individual facts and circumstances need to be carefully evaluated.

9.5 Unemployment Fund Contribution

During the employment relation, the employer must contribute an amount equal to one monthly wage per year to the employee's unemployment fund of choice.[139] In addition, the employer must pay to the employee a 12% yearly interest on the amount of that yearly contribution.[140] Both the contribution and the interest must be paid on a yearly basis.

9.6 Incidence on Wages Deductibility

Payment of the above-mentioned welfare contributions is a requirement for deductibility of the corresponding wages paid by the employer.[141]

10. CUSTOMS IMPORTS REGIME

The following sections summarize some (not all) general aspects of the Colombian customs imports regime.

10.1 Imports Custom Duties

Unless Exempted, zero-rated or a different rate applies, importation of goods is subject to a 16% import VAT.[142]In addition to import VAT, imports are also subject to custom duties ranging between 5%

134 Act 89-1989, § 1.
135 Act 21-1982, § 12.
136 Idem.
137 Act 21-1982, §9 and 10. Act 89-1988, § 1
138 Act 1429-2011 § 5
139 Employment Code, § 249. Decree 663-1993, § 164.
140 Act 52-1975, § 1
141 Tax Code, § 108. Act 7-1979, § 45.
142 Tax Code, §468.

and 20%[143] Colombia has entered into Preferred Custom Duties Agreements with many countries,[144] reducing the applicable custom duties for certain goods.

10.2 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.[145]

10.3 Customs Valuation

Custom valuation rules in place in Colombia 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 Directives 378 and 379 apply. These rules are also similar to the first mentioned rules.[146]

10.4 Filing and Payment

An import return must be filed upon nationalizing 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 before the custom authorities a one (1) month filing extension.[147]

10.5 Used M&A

Importing used M&E (and spare parts) requires a previous import license that will be granted by the foreign trade authorities[148] if the M&E are not produced locally or in an Andean country. In practice, the importation of used spare parts is hardly authorized.[149]

10.6. Free Trade Agreements

Colombia currently has ten[150] Free Trade Agreements (FTAs) in force, including, among others, an FTA with the United States of America and an FTA with Canada. Although these FTAs differ in the details of the specific regulation therein, the structure of most of them is quite similar.

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,[151] (v) Trade in Services – liberalizing market access in services, and (vi) Intellectual Property – providing for further protec-

143 Decree 4589-2006

144 CAN, ALADI and Bilateral Agreements

145 Tax Code, §459. Customs Code, §88.

146 Customs Code, §237; Resolution 4240-2000, §159.

147 Idem, § 115.

148 Decree 3803-2006, §3.

149 Resolution 1512-2007.

150 Not all the agreements are FTAs *per se*. Some are cooperation agreements that involve trade liberalization among many other commercial and political issues, such as the treaty conforming the Andean Community, and an agreement between the Andean Community and Mercosur.

151 Colombia has recently become very active in negotiating bilateral investment treaties (BITs) that cover similar aspects to those covered by investment chapters in FTAs.

tion 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.

10.7 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.[152]

Both the ordinary and the temporal import regimes are available for M&E importations whether leased, on free bailment, or contributed in kind to a Colombian corporation or branch. Purchased M&E can only be imported through the regular importation regime. Below, some of the features of the different importation regimes will be described.

10.7.1 Ordinary Imports Regime

It applies to all goods that will remain permanently in Colombian territory without restrictions. Upon nationalization, full payment of custom duties and import VAT is required.[153] For foreign exchange purposes, these imports may be reimbursable or non-reimbursable. Non-reimbursable imports require an importation license.[154]

10.7.2 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.[155] Under special circumstances, the Customs Administration has the authority to approve a longer importation periode.[186] 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 (See §12.4. above). If the Customs Administration authorizes an extension of the importation, the duties and VAT must be paid within the initial 5-years period in any case.

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 finalization of the term, the importer can either export back or nationalize the goods without paying any additional amounts for custom duties or import VAT.[156]

10.7.3 Long-Term Temporary Imports Regime for Leased Equipment

The rules of this regime are similar to the above-explained rules. Nevertheless, because for foreign exchange purposes lease payments are treated as foreign debt payments, the imports should be treated

152 Customs Code, §116.

153 Customs Code, §116.

154 Decree 3803-2006, §15

155 Customs Code, §143.

156 Idem, §150.

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).[157]

10.7.4 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.[158] At the expiration of the authorized importation period, the goods must be exported back or the importer must apply for a long-term importation regime, otherwise the goods are forfeited and/or a **200%** fine will be imposed. [159]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.[160]

10.7.5 VAT Incentives

The VAT incentives mentioned above are available for imported goods, if the legal requirements are met.

10.7.6 Free Trade Zones("FTZ")

Colombia has an attractive FTZ regime that should be carefully explored by importers and investor 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 15% income tax rate (instead of 33%), (iii) If the legal requirements are met the sale of goods from the rest of the territory to FTZ' users that such users acquired to develop their corporate purpose are VAT exempt.

10.7.7 "Plan Vallejo" Special Imports Regime (special Drawback mechanism)

After meeting certain requirements, under the "Plan Vallejo" raw materials and other goods, can be temporarily imported with out triggering custom duties[161] and enjoying a preferential VAT treatment. both agricultural [162] and service activities[163] could be covered with the "Plan Vallejo".

157 Idem, §144.

158 Idem, §144.

159 Idem, §502 and 503.

160 Idem, §147.

161 Resolution 1860-1999.

162 Decree 631-1985; Resolution 4240-2000.

163 Decree 2331-2001; Decree 2099-2008; Decree 2100-2008.

DOMINICAN REPUBLIC CHAPTER
DR&R ATTORNEYS & TAX CONSULTANTS

DOMINICAN REPUBLIC
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HIGHLIGHTS

National Level Tax Rates: 2012

National Level Tax Rates[1]:	
Corporate Income Tax:	29%
Capital Gains Tax:	29%
Branch Profits Tax:	29%
Dividends Tax:	29%[2]
Tax on local sales by Free Zone companies	2.5%[3]
Withholding Taxes on:	
Interest:	10%[4]
Royalties:	29%
Other Services:	29%

1 Pursuant to Law 139-11 on Temporary Tax Reforn, this new 29% tax rate which was raised from the original 25% rate will only be valid for two (2) years, starting on June 24, 2011, date of enactment of this law.

2 Dividends and profits distributed by local branches are not subject to tax in Dominican Republic when branches have paid their corporate income tax on their Dominican Source income.

3 The free zone enterprises when transferring goods or services to a person or entity in the Dominican Republic are subject to payment of a two point five percent (2.5%) fee on account of income tax on the value of gross sales made in the local market.

4 10% will apply when interests are paid to financial institutions. When interests are paid to non-financial institutions, the applicable withholding tax rate is of 29%.

Tax losses carry-forward term:	5 years
Transfer Pricing Rules:	Economic group transfer pricing rules[5]
Tax-free Reorganizations:	i) mergers; ii) reorganizations, and splits, and iii) sales and transfers within an economic group

VAT on Sales:	16%
VAT on Services:	16%
VAT on Imports:	16%

Custom Duties:	from 0% to 20%
Excise Taxes[6]:	7.5% to 20%
Bank Checks and Transfers Tax Rate:	0.0015%[7]
Personal property and Assets Tax[8]	1%

Local Level Tax Rates[9]:

Stamp (Documentary) Tax:	2% on mortgages 2% on motor vehicle transfers
Turnover Tax	16% ad-valorem on fossil fuels
Real Estate Tax:	3% transfer tax

Treaty Taxation[10]:

Items of Income

Countries	Interest	Dividends	Royalties
Canada	18%	18%	18%

5 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. General Standard 04-2011from the General Directorate of Internal Revenue regulates the order of priority of different valuation methods to be used to rule on transfer pricing, as well as the informal declaration obligation over transactions with related parties or affiliates.

6 Goods subject to excise taxes are: leaded and unleaded fuel (16% ad-valorem tax); cigarettes (specific amounts of RD$35.82- RD$17.91 per cigarettes and a 20% ad-valorem tax), alcoholic beverages (specific amounts of RD$471.51-RD$384.53 per liter and a 7.5% ad-valorem), telecommunications (10%); insurances (16%) except if they fall under Law 187-01; electronic items (10-20%); among others

7 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.

8 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.

9 Reference is made to the most usual rates, but other rates may be applicable.

10 In case of interests paid to lenders resident in Canada to withhold the amount is 10%, otherwise it is a 18% withholding.

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 the Dominican Republic, branches or permanent establishments of foreign companies is **29%**.

1.1.2. Taxable Base

All Dominican source income is subject to income tax unless the result is the Gross Income from which all expenses incurred in obtaining taxable income are deducted. The after-deductions result is the Net Taxable Income. The Net Taxable Income is the tax base from which the 29% corporate tax rate is applied. The result of applying the 25% 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
[*] 29% 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 interests, taxes (other than income tax, donation and inheritance tax, all taxes, rates or rights involved in the acquisition, maintenance and conserving capital goods, unless they have been allocated as part of the acquisition cost of such goods), insurance premiums, amongst others. The Dominican Tax Code establishes that deductions made by permanent establishments by payments of interests, royalties and technical assistance made to their foreign controlling entities will not be deductible if they have not paid the 29% withholding on the gross payment made. Expenses are generally allocated to the fiscal year in which they accrue.

The Dominican Tax Code allows for the deduction of the following concepts:

Interest on debts and expenses incurred through their constitution, renewal or cancellation, provided that they are directly related to the business and are involved in the acquisition, maintenance and/or operations of goods producing taxed income. Independently, interest on the financing of imports and loans obtained abroad shall be deductible only if the corresponding withholdings are effectively made and paid.

Taxes and rates levied on goods that produce taxed income, except income tax and its surcharges, as well as the taxes, rates and rights incurred in acquiring, maintaining and conserving capital assets,

such as the Tax on Inheritances and Donations, contributions to public works that benefit private property and other taxes levied on capital income, or any other, except when the same are calculated as part of the cost transferring the asset in question.

Extraordinary damages suffered by goods that produce profits as a result of accidental causes, force majeure, or offenses by third parties shall be considered losses, but these must be reduced up to the amount of the value received by the taxpayer because of insurance or indemnification. If such value is superior to the amount of the suffered damages, the difference constitutes gross income subject to tax.

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.

Non-collectible 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.

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.

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 deduction for depreciation 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 will be 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 to 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.

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.

In order to establish the transfer pricing for related entities, the Dominican source income of branches and other forms of permanent establishments of foreign entities that operate in the country will be determined over the basis of the real results obtained for their operations in the country.

When the accounting elements of such enterprises do not reveal the real results that were obtained by their operations in the country, the tax authorities may determine the taxable income applying to the gross income received by the permanent establishment in the country, the proportion that exists between the total revenue of the controlling entity and the gross income of the establishment in the country. The tax authorities may also set the taxable income with the proportion that exists between the total revenue of the controlling entity, the proportion that exists between the total revenue of the controlling entity and the total assets of the latter.

When the prices that the branch or permanent establishment collects to its parent company or to other branch or related entity of the parent company do not relate to the values that for similar operations it is collected to independent entities, the Tax Administration may challenge the same. Such payments must be necessary to maintain and preserve the income of a permanent establishment in the country.

The tax authorities may challenge as an unnecessary expense to produce and maintain taxable income, the excess determined by the amount due and paid by interests, commissions, and any other payment, that results from credit or financial operations made with the parent or entity related to the same.

1.1.6. Inflationary Adjustments.

The Executive Power shall order an adjustment for inflation for each calendar year on the basis of the methodology established in the Regulations which is based on the Consumer Price Index of 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 Power, 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.

For 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 a 16% 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 lease 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 a 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 incompliance with 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 1.73% per each subsequent month or fraction of a month, and 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% 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, offices, for lacking registry books, for not registering determined goods or equipments, 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 fine amounts 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.

Distribution of dividends by local entities or corporations of Dominican Source profits to natural persons or legal entities residing or domiciled in the country or abroad will be subject to 29% withholding to be made and paid by the local entity or corporation making the distribution. However, the withholding made by the local entity or corporation shall constitute a tax credit against their corporate income tax for the fiscal year in which the withholding taxes take place. If during the fiscal year, the tax credit allowed to a legal entity exceeds the taxes of such legal entity for corporate income tax, said excess shall be transferred and shall be considered as a tax credit for the following year.

Repatriation of Dominican source profits made by branches to their foreign parent company is exempted from withholding tax.

1.6. Cross-border Payments

1.6.1. Withholding Taxes

Those who pay or credit on account taxable income from Dominican sources to persons neither residing nor domiciled in the country, which is not interest paid or credited on account to financial

institutions from abroad, nor dividends, nor income to natural persons, must withhold and pay to the Administration, as sole and definitive payment of the tax, twenty five percent (29%) 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. Dividends

See 1.5.

1.6.1.2. Royalties

Royalty payments made to non-domiciled companies or natural persons are subject to a 29% withholding tax. If the double taxation treaty with Canada applies, an 18% withholding will apply.

1.6.1.3. Technical Assistance, Engineering and Consulting Services

Technical assistance, engineering and consulting services rendered by non-domiciled corporations or natural persons are subject to a 29% withholding tax.

1.6.1.4. Interest on Loans obtained abroad

Interest payments on loans obtained abroad are subject to a withholding rate of 10% on the interest paid if the beneficiary is a bank or financial institution incorporated in its jurisdiction. If the beneficiary of the loan is a not considered to be a financial institution in its jurisdiction, the withholding rate of 29% on the interest paid will apply.

1.6.1.5 Payments to non-residents

Payments to non-residents working on a temporary basis in Dominican Republic will be subject to a 29% withholding tax on the gross income paid;

1.6.1.6. Rental Payments on moveable property

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 withholding tax will apply;

1.6.1.7. Rental Payments on real estate property

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 withholding tax will apply;

1.6.1.8. Proceeds from the sale of any type of property

are subject to a 3% transfer tax and, if applicable, a capital gains tax of 29%. 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 on this the referenced adjustment shall be made.

1.6.1.9 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 29%.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1. Tax Rates

The VAT rate is of 16% which applies to all goods and services.

There are also some VAT exemptions for specific public entities of the national or local territorial level, religious institutions, free zones, health services, 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 has 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 into 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.

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 Renewable Energy Law 57-07

Renewable energy projects are exempted from the payment of VAT.

2.2.5 Law 56-07 that declares as a national priority the textile, tailoring, accessories, leather, fabrication of leather footwear industries

Corporations and entities under this law are exempted from the payment of VAT.

2.2.6 Law 122-05 regarding non for profit organizations

Non for profit organizations are exempted from the payment of VAT.

2.2.7 Law 19-00 regarding the Dominican Securities and Exchange Market

The operations for the sale and purchase of Dominican securities approved by the Superintendence of Securities are exempted from the payment of VAT.

2.2.8 Law 502-08 on Books and Libraries

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.

2.2.9 Law 108-10 on the Promotion of Cinematographic Activity

Establishes a VAT exemption over equipment, material and furniture required to equip for the first time and put into operation new movie theaters.

Other incentive laws grant selective tax incentives.

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 19-00, as well as the electrical companies dedicated to 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 pursuant to their productive net financial assets, which encompass: 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 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 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 and industrial activities owned by individuals whose value – including the land – exceeds RD$5,000,000.00. This value is annually adjusted pursuant to local official inflation rates.

The personal property tax 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.

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; and
b) Specific amount per cigarettes packages.

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 20% and 10% respectively.

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 7.5% for the products derived from alcohol and 20% for products derived from tobacco. For the application of the foregoing taxes, the retail prices shall be determined by increasing the price lists without any discounts, gratuities, donations or other similar items, as follows:

(a) An increase of 30% for alcohol products;
(b) An increase of 20% for beer; and
(c) An increase of 10% for tobacco products.

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.

4. CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties

Importation of goods and are subject to import VAT at a rate of 16% plus custom duties that range between 0% to 20% depending on the type of asset imported, and except 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

See 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 import regimes applicable in the Dominican Republic:

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 requested 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 directly such taxes 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 will be financed with an average contribution of one point twenty percent (1.20%) of the wages, totally covered by the employer. The total contribution from the employer will have two (2) components:

i) A fixed base rate of one percent (1%) to be applied evenly to all employers; and
ii) A variable rate of up to zero point six percent (0.6%) established in agreement with the field of activity and risk factor of each enterprise. 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.

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.

5.8. 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$399,923.00	Exempted
Income from RD$399,923.01 to RD$599,884.00	15% of the surplus of RD$399,923.01
Income from RD$599,884.01 to RD$833,171.00	RD$29,994.00 plus 20% of the surplus of RD$599,884.01.
Income from RD$833,171.01 and beyond	RD$76,652.00 plus 25% of the surplus of RD$833,171.01

Social Charges on Wages

Social Charges	Employee	Employer
Contributions		
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%

ECUADOR CHAPTER
LAWNETWORKER S. A. ASESORES LEGALES

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National Level Tax Rates:

Corporate Income Tax:	23% (13% on profits reinvested)
Capital Gains Tax:	0%
Branch Profits Tax:	23% (13% on profits reinvested)
(*) Dividends Tax:	0%
Withholding Taxes on:	
(*) Interest:	23%
Royalties:	23%
Technical assistance:	23%
Technical Services:	23%
Other Services:	23%
Imports:	-

(*) The tax reform enacted on 23 December 2009 decreed that dividends distributed to individual shareholders are no longer exempt and now will add to their global taxable income, thus subject to the general tax rates. Dividends distributed to Corporations will remain exempt.

(*) Effective January 1st 2010 the withholding rate on payment of interest remitted abroad was increased from 5% to 25%. (23% for 2012)

(*) The Tax reform enacted on 29 December 2010 reduced the Corporate Tax Rate from 25% to 22%. This reduced tax rate will apply progressively. For 2011 will be 24%, for 2012 will be 23% and from 2013 and on, will be 22%

Tax losses carry forward term:	[5] years
Tax losses carry back term:	Not permitted
Transfer Pricing Rules:	[yes-OECD like]
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:	[2]% (*)

(*) In November 2011, The Government increased the capital Flight Tax, (tax on all transfers of funds, remitted abroad , regardless their nature), up to a rate of 5% of the amount transferred or remitted. (Former rate was 2%)

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

Countries	Interest	Dividends	Royalties	Tech.Services	Tech.Assistance
Brazil	0%°	0%	15%		
France	0%°	0%	15%		
Germany	0%°	0%	15%		
Italy	0%°	0%	5%		
Mexico	0%°	0%	10%		
Romania	0%°	0%	10%		
Spain	0%°	0%	10%		
Switzerland	0%°	0%	10%		
Canada	0%°	0%	15%		
Chile	15%	0%	10-15%		
Belgium	0%	0%	10%		
Andean Pact Countries See Section 1.14	0%	0%	0%		
Non Treaty Countries	23%	23%	23%	23%	

1. INCOME TAX

TAX BRACKETS FOR INDIVIDUALS FOR 2012

Taxable Income Exceeding	Taxable Income Not Exceeding	Tax on Lower Amount	% Rate on Excess
-	9,720	-	0%
9,720	12,380	-	5%
12,380	15,480	133	10%
15,480	18,580	443	12%
18,580	37,160	815	15%
37,160	55.730	3,602	20%
55,730	74,320	7,316	25%
74,320	99,080	11,962	30%
99,080	And on	19,392	35%

TAX BRACKETS FOR INHERITANCES, LEGACIES AND DONATIONS FOR 2012

Taxable Income Exceeding	Taxable Income Not Exceeding	Tax on Lower Amount	% Rate on Excess
-	61,931	-	0%
61,931	123,874	-	5%
123,874	247,737	3,098	10%
247,737	371,610	15,484	15%
371,610	495,484	34,064	20%
495,484	619,358	58,839	25%
619,358	743,221	89,808	30%
743,221	And on	126,967	35%

1.1. General Aspects

Corporate Income tax. Corporate income tax 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 corporate income tax for 2012 is 23%. Companies that reinvest their profits in Ecuador are entitled to a reduction of 10% in the corporate income tax rate on the reinvested amount (which means, the reinvested profits are taxed at 13%) if they retain the reinvested profits until 31 December of the tax year following the tax year in which the profits are earned.

1.4. Capital Gains.

Capital gains derived from sales of shares are exempt from tax if the sales are "occasional" sales, which are sales that are not made in the ordinary course of business of the company. Losses on sales between related parties are not deductible.

1.5. General exemptions and Deductions

Taxable income is based 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, shares or participations. It shall be considered as occasional sale, the sale that does not correspond to the habitual activities of taxpayer;

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.

Deductions

Main deductions are: costs and expenses attributable to the income; Production and manufacturing costs and expenses; Interest and financial costs from foreign suppliers; Interest paid on account of foreign loans, duly registered with the central Bank; provided the foreign loans are Government to

Government 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 be deductible, the amount of the foreign loan shall not exceed 300% of the foreign debt-capital stock relation; Net cost of merchandizes or services acquired or utilized; General expenses, being understood as such, administration and sales expenses; Financial expenses and costs; Wages, salaries, fringe benefits, 15% profit-sharing, severances paid to workers and employees; Taxes, surcharges and employer's contributions to the Social Security; Depreciation of fixed assets; amortization of investments; Corporate losses of previous years: their amortization shall be effected within the next five tax years following to the year in which the loss occurred, but only up to 25% of the taxable profit of the current year; the non-amortized balance will not be deducted in the following years and will affect the equity directly; Expenses on account of merges, spin-offs, dissolution and liquidation processes, etc. Individuals can deduct up to 50% of their taxable income, their wives and children, income, not exceeding an amount equivalent to 1.3 times of the exempt portion of income tax (9,210.oo) Deductible items include lease, interest for purchase of homes, education, health, food, and other personal expenses.

1.6 Expenses Incurred Abroad

Are generally deductible, provided appropriate taxes are withheld if the payment constitutes taxable income for the payee. 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, or loans granted by the World Bank, the CAF, the BID, and other multinational organisms. In addition, in order for interest of foreign loans 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
- 96% 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, but pursuant a change in the law in May 2008, reimbursement of expenses remitted abroad are no longer tax free and are now taxed at a rate of 23% (for 2012) Due to this, the Cost Certificate Report (CCR) issued by foreign audit firms is no longer necessary.

With respect to payments remitted abroad on account of interest on foreign loans contracted by the private sector, the withholding tax rate was initially increased from 0% to 5%, provided foreign loan had been registered with the Central Bank. But this rate applied only until December 31, 2009. Effective January 1st.2010 , the withholding tax rate was of 25% and for 2012 is 23%

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, expenditures to acquire property and other assets that produce revenue must be amortized over 5 years, using a straight-line depreciation rate of 20%.

Intangibles must be amortized over either the term of the relevant contract or a 20-year period.

The tax authorities may approve other methods and annual rates for depreciation and amortization.

Organizational costs may be amortized over a 10-year period. Research and development expenses are generally written off over five years.

Depreciation of fixed assets in excess of their original cost is permitted if business assets are revalued as a result of inflation or increased replacement costs.

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
- Residual analysis 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 IRS a Transfer Pricing Annex when their transactions with related parties above in a fiscal year exceed USD 1,000,000.oo 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 5,000,000. oo.Therefore transactions performed with related parties in Ecuador are excluded from this obligation,

but the IRS 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

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, provided 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

Filing the Withholdings at Source Returns

Withholding at Source Monthly Tax Returns will be effected in the corresponding forms and other means, in the form and conditions established by the IRS.

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 IRS 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 IRS.

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 IRS.

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 depositing said balance with the financial institutions legally authorized to collect levies on behalf of the Government.

2) Individuals and inheritance trusts, not obliged to keep accounting books, and the enterprise that maintain contracts for the exploration and exploitation of oil & gas in any modality and public enterprises subject to payment of income tax 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 in self determining the amount of advanced income tax to be paid during the current fiscal year, the IRS will proceed on determining it and will then issue the corresponding tax assessment and warrant for collection, including the applicable interest and penalties.

6) Taxpayers shall be entitled to request the IRS a reduction or the exemption of advanced payment of income tax when proven that the taxable income for the current fiscal year will be inferior than the prior year's taxable income or that 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, in the following manner:

a) For the total of amounts withheld that have been effected to them, if no tax liability is due in the current year, or if the tax due is lesser than the advanced payment of income tax effectively paid,

b) For the amounts withheld that have been effected to them, in the portion not applied to the payment of income tax, in the event that the tax due is larger than the advanced payment of income tax effectively paid,

The IRS will order the refund to the taxpayer of amounts undue paid or the amounts paid in excess, through the issuance of a credit note, cheque or other mean of payment.

Prior express request of taxpayer, the IRS can concede the reduction of the amount of the anticipated payment of income tax, in conformity with the terms and other requirements set forth in the Regulation to the Tax Law

Notwithstanding the above, the IRS may order the refund of the amount paid on account of advanced 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.

To this extent, taxpayer must file his application accordingly, duly justified and the IRS will conduct the appropriated verifications. This amount paid on account 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 self determined by taxpayer on account of anticipated income tax, shall be paid 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 withholding agents.

The IRS 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. In the event that taxpayer chooses the second option, he must inform this decision to the tax authorities in a timely fashion.

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 on account 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. It shall be understood that the withholding has been effected in the term of five days since the date the sales voucher was presented.

Obligation to withhold. -The obligation to withhold becomes mandatory in all payment or credit into account exceeding US$ 50.oo (Fifty dollars) unless otherwise stated in the law. However, when the payment or credit into account is made on behalf of a permanent supplier, there will be the obligation to withhold, no matter what the amount of the transaction is.

Dividends. 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 non residents 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 23% (for 2012)

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 23% (for 2012)

Other Services. all other services paid or remitted abroad to non-treaty countries are also taxed at the flat final rate of 23% (for 2012)

Interest and Leasing Payments. Lease payments remitted abroad are taxed at the flat final rate of 23%. Effective 1 January 2012, payment of interest on account of foreign loans, are subject to a 23% withholding tax rate provided loan agreement has been properly registered with the Ecuadorian central Bank and the interest rate does not exceed the rates approved by the Ecuadorian central Bank.

Equity Reimbursements. Equity reimbursements are not taxed in Ecuador.

2. VALUE ADDED TAX (IVA)

2.1. Value-Added Tax (IVA)

IVA is levied on the transfer of goods, imports and services provided. The general rate is 12%, but there are transfers, imports and services levied with "0" rate.

The following transactions are exempt from IVA:

- 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, trouts, 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:

1. - Fluvial, maritime and Terrestrial passengers and cargo transportation as well as international aerial cargo transportation, 2. - Health Services, 3. - Lease and rent of real estate destined exclusively for housing, 4. - Public Services of electricity, potable water, sewer and trash collection, 5. - Education Services, 6. – Kindergarten, child care and elderly care homes services, 7. Religious services, 8. - Book printing services, 9. - Funeral services, 10. - Some administrative services provided by the Government, 11. - Public shows and spectacles, 12. - Exchange, Stock market and Financial Services provided by the entities duly authorized by the law and the Government, 13. - Transfer of securities, 14. - Services for export, including inland tourism, 15.- Services provided by Professionals up to an amount of US$ 800.oo for each case, 16. - Toll for the use of roads and highways, 17. - Lottery conducted by Junta de Beneficencia and Fe y Alegria (charity entities), 18. - Aerial fumigation 19. – Services rendered by artisans, 20. - Refrigeration and freezing services for maintenance of food, -21.- Services provided to Government entities that receive tax exempt income. 22.- 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% IVA and it must be calculated and paid in the monthly IVA tax return made by taxpayer. The acquirer of the service provided from abroad must withhold and pay 100% of the IVA levied in the con-

tracting of service. It shall be regarded as importation of services, those provided by a non resident 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 IVA 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

IVA 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 IVA is 12%

2.7. IVA Tax Credit

As a mandatory general rule, IVA tax credit will be granted on IVA 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 IVA tax credit in the local purchase and import of goods or in the utilization of services made by taxpayers to be used in the production or sale of goods, or in the providing of services, 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. IVA Refund on Export Activities

Individuals and corporations that have paid IVA 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.

3. TAX ON SPECIAL CONSUMPTIONS (ICE)

3.1. Object of ICE

ICE 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 ICE locally manufactured, shall be determined adding the "ex-factory" price, costs and commercialization margins, minus IVA and the own ICE.   The rates established in the law shall be applied to this taxable base.

For imports subject to ICE, 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 ICE

Ice is levied on the following products

GROUP I	RATE
1. cigarettes	150%
2. Beer	30%
3. Soft Drinks	10%
5. Perfumes	20%
6. Video games	35%
7. Fire guns, sports guns and ammunition	300%
8. Incandescent bulbs	100%

According to the 23 December 2009 Tax Reform, alcohol destined to the pharmaceutical industry, alcohol destined to the production of perfumes and similar products; alcohol, syrups, essences or concentrates to be used in the production of alcoholic drinks or beverages, alcohol, remains and other sub products resulting from the industrial or artisan process of rectification and distillation of alcohol are now exempt from ICE (Tax on Special Consumption or Excise Tax)

GROUP II

Ground transportation motor vehicles up to 3.5 tons cargo capacity, according to the following scale:

	RATE
-Pick up and Vans which price to the public is up to USD 30,000.oo	5%
-Other motor vehicles which price to the Public is up to USD 20,000.oo	5%
-Motor vehicles, excepting Pick Up and Vans, which price to the public ranges between USD 20,000.oo and 30,000.oo	15%
- Motor vehicles, excepting Pick Up and Vans, which price to the public ranges between USD 30,000.oo and 40,000.oo	25%
- Motor vehicles, excepting Pick Up and Vans, which price to the pubic exceeds 40,000.oo	25%

GROUP III

Planes, small planes and helicopters, excepting Those for commercial passengers transportation, motorcycles, tricars, yatches and leisure boats	15%

GROUP IV

Paid TV cable	15%
Casinos and other gambling businesses	35%

GROUP V

Clubs memberships, dues and other charges, Provided they exceed USD 1,500.oo a year	35%

4. CAPITAL FLIGHT TAX (ISD)

Tax Rate: 5% (Increased from 2% to 5% on November 2011) on all moneys, funds, currencies remitted abroad, with or without the intervention of Financial Institutions

It includes the transfer or conveyance of currency abroad, in cash, in checks, credit cards, through wire transfer, withdraws or payment of any nature remitted abroad, with or without the intervention of the institutions of the banking and financial system. 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 of ecuador
b) Undivided inheritances
c) Private national corporations
d) Branches of foreign companies and permanent establishments domiciled in ecuador
e) 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 agents will withhold the tax at the time of transfer or conveyance. If the payment of the import was made from abroad, in any manner, the capital Flight Tax shall be declared and paid at the time of nationalization of the goods; to such purpose all importers must file with the customs authorities, the corresponding form to the extent that the CAE (custom authority) can accurately identify the transaction and collect the tax whenever applicable.

According to the December 2009 Tax Reform, Ecuadorian and Foreign citizens abandoning the country carrying in cash an amount equivalent of up to the exempt portion of the personal income tax (USD 9,720.oo), shall be exempt from this tax. In the excess will be subject to the tax.

Transfers remitted abroad of up to USD 1,000.oo will equally be exempt from the ISD, and the tax will be levied on the excess. This exemption will not apply in the consumptions and purchases made outside Ecuador with 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 in the cases the payments on account of ISD have been done to import raw materials, capital goods and other goods to be used in the production, and provided that at the time of filing the custom declaration for nationalization, these goods are subject to AD VALOREM ZERO RATE CUSTOM DUTIES in the import legislation in force at such time.

5. TAX ON ASSETS AND INVESTMENTS MAINTAINED ABROAD

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 Intendencies 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.

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.

Rate: The rate of the tax on assets maintained abroad is of 0.084% monthly, applied on the consolidated taxable base

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.

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. Alcabala 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 Sale of Real estate (Plusvalue tax)

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%

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 shall not exceed 0.10% of the real assets of a company. For years 2008 and 2009 the rate has been set in 0.10%.

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

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 20% (ceiling)

10.2. Value Added Tax (IVA)

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 DUI (Unique Document of Importation)

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	
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. REDEEMABLE 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 IRS 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

13. TAX ON VEHICULAR ENVIRONMENTAL CONTAMINATION (IACV)

IACV 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 IACV 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. PAYRROLL 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.

15.2. Profit-Sharing

Ecuador imposes a pre-tax 15% Profit-Sharing to employers. The beneficiaries of this tax are the employees.

16. MISCELLANEOUS MATTERS

16.1. Foreign Exchange Controls

Ecuador does not have exchange controls. All transactions in Ecuador must be conducted in U.S. dollars, which replaced the "Sucre" and is the official currency of ecuador since January 2002.

16.2. 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.

16.3. 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.

16.4 Declaration of Personal Equity

The Government on 30 December 2008, enacted a law whereby all individuals, nationals or foreigners, residents of ecuador that own assets in excess of USD 200,000.oo at January 1st. each year, must file their Declaration of Personal Equity listing all the assets they own. In the case of matrimonies, they must declare jointly (husband and wife) if their common assets included in their matrimonial Property Regime exceed USD 400,000.oo. If husband or wife own assets out of the matrimonial Property Regimen (i.e. a Pre-nuptial agreement) the declaration must be individual if the assets owned in the matrimonial Property Regime and the assets not included therein, exceed USD 200,000.oo

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, portfolio, credits and receivables, motor vehicles, planes, boats, movable goods, and home furniture, machineries and equipments, 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 IRS 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.

16.5 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.

GUATEMALA CHAPTER

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HIGHLIGHTS

National Level Tax Rates: 2012

Corporate Income Tax	31% (or 5% Flat Tax)
Capital Gains Tax	10%
Branch Profit Tax	31% (or 5% Flat Tax)
Dividends Tax	3% (Stamp Tax)
Whitholding Taxes on:	
Interest	10%
Royalties	31%
Technical, scientific, administrative Services	31%
Imports	0%
Labor services	10%
Other	31%
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%
Customs Duties	0% to 30% with an average rate of 15%.
Net-worth (Assets Tax)	1% (Creditable to Income Tax)
Stamp (documentary) Tax:	3%
Bank Debits (Transfers) Tax Rate:	Not applicable

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:	2 to 9 per thousand
Taxes on Other Property:	Not applicable
Document Registration	Tax Schedular rates applicable at several Registrar Offices

TREATY TAXATION:

No Tax Treaties are in force. According to Tax Authorities, and before new Income Tax Law enters into force in January 2013, 10 to 15 Doble Taxation Treaties should be approved by the Guatemalan Government.

1. INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate.

The general statutory corporate income tax rate is a flat rate of 5% on gross income minus exempt income; alternatively, there is the 31% corporate income tax rate on net income. This is equally applicable to local branches of foreign corporations.

New Income Tax Law, to enter into force in January 2013, includes a decreasing tax rate which in year 2015 will reach a 25% rate, for the, to be, statutory corporate Income Tax Regimen; the alternative regime remains, and will be a flat rate of 7% or 5% on gross income minus exempt income. The applicable tax rate will depend on the amount of the taxable income.

Although the income tax in Guatemala will remain on a territorial basis of taxation, the new income tax law includes regulations related with permanent establishment, transfer price rules or even a concept of resident for taxable purposes.

1.1.2. Taxable Base

Refer to 1.1.1 above

1.1.3. Deductions

There are no deductions applicable to the 5% Regime; for the 31% Regime, as a general rule, all costs and expenses related and necessary to the income producing activity, are considered deductible expenses. 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, unrecoverable debts, interest payments.

Same rules, with small variations, remain for new Income Tax Law.

1.1.4. Depreciations

For the 31% Regime, tangible and intangible fixed assets´ depreciation is deductible. Depreciation term varies depending on the nature of the assets.

1.1.5. Transfer Pricing

Guatemalan legislation up to year 2012, did not contemplate specific Transfer Pricing rules; however, this is not equivalent to say that the taxpayer is basically free to assign any value to transactions entered into with related entities. At the limit, the deliberate simulation of transactions with the purpose to evade taxes partially or totally is specifically sanctioned by criminal law.

With new Income Tax Law to enter into force in January 2013, Guatemala will have Transfer Pricing rules. Indeed, Chapter VI of Decree 10-2012 introduces Transfer Pricing Rules applicable to all transactions between Guatemalan entities and non-resident foreign related entities. Such rules do not apply to related Guatemalan resident entities. Different methods to apply the arm´s length principle, as well as definitions of related parties are contemplated by New Income Tax Law.

1.1.6. Inflation Adjustments

Guatemala does not have inflation adjustments mechanisms; however, the revaluation of tangible or intangible assets is permitted.

1.2. Payment and Filing

For tax payers under the 31% Regime, ordinary tax year covers the period from January 1st . to December 31st, with an annual filing deadline three months after the closing of the corresponding Tax Year. Tax payers under the 5% regime must file their returns on a monthly basis.

Same filing rules remain under new Income Tax Law.

1.3. Interest and Penalties on Unpaid Tax or Tax Paid Belatedly

Unpaid taxes are subject to an interest charge that shall be assessed at the legal rate, 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

Although characterized as a Stamp Tax, for every practical purpose and except under certain circumstances (still debated at the Tax Court level) a 3% charge is levied on the dividends paid to both residents and non resident shareholders, as well as on the remittances made to Parent Corporation of local branches.

Starting January 2013, dividends will be characterized as income, for Income Tax purposes; thus, Stamp Tax will be repealed and dividends will be taxed with a 5% Income Tax rate.

1.5. Cross-Border Payments

1.5.1. Withholding Taxes

When Guatemalan sourced income is remitted abroad to a beneficiary that is a non-domiciled alien individual or entity, the payment is subject to a withholding tax.

1.5.1.1. Royalties

Royalty payments are subject to a 31% withholding tax. Starting January 2013, royalties will be subject to a reduced rate of 15%.

1.5.1.2. Dividends

Please refer to numeral 1.4 above.

1.5.1.3. Technical, Administrative, Scientific, Financial or Economical Services.

Payments made to non-resident alien entities for technical, administrative, scientific, financial or economical Services are subject to a 31% withholding tax. Starting January 2013 such payments will be subject to a reduced 15% withholding obligation.

1.5.1.4. Other

Cross-border payments.

Other payments not specifically characterized, to non-resident alien entities or individuals are subject to a 31% withholding tax. Starting January 2013 the rate will be reduced to a 25%.

1.5.2. Interest payments.

Interest payments are subject to a 10% withholding tax rate.

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 Havens provisions.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1.

VAT´s general rate is 12%. There is as reduced rate for minor tax payers (roughly under US$9,000.00 yearly income) of 5%. There are also some VAT exemptions for specific entities.

2.1.2. Taxable Transactions

The taxable transactions are the sale of movable assets and real estate property; imports; leasing of movable assets or real estate property; donations; inventory's consumption, losses or destruction, and services rendered in Guatemala.

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. There are cases where certain items must be either included or excluded.

2.1.4. Creditable VAT

As a general rule the VAT taxpayer is entitled to credit to the VAT payable all such VAT paid to its suppliers for tangible movable assets brought 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 VAT account.

2.2. Payment and Filing

VAT has a one-month 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 2 to 9 per thousand 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, with the exception of dividends or profits, which are levied with the 3% rate, regardless of the existence of a physical document; 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 consideration agreed in the document. The general exemption for this tax is that all transactions subject to VAT, are not levied with the Stamp Tax.

3.3. Excise Taxes

In Guatemala, there are several excise taxes that apply to the consumption of national or imported goods such as cigarettes, alcoholic beverages and soft drinks. Tax rates range from 8% to 100%.

3.4. Custom Duties

In addition to import 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.

3.4.1. Filling and Payment

An import tax return must be filed upon nationalization of the goods, and all import procedures must be preformed through an authorized customs agent.

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, and maternity, death insurance. Social Security contributions are applicable to employer and employees. The contributions are based on the monthly salaries with a 12.67% for the employer and a 4.83% for 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 all the labor force.

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HIGHLIGHTS

National Level Tax Rates: 2012

Corporate Income Tax:	30%[1]
Capital Gains Tax:	30%
Branch Profits Tax:	30%
Dividends Tax:	0% [2]
Tax Withholding[3] on:	
Interest:	From 4.9% to 30%
Royalties:	5%, 25% or 30%
Technical Assistance:	25%
Technical Services:	25%
Other Services:	From 0% to 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:	16% (11% on border region)
VAT on Services:	16% (11% on border region)
VAT on Imports:	16% (11% on border region)
Flat Rate Business Tax:	17.5%
Tax on Cash Deposits:	3%

1 The income tax rate for 2010, 2011 and 2012 will be 30%; for 2013, 29% and starting 2014, 28%

2 If the dividend does not derive from profits that have already paid income tax at the corporate level, a 30% tax rate will apply on the distributed dividend, grossed-up by a 1.4286 ratio. For tax year 2013, the applicable ratio will be 1.4085 and starting 2014, 1.3889

3 Final Tax applicable to nonresidents

TREATY TAXATION:

ITEMS OF INCOME

Contracting State [1]	Dividends	Interest [3]	Patent and know-how Royalties [4]	Tech. Services [7]	Tech. Assistance (7)
Australia	0/15%	10/15%	10%	0%	0%
Austria	5/10%	10%	10%	0%	0%
Bahrain	0%	4.9/10%	10%	0%	0%
Barbados	5/10%	10%	10%	0%	0%
Belgium	5/15%	10/15%	10%	0%	0%
Brazil	10/15% (2)	10/15% (2)	10/15% (2)	0/15% (2)	0/15% (2)
Canada	5/15%	10%	10%	0%	0%
Chile	5/10%	15% (2)	15% (2)	0%	0%
China	5%	10%	10%	0%	0%
Czech Republic	10%	10%	10%	0%	0%
Denmark	0/15%	5/15%	10%	0%	0%
Ecuador	5%	10/15%	10%	0%	0%
Finland	0%	10/15%	10%	0%	0%
France	0/5/15%	5/10/15% (2)	10/15% (2)	0%	0%
Germany	5/15%	5/10%	10%	0%	0%
Greece	10%	10%	10%	0%	0%
Hungary	5/15%	10%	10%	0%	0%
Iceland	5/15%	10%	10%	0%	0%
India	10%	10%	10%	10%	10%
Indonesia	10%	10%	10%	0%	0%
Ireland	5/10%	5/10%	10%	0%	0%
Israel	5/10%	10%	10%	0%	0%
Italy	15%	10/15% (2)	15%	0%	0%
Japan	0/5/15%	10/15%	10%	0%	0%
Korea	0/15%	5/15%	10%	0%	0%
Luxembourg (5)(9)	5/8/15%	10%	10%	0%	0%
Netherlands (6)	0/5/15%	5/10%	10%	0%	0%
New Zealand	15% (2)	10%	10%	0%	0%
Norway	0/15%	10/15%	10%	0%	0%
Panama	5/7.5%	5/10%	10%	0%	0%
Poland	5/15%	10/15%	10%	0%	0%
Portugal	10%	10%	10%	0%	0%
Romania	10%	15%	15%	0%	0%
Russia	10%	10%	10%	0%	0%
Singapore(9)	0%	5/15%	10%	0%	0%
Slovakia	0%	10%	10%	0%	0%
South Africa	5/10%	10%	10%	0%	0%
Spain	5/15%	5/10/15% (2)	10% (2)	0%	0%
Sweden	5/15%	10/15%	10%	0%	0%
Switzerland	0/15%	5/10% (2)	10% (2)	0%	0%
United Kingdom	0/15% (8)	5/10/15%	10%	0%	0%
United States	0/5/10% (2)	4.9/10/15%	10%	0%	0%
Uruguay	5%	10%	10%	0%	0%

(1) Tax Treaty network in effect as of January, 2012

(2) These treaties have the most favorable nation clause (MFN). Under the MFN the withholding may be reduced in certain circumstances.
(3) In some cases, interest may only be taxed in the Contracting State in which the beneficial owner is a resident (i.e. if the beneficial owner is a Contracting State, a political subdivision or local authority, etc.).
(4) In some cases, royalties may only be taxed in the Contracting State in which the beneficial owner is a resident (i.e. copyright royalties).
(5) In order to benefit from the provisions, a resident of one of the Contracting States shall be required to produce to the tax authorities of the other Contracting State a certificate counter signed by the tax authorities of the first mentioned State, specifying the income obtained and certifying that this income will be liable to direct taxation in the resident's country.
(6) The benefits provided in the Tax Treaty are not applicable to the entities or other persons that are total or partially exempt of taxes by a special regime according to legislation of the administrative practices of any of the States. A special regime only will be considered as such, when the authorities in the matter of both States have decided by mutual agreement, that such is the case.
(7) In general terms, technical services and technical assistance are not subject to withholding in the Country of source. However this should be analyzed on a case by case basis, in accordance with the specific Tax Treaty and its Protocol. The commentaries of the Model Income Tax Convention adopted by the OECD should also be considered.
(8) Dividends paid by a resident of a Contracting State to a resident of the other Contracting State, are taxable in the country of destination and exempt in the country of origin, except in those cases in which the beneficiary is a pension fund.
(9) A contracting state may request information to the other contracting state, and this one must provide it even if is not relevant for its own tax purposes, except in those cases when the information provider risks infringing its local legislation.

Overview

1 INCOME TAX

1.1 General Aspects

1.1.1. Income Tax Rate

Mexican resident corporations are subject to a federal corporate income tax at a rate of 30%. The rate will be reduced to 29% in 2013 and to 28% starting 2014.

1.1.2. Taxable Basis

Corporations resident in Mexico are subject to income tax on their worldwide income. Corporations are deemed to be Mexican residents for tax purposes if their actual management site is located in Mexican territory.

The taxable basis shall be determined by reducing the deductible expenses from the worldwide income obtained by the corporation.

Non-residents carrying out business activities in Mexico through a permanent establishment (i.e., office branches, agencies, etc.) are subject to income tax on income attributable to such permanent establishment and, in general terms, they shall comply with the same obligations applicable to Mexican corporations.

1.1.3. Deductions

As a general rule, all costs and expenses are deductible provided that they are related and strictly necessary for purposes of carrying out the business activity of the taxpayer. Expenses will be non-deductible in the same proportion that the tax exempt income obtained by the taxpayer represents from its total income. Some costs and expenses are limited, depending on the facts and circumstances of

each case (i.e., related party charges, travel expenses, tax losses derived from the alienation of shares, leasing of automobiles and airplanes, among others).

Starting 2005, the cost of goods sold shall be considered as a deductible item, instead of deducting the purchase of such goods. Transitory provisions are contemplated to deal with inventory existing as of December 31, 2004.

Mexican tax legislation establishes thin capitalization rules, providing that the deduction of interest derived from accounts payable to foreign related parties will be limited when such accounts exceed a 3:1 ratio regarding the total equity of the Mexican entities.

Because of inflation adjustments, the total amount of interest may not be fully deductible for tax purposes.

1.1.4. Employee Profit Sharing (EPS)

EPS is allowed as a deduction from the taxable income (gross income minus tax deductions). Although it results in a lower taxable income, technically the EPS is not a deduction. Taxable loss resulting in a fiscal year will be increased by the EPS paid in the same year.

1.1.5. Depreciation

The method used to depreciate tangible fixed assets and to amortize intangible assets is the straight line method. Depreciation is calculated considering the maximum annual percentages established by the Mexican Income Tax Law. Taxpayers may elect to use lower depreciation percentages.

Depreciation of new assets acquired during the fiscal year is calculated on a proportional basis according to the number of months it was used during such fiscal year.

Depreciation is computed considering the original cost of fixed assets as a basis, indexed for inflation.

1.1.6. Transfer Pricing

The Mexican Income Tax Law provides as traditional transaction methods: the Comparable Uncontrolled Price Method (CUP Method), the Resale Price Method (RPM) and the Cost Plus Method (Cost Plus Method). And as transactional profit based methods: the Profit Split Method (PSM), the Residual Profit Split Method (RPSM) and the Transactional Operating Profit Margin Method (TOPMM).

As a member of the Organization for Economic Co-operation and Development (OECD), Mexico has enacted transfer pricing laws that are generally consistent with OECD guidelines for Multinational Enterprises and the Tax Administrations. Mexico's best method rule favors traditional methodologies, starting with the CUP method, over profit-based methods. Given the Mexican tax authorities' aggressive enforcements of transfer pricing rules, careful compliance with filing requirements and transfer pricing reports is strongly advisable.

1.1.7. Inflation Adjustment

Mexico has an annual inflation adjustment, which consists in determining the monetary gain or loss, derived from the effect of the inflation on debts and credits.

For such purposes, taxpayers shall compare the average balance of their debts with that of their credits; in case the balance of the debts is higher, an inflationary gain will be obtained which shall be

considered as a taxable income; otherwise, an inflationary loss will be obtained, which may be considered as a deductible item for income tax purposes. The referred inflationary gain or loss is determined by applying to the annual average of debts or credits an annual inflation ratio.

1.1.8. Net Operating Tax Losses (NOL's) Carry-Forward

NOL's can be carried forward for a maximum term of 10 fiscal years adjusted for inflation. There is no carry-back possibility.

Certain limitations apply to the NOL's (i.e. mergers, in the case where partners or shareholders holding 50% of the voting shares of a company change).

1.1.9. Tax Free Reorganizations

Mergers and spin-offs are considered tax free reorganizations, provided that certain requirements established in the Federal Tax Code are met.

Also, the stock-for-stock reorganizations are tax free, provided that certain requirements are fulfilled and that an approval from the Mexican tax authorities is obtained.

In the case of stock-for-stock reorganizations involving non-residents, the income tax derived from the transfer of shares by the non-resident may be deferred, provided that certain requirements are met and that the corresponding authorization from the Mexican tax authorities is obtained. The deferred income tax shall be paid when such shares are sold out to an entity not related to the Group.

1.2 Payment and Filing

The annual income tax return must be filed within the three months following the end of the corresponding fiscal year. Monthly income tax payments must be filed during the fiscal year, within the seventeen days following the end of each month. Such payments can be credited against the annual income tax.

1.3 Penalties on Unpaid Tax or Tax Paid Belatedly

Unpaid taxes are subject to surcharges which shall be computed on a monthly basis. In addition, such unpaid taxes must be restated by inflation occurred from the date in which they should have been paid to the date of actual payment.

If the omission of the tax payment is discovered by the Mexican tax authorities, a penalty may be imposed to the taxpayer.

1.4 Dividends

Mexican resident corporations receiving dividends from Mexican resident corporations are not subject to the payment of income tax in Mexico on the dividends received; however, the Mexican corporation distributing the dividend shall pay the corresponding income tax on the distributed dividend. In case the dividend proceeds from the "Net Tax Profit Account" (Spanish acronym CUFIN) generated by the corporation distributing such dividend, no income tax would be triggered, due that the CUFIN account is comprised by the tax profits that have already been subject to income tax at the corporate level at a 30% rate.

In case the dividend does not proceed from the CUFIN account of the corporation distributing such dividend, the corporate income tax applicable shall be determined by applying the 30% rate (29% for 2013 and 28% starting 2014) to the distributed dividend, grossed-up by the 1.4286 ratio (1.4085 for 2013 and 1.3889 starting 2014). Income tax paid on distributed dividends may be credited by the Mexican resident corporation in the following three years.

The above tax treatment is applicable also to remittances made abroad by branches of foreign corporations which are treated as permanent establishments in Mexico.

1.5 Cross-Border Payments

1.5.1. Tax Withholding

Non-resident individuals or entities receiving Mexican sourced income are subject to income tax withholding in Mexico. This is a final tax applicable to foreign residents.

1.5.2. Dividends

Non-residents receiving dividends from Mexican corporations are not subject to withholding income tax in Mexico from dividends received. However, as mentioned in section 1.4. above, if the dividend proceeds from the CUFIN account, no income tax would be triggered. Otherwise the income tax shall be determined by applying the 30% rate (29% for 2013 and 28% starting 2014) to the distributed dividend, grossed-up by the 1.4286 ratio (1.4085 for 2013 and 1.3889 starting 2014).

1.5.3. Royalties

Royalty payments to non-residents are deemed to be from source of wealth in Mexico, when the benefit of the assets or rights for which the royalties are paid is taken in Mexico, or when such royalties are paid by a Mexican resident or a non-resident with a permanent establishment in Mexico.

Royalty payments derived from the grant of temporary use or enjoyment of railroad cars are subject to a 5% income tax withholding with no deductions allowed. Royalty payments different from that mentioned before, are subject to a withholding income tax rate that may vary from 25% to 30% of the income received, with no deductions whatsoever.

1.5.4. Technical Services, Technical Assistance and Consulting Services

Non-residents are subject to income tax withholding in Mexico on income received from the rendering of technical assistance services, when benefit of the assets or rights for which the technical assistance is paid is taken in Mexico, or when such technical assistance is paid by a Mexican resident or a non-resident with a permanent establishment in Mexico. The applicable withholding tax rate is 25% on the income received, with no deductions allowed.

In general terms, non-residents receiving income derived from technical and consulting services, are subject to withholding tax in Mexico, when such services are rendered in Mexico, in which case the 25% withholding tax rate will be applicable, with no deductions allowed.

Notwithstanding the above, in terms of most of the Tax Treaties entered by Mexico and other countries, a 0% withholding tax rate is applicable on payments for technical and consulting services, provided that the person rendering such services does not have a permanent establishment in Mexico.

1.5.5. Other Services

Income received from the rendering of services in Mexico, even if they are performed in the country partially, are deemed to be from source of wealth in Mexico. The 25% withholding tax rate will apply, with no deductions allowed.

1.5.6. Interest and Leasing Payments

The withholding income tax rate on interest paid to non-residents may vary from 4.9% to 30%, depending on the beneficial owner of the interest and the type of interest. In general terms, the following withholding tax rates shall apply:

a) 4.9% to foreign banks resident in a country with which Mexico has a Tax Treaty in force, provided that they are registered with the Mexican tax authorities; to interest paid to non-residents derived from negotiable instruments placed within public investors, among others.

b) 10% to financial entities property of foreign states, provided that they are registered with the Mexican tax authorities; to entities placing or investing in Mexico capital proceeding from negotiable instruments issued by them and placed within the investing public, provided that they are also registered; to foreign residents when proceeding from negotiable instruments placed through banks or a brokerage firm in a country that does not have a Tax Treaty with Mexico, provided that certain requirements are met, among others.

c) 15% to reinsurance companies.

d) 21% to foreign credit institutions different from those mentioned above; to foreign suppliers or registered financial entities derived from the alienation/financing of machinery and equipment, provided that certain requirements are met.

e) 30% to interest different from those mentioned above.

1.5.7. Grant of temporary use or enjoy of goods

In the case of payments for the grant of temporary use or enjoyment of goods, non-residents shall be subject to income tax withholding in Mexico when such goods are used in Mexico. The applicable withholding tax rate is 25%, with no deductions allowed. In the case of containers, airplanes or vessels with Federal Government concession or permit, the withholding tax rate is 5%.

In case of payments for the grant of temporary use or enjoyment of airplanes with Federal Government concession, a Presidential Decree in force allows under certain circumstances the application of an 80% tax credit on the applicable withholding tax rate (1% effective tax rate).

1.5.8. Transfer of shares

In the case of non residents receiving income from Mexican residents, derived from the sale of shares, such income shall be subject to income tax withholding in Mexico when they are issued by Mexican entities or more than 50% of the book value proceeds, directly or indirectly, from properties located in Mexico. The applicable withholding tax rate is 25%, on income obtained, with no deductuions allowed.

Is worth mentioning that under the domestic law, there is an alternative to determine the withholding income tax payable on the sale of shares taking into account the tax profit or loss obtained , provided certain requirements are met (such as filing a CPA report with the Mexican tax authorities, designate a legal representative in Mexico, among others).

A 30% tax rate is applied to the tax profit generated in the transfer of shares, in case a tax loss is obtained no income tax would be payable.

1.5.9. Preferential Tax Regime

Any payments made to an individual or entity subject to a preferential tax regime which is deemed to be from source of wealth in Mexico will be subject to a withholding tax rate of 40% with no deductions allowed; certain exceptions apply to dividend or profit distributions and interest payments. However, this rule is only applicable to payments made to related parties resident in a country that does not have entered into a Comprehensive Exchange of Information Agreement with Mexico.

Mexican residents are required to pay income tax on foreign source income subject to a preferential tax regime either generated directly or through foreign entities or legal figures in which they participate directly or indirectly.

Foreign source income would be subject to a preferential tax regime if effectively taxed abroad at a rate lower than 75% of the income tax payable in Mexico, regardless of whether such a reduced tax rate is applicable due to a legal, regulatory or administrative provision, an authorization, refund, credit or any other procedure. In order to determine if income is subject to a preferential tax regime, each one of the transactions from which they arise must be considered.

Income obtained through foreign entities or vehicles considered as pass-through entities for foreign tax purposes will be considered as proceeding from a preferential tax regime, regardless of the fact that such income is not subject to a preferential tax regime. Certain exceptions apply.

The recognition of income will be on accrual basis, regardless of whether or not the income, dividend or profit has not been distributed to the Mexican resident. Moreover, tax payers subject to these provisions are also required to file, during the month of February of each year, an informative return. Special cases are also applicable to comply with this obligation regardless of the fact that such income is not subject to preferential tax regime.

In the case of foreign entities or vehicles carrying out business activities, it will be considered that income obtained from such activities is subject to a preferential tax regime if their passive income amounts over 20% of their total income.

Taxpayers may not consider as income subject to a preferential tax regime, those obtained by foreign entities or vehicles paid for the use or concession of patents or industrial secrets, provided that certain requirements are met. Other exceptions apply.

Likewise, in case of international corporate restructures in which shares are sold within a group of entities and consequently are subject to a preferential tax regime, may not apply the provisions applicable to preferential tax regimes provided that certain requirements are met.

2 FLAT RATE BUSINESS TAX

Effective January 1, 2008, the Flat Rate Business Tax (Spanish acronym IETU) was introduced as an alternative minimum tax. This tax substitutes the asset tax in force until December 31, 2007. IETU shall be paid by individuals and entities, resident for tax purposes in Mexico, as well as by nonresidents with a permanent establishment in the country, who obtain income derived from the alienation of goods, rendering of independent services and granting of temporary use of goods. Foreign residents with a permanent establishment in Mexico are obligated to pay the IETU, only on income attributable to such permanent establishment.

This tax shall be determined on a cash-flow basis, at the general rate of 17.5%.

Holding and controlled entities, who file a consolidated tax return for income tax purposes, shall pay the IETU individually. For purposes of the income tax credit (explained further on), the controlled entities shall consider as own income tax paid, the income tax delivered to the holding entity, as well as any income tax paid directly to the tax authorities.

Although IETU is not covered by several Tax Treaties previously negotiated by Mexico, most of the countries that have a Tax Treaty in force with Mexico have recently acknowledge IETU as a tax covered by such Tax Treaty.

2.1 Exemptions

Certain entities and activities are tax exempt for IETU purposes, some of which are listed below:

i) Alienation of corporate participations, shares, documents pending collection and credit instruments, among others.

ii) Royalties paid between related parties, except when they are paid for the temporary use of industrial, commercial and scientific equipment.

iii) Interest, except when it is deemed part of the price of any activity subject to IETU payment.

iv) Financial derivative transactions, as long as the sale of the underlying asset is not subject to this tax.

v) Non-profit entities authorized to receive donations that qualify as deductible for income tax purposes, as long as certain requirements are met.

vi) Alienation of national or foreign currency, except when such alienation is made by entities or individuals exclusively engaged in this kind of activities (i.e. money exchange offices).

2.2 Taxable Income

The tax basis is determined by subtracting the allowed deductions from the taxable income, on a cash flow basis[4]. There are certain concepts that cannot be considered for the calculation of this tax, and therefore, are not considered as taxable income, such as royalties paid between related parties and interest deriving from financial transactions or derivative financial transactions.

Entities deemed members of the financial system in terms of the Income Tax Law, as well as taxpayers whose sole activity is the financial intermediation, should consider as independent services rendered, its financial intermediation margin (interest charged minus interest paid, plus/minus certain financial concepts derived from the application of the Mexican GAAP) corresponding to services for which interest is charged or paid.

2.3 Allowed Deductions

Allowed deductions for IETU purposes consist of payments made for the acquisition of goods, independent services or the temporary use of goods, used to carry out activities that generate income subject to IETU[5]. Payments made in connection with the management of the aforementioned activities or in the production, marketing and distribution of goods and services giving rise to income subject to IETU, are also considered as deductible items.

4 By means of a transitory provision, it is established that the income derived from the activities carried out before January 2008 will not be considered as taxable income for IETU purposes, even if the income is collected after such date, except in specific cases.

5 By means of a transitory provision, the payments due before 2008 will not be considered as tax deductions for IETU purposes, even if the payments are made after such date.

Donations made by taxpayers are also allowed deductions for IETU purposes, in the same terms and limits established for such purposes by the Income Tax Law.

Among others, deductions shall meet the following requirements: a) they shall correspond to the acquisition of goods, independent services or the temporary use or enjoyment of goods, b) they must be strictly indispensable for the performance of activities subject to IETU, c) they shall be actually paid at the time of the deduction and d) they must meet the deduction requirements established in the Income Tax Law.

2.4 Tax Payment

The IETU shall be computed on an annual basis and paid by a tax return, to be filed before the tax authority in the same term established for the filing of the annual income tax return (within three months following the date on which the tax year ends). Also, monthly payments in advance of the annual tax should be made.

2.5 Tax Credits

Taxpayers are allowed to apply the following tax credits against its payable IETU:

a) Tax credit for deductions in excess of income. The IETU Law does not provide the possibility for taxpayers to offset tax losses against profits of the following tax years; however, tax payers may apply a tax credit against its payable IETU of the following years, in those cases in which in a tax year, the authorized deductions exceed the taxable income. The statute limitation for the use of this credit is 10 years carry forward.

b) Wages and salaries tax credit. For IETU purposes, wages and salaries are not considered as deductible items; however, taxpayers are entitled to apply a tax credit against its payable IETU, which is equivalent to the result of applying the IETU rate to salaries and wages subject to income tax.

c) Fixed assets tax credit (acquired between 1998 and 2007). In each tax year and during 10 tax years (starting in 2008), taxpayers are entitled to apply against its payable IETU, a tax credit equivalent to 5% of the balance pending deduction (as of January 1, 2008) of those fixed assets acquired between 1998 and 2007.

d) Own income tax credit. Taxpayers may credit against its payable IETU, an amount equal to its own income tax paid in the same period.

e) Other credits. The Presidential Decrees published in the Official Gazette on November 5, 2007 and on March 4, 2008, establish some additional tax credits allowed to taxpayers.

The tax provisions establish the order in which the tax credits previously mentioned shall be applied.

2.6. Asset Tax Paid in Previous Years

According to the Asset Tax Law in force until December 31, 2007, taxpayers were entitled to request the refund of the asset tax paid in the previous 10 tax years, as long as certain requirements were met.

Due to the revocation of the Asset Tax Law, a transitory provision of the IETU Law establishes the rules in order for taxpayers to recover any outstanding asset tax subject to refund. Since this transitory provision has adverse effects on taxpayers, it may be challenged in the competent courts.

3 VALUE ADDED TAX (VAT)

3.1 General Aspects

3.1.1. Taxable Transactions

Alienation of goods, rendering of independent services, granting the temporary use of goods, and import of goods and services are subject to VAT, provided that such activities are carried out within the national territory. Each one of these activities has its own exemptions and definitions according to the VAT Law.

3.1.2. Tax Rates Effective

The general VAT rate is 16%. There are certain exempt activities for VAT purposes. Some other activities are rated at 0%, among which are the export of goods and certain services. In the border regions, the VAT rate is of 11%.

3.1.3. Taxable Base

As a general rule, the taxable base is the price or value of the consideration agreed. Total price or value, include tax costs, interest, penalties and any other fees charged.

The VAT is triggered on a cash flow basis, which means that it is only triggered at the time the payment is actually collected when received in cash, in kind, in services or when the interest of a creditor is satisfied through any of the legal forms of which the debtor fulfills or extinguish any obligation. Consequently taxpayers may only credit the VAT effectively paid.

In the case of import of services and intangible assets, the VAT triggered is virtual (no cash flow) considering specific rules.

3.1.4. Creditable VAT

As a general rule, taxpayers have the right to credit against its payable VAT all VAT paid on the acquisition of goods, services, leasing, and imports. In order to credit the VAT paid, there are certain requirements that shall be met. In general terms taxpayers may credit 100% of the VAT paid that is identified with taxable activities, otherwise, they may only credit the portion that is identified with such activities. VAT paid that is identified with non-taxable activities may not be credited.

3.2 Payment and Filing

Taxpayers must file monthly final VAT returns at the latest the 17th day of every month. In these returns the difference between the payable VAT and the creditable VAT paid to suppliers of goods, services, leasing, etc., must be paid. In case the creditable VAT is greater than the payable VAT, taxpayers can credit the difference against the payable VAT of future periods or request for its refund, or else, offset it against other federal taxes.

4 OTHER TAXES

4.1 Tax on Cash Deposits

The tax levies at a 3% rate the cash deposits exceeding $15,000 Mexican Pesos received by a taxpayer in one month[6], whether in national or foreign currency, made in any type of account that

6 The $15,000 limit is not applicable to the acquisition of cashier checks, i.e. the requisition of such check is taxed accor-

individuals or entities resident in Mexico or abroad, including permanent establishments, have in a financial institution. Such financial institutions are obligated to collect such tax on the last day of the corresponding month.

Deposits made in favor of individuals or entities through wire transfers, cross-account transfers, securities or any other document or system set in place with institutions of the financial system as provided by the applicable laws are excluded from this tax.

4.1.1. Exemptions

The following individuals and entities are exempt from paying this tax:

- Non-profit entities.
- Financial system institutions for the cash deposits made in their own accounts as a result of their financial intermediation or in order to purchase and sell foreign currency.
- Diplomatic and consular agents on the income obtained that is also exempt for income tax purposes.
- Individuals and entities that opened an account in order to receive a loan granted by a financial institution. Certain exceptions apply.

4.1.2. Tax credit

The tax on cash deposits can be credited in the first place against the monthly income tax prepayments and annual income tax due of the taxpayer after reducing such tax with the monthly income tax prepayments made in such year.

In the event of a surplus, the taxpayer may credit such amount against the income tax withheld to third parties. In case there is still an amount left, it can be offset against any federal tax.

In case surplus results after the above credits are made, the taxpayer may request its refund.

There is a credit option that taxpayers may apply in their monthly income tax prepayments which consists of estimating the amount of the tax on cash deposits that would be paid in the following month instead of the tax effectively paid in the current month.

4.2 Excise Tax

This tax levies on the sales of certain products, final import of goods and rendering of certain services within the National Territory (Spanish acronym IEPS) such as alcohol, tobacco, gas, diesel, etc. The tax rate may vary according to the product or service provided.

Effective 2010, a new 3% tax rate is established for the rendering of telecommunication services through one or more public networks, within the national territory. Certain exceptions apply.

Starting 2011, a new 25% tax is established on the sales or imports of energy drinks, as well as concentrates, powders and syrups to prepare them.

Taxpayers may credit the tax paid for the acquisitions of goods and services against the payable IEPS, provided that certain requirements are met.

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ding to the law, regardless of the amount of the check.

IEPS is also triggered under a cash flow basis, therefore it is only generated when it is effectively collected, and taxpayers may only credit the IEPS effectively paid.

4.3 Local Taxes

There are municipal (local territorial level) or state taxes on the alienation and acquisition of real estate, on the payment of salaries, among others. The rate for these taxes may vary depending on the state or local territory.

4.4 Invoices

As of year 2011, tax invoices shall be issued digitally provided certain regulations are met. Thus, simplifying and unifying the system.

The obligation to issue tax invoices in digital format is not applicable to tax payers with an annual income below $4million MXN.

5 TAX INCENTIVES

5.1 Risk Capital

On 2006, a new tax incentive was approved with the purpose of encouraging the investment and growth of the small and medium companies resident in Mexico, which will be implemented through the creation of a pass-through investment vehicle.

In general terms, the incentive consists in allowing Mexican residents or foreign residents to invest capital or grant financial support to Mexican companies that are not quoted in stock markets, through a trust that will be considered as a pass-through entity for tax purposes, in which the investors will be subject to income tax as if they had made the investment or granted financial support directly to the Mexican company.

5.2 Real Estate Investment Trusts and Entities

This incentive is applied for income tax purposes to those trusts and entities created for the purpose of the acquisition or the construction of real estate intended for lease or for the acquisition of the right to obtain revenues proceeding from the lease of such assets and also for the grant of financing for said purposes, subject to compliance of the requirements expressly established in the Income Tax Law.

The incentive seeks to grant transparency to the trust for investors and shareholders who participate in them, allowing them to maintain the tax regime that they ought to have as if they have made the investment in real estate directly. Such is the case of foreign pension and retirement funds who may continue to maintain its tax exemption scheme, or any other resident abroad to claim for any available tax benefits that it may be eligible.

5.3 Immediate Asset Deduction for Fixed Assets

There is a tax incentive that allows the accelerated depreciation and tax deduction of new fixed assets[7] acquired by entities or individuals which carry out business activities, instead of applying every fiscal year the maximum annual percentages set by law as mentioned in section 1.1.5. This option may be taken in the fiscal year when the investment of the fixed assets is made, the fiscal year in which they are first used or the following fiscal year. However, this option is not available for certain fixed assets and in certain geographic areas as stated in the Income Tax Law.

7 For Mexican Income Tax Law purposes, new assets are the ones used for the first time in Mexico.

4.4 Culture and arts

Investments in theatrical performances or cinematographic productions, including human, financial and material resources needed to accomplish them, will be granted a tax incentivethat grants a tax credit against the Income Tax , for the amount of the investment, provided that such credit shall not exceed 10% of the income tax payable in the previous year.

Specific requirements shall be met in order to apply this tax credit.

5.5. International Manufacture and Export Services

The Mexican Government has established a program intended to grant certain incentives and (or) facilities to those multinational enterprises that manufacture and (or) offer export services in the country, as subsidiaries of a Muti National Enterprise . This benefit grants the possibility to import, on a temporarily basis, materials and machinery used during the industrial process; in consequence, these imports shall not be subject to VAT. In order to apply this option, beneficiaries must count with authorization issued by the Mexican Authorities and they must accomplish several requirements.

For Income Tax purposes, it will be considered that a foreign entity does not have a permanent establishment in Mexico, derived from relations with companies engaging in “maquila transactions” using assets directly or indirectly provided by the latter or a related party, to the extent that certain requirements are met.

Among such requirements, a Tax Treaty has to be in force between Mexico and the country of residence of the foreign entity, in addition to the requirements established therein shall be complied with, and transfer pricing regulations regarding “maquila” transactions shall be met

5.6. Foreign pension and retirement funds

Foreign pension and retirement funds, shall not be subject to income tax in Mexico on interests, capital gains and temporary use or enjoyment of land and constructions income, generated in the country, provided that certain requirements are met, such as: they shall be the effective beneficiaries of such income, they shall be considered as tax exempt in their country of residence, they shall register before the Mexican tax authorities, among others.

PANAMA CHAPTER

RIVERA, BOLÍVAR Y CASTAÑEDAS

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HIGHLIGHTS

National Level Tax Rates: 2012

Corporate Income Tax: 25%

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 course of business of the taxpayer.

Branch Profits Tax:

General tax rate

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
Tax-free Reorganizations: "fusion")	YES

Local Level Tax Rates:

Real Estate Tax: (at national level) Progressive tariff	
Real Estate transaction within the ordinary course of business of the taxpayer	1.75 % to 2.1%
General Tax Rate.	

OVERVIEW

1 INCOME TAX

1.1 Corporation Income Tax

Companies will pay the Income Tax at a rate of **27.5% (year 2012) – 25% (year 2014).**

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:

1 The taxable net income calculated by the traditional method, and
2 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.

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, because of 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 a 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).

When referring to corporations, annual tax return must be presented within three months after the closing of the fiscal year (12 months).

As of January 1, 2011, corporations must pay on a monthly bases, an advance income tax equivalent to one percent (1%) of total taxable income of each month. This advance income tax must be paid within twenty (20) calendar days following the previous month, according to procedures for this purpose established by the General Directorate of Revenue (General Management of Revenue - IRS office).

Agricultural enterprises with total revenue greater than 250, 000.00 annual must pay, monthly an advance income tax equivalent to 0.5% of total taxable income of each month.

The companies that do not generate more than 36,000.00 dollars annually are exempted from the obligation to pay the monthly advance income tax.

1.5 Dividend Tax

Dividends are subject to a final (definitive) income tax withholding of 10% (in case of nominative shares) or 20% (bearer shares).

Dividend tax of 5% in case of distribution of proceeds from tax exempt income or income from 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 with rates settled in Articles 699 (27.5% - 25%) if beneficiary abroad is a corporation or progressive rates if beneficiary is an individual.

If there is not dividends, or the distribution is under 40% of the fiscal income, corporation must pay a special tax (Impuesto Complementario), as an advance tax on Dividend Tax.

All loans or credit that a company grants to its shareholders shall pay a 10% dividend tax.

6.6 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 shall pay under the general tax rate established by the tax code.

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 commercial real estate	4.5%

This rate applies only to the first sale of residential and business premises with building permit given since January 1, 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%).

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 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 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.

2.2. Selective Consumption Tax (ISC)

Tax applied 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.

2.3 Property Tax (national level).

Tax applied annually on the total value (land and improvements) of each immovable property, through a progressive tariff between 1.75% and 2.1%.

The combined progressive rate of this tax is as follows:

a 1.75% on the taxable rate that exceed thirty thousand dollars (B/.30, 000.00) up to fifty thousand dollars (B/.50, 000.00).
b 1.95% on the taxable surplus of fifty thousand dollars (B/.50, 000.00) to seventy-five thousand dollars (B/.75, 000.00).
c 2.10% on the taxable rate that exceed seventy five thousand dollars (B/.75, 000.00).

Tax base is defined as the sum of the value of land and constructing improvements if any.

Condominium Property.

The existing tax exemption for the first thirty thousand dollars shall not apply to the land of the estate subject to the condominium property regime during the period that is legally exempt the value

of improvements, in those cases apply a rate of one percent (1%).

When the period of exemption of improvements expires, apply the regular rate that covers the numerals of this article.

For the land of buildings subject to condominium property regime, implement the following rate:

a 1.40% of the tax base up to US$.20,000.00
b 1.75% on taxable rate over US$20,000.00 to US$50,000.00
c 1.95% on the taxable surplus of US$50,000.00 up to U.S. $ 75,000.00
d 2.10% tax on the surplus of U.S. $ 75,000.00.

The properties for social housing are excepted form the application of this rule.

Alternative Rate

1) 0.75% on properties whose value of land and improvements does not exceed one hundred thousand dollars (B/.100, 000.00).

2) 1% on properties whose value of land and improvements exceed a hundred thousand dollars (B/.100, 000.00).

The property whose value of land and improvements does not exceed the sum of thirty thousand dollars (B/.30, 000.00) is exempt from this tax.

The alternative rate of this tax is not progressive.

2.4 Transfer of Property Tax.

This tax applies on the transfer of real property. The tax rate is 2%.

2.5 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).

PARAGUAY CHAPTER
FERRERE ABOGADOS

- INCOME TAX
- VALUE ADDED TAX (VAT)
- OTHER TAXES
- CUSTOM REGIME GENERAL ASPECTS
- PAYROLL TAXES / WELFARE CONTRIBUTIONS

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%, VAT 10%
Interest:	Income Tax 30%, 15%, 6%; VAT 5%
Other Services:	Income Tax 15%, 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:	0-30%
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	Income Tax 30%, 15%, 6%; VAT 5%	15%,	Income Tax 15%, 30% VAT 10%

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 State or 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 (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.

1.1.1. 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.
   b. Ground transport: 4, 5 or 10 years.
   c. Air transport: 5 or 10 years.
   d. Maritime and fluvial transport: 5 or 20 years.
   e. Real State: 10, 25 or 40 years.

2. Intangible Property
   Intangible assets, such a trademarks, patents and copyrights are amortizable up to 4 years.

1.1.2. Transfer Pricing.

Paraguay has not developed any transfer pricing rules. As a basic premise, all transactions carried out through by related parties should be carried out as if they were deemed to be independent parties.

1.1.3. Tax Loss Carry-forward.

The carry-forward and carry-back of losses is not permitted in Paraguay.

1.1.4. 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.

1.1.5. 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% (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. 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 5% 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 5% 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 5% VAT.

1.6.1.5. Payments to non-residents:

A payment made to a nonresident that provided services in Paraguay is subject to withholding tax at an effective rate of 15% (30% of 50%) on the gross amount. 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.

1.7.1. 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 US$ 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 Value Added Tax (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 Paraguay 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, interest and commissions on loans, 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 tax payers 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.

2.1.1. 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 include in an invoice that verify the concept of uncollectibility.
- 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) Agricultural products in its natural state.
b) Hunting and fishing animals, alive or not, in natural state or which have not undergone processes of industrialization.
c) Foreign currency and public and private values.
d) Assets of an estate in favor of heirs of specific devise or legacy, or heirs of general legacy or devise, excluding cessionaries
e) Credits cession.
f) Educational, cultural, and scientific interest magazines, books and journals.
g) 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, except in cases of cessation of activities, closure or permanent closure of business.

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. Agricultural Activities Income Tax (IMAGRO)

IMAGRO is levied on agricultural and livestock activities carried out in Paraguay. Agricultural and livestock activities are those carried out in order to obtain raw plant or animal products, by using the land for cattle breeding or fattening, wool, leather or bristle production, fruit and vegetable production, milk production, etc.

The tax is computed based on the area of land useful for farm activities, with certain differences for large and medium-sized properties.

Individuals operating properties not exceeding 20 hectares in area in the Eastern Region and 100 hectares in the Western Region are exempt from payment of this tax.

3.1.1. This Tax applies to the following:

- Individuals;
- Companies;
- Associations, corporations and any other private entities of any nature whatsoever;
- Branches, agencies or establishments of individuals or legal entities domiciled or incorporated abroad.
- Government corporations, independent government entities, decentralized entities and mixed public-private ventures.

3.1.1. Large properties:

Large properties are those over 300 hectares in the Eastern Region and 1,500 hectares in the Western Region of the country.

Net income equals gross income minus the expenses required to obtain and maintain it, provided they are real and duly documented. Beyond this general criterion, the law permits deduction of:

- 8% for depreciation of the value of female cattle used in stock raising.
- Losses from death of cattle up to a maximum of 3%.
- Depreciation of machinery, improvements and facilities according to the probable years of useful life of the asset.
- Remuneration on which contributions are not required, within the limits established by regulations.
- VAT on purchases, provided they meet the requirements established by the Administration.

The tax rate for large properties is 10%.

3.1.1. Medium-sized Properties

Medium-sized properties pay tax per a notional criterion. Taxable income is determined by multiplying the presumed yield per hectare by its average price.

The following table shows nominal yields and the taxable income per hectare:

Zone	Taxable income per hectare
Zone 1 or Grain Zone	1,500 kg of soy
Zone 2 or Fiber Zone	600 kg of cotton
Zone 3 or high-yield Grain Zone	50 kg of live weight
Zone 4 or medium-yield Grain zone	25 kg of live weight

The tax rate applicable is 2.5%.

VAT included on the purchase of goods and services that are inputs for production activities (inputs, machinery, etc.) constitutes a tax credit for medium properties.
These taxpayers may chose to pay the tax based on the criteria established for large properties or to compute income based on the company's real balance sheet. Once the latter choice has been made, tax cannot be computed on a notional basis for a period of three years.

3.2. 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.

3.3. 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	13%
Tobacco	13%
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	1-38 %
Perfumes, eau de toilette and makeup preparations	5%
Natural pearls and precious stones in general	5%
Luxury watches	5%

Goods	Tax rate
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.

4. CUSTOMS REGIME – GENERAL ASPECTS

4.1. 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	10%
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%

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%. 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

4.2. Taxable Base.

The customs tax base is the value CIF or CIP of the goods.

4.3. Filing and Payment.

A custom declaration must be filed and the pertinent tax must be paid in cash.

4.4. Selected Custom Duties Regimes Available.

4.4.1. 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.

4.4.2. 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.

4.4.3. Draw-back regime.

The Draw-back regime is not applicable in Paraguay.

4.4.4. 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.

5. PAYROLL TAXES/WELFARE CONTRIBUTIONS

5.1. 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.

Part of the contribution to Social Security must be made by the employer and part must be made by the employer. 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.

5.2. Labor Risks Insurance System

Social Security contributions covers risks of non-occupational illness, maternity, on-the-job accidents and occupational illness, disability, old age, and death of salaried workers in Paraguay.

5.3. Family Bonus.

Workers are entitled to collect a supplement equivalent to 5% of the minimum monthly legal wage (approximately US$ 414.5[1]) 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 among other legal requirements.

5.4. Benefits

The most important benefits are:

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.

1 Exchange rate US$ 1 = Gs. 4.550

PERU CHAPTER
RUBIO, LEGUÍA, NORMAND & ASOCIADOS LAW FIRM

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HIGHLIGHTS

National Level Tax Rates: 2012

Corporate Income Tax:	30 %
Dividends Tax:	4.1%
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 PEN1MM
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 exempt

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	15%	10%-15%	15%	Residence taxation, unless a Permanent Establishment in the Source State.	
CANADA	15%	10%-15%	15%	Residence taxation, unless a Permanent Establishment in the Source State.	
BRASIL	15%	10%-15%	15%	15 %	

(*) Under Andean Community Decision to avoid international double taxation.

OVERVIEW

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.

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 subject to tax only on their Peruvian source income.

The tax year is the calendar year. The accounting year is also the calendar year, without exception.

1.1.1. Income Tax Rate

30% 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 4.1% 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 of the following year).

1 Andean Pact Commission, Multilateral Act No. 578 - 2004.

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 4.1% 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 is 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 approximately PEN 3,500 or US$1,250. 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

Peruvian transfer pricing rules are based on the OECD Arm´s Length principle and are applicable to:

- Local Transactions: between related parties, when one of them: (i) is subject to a preferential income taxation regime; or, (ii) it has obtained losses during the last six years; or, (iii) it has celebrated a Stability Agreement with the Peruvian Government.

- International Transactions: (i) between related parties; or, (ii) with companies located in tax heavens.

For Income Tax and Value Added Tax purposes, the Peruvian tax authority is allowed to adjust prices of transactions between controlled parties when they are not consistent to the transfer pricing rules.

There are three formal requirements that related parties subject to transfer pricing rules must follow: (i) to have a Technical Transfer Pricing Study; (ii) to keep all the information and documentation that supports the study mentioned before; and, (iii) to file an annual tax transfer pricing return.

1.1.6. Thin capitalization

Interest derived from loans entered into among 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.

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.

1.1.8. Tax-Free Reorganizations

Taxpayers may choose among three options: (i) revaluate the assets to be transfer with tax effects, taxing the gain that arises for the difference between the new value and the cost of acquisition; (ii) revaluate the assets to be transfer without tax effects, but in this case distribution of dividends and depreciation is restricted; and, (iii) transfer the assets without revaluating at the same book's value, without any tax effect.

Transferor's tax losses could not be attributed to the acquirer under a corporate reorganization (i.e. mergers, demergers, spin-offs). Furthermore, the acquirer's tax losses could be imputed against the taxable income derived afterwards the reorganization as long as the tax losses do not exceed 100% of acquirer's fixed assets calculated before the reorganization takes place.

1.1.9. Leasing Tax Treatment

The tax treatment of finance lease does not defer from the accounting one (i.e. IAS No. 17). In addition, if some requirements are met, the lessee can benefit from an accelerated depreciation considering the term of the leasing contract as the term of the useful life of the assets which is leased. The contract's term shall not be lesser than 2 years for machinery or equipment and not lesser than 5 years for Real Estate property.

1.2 Payment and Filing

1.2.1. Monthly Advance Payments on net income

2% on every month net income of start- up companies and companies with tax losses in the last year. A ratio (annual income tax over annual net income) is applicable for the other cases.

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 Dividends Tax

Dividends and other profits distribution to nonresident companies or individuals (resident or not) are subject to a 4.1 % withholding tax. However, dividends distributed by a resident company to another resident company are regarded not taxable income.

1.5 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 must depend on the type of income.

Income	**Company**	**Individual**
Interest – Interbank Loans	4.99%	N/A
Preferential Interest (up to Libor + 7)	4.99 %	30%
Non Preferential Interest	30%	30%
Dividends and other profits distribution	4.1%	4.1 %
Gains of Transfer of Real State	30%	30%
Capital Gains - sale of shares		
- Lima Stock Market:	5%	5%
- Others:	30%	30%
Royalties	30%	30%
Technical Assistance within or abroad Peru	30 %	24%
-If certain requirements are met[2]	15%	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%

2 The Peruvian recipient of the service shall have: (i) an affidavit issued by the non-resident supplier in which it states that it provides the "technical assistance" and records the income derived from such service; and, (ii) a report issued by an auditors' company of international prestige certifying that "technical assistance" has been effectively provided.

1.5.2. Tax Treaties

See a brief in the highlights section.

1.5.2.1. Regime within the Andean Community

Decision No. 578 rules the regime to avoid double taxation among Member Countries of Andean Community (Bolivia, Colombia 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.

1.5.2.2 Treaties with Canada, Chile and Brazil

Tax treaties executed with Canada, Chile and Brazil has been negotiated on the basis of the OECD Model Tax Convention on Capital and Income. However, there are some deviations in order to include certain features of NNUU Model, especially the provisions referred to Permanent Establishment and Royalties.

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 guarantee for at least 10 year period: (i) application of the Income Tax Regime in force at the time the agreement is settled; (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.

1.5.3. Tax on Indirect Transfer of Shares

As from 2011, if a nonresident holding company (HOLCO) owns (i) directly or (ii) indirectly (through any other nonresident company) shares of a Peruvian Company (PERUCO), the gain on the disposal of such securities will be deemed as Peruvian source income subject to income tax in two cases:

- If the market value of PERUCO shares owned (direct or indirect) by HOLCO is equivalent to 50% of the total value of HOLCO shares, in any twelve months period before the transaction is taken; or,

- HOLCO is a resident of a tax heaven jurisdiction according to PITL rules unless it strongly proves that it is not in the first scenario.

New Law N° 29757, clarified that the transaction described in the preceding paragraph will only be taxable where shares or participation interests representing 10% or more of the non-resident holding company's equity capital are transferred within the 12-month period. This means that transfers of shares (or participations) representing less than 10% of the non-resident holding company's equity capital are not subject to taxation in Peru even when 50% or more of the fair market value of those shares is derived from the shares (or participations) representing the equity capital of one or more Peruvian subsidiaries at any time within the 12 months preceding the dispositions.

Tax liability: The obligation of paying this resulting tax lies with the non-resident seller. However, the Peruvian company that issued the shares or participation interest has joint and several responsibility, except for the case in which the company acquiring the shares or participation interests is Peruvian. In such cases, the acquiring Peruvian company will be responsible for the payment of the corresponding tax under the title of withholding agent, as expressly stated by law.

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 approximately US$ 353 000. 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 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 Sale Tax (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 consideration for the supply of goods or the provision of services will be regarded as tax base for IGV purposes. Such consideration may be adjusted by the Tax Administration according to the Fair Market Value.

2.1.5. Payment and Filing

Tax must be self-assessed on a monthly basis and paid and filed a Tax Return.

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$ 5MM; 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.

3.3 Real Estate Transfer Tax

Sale of real estate is subject to a tax of 3%. The taxable base is the transfer value, which cannot be less than the self-assessed value (autoavaluo) of the property. The first 10 tax units[3] are exempt. The Alcabala tax must be paid by the purchaser within the calendar month following the month the transfer is made.

4. NEW PERUVIAN TAXES & ROYALTIES ON MINING

Three new laws (29788, 29789 and 29790) have been enacted to modify the existing mining royalty and to introduce a new tax and an "auto tax" on mining depending whether, or not, the company has subscribed a Tax Stability Agreement. The main features of the new royalty and taxes are as follows:

4.1. Special Mining Burden (GEM)

It is applicable to mining companies subject to stabilization agreements which voluntarily decide to subscribe an agreement with the Peruvian Government. Quarterly payments applied on operating profit based on a sliding scale with rates ranging from 4% to 13.12%, depending on operating margin. It is deductible as an expense for corporate income tax purposes. Funds are considered federal government revenue.

2.2 Special Mining Tax (IEM)

It is applicable to mining companies not subject to stabilization agreements. It is supplementary to the royalty regime. Quarterly tax applied on operating profit based on a sliding scale with rates ranging from 2% to 8.4%, depending on the company´s operating margin. It is deductible as an expense for corporate income tax purposes. Funds are considered federal government revenue.

3.3 Modified Royalty

It replaces existing royalty and is applicable on operating profit, rather than sales. It must be paid quarterly according to a sliding scale with rates ranging from 1% to 12%, depending on operating margin. There is a minimum royalty equal to 1% of sales and is deductible for corporate income tax purposes. Funds are considered regional government as in the existing royalty.

3 The tax unit for the year 2012 is equivalent to PEN3,650.

5 CUSTOMS REGIME –GENERAL ASPECTS

5.1 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.

5.2 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.

5.3 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.

5.4 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. An 8% (6.5% from July 2010 and to 5% from January 2011) on the FOB value of the exported goods is refunded by the Government provided some requirements are comply.

5.5. Stability agreements:

See section 1.5.2.3.

6 PAYROLL TAXES / WELFARE CONTRIBUTIONS

6.1. 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 between 11% and 12.8% 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.

6.2. 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.

6.3. 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.

6.4. Other legal benefits

During the employment relation, employees are entitled to the following benefits:

- Salary: A minimum monthly payment of approximately US$ 285 (PEN 750).
- 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 pay in two installments of 50% during the months of May and November. The worker may withdraw the deposit only for specific investments (purchase of a house) or at the end of the contract.
- Family Allowance: To be paid monthly to employees with children under 18 years old, it is equal to approximately US$ 28 (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.

6.5. 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 increased production 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 total payroll. These contracts must be entered into in writing and for a fix 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.

6.6 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 reinstalled in the company or to obtain an indemnity payment equal to one and a half remuneration for each year of services up to twelve monthly remunerations.

PUERTO RICO CHAPTER
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HIGHLIGHTS

National Level Tax Rates: 2012

National Level Tax	**Rates:**
Corporate Income Tax:	20% - 30%[1]
Corporate Capital Gains Tax:	15%
Branch Profits Tax:	10%
Dividend Tax:	10%

Partnership

Partnerships are pass-through entities. Thus, the partnership is not subject to income tax and the partners are subject to income tax on their share of the partnership net taxable income.

Limited Liability Companies

Limited liability companies may elect to be subject to income tax as corporations or as pass-through partnerships. However, limited liability companies that are treated as pass-through entities or disregarded for United States federal income tax purposes or under the laws of any other jurisdiction are treated as pass-through entities and may not elect to be treated as corporations.

Withholding Taxes on payments to nonresidents

Interest

None, except that 29% withholding tax is applicable if interest is paid to related party.

Royalties

29% withholding tax, except that a withholding tax ranging between 2% and 15% is ap-

1 For taxable years commencing after December 31, 2013 the maximum rate is reduced to 25%, if certain government expense control and economic growth tests are met.

plicable in the case of royalties paid by grantees of tax exemption under the Puerto Rico tax or economic incentives acts.

Technical Assistance
No withholding to the extent services are rendered outside of Puerto Rico. If services are rendered in Puerto Rico, the 29% withholding tax is applicable.

Technical Services
No withholding to the extent services are rendered outside of Puerto Rico. If services are rendered in Puerto Rico, the 29% withholding tax is applicable.

Other Services
No withholding to the extent services are rendered outside of Puerto Rico. If services are rendered in Puerto Rico, the 29% withholding tax is applicable.

Tax losses carryforward term
7 years, except that net operating losses incurred in taxable years commenced after December 31, 2004 and prior to December 31, 2012 may be carried forward for 10 years.

Tax losses carryback term None

Transfer Pricing Rules
Yes, based on rules similar to those of the United States Internal Revenue Code of 1986, as amended ("US-IRC").

Tax-free Reorganizations
Mergers, stock for stock, stock for substantially all assets, divisive reorganizations, reincorporations, recapitalizations. Rules are similar to the rules of the US-IRC.

VAT on Sales	None
VAT on Services	None
VAT on Imports	None

Sales and Use Tax on Sales
7%, subject to certain statutory exceptions (e.g., purchases for resale).

Sales and Use Tax on Services
7%, subject to certain statutory exceptions (e.g., business to business services).

Sales and Use Tax on Imports
7%, unless imports are for resale and other statutory exceptions.

Custom Duties
United States custom duties are applicable in Puerto Rico.

Stamps and registration fees for transfers of real property
Approximately 0.5% of the purchase price of the real property

Excise Taxes
Vehicles, gasoline, and other products imported to, or manufactured in, Puerto Rico are

subject to excise taxes. The excise tax rate varies depending on the product.

Local Level Tax Rates

Municipal License Taxes
Generally, 0.5% of gross income. Financial institutions are subject to a 1.5% tax rate.

Personal Property Taxes
Tax rate varies depending on municipality where property is located.

Real Property Taxes
Tax rate varies depending on municipality where real property is located. Tax is assessed upon assessed value of real property, which is substantially lower than market value

Treaty Taxation
Puerto Rico is a territory of the United States that is not empowered to enter into tax treaties with other countries. The tax treaties of the United States generally do not include Puerto Rico taxes

OVERVIEW

1 INCOME TAX

1.1.1. Income Tax Rate

The corporate income tax is the higher of a regular tax ranging between 20% and 30% of net taxable income and an alternative minimum tax of the higher of 20% of "alternative minimum net income" or 1% of the value of certain purchases of personal property from related parties. For taxable years commencing after December 31, 2013, the maximum corporate income tax rate is reduced to 25%, if certain government expenses and economic growth tests are met.

1.1.2. Net Income and Alternative Minimum Net Income

In general, net income is the excess of "gross income" over the sum of "deductions" and a credit for dividends received from corporations organized in Puerto Rico ranging between 85% and 100% of the dividend. "Gross income" embraces all revenues, other than those specifically excluded by law, and "deductions" are basically all ordinary and necessary expenses incurred to generate the gross income.

Alternative minimum net income is the net income, as defined above, adjusted to reflect essentially the economic net income of the corporation.

1.1.3. Depreciation

A reasonable amount may be deducted from gross income for exhaustion, wear and tear and normal obsolescence of property used in the corporation's or partnership's trade or business or held for the production of income. Generally, depreciation is allowable only for tangible or intangible property that has a limited useful life of more than one year.

The straight line method (i.e., cost or other basis of property less estimated salvage value divided by estimated useful life) or any other recognized trade practice may be used to compute the depreciation deduction.

Generally, assets may also be depreciated under the accelerated cost recovery method. Under this method assets may be depreciated during periods ranging from 5 to 35 years. Assets that qualify as 3, 5 or 10 year property may be depreciated using a 200% declining balance method, and assets that qualify as 15, 20, 30 or 35 year property may be depreciated using a 150% declining balance method.

A flexible depreciation method that allows the taxpayer to determine (subject to certain limitations) the amount, if any, of the basis of certain property that will be deducted in computing gross income, is also available for certain property used in certain types of businesses.

1.1.4. Transfer Pricing

Puerto Rico transfer pricing rules are based on the rules of section 482 of the United States Internal Revenue Code of 1986, as amended (the "US-Code"). In general, the Puerto Rico Treasury Department may adjust the transfer price for goods or services among related parties (i.e, parties that, directly or indirectly, control, are controlled by or are under common control with the other party by way of stock ownership, contractual provisions or otherwise), if it is not fixed on an arm's length basis (e.g., the price that an unrelated party would charge in similar circumstances).

1.1.5. Tax Losses Carryforward/Carryback

Net operating losses may be carried forward until exhausted to the succeeding seven (7) taxable years. No carryback of net operating losses is allowed.

Generally, the net operating loss may only be used by the corporation that incurred the loss. A corporation that acquires all or substantially all of the assets of the corporation that incurred the losses in certain corporate reorganizations may also use the net operating losses, but only against the net income derived by the business activities of the transferor that incurred the losses.

Lastly, when there is a change in the stock ownership of the corporation that incurred the losses of at least 50% of the value of the issued and outstanding shares of stock, the use of the net operating losses is restricted to the income of the business activities that incurred the losses.

1.1.6. Corporate Reorganizations

No gain or loss is recognized upon the transfer of assets or shares of stock in certain reorganizations. Generally, the following transactions qualify as non-recognition reorganizations in which no gain or loss is recognized:

(a) statutory mergers or consolidations of corporations under the laws of Puerto Rico;
(b) acquisition of at least 80% of the issued and outstanding shares of stock of a corporation, or substantially all of its assets, in exchange for voting stock of the acquiror (or its parent company);
(c) transfer by a corporation of all or a portion of its assets to a corporation, if immediately after the transfer the transferor or its shareholders, or a combination of both are, in control of the transferee;
(d) reincorporations; and
(e) recapitalizations.

1.2. Payment and Filing Date

Corporations must file their income tax returns on or before the 15th day of the fourth month after the close of the taxable year. Estimated tax payments must be made quarterly and any amount due must be paid with the filing of the income tax return.

1.3. Dividends and Branch Profits

Dividends distributed by corporations organized in Puerto Rico are generally subject to a 10% withholding tax.

Dividends distributed by corporations organized outside of Puerto Rico to their nonresident shareholders, are subject to either to a 10% withholding tax or a 10% branch profits tax, to the extent that the dividend or the amount equivalent to a dividend, respectively, are from sources within Puerto Rico or consist of effectively connected earnings and profits.

1.4. Cross-border Payments.

1.4.1. Dividends

A 10% withholding tax is generally withheld from distributions of dividends from sources within Puerto Rico.

1.4.1.2. Royalties

Royalty payments from sources within Puerto Rico are subject to a 29% withholding tax. However, royalties paid by corporations that are grantees of tax exemption under the Puerto Rico tax incentives acts are generally subject to a withholding tax rate ranging between 2% and 15%.

1.4.1.3. Services

Payments for services rendered outside of Puerto Rico are not subject to withholding tax. If the services are rendered in Puerto Rico, the 29% withholding tax is applicable.

1.4.1.4. Interest

Interest payments are not subject to withholding taxes. However, if the interest is paid to a related person (as defined in the Internal Revenue Code of 2011) the interest is subject to a 29% withholding tax.

2. SALES AND USE TAX

A 7% sales and use tax is generally applicable to the sale, use, storage and consumption of tangible personal property, taxable services, rights of admission and combined transactions (collectively, the "Taxable Items").

Unprepared food ingredients, medicines acquired with medical prescription; certain articles used in the treatment or prevention of sickness or illness; machinery and equipment and raw materials for use in the manufacturing process are among the articles exempted from the sales and use tax. Resellers of taxable items and real estate transactions are also exempt from the sales and use tax.

Among the services exempt from the sales and use tax are certain designated professional services, education and health services, insurance services, internet and service charges by financial institutions, and services provided by the government of Puerto Rico.

Any and all persons (individuals or entities) engaged in the sale, use or storage of Taxable Items must register in the Registry of Merchants of the Puerto Rico Treasury Department. Manufactures and resellers of Taxable Items must obtain a Certificate of Exemption from the Puerto Rico Treasury Department in order to claim their respective exemptions.

3. OTHER TAXES:

3.1.1. Real and Personal Property Taxes

Generally, real and personal property taxes are assessed annually upon the real property located in Puerto Rico and the personal property used in a trade or business in Puerto Rico.

Real property taxes are assessed upon the appraised value of the real property pursuant to certain guidelines established for the appraisal of real property conducted in Puerto Rico in the late 1950's. As a result, the appraised value for real property tax purposes is generally significantly lower than the prevailing market value of the real property.

Personal property taxes are assessed upon the market value of the personal property. Book value is used as the basis for the assessment, unless it does not reflect the market value of the personal property.

Real and personal property tax rates fluctuate depending on the municipality where the property is located.

Generally, real and personal property taxes are assessed as of January 1st of each year. However, the personal property tax upon inventory is assessed based on the annual average of inventory of the preceding year.

3.1.2. Excise Taxes

Vehicles, petroleum products, and other articles imported to, or manufactured in, Puerto Rico are subject to excise taxes. In the case of articles imported to Puerto Rico, the taxpayer is the consignee. In the case of locally manufactured articles, the taxpayer is the manufacturer. The excise tax rate varies depending on the type of product.

3.1.3. Municipal Taxes.

(a) **Municipal License Taxes.** The Municipal License Tax Act, as amended (the "MLTA"), empowers each municipality of Puerto Rico to impose a municipal license tax upon the "volume of business" of generally all persons engaged in business within its territorial limits.

The MLTA defines "volume of business" as essentially the gross income from sources within and without Puerto Rico attributable to the operations conducted in the municipality, including without limitation, interest and dividend income.

Interest from obligations of the government of Puerto Rico or the United States is among the items of income exempt from the municipal license tax.

The tax rate is a maximum of 0.5%. However, financial businesses are subject to a maximum tax rate of 1.5%.

(b) **Municipal Construction Tax.** The municipalities also impose a tax on the value of any construction within their territorial limits. The rates vary depending on the municipality where the construction is located.

4. CUSTOM DUTIES

Articles imported to Puerto Rico from foreign countries are subject to the custom duties imposed by the United States upon articles imported into the United States.

5. TAX INCENTIVES PROGRAMS.

5.1.1. Economic Incentives Act for the Development of Puerto Rico (the "EIA")

Manufacturing, assembly, certain designated products, leasing real or personal property to a manufacturing operation that enjoys exemption under the EIA, certain services rendered within Puerto Rico to nonresidents and certain recycling activities qualify for tax incentives under the EIA. The tax incentives include a 4% maximum income tax rate, full exemption on dividends or distributions of profits, 90% property tax exemption, 60% municipal license tax exemption and full municipal construction tax exemption. Special tax credits and deductions are also available. The period of exemption is 15 years.

5.2.1. Tourism Development Act of 2010

Generally, hotels, condo-hotels, inns, and other tourist facilities qualify for 90% income, property and municipal license tax exemptions and full exemption from excise taxes on certain products. Tax exempt financing of eligible tourism facilities is also available. Special tax credits are available to investors in tourism projects. The period of exemption is 10 years and may be extended for 10 additional years.

5.2.3. Agricultural Tax Incentives Act of 1995

Farming, animal breeding, agro-industrial operations and other agriculture related operations are eligible for 90% income tax exemption and full exemption from property, excise and municipal taxes under the Agricultural Tax Incentives Act of 1995, as amended. Special tax credits are available for certain investments in eligible agricultural operations.

5.2.4. International Banking Center Regulatory Act

Companies engaged in banking, lending, currency transactions, underwriting, distribution and trading of securities, insurance or other financing transactions with person located outside of Puerto Rico, may qualify for income, property and municipal license exemption under the International Banking Center Regulatory Act. Dividends, partnership profits, interest and finance charges paid to nonresidents of Puerto Rico also qualify for income tax exemption.

5.2.5. Other Exemptions

Other tax exemptions are available for the film industry, the production of energy from renewable sources, air carriers, hospitals, venture capital funds, maritime freight transportation, the construction or improvement of real property in certain designated areas and certain historical zones, and businesses established in certain areas.

URUGUAY CHAPTER
FERRERE

URUGUAY
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HIGHLIGHTS

NATIONAL LEVEL TAX RATES: 2012

Corporate Income Tax:	25%
Capital Gains Tax:	25%
Branch Profits Tax:	25%
Dividends Tax:	0
Withholding Taxes on:	
- Dividends	7%
- Interest:	12%
- Royalties:	12%
- Technical Assistance:	12%
- Technical Services:	12%
- Other Services:	12%
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%

1 Please refer to 1.1.9.

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
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 15%	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 10%
Hungary	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 10%
Spain[2]	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	No withholding
Mexico[3]	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	No withholding
Switzerland[4]	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding

2 The DTC entered into force on 24 April 2011, tax withholding reductions effective as of 1st January 2012.

3 The DTC entered into force on 29 December 2010, tax withholding reductions effective as of 1st January 2011.

4 The DTC entered into force on 28 December 2011, tax withholding reductions effective as of 1st January 2012.

OVERVIEW

1. INCOME TAX

1.1. General Aspects

Uruguay collects taxes following the source principle: 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 are subject to taxation.

1.1.1. Corporate Income Tax Rate.

Annual tax at 25% is imposed on income from industrial or commercial activities of Uruguayan source as well as on income from farms and properties in rural areas.

1.1.2. Taxable Base.

The notion of territorial source is considered for individuals as well as for legal entities. 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 those taking part in the transactions and of the place where the legal business takes place.

Tax is levied on profit or net income of any economic activity of any nature (Economic Activities Income Tax - Spanish acronym: IRAE). The taxable amount is determined by the net income, estimated according to fiscal judgment, 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[5]
[–] Tax losses from previous years
[–] Savings Channeling[6]
[–] Tax exemption for Investments[7]
[=] Net taxable income
[*] 25% Corporate Tax
[=] Income Tax Charge Payable

5 Inflation adjustment is calculated on the basis of balance sheets at the beginning of the financial year.

6 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).

7 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.

Income taxpayers are defined as all types of legal entities and business enterprises owners that carry out taxable activities.

1.1.3. Minimum Taxable Income.

Income obtained by tax payers whose annual income does not exceed the 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 the purpose of 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 farming 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.
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 subject to 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.

The following expenses are not subject to this proportionality rule:

- Remunerations and payments for personal services to individuals
- Deposits with AFAPs (Pension fund management companies)
- Expenses and contributions in favor of personnel
- Interest on bank deposits
- Interest on listed debt instruments and registered instruments held by government agencies and AFAPs
- Expenses for acquisitions to state-held corporations
- Maritime or air freight
- Services provided by farm trade unions
- Insurance and transportation expenses of imported or exported merchandise, or circulating in transit
- Health-related expenses provided by exempt taxpayers
- Employer contributions to personnel social health insurance

In addition to the general rule, the following deductions are expressly admitted:

- Extraordinary losses not covered by insurance
- Donations to public entities
- Bad debts under certain conditions
- Contributions in favor of personnel, in reasonable amounts at the discretion of DGI
- Organization expenses
- Expenses incurred abroad if essential for obtaining reasonable income
- Depreciation of fixed assets

- Incidental taxes on assets or activities producing income, except IRAE or IP

The following expenses have the benefit of being deducted for one and a half times their real amount:
- Expenses incurred for training personnel in priority areas
- Expenses for Research and Development
- Expenses for preventing work accidents
- Expenses incurred in the course of obtaining international quality standards of certification and accreditation of lab tests
- Expenses for purchase of labeled seeds
- Professional and university specialist fees in priority areas

Expenses incurred in connection with salary increases can generate an additional deduction of 50% of the lower of the following figures:
- Surplus resulting from comparing the amount of current fiscal year salaries with those of the previous fiscal year adjusted by the IPC (Consumer Price Index)
- The amount resulting from applying to the amount of current year salaries the percentage of the average increase of hired workers
- 50% of the total amount of salaries from the previous fiscal year adjusted by IPC

The following items are expressly not allowed as 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 and Net Worth tax provisions.
- ✓ Goodwill amortization. “Amortizaciones de llaves”.

1.1.5. Depreciation.

The straight line method must be applied. However, an alternative method may be authorized by the Tax authorities if considered technically adequate.

Acquired intangible assets, such as trademarks, patents and copyrights are amortizable on a straight-line basis over five years, as long as 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 buildings, 3% per year for rural buildings and no more than 10% per year for new vehicles.

The excess of sale price over the fiscal value of depreciated property, restated for inflation, is considered taxable income.

Conformity between book and tax depreciation is not necessary.

Depreciation and amortization percentages are computed on the historical cost of fixed assets revalued at year-end on the basis of the increase in the wholesalers´ price index. Capital gains derived from the revaluation of fixed assets are not taxable income.

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 jurisdiction considered tax havens for transfer pricing purposes. iii) transactions between Uruguayan residents and their permanent establishments situated abroad.

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; and
- 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.

1.1.7. Inflation Adjustments

This is used as a fiscal adjustment in the computation of the taxable base. It is calculated on the basis of 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:

1) The value of the assets adjusted for tax purposes less the assets affected for obtaining non-taxable income, fixed assets and livestock.
2) 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.

If the variations in the wholesale prices index are not higher than 10% in a fiscal year, the Executive Branch shall state that this adjustment will not apply.

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.

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.

In addition, it is important to point out that the new, surviving or resulting entities will not be allowed to benefit from all of the tax losses accrued by the entities subject to the merger or to the spin-off. Only that part proportionally corresponding to their participation in the net-worth of the new, surviving or resulting entities should be deductible.

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 the transfer of a business attracts corporate tax, income tax (IRAE) and value-added tax, but taxation will depend on the way we choose for carrying 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 in order 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 tax exempt if the capital is expressed in bearer shares, otherwise a 12% withholding tax will correspond. 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 N° 16,906

This law grants two types of tax benefits:

General benefits for investments

In order to obtain these benefits there is no need to present any investment project, 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. 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:

b) Machines and premises for commercial, industrial and services activities (excluding financial activities and leasing of real properties).
c) Farming Machines.
d) Fixed improvements in farming sector.
e) Utility vehicles.
f) Personal property used for equipping and re-equipping hotels, motels and tourist restaurants.
g) Capital assets for improving the services rendered to tourists.
h) Equipment for electronic data processing and communications.
i) Machines, premises and equipment for the productive innovation and specialization.

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 project presented).

- 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$ 700,000,000 approximately) will receive a special treatment.

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 in the course 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 filling 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 on a monthly basis 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 calculated 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$ 10 (Ten United Stated Dollars, amount fixed for 2010)

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 presented 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

1.5.1Withholding Taxes (Non residents 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 sojourning less than 183 days in Uruguay during the course of the year and foreign companies operating in Uruguay without a permanent establishment.

1.5.1.1. Dividends.

Dividends paid abroad are subject to a tax withholding of 7% applicable over income tax by IRAE at the company's level.

1.5.1.2. Royalties.

Royalty payments are subject to a 12% withholding tax.

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, copyrights, federative sportsmen rights, royalties and similar rights, is included within this classification.

1.5.1.3. Leases / Equity Growth

Leases are considered by Law 18.083 as real properties returns, and defined as returns or income arising from leases, subleases, or assignment of use or possession of real properties. The applicable rate is 12%.

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.

1.5.1.4. Services and Technical Assistance

Payments of fees related to industrial and mechanical processes are subject to a 12% withholding tax.

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%, which shall be withheld by the individuals subject to the Economic Activities Income Tax who pay for the services and technical assistance rendered by non-resident individuals.

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 rates depending on the investments will be as follows:

Concept	Rate
Interests corresponding to local currency deposits and deposits in pegged units for long-term with financial institutions.	3%
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	3%
Interests corresponding to a one-year term or less constituted in local currency without the adjustment clause	5%
The other rates	12%

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 introduction of goods into the country, and the increase of value arisen from building on real property.

The delivery of goods and the rendering of services performed within Uruguayan territory and the introduction of goods regardless of the place where the contract was entered into or the parties' domiciles will be taxed.
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 persons abroad
- 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 effective July 2007 will be 22% but a reduced rate of 10% (minimum rate) is imposed on sales of specific products and services. The Executive Power has announced that it will reduce the standard rate of this tax up to a 20% when the compliance with the governmental budget commitments be fulfilled.

The Executive Branch is entitled to reduce up two 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.

There is no special rate for luxury items, some of which are, however, subject to excise taxes. Exports and other agricultural products are zero-rated.

The main economic purpose of VAT is to tax domestic consumption of goods and services without introducing any distortion into competitive relationships. It is intended to be non-discriminating, both regarding imports as compared with domestic products and regarding the number of business entities taking part in the economic scene.

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 premises. Special rules apply to farming income taxpayers.

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 applied against 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 have to 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
- Agricultural inputs
- Books, newspapers, magazines and educational material.
- Water supply for family consumption.
- Mutton, pork, white meat (bird and fish).
- Firewood.

2.8. Payment and Filing

The General Tax Office 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 farming income taxpayers the Tax authorities issue credit certificates for the VAT paid on purchases, which can be used to offset other tax liabilities or endorsed to pay exporters.
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), debts from taxes and rendering to non-governmental public persons, 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 Tax on Off Shore Companies

Financial Investment Companies, usually referred to as SAFI's, are usually set up to conduct offshore type activities and are not allowed to conduct business operations within the Uruguayan territory. After the enactment of the Tax Reform Act, no new SAFIs can be incorporated and the existing ones will be governed by the general regime as of January 1st 2011.
However, off-shore transactions may be carried out by commercial companies, since Law 18,083 especially determines that those companies may have an interest in the capital of one or more companies, and further, they may perform any activity included in the corporate object. In this case, since the commercial companies will perform activities outside the Uruguayan Territory, and pursuant to the territorial principle, the income arisen from such activities will be deemed as foreign source, and therefore, they will not be taxed, except for the companies that perform mediation activities (refer to 3.3).

3.3 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 soak-up type 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.

3.4 Corporations Control Tax (ICOSA)

This tax is mandatory for all Uruguayan domestic corporations, and is levied on the minimum capital established by the Government to incorporate a domestic company.
ICOSA is applied:

(ii) upon incorporation of the corporation, at a rate of 1.5% on a base established by law (the tax is approximately US$ 1,000), and
(iii)at the close of each corporate year at a rate of 0.75% on a base established by law (the tax is approximately US$ 500)

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, offshore investment corporations (SAFIs), or foreign entity branches.

3.5 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 person 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	3%
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	3%
Interests corresponding to a one-year term or less constituted in local currency without the adjustment clause	5%
Dividends or profits paid by Uruguayan commercial companies	7%
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 30%.

Furthermore, there exists a deductions system based on progressive rates; the deductible expenses are included in a short restricted list. Consequently, in order to determine the total amount of the deductions, the taxpayer shall apply to the total deductible amount a determined range of rates.

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 net-worth tax on personal property is progressive from 0.7% to 1.8% and only applies to the excess of the non taxable amount.

3.6. Excise Tax (Domestic Specific Tax)

This tax is applicable to the sale of a list of goods considered to be luxurious, amongst which are included alcoholic beverages, non-alcoholic beverages, cosmetics and perfumes, tobacco, cigarettes and cigars, motor vehicles and motorcycles. The Government fixes the applicable rates depending on the different types of goods. This tax is applied, according to the category, to the actual selling value or to hypothetical values. The Spanish acronym is IMESI.

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.

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.

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 persons 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 non tributary 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.

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 and to abroad.
- Rendering of telephonic or informatics’ services from the free trade zones to the non-free zone of the Uruguayan territory.
- Users of free trade zones in their capacity as services’ suppliers may also perform off-shore activities between different countries without allowing the goods to pass through Uruguayan territory.

The normal social contribution and payroll taxes are imposed on all employees working for companies 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 are allowed to employ is usually limited to 25% of their total number of employees.

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 Fee 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.

The so-called entrepreneur or principal type structure is recognized by many multinationals as the best practice business model for use in the manufacture and distribution of their products in the European Union. The application of this model usually results in significant operating and tax savings. Many multinationals that have successfully implemented the model in the European Union are now implementing it in Latin America.

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$ 4,000.

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$ 4,000 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 on a monthly basis.

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 a monthly basis.

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 incapable persons there is a 20% 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%
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 (1 year for API losses)
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:	12% (WHT applies)
VAT on Services:	12% (WHT applies)
VAT on Imports:	(reverse charge) 12%

Custom Duties:	from 0% up to 20% (reductions provided under MERCOSUR and Cooperation treaties)
Net-worth (Assets) Tax:	Repealed in 2004
Financial Transactions Tax (corporate)	Repealed in 2008
Special Petroleum Windfalls Taxes	20% / Excess of Avg. price Ven basket over budget price 80% / Price Venezuelan basket btwn 70 and 90 USD 90% / Price Venezuelan basket btwn 90 and 100 USD 80% / Price Venezuelan basket for USD 100 and in excess

Excise Taxes:

Spirits & Alcohol	(on retail sale price) 8.5 - 10%
Spirits & Alcohol	0.0006 – 0.102 T.U.[1]/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)
Tax on Real State property (currently only urban property)	Established by each Municipality, commonly 0.01% to 0.2% on assessed value

1 T.U. stands for Tax Unit, which is adjusted on a yearly basis to reflect inflation on nominal tax amounts, currently 1 T.U. is equivalent to VEB 90, which is equivalent to USD 20.93.

Motor Vehicles Tax:	1-4 Tax Units (T.U.) p/a
Legal Gaming & Gambling:	5-10% p/a
Commercial Advertisement Tax:	1 T.U. per Square Meter
Tax on Public Shows and Performances:	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%
Bielorussia	5%	5-15%	5-10%	5-10%	0-10%
Vietnam	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.

varies among the different treaties.

OVERVIEW

1.INCOME TAX

1.1. General Aspects

1.1.1. World Wide Income

Since 2001 Venezuela adopted world wide 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%.

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. In addition the result of the application of the Adjustment per Inflation System may result in income or losses to be added to or subtracted from the taxable base. The result of applying bracket # 2 is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the 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. 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. Some costs and expenses are limited or disallowed, depending on the facts and circumstances of each case, e.g., related party charges, commissions, 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.

1.1.6. 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; 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 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.

1.1.7. 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). Transfer pricing provisions do not apply to transactions between two parties who are Venezuelan resident taxpayers. Under the Venezuelan transfer pricing rules, the Venezuelan party must keep and file supporting documentation with the tax authorities, 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. 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 allows since 2001 for the execution of Advance Pricing Agreements (APA) with the Tax Authority; to the best of our knowledge not a single APA has been executed to date.

1.1.8. Thin Cap

The transfer pricing section includes a single provision regarding thin capitalization rules, under which interest with related parties may only be deducted up to the amount corresponding to a debt to equity ratio of the taxpayer 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 Tax Authority shall use as proxy: (i) magnitude 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.

1.1.8. Inflation Adjustments.

Venezuela has since 1991 an inflation adjustment system applicable to all non-monetary assets and liabilities[2] 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 denominated in foreign currency –as a necessary balance since the same are to be treated as monetary assets and liabilities under the law-.

1.1.9. Tax Losses Carryover

A Venezuelan taxpayer can carryover her tax losses for a maximum term of 3 taxable years. There is no carry-back possibility.

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).

2 Assets other than cash, deposits and accounts receivable, which are monetary assets. Up until 2001all 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 a disposition ahs not taken place during said fiscal year). The treatment is somehow different from said amendment, as explained below.

There are no further limitations, in addition to the 3 taxable years term limitation, such as a cap or apportionment in any given carryover year. The carryover term is not refreshed by the occurrence of a tax-free reorganization, e.g. statutory merger.

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, the commonly applicable criteria by the Venezuelan Tax Authority is that the taxpayer is not allowed to take the tax loss deduction, but there is a trend of Tax Court decisions allowing for setting off losses from exempted activities against other income of the taxpayer.

Venezuelan tax law and regulations provide for other limits (or conditions) for the assessment and deduction of tax losses other than those generated by the net operating losses, 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 limited to 1 year).

Keep in mind that in all cases, inflation adjustments are applicable to update the tax loss amounts and that the deduction is computed on the adjusted amounts (the 1 year carryover limitation has been construed to apply only if an otherwise income position –prior to API- would result in a loss product of the API system).

1.1.10. 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.

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 2010 of a taxpayer closing on December 31st, 2010, could take place up until the last day of March, 2011, 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 is pressing hard for all taxpayers to file their return and pay their taxes electronically; at this date all Special Taxpayers and public employees are obliged to file their income tax returns electronically.

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 120% of banking rate posted by the government, currently somewhere between 20% to 25%.

Penalties apply for non-filing or inaccurate filing, which may range from 25% up to 200% 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.

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

Dividends. If the corresponding profits were taxed at the corporate level then no income tax withholding applies, 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

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, Belgium, Canada, China, Cuba, Czech Republic, Denmark, France, Germany, Indonesia, Italy, Malaysia, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Trinidad and Tobago, United Kingdom, United States of America, Korea, Iran, Kuwait, Vietnam, Belarus, Qatar and Russia.

b. Tax treaties ratified (pending exchange of diplomatic notes or beginning of following fiscal year): Brazil and United Arab Emirates (already published in the Official Gazette).

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 is 12%. A surtax of 10% applies to luxury consumption goods as defined under the VAT law.

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.

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.

2.2. Payment and Filing

VAT has a monthly taxable period. Therefore, the tax must be computed 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 2 weeks following the corresponding monthly period's end. In the case of Special Taxpayers the filing and payment dates are scheduled by the Tax Authority depending on the last digit of the taxpayer's TIN.

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 70% 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 monthly term may be transferred for their recovery in later periods (months), with no limitation in time; alternatively, any excess VAT withholding not credited during the following three monthly 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. 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 service 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 5 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.

3.5. 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.

3.6. Science & Technology Contribution

A contribution on science and technology is provided for in the recent amendment to the *Ley Orgánica de Ciencia y Tecnología*, 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.

As part of an amendment of the law late in 2010 said contribution does necessarily encompass a payment to the special science and technology fund (FONACIT) for fiscal years beginning on or after January 1, 2011, i.e. payment would be due in 2012, while the contribution for 2010 is to be applied on the basis of the former law, i.e. either payment to FONACIT or evidence of allocation of such

amounts to particular activities resulting in the development of science and technology in Venezuela. Regulations were issued on November 2011 under which: (i) it was identified that turnover excludes exempted/exonerated gross income under other laws (presumably refers to income tax), (ii) that the tax basis will be turnover for the immediately prior fiscal year, and (iii) filing and payment must be made during the second quarter after the close of the fiscal year.

3.7. 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 applies. 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*).

3.8. 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.

3.9. Special Petroleum Windfalls Contributions

On April 14, 2008 (G.O. dated April 15, 2008, No. 38.910) the Asamblea Nacional passed a 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 70/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 70/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 70/bbl but under USD 90/bbl; the 90% rate applies over the monthly average price in excess of USD 90/bbl but under USD 100/bbl; and, the 95% rate applies over the monthly average price equivalent to or in excess of USD 100/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 the status of an invited member to MERCOSUR, and hence, Venezuela avails preferential customs treatments corresponding to MERCOSUR under ACE 59, as per accession protocol entered among Venezuela and MERCOSUR for ruling the parties relations while Venezuela becomes a full member in 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 during 2011.

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 eventhough 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.

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

he 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.

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.

5.5. 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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