MANAGING CORPORATE TAXATION

IN LATIN AMERICAN COUNTRIES

AN OVERVIEW OF MAIN CORPORATE TAXES
IN SELECTED JURISDICTIONS **2018**

LATAXNET®
LATIN AMERICAN TAX & LEGAL NETWORK

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES:

Corporate Income Tax:	30 %[1]
Capital Gains Tax (shares, bonds and other stock):	30%[2] (local corporations, branches and other business taxpayers) 5 or 15%[3] (local individual taxpayers) 5% or 15%[4] (foreign beneficiaries)
Gains Tax (other capital gains, such as interests):	30%[5] (local corporations, branches and other business taxpayers) 5 or 15 %[6] (local individual taxpayers)
Real Estate Profits:	30%[7] (local corporations, branches and other business taxpayers) 15%[8] (local individual taxpayers)
Branch Profits Tax:	30 %[9]
Withholding Taxes on:	
- Interest:	15,05% / 35%
- Royalties:	21% / 28 %/ 31,5%
- Other Services:	31,5%
Tax losses carry-forward term:	5 years
Transfer Pricing Rules:	OECD like[10]
Tax-free Reorganizations:	i) mergers; ii) divisive reorganizations, and iii) sales and transfers within an economic group.

VAT on Sales:	21%[11]
VAT on Services:	21%
VAT on Imports:	21%
Custom Duties:	from 0% to 35%
Excise Taxes[12]:	4% to 75%
Bank Debits and Credits (Transfers) Tax Rate:	0.6%[13]
Personal Assets Tax:[14]	0.25%
Local Level Tax Rates[15]:	
Stamp (Documentary) Tax:	1%
Gross Turnover Tax:	1% to 3%[16]
Real Estate Tax:	1.5%

Treaty Taxation:

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

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

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

Furthermore, the Agreement intends to avoid *"fishing expeditions"* and, hence, compliance guidelines

are designed for the exchange of information, with clear instructions to provide the information with the greatest degree of specificity possible.
The entry into force occurred on November 13, 2017. However, the exchange must be about information regarding taxable periods beginning on January 1, 2018.

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1. Law No. 27.430, published on the Official Gazette on December 29, 2017, established that the Income Tax rate for capital companies and permanent establishments will be 30 percent for fiscal years starting as of January 1, 2018 up to December 31, 2019, and it will be reduced up to 25 percent for subsequent fiscal years. In addition, Law No. 27.346, published on the Official Gazette on December, 27, 2016, introduced a specific tax rate (41,5%) for Income Tax in the case of rents deriving from gambling exploitations in casinos and bets done through electronic gambling machines and/or automatized bets and/or through digital platforms, even if it is obtained by individuals or companies. Also, the regime created (i) a specific tax on gambling through electronic gambling machines or automatic bets and (ii) an indirect tax on on-line bets through any kind of digital platform which uses internet, regardless of the servers' location.
2. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
3. Schedular tax: the applicable rate depends on the type of instrument, currency and the adjustment procedure. The results from sale, transfer or disposition of shares, securities representing shares and certificates of deposit of shares that are carried out through stock exchanges or stock markets authorized by the Argentine Securities and Exchange Commission will be exempt.
4. The applicable rate depends on the type of instrument, currency and the adjustment procedure. The 5 or 15 % rate is applied over a deemed net income of 90% of the transacted amount, amounting the final tax burden to 4.5% or 13.5% of the gross selling price. The results from sale, transfer or disposition of shares, securities representing shares and certificates of deposit of shares that are carried out through stock exchanges or stock markets authorized by the Argentine Securities and Exchange Commission will be exempt and so the results arising from investments in public securities, negotiable obligations, quotas of investment funds, debt securities of financial trusts and similar agreements.
5. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
6. Schedular tax: the applicable rate depends on the type of instrument, currency and the adjustment procedure.
7. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
8. A 15 percent capital gains tax rate is applied to the sale of real estate performed by individuals, for second or additional properties acquired as of January 1, 2018.
9. The 30 percent tax rate is set for fiscal years starting as of January 1, 2018 up to December 31, 2019 and 25 percent for subsequent fiscal years.
10. Except for commodities, tested party rules and other set exceptions.
11. There are lower and higher differential rates, as set forth below.
12. Goods subject to excise taxes are: leaded and unleaded fuel (16%-63%); cigarettes (75%), alcoholic beverages (8%-26%), cars and certain engines (10-20%); insurances (0.1%-23%); mobile and satellite phone services (5%), among others.
13. An increased rate of 1.2% applies whenever there has been substitution for the use of a checking account. These rates are partially creditable against other Federal Taxes.
14. This rate applies on the equity interest Argentine individuals and non-residents have in Argentine incorporated entities and local branches. The rate has been set by Law Nº 27.260 (published on the Official Gazette on December, 23, 2016). Also, the new law modified the general tax rates for Argentine individual residents and foreign residents for FY 2017 (0, 5%), for FY 2018, onwards (0, 25%).
15. Reference is made to the most usual rates, but other rates may be applicable in certain jurisdictions.
16. Local Governments have assumed the commitment to eliminate this tax by 2022 ("Consenso Fiscal", signed on November 16, 2017).

17. If they are franked, according to Australian income tax laws and subject to a maximum of 15% in other cases.
18. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
19. This treaty does not establish specific limits on the taxes but rather specifies which country has jurisdiction to impose taxes.
20. At the stage of completing the procedures required by the domestic legislation for its entry into force.
21. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
22. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
23. The treaty entered into force on October 11, 2016, and became effective on January 1, 2017, for both annual tax burdens and withholding taxes triggered at the income payment source.
24. The 4% limit applies if the interests arise from sales of commercial or industrial equipment. The 12% limit applies if the interests arise from bank loans or from bonds or other negotiable securities regularly and substantially traded on known stock markets. The 15% limit applies in all other cases.
25. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
26. 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.
27. he 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.
20. 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.
29. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
30. The treaty entered into force on August 23, 2017, and became effective on January 1, 2018.
31. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
32. The 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.
33. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
34. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.
35. After the unilateral repeal by Argentina of the 1994 Treaty in July 2012, a new treaty has been negotiated, executed and ratified by Law No. 26.918. According to its provisions, the agreement –which came into force on December 24th, 2013 will be enforced retroactively, from January 2,013, so as to avoid the lack of double taxation protection for Spanish companies investing in Argentina.
36. 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.
37. he 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.
38. The tax may not exceed 10% of the dividends if the beneficial owner is a company holding at least 25% of the capital and 15% in other cases.

OVERVIEW

1. INCOME TAX

1.1. General Aspects.

1.1.1. Income Tax Rate.

The general statutory corporate income tax rate for entities incorporated in Argentina, including branches or permanent establishments of foreign companies, is 30%[13].

1.1.2. Taxable Base.

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

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

1.1.3 Deductions.

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

The ITL allows for the deduction of the following concepts:

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

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

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 ITL does not provide standard depreciation rates.

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

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

1.1.5 Transfer Pricing.

Argentina has OECD like transfer pricing rules[14] applicable to: i) transactions with related companies, ii) transactions with parties located in tax havens[15]; iii) transactions between Argentine residents and their permanent establishments situated abroad; iv) transactions carried out by permanent establishments situated abroad (owned by Argentine residents) with companies incorporated in low tax jurisdictions.

Export and import operations channeled through an international intermediary are subject to additional scrutiny by tax authorities as the taxpayers must show that the intermediary´s margin is

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

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

reasonable considering its functions, risks and assets. This additional scrutiny applies only where: (i) the intermediary is controlled by or related to the local entity; or (ii) the local entity and the final exporter/importer are related entities[16].

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

Exports of commodities (and goods with listed prices) channeled through an international intermediary have specific rules as to the tax point. The regime requires that the exporter registers the export agreement with the Tax Authority. This registration must include information regarding the relevant characteristics of the contract as well as comparability differences that impact the price of the goods *vis a vis* the relevant market price at the shipping date. If the taxpayer does not comply with the mandatory registration, the Argentine source income will be determine based on the market price at the shipping date, rather than on the export agreement´s term; further taking into account the necessary comparability adjustments and excluding the intermediary´s fee.

Law No. 11,683 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[17].

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

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

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

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

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

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

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

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

1.2. Foreign Exchange Gains and Losses.

Since transactions are to be valued in Argentine currency for income tax purposes, fluctuations in foreign exchange currencies generate foreign exchange gains or losses. Income Tax Law provisions that govern the tax treatment of foreign exchange differences do require Argentine resident companies to account both foreign exchange gains and losses on an annual basis, disregarding whether there has been realization or not of the underlying assets or liabilities that trigger such FX results[18].

18 In the case of individuals and undivided successions, foreign exchange gains coming from foreign source are no longer

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.

1.3. Tax deficiencies

The differences on the payable tax which come from tax deficiencies (and its interests) will be deductible in the fiscal year in which the difference is enforceable[19].

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.

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

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

Interest rates are 3 % monthly and punitive interest rates are 4 % monthly.

taxable, since the entry into force of Law No. 27.260 (Published on the Official Gazette on July, 22, 2016).

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

1.6. Dividends Tax / Branch Profits Tax.

Law No. 27.430[20], established that dividends paid by local companies and profit distribution from resident branches of foreign companies will be taxed at the rate of 13% (7% during 2018 and 2019) on net income. The equalization tax applicable on corporate income distributions made out of non-taxable gains has been repealed concerning dividends and profit distributions resulting from profits accrued by Argentine companies on fiscal years starting as of 1.1.18. Conversely, profits accrued previously will be subject to equalization tax upon distribution.

1.7. Cross-border Payments.

1.7.1. Withholding Taxes.

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

1.7.1.1. Dividends. If

the corresponding profits were taxed at the corporate level then no income tax withholding applies. However, if such profits were not taxed a withholding of 35% applies on account of equalization tax[21].

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

1.7.1.2. 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.

1.7.1.3. Technical Assistance,

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

1.7.1.4. Interest on Loans obtained abroad.

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

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

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

reduced to 15.05% (17.72% with grossing up).

1.7.1.5. Payments to non-resident individuals.

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

1.7.1.6. Rental Payments on moveable property.

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

1.7.1.7. Rental Payments on real estate property.

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

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

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

1.7.1.9. Others.

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

2. VALUE ADDED TAX (VAT)

2.1 General Aspects.

2.1.1. Tax Rates.

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

There are also some VAT exemptions for specific public entities of the national or local territorial level and for private schools, religious institutions, transportation for less than 100 km, and rent of housing for personal use and of land for agricultural purposes, amongst others.

2.1.2. Taxable Transactions.

Transactions subject to VAT are the sale of goods and the provision of services in Argentina and the importation of goods and digital services[22].

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

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

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

In the case of foreign residents who render services in Argentina without having taxable presence in the country -i.e.: without having a permanent establishment-, and whose services are taxed by VAT,

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

the feature of the withholding agent or "Substitute Taxpayer"applies[23].

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

2.1.4. Taxable Base.

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

2.1.5. Creditable VAT.

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

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

2.2. Selected VAT Incentives.

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

2.2.1. VAT Incentive for Purchase of New Capital Assets.

There is a special VAT regime applicable to the acquisition and import of capital assets. Law 24,402 provides a financing possibility for the payment of fiscal credit corresponding to the acquisition of capital assets whenever these are to be applied to the productive process destined to the sale in the external market. The applicable entity may receive a financing equivalent to the fiscal credit. The financing is received through a bank or financing entity, which is later repaid by the state in the applicable amount. In 2008 new incentives were granted for the acquisition and import of capital assets for the industry as well as infrastructure projects.

2.2.2. Investments on Mining Activity.

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

2.2.3. Tax Credit Refund[24].

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

2.3. Payment and Filing.

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

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

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

3. OTHER TAXES

3.1. Minimum Presumptive Income Tax.

Law No. 27.260[25] abrogated the MPIT for the fiscal year starting on January 1, 2019.

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

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

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

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

3.2.Gross Turnover Tax[26].

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

3.3. Debits and Credits in Bank Accounts Tax.

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

3.4. Stamp Tax.

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

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

26 Local Governments have assumed the commitment to eliminate this tax by 2022 ("Consenso Fiscal", signed on November 16, 2017).

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".

inapplicability of the tax whenever acceptance of the contract takes place through unwritten means (e.g. the written offer provides that the contract will be considered accepted if the party performs a certain activity).

3.5. Personal Assets Tax.

The Personal Assets Tax ("PAT") is a tax levied on the non-productive assets held by physical persons or undivided estates domiciled in Argentina by December 31, both within the country and abroad. The tax rates have been recently modified and, likewise, the non-taxable minimum [29]. Taxable assets include both assets held within the country and abroad. Foreign residents shall be subject to the same rates indicated for Argentine residents for all their assets held in Argentina. Non-resident aliens are subject to an annual 0.25% levy on the net-equity value of their participations in Argentine companies and branches of foreign entities. The same tax applies on Argentine resident individuals -other than local companies- who are required to exclude their equity participations in Argentine companies from their annual PAT tax returns. The companies, who issued the stock or shares, or the branches, as the case may be, are responsible to collect and pay the tax to the government. In turn, such withholding agents are entitled to a refund from the equity holders.

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

Any increase in the assets of a person or company domiciled in Buenos Aires due to a free transfer of property is taxed at a rate of 4% to 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.

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.

29 Law No. 27.260, published on the Official Gazette on July, 22, 2016 established that for FY 2016, if the value of the total assets is less or equal to ARS 800,000, they are non-taxable; still, if the value is higher, the rate is of 0,75% on the value of the total assets that exceeds ARS 800,000. For FY 2017, if the value of the total assets is less or equal to ARS 950,000, they are non-taxable; still, if the value is higher, the rate is of 0,5% on the value of the total assets that exceeds ARS 950,000. For FY 2018 and onwards, if the value of the total assets is less or equal to ARS 1.050.000, they are non-taxable; still, if the value is higher, the rate will be of 0,25% on the value of the total assets that exceeds ARS 1.050.000.

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

4.4. Filing and Payment.

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

4.5. Selected Custom Duties Regimes Available.

There are several importation regimes applicable in Argentina:

4.5.1 Ordinary Importation Regime.

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

4.5.2. Temporary Importation Regime.

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

The assets imported under the temporary regime may:

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

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

BRAZIL CHAPTER
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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax (IRPJ)	25%[1]
Social Contribution on Net Profit (CSLL)	9%[2]
Capital Gains Tax	up to 34%
Branch Profits Tax	up to 34%
Dividends Tax	0%[3]
Withholding Income Tax (WHT) on	
- Interest	15%
- Royalties	15%
- Technical Assistance	15%
- Technical Services	15%[4]
- Administrative Assistance Services	15%
- Other Services	25%
- Remittances to "tax havens"	25%[5]
Tax losses carry-forward term	unlmited years[6]
Tax losses carry-back term	not applicable
Transfer Pricing Rules	Yes
Custom Duties (II)	from 0% to 35%[7]
Excise Tax (IPI)	from 0% to 300%[7]
Contribution for the Social Integration Program (PIS)[8]	
- Non-cumulative system	1.65%
- Cumulative system	0.65%
Contribution for Social Security Funding (COFINS)[8]	
- Non-cumulative system	7.6%
- Cumulative system	3%[9]

Tax on Financial Transactions (IOF)	from 0% to 25%
Tax on Rural Property (ITR)	from 0.03% to 20%

Local Level Tax Rates

VAT on Sales and Services (ICMS)	from 4% to 39%[10]
Tax on Services (ISS)	from 2% to 5%[11]
Tax on Urban Property (IPTU)	from 1% to 1.5%[12]
Tax on Vehicles' Ownership (IPVA)	from 1.5% to 4%[13]
Tax on Real Estate Transfer (ITBI)	3%[12]
Tax on Donation and Inheritance (ITCMD)	up to 8%[14]

Import Taxes

Imports of services[15]	
- WHT	15% or 25%[16]
- ISS17	from 2% to 5%
- PIS-Import	1.65%
- COFINS-Import	7.6%
- Economic Intervention Contribution (CIDE)	10%[16]
- IOF	0.38%

Imports of goods

- II	from 0% to 35%
- IPI	from 0% to 300%
- ICMS	from 17% to 39%[18]
- PIS-Import	2.1%[19]
- COFINS-Import	9.65%[19,20]

1 The regular rate is 15% but a 10% surcharge is applicable to taxable profits exceeding BRL 240,000 per year (USD 75,000 - estimated exchange rate: BRL 3.2 for each USD 1.00).

2 This contribution is also levied on corporate profits. The applicable rate to (i) banks, securities dealers, exchange and securities brokers, insurance companies, among others, is of 20% as of September 1, 2015 to December 31, 2018; and (ii) credit cooperatives is of 17%, as of October 1, 2015 to December 31, 2018. As of January 1, 2019, the 15% rate will be reinstalled to all financial institutions.

3 See Section 1.1.2.9.

4 See Treaty Taxation – Additional Remarks.

5 See Section 1.1.2.3.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 The following rates of PIS and COFINS apply, respectively: (i) general import of goods: 2.1% and 9.65%; (ii) pharmaceutical products: 2.76% and 13,03%; (iii) perfumery, toiletries and personal hygiene products:3,52% and 16.48%; (iv) some machines and vehicles: 2.62% and 12.57%; (v) tires and inner tubes: 2.68% and 12.35%; (vi) some auto parts: 3.12% and 14.37% (as of September 1, 2015); and (vii) paper for printing books, newspapers and periodicals: 0.8% and 3.2%.

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

Treaty Taxation

Items of Income[1]

Countries	Interest	Dividends	Royalties	Technical Services	Technical Assistance
Argentina [2]	15% [3,4]	0%	15% [4]	15% [4,5]	15% [4,5]
Austria	15% [3]	0%	10/15% [6]	0% [7]	0% [7]
Belgium	10/15% [8,9]	0%	10/15% [10]	10% [5,7]	10% [5,7]
Canada [11]	10/15% [3,9]	0%	15%	15% [5]	15% [5]
Chile [11]	15% [12,13]	0%	15% [12]	15% [5,12]	15% [5,12]
China [11]	15% [3]	0%	15%	15% [5]	15% [5]
Czech Rep.[11]	10/15% [3,8]	0%	15%	15% [5]	15% [5]
Denmark	15% [3]	0%	15%	15% [5]	15% [5]
Ecuador [11]	15% [3]	0%	15%	15% [5]	15% [5]
Finland [11]	15% [14]	0%	10/15% [10]	0% [7]	0% [7]
France	10/15% [8,9]	0%	10/15% [10]	0% [7]	0% [7]
Hungary [11]	10/15% [3,8]	0%	15%	15% [5]	15% [5]
India [11]	15% [3]	0%	15%	15% [5]	15% [5]
Israel [11,15]	15% [3,13]	0%	10/15% [16]	10% [5,7]	10% [5,7]
Italy [11]	15% [3]	0%	15%	15% [5]	15% [5]
Japan	12.5% [3]	0%	12.5/15% [17]	0% [7]	0% [7]
Luxembourg	10/15% [3,8]	0%	15%	15% [5]	15% [5]
Mexico [11]	15% [3,12,13]	0%	10/15% [12,16]	10% [5,7,12]	10% [5,7,12]
Netherlands [11]	10/15% [3,9]	0%	15%	15% [5]	15% [5]
Norway [11]	15% [3]	0%	15%	15% [5]	15% [5]
Peru [11,15]	15% [11,13]	0%	15% [12]	15% [5,12]	15% [5,12]
Philippines [11]	15% [3]	0%	15%	15% [5]	15% [5]
Portugal [11]	15% [3,13]	0%	15%	15% [5]	15% [5]
Russia [15]	15% [3,12,13]	0%	15% [12,18]	15% [5,12]	15% [5,12]
Slovakia [11]	10/15% [3,8]	0%	15%	15% [5]	15% [5]
South Africa [11,15]	15% [3,12,13]	0%	10/15% [12,16]	10% [5,7,12]	10% [5,7,12]
South Korea [11]	10/15% [3,8]	0%	10/15% [16]	10% [5,7]	10% [5,7]
Spain	10/15% [3,8]	0%	10/15% [16]	10% [5,7]	10% [5,7]
Sweden	15% [3]	0%	15%	0% [7]	0% [7]
Trinidad and Tobago	15% [3,12,13]	0%	15% [12]	15% [5]	15% [5]
Turkey	15% [13,19]	0%	10/15% [16]	10% [5,7]	10% [5,7]
Ukraine [11]	15% [3,12,13]	0%	15% [12]	15% [5,12]	15% [5,12]
Venezuela [15]	15% [3,12,13]	0%	15% [12]	15% [5]	15% [5]

Additional Remarks

In some specific cases, the tax treaties may not impose an actual reduction of the taxation nor provide for a more beneficial treatment in Brazil. For example, since payment of dividends by a Brazilian company are usually taxed at a zero rate according to Brazilian rules currently in force, the treaty provisions that limit the rate applicable to such payments in the source State do not produce any practical effect.

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

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

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

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

Following the worldwide exchange information tendency, Brazil has also entered into several agreements providing for the exchange of tax and financial information, such as the Convention on Mutual Administrative Assistance in Tax Matters and the Tax Information Exchange Agreement with the Unites States[20].

1 This table provides information about the applicable taxation on remittances of funds overseas from Brazil. When the domestic rate is lower than the rate applicable based on the relevant treaty, we informed only the local rate. Tax treaties apply not only to IRPJ but also to CSLL.

2 Brazil has signed an amending protocol to the tax treaty with Argentina with the establishment of rates limitation on the payment of dividends, interest and royalties, replacement of the exemption method to the credit method, among other changes. Such protocol, however, is pending approval.

3 Exemption is granted if the beneficiary is the government of the other State, its political subdivisions or government owned entities.

4 There is no specific limitation in the treaty, thus the domestic tax rate applies.

5 Deemed as royalties according to the corresponding royalties article of the treaty or the treaty protocol.

6 The 10% rate applies to royalties arising from the use of, or the right to use, any copyright of literary, artistic or scientific work, but not including cinematographic films, films or tapes for television or radio broadcasting and the 15% rate applies to all other cases.

7 See Additional Remarks.

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

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

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

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

12 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.

13 Applies to interest on net equity.

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

15 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.

16 The 15% rate applies to royalties arising from the use, or right to use, trademarks and 10% for other cases.

17 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.

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

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

20 Mentioned agreements are already in force. Brazil also signed tax exchange information agreements with Bermudas, Cayman Island, Guernsey, Jamaica, Jersey, Switzerland, United Kingdom and Uruguay which have not been ratified yet.

OVERVIEW

1. INCOME TAX

1.1 General Aspects

1.1.1. IRPJ and CSLL Rates

The general IRPJ rate for Brazilian entities (including Brazilian branches of foreign companies) is 15%. A surcharge of 10% is applicable for taxable income exceeding BRL 240,000 per year (USD 75,0001) or BRL 20,000 per month (USD 6,250) in case of base periods shorter than one year. CSLL is due at a 9% rate, except for (i) banks, securities dealers, exchange and securities brokers, insurance companies, among others, which are subject to 20% rate as of September 1, 2015 to December 31, 2018; and (ii) credit cooperatives, which are subject to 17% rate as of October 1, 2015 to December 31, 2018. As of January 1, 2019, a 15% rate will be applicable to these financial institutions.

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 Profit2 or (c) the Arbitrated Profit3. Since the most usual is the Actual Profit, the considerations below relate to this system. Generally speaking, the taxable income corresponds to the net profit reported in the company's financial statements (according to the Brazilian Generally Accepted Accounting Principles – "BR GAAP"), adjusted in accordance with the additions and exclusions set forth by the tax legislation.

As a result from the convergence of the BR GAAP with the International Financial Reporting Stan-

dards (IFRS), and seeking to adapt the rules for the calculation of IRPJ, CSLL, PIS and COFINS to these new accounting rules, Law 12973/14 introduced significant changes on the legislation of such taxes, in force as of January 1, 20154.

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

Law 12973/14 also introduced, among others: (i) modifications to the tax deduction of depreciation expenses5; (ii) the setting out of additional requirements for the tax deduction of goodwill amortization expenses6; and (iii) the provision of specific tax treatments for certain transactions previously not regulated by tax legislation such as:

- Borrowing Costs (IAS 23), which may be included in the cost of the asset but deducted for tax purposes in the year they are incurred, at the taxpayer's option;
- Share-based Payments (IFRS 2), which expenses are only considered as tax deductible after the actual payment or definitive delivery of the shares or equity instruments by the entity to the employee;
- Intangibles (IAS 38), which amortization expenses shall be considered as tax deductible under certain conditions;
- Leases (IAS 17)[7], allowing the deduction of the installments paid or credited provided some conditions are met;
- Services Concession Agreements (IFRIC 12).

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

Net profit before IRPJ and CSLL
[+] Additions
[-] Exclusions
[=] Taxable income before tax losses offsetting
[-] Tax losses offsetting (up to 30% of the taxable income above)
[=] Taxable income
[x] 15% IRPJ rate
[x] 10% IRPJ surcharge (on taxable income exceeding BRL 240,000 – USD 75,000 – per year)
[x] 9%, 17% or 20% CSLL rate

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

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

1.1.2.1. Deductions

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

(A) Provisions: even if necessary for accounting purposes, they are not regarded as deductible expenses for IRPJ and CSLL purposes, except for those expressly authorized by law (e.g., vacations, 13th month salary and certain technical provisions). Impairment of assets (IAS 36) is treated as a provision for tax purposes.

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

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

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

(E) Bonus or Profit Sharing: if paid to officers, these expenses are not tax deductible for IRPJ purposes, whereas, if paid to employees, they are fully tax deductible[8].

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

(rates may vary depending on tax classification)

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

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

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

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

(H) Amounts paid by Brazilian companies for the acquisition of equity stakes in other companies (investments subject to the equity pick-up method of accounting): the investment acquisition cost must be segregated into: (i) proportional net equity of the target company; (ii) the surplus or deficit arising from the difference between the fair value of the net assets and item (i); and (iii) goodwill, which corresponds to the remaining balance from items (i) and (ii) or gain from a bargain purchase, which results from the positive difference between the fair value of the net assets and the acquisition cost.

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

The appraisal report for acquisitions occurred as of January 1, 20154, must be registered before the RFB or with the Public Register for Deeds and Documents up to 13 months after the acquisition.

After the merger, the surviving company:

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

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

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

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

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

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

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

1.1.2.3. Tax Havens and Privileged Tax Regimes

The concept of tax haven encompasses countries or locations (i) that do not tax income or tax it at rates lower than 17% (compliance with international tax transparency standards set out by RFB is necessary[9]); (ii) that ensure the secrecy regarding the shareholding structure or ownership of legal entities; and or (iii) whose legislation does not allow the identification of the actual beneficiary of the income paid or credited to a nonresident.

The privileged tax regimes are those that meet one or more of the following requirements: (i) do not tax income or tax it at rates lower than 17% (compliance with international tax transparency stan-

dards set out by RFB necessary[9]); (ii) grant tax advantages to non-residents without requiring the performance of substantial economic activities in the relevant jurisdiction or conditioned to the non-performance of substantial economic activities in the relevant jurisdiction; (iii) do not tax the income earned outside the relevant territory, or tax it at rates lower than 17%; and/or (iv) do not allow access to information about the shareholding structure of legal entities, ownership of assets and rights or economic transactions performed.

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

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

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

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

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

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

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

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

1.1.2.4. Transfer Pricing Rules

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

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

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

Brazilian tax law adopts a mathematical approach when describing the methods to calculate the

transfer pricing benchmarks and, although the domestic transfer pricing rules are inspired by the OECD guidelines, there are relevant differences which must be considered.

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

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

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

1.1.2.5. Thin Capitalization Rules

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

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

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

<table>
<tr><td></td><td colspan="3">Creditor</td></tr>
<tr><td>Limit</td><td>Related party with (direct) equity stakes in the Brazilian company</td><td>Related party with no equity stakes in the Brazilian company</td><td>Resident in tax haven or subject to privileged tax regime (related or unrelated party)</td></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 (see Section 1.2) (ii) ascertained in the end of each relevant tax base period (year or quarter, according to the method chosen to calculate the IRPJ and CSLL, as explained in Section 1.1.2), on a definite basis.

1.1.2.6. Profits and Other Revenues Earned Abroad

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

As of January 1, 2015[4]:

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

ii. if certain requirements are complied with, positive and negative results ascertained by foreign (directly or indirectly) controlled companies may be consolidated for Brazilian tax purposes, until 2022[11]. Positive consolidated results shall be added to the taxable basis of IRPJ and CSLL on December 31 of the calendar year in which they were ascertained (accrual basis). In case of negative consolidated results, the remaining amount of losses (after the consolidation) of each legal entity may be offset against future profits of the same foreign legal entity; and

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

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

1.1.2.7 Foreign Tax Relief

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

Until 2022, Brazilian taxes due on profits of controlled companies that develop listed activities may be reduced by a deemed tax credit of 9%, as long as certain requirements are complied with[12].

1.1.2.8. Tax Losses Carry-forward / Carry-back

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

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

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

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

1.1.2.9. Dividends and Capital Reductions

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

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

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

1.2. Payment and Filing

Under the Actual Profit System, the IRPJ and the CSLL may be quarterly or annually calculated (according to the taxpayer's option)[13].

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

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

1.3. Penalties for Unpaid Tax or Tax Paid Belatedly

Unpaid taxes or taxes paid belatedly are charged with interest calculated based on the SELIC (*"Sistema Especial de Liquidação e Custódia"* – Special System for the Settlement and Custody) rate. For 2017, the SELIC corresponded to 9.53%.

Fines are also imposed on the principal. At the federal level, the following fines apply: (a) delayed payments: daily 0.33% up to a maximum of 20%; (b) tax assessments: 75% (general rule), 112.50% (cases in which the taxpayer does not present documentation if requested by the tax authorities), 150% (clear evidences of fraud) and 225% (fraud and refusal by the taxpayer to collaborate with the tax authorities). Discounts can be granted if the payment is made within certain deadlines.

1.4. Cross-border Payments

1.4.1. Withholding Income Tax (WHT)

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

1.4.1.1. Dividends

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

1.4.1.2. Royalties, Technical Assistance and Technical / Administrative Services

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

1.4.1.3. Other Services

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

1.4.1.4. Interest

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

1.4.1.5. Capital Gains

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

1.4.1.6. Tax Treaties

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

2. OTHER TAXES

2.1. Excise Tax (IPI)

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

The taxable basis on imports is the cost, insurance and freight (CIF) price (in compliance with cus-

toms valuation rules), plus custom duties (II). The taxable basis on the shipment of goods in the domestic market is the value of the relevant transaction, as provided by the law. The transactions between related parties are subject to a minimum taxable basis defined by law.

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

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

2.2. VAT on Sales and Services (ICMS)

ICMS is a state tax levied on:

i. imports of goods;

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

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

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

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

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

Generally, ICMS taxable basis are:

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

ii. for circulation of goods: the sales price or value of other taxable transactions, as provided by the law, including PIS, COFINS and ICMS itself (IPI shall not be included in the ICMS taxable basis in case of goods for resale or manufacturing inputs; IPI must be included in ICMS taxable basis on transactions with end customers);

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

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

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

ii. 25% on communication services; and

iii. 12% on transportation services.

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

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

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

iii. 12% on other interstate transactions.

Regarding the circulation of goods, the tax shall be paid to the state of origin of the goods, as a general rule, except for interstate transactions with petroleum, liquid gas and energy.

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

In case of communication services, ICMS shall be paid to the state: (i) where the 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 instruments.

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

The rate difference will be due according to the following table:

i. 2018: 80% to the State of destination and 20% to the State of origin; and

ii. as of 2019: 100% to the State of destination.

ICMS is a value added tax. Hence, taxpayers shall book (i) credits for the ICMS paid on imports or domestic purchase of goods and some services and (ii) debts for sales or other taxable transactions. The tax related to the domestic circulation of goods and services to be periodically collected shall be calculated by netting credits and debts.

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

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

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

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

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

The States are currently registering the benefits, which must be done until December 28, 2018.

2.3. Tax on Services (ISS)

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

Said law has fixed the ISS minimum and maximum rate at 2% and 5%, respectively, and ruled the ISS exemption on exports, defining exports as the rendering of services to 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".

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

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

As a general rule, the tax must be paid to the municipality where the establishment performing the

service is located. However, there are some exceptions to this rule depending on the type of service. For instance, in case of performance of civil construction, hydraulics or electrical engineering services, the ISS is due to the municipality where the service is provided.

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

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

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

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

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

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

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

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

2.4.1. Non-cumulative System

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

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

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

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

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

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

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

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

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

2.4.2. Cumulative System

In the cumulative system, gross revenues earned by legal entities are taxed at the rates of 0.65% (PIS) and 3% (COFINS)[14]. The taxpayer has no right to tax credits for the contributions paid on imports or relating to domestic purchases and expenses incurred. Other revenues are not taxed in this system.

2.4.3. Specific PIS and COFINS Rules

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

i. financial institutions;

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

iii. fuel industry; and

iv. hygiene and cosmetics products.

Among such specific rules, we highlight:

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

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

Such tax centralization[15] and tax substitution rules are frequent in sectors with high informality levels. A tax substitution system applies, for instance, to tobacco industries, in which case importers and manufacturers will be liable for the taxes due at the retail level.

2.4.4. PIS-Import and COFINS-Import

Such contributions are due on:

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

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

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

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

CIDE is a Federal contribution levied at a 10% rate on the amounts paid, credited, transferred, delivered or otherwise made available to non-residents for technology transfer or technology license agreements, patents and trademarks licenses, technical assistance, technical and administrative services[16] 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 technology. Controversies about the taxable basis in case of the WHT assumed by the Brazilian part are not yet settled.

2.6. Tax on Financial Transactions (IOF)

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

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

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

2.7. Property Taxes

2.7.1. Urban Property Tax (IPTU)

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

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

2.7.2. Tax on Vehicles' Ownership (IPVA)

IPVA is a state tax levied annually on the ownership of vehicles[17]. The taxable basis corresponds to the fair market value, determined every year by the State Treasury Secretariat, that takes into consideration the brand, model and age of the vehicle. The applicable rate may vary according to each State. In São Paulo, for instance, the tax rate varies from 1.5% to 4%.

2.7.3. Tax on Rural Properties (ITR)

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

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

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

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

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

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

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

2.9. Donation and Inheritance Tax (ITCMD)

ITCMD is a state tax levied on donations or inheritances. The taxable basis corresponds to the fair market value or value of the relevant donation or inheritance. Applicable rates vary from State to State, subject to a maximum 8% rate. In São Paulo, ITCMD is currently charged at 4% rates[18].

3. CUSTOMS DUTIES AND EXPORT TAXES

3.1. Customs Duty (II)

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

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

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

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

3.2. Export Tax (IE)

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

4. PAYROLL TAXES / WELFARE CONTRIBUTIONS

4.1. Social Security Contributions

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

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

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

The professional's contributions (employees and self-employed professionals) are withheld by the companies at rates varying from 8% to 11%, limited to a maximum monthly contribution of BRL 621.00 (USD 194.07).

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 Federal Constitution until 2073 and comprise federal, state and municipal tax benefits, such as:

Federal taxes incentives:

- II: up to 88% reduction on several inputs used in the manufacturing process at ZFM according to a Basic Production Process defined by law;

- IPI: exemption on imports of certain inputs to be manufactured or consumed at the ZFM, on shipment of products made in Brazil to ZFM for consumption or to be used as inputs in the region and on shipment of products manufactured in ZFM to other regions within the national territory;

- IRPJ: 75% reduction of income tax calculated on profits directly related to the encouraged activities for applications filed and approved with the ZFM until December 31, 2018[19];

- PIS-Import and COFINS-Import: suspension on imports of raw material, intermediate products and packaging materials, for use in manufacture processes by industrial plants located within the ZFM as well as on the import of certain new fixed assets;

- PIS and COFINS: 0% on revenues from sales carried out by legal entities based outside ZFM of goods to be consumed or manufactured inside the ZFM and on revenues from sales of certain production inputs by legal entities based inside ZFM to ZFM companies; and reduced rates on sales of products manufactured by ZFM companies depending on certain characteristics of the purchaser (e.g. based inside or outside the region; taxed based on the cumulative or non-cumulative system).

State taxes incentives:

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

5.1.2. Other Free Trade Zones

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

5.2. Regional Development Incentives

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

The most important one relates to a 75% IRPJ reduction for companies domiciled in the Amazon and in the Northeast regions that execute activities considered as a priority (as defined by Presidential Decrees) for the development of those regions (in certain cases an exemption can be granted). In general terms, taxpayers may benefit from such reduction for a 10 year period provided they apply and have their projects approved until December 31, 2018[19]. The benefit shall be approved by the RFB based on a prior technical analysis of the Amazon and Northeast Development Superintendencies (SUDAM/SUDENE).

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

5.3. Technological Innovation Incentives

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

IRPJ and CSLL benefits:

- Deduction of expenses with technological innovation R&D;
- Exclusion from the IRPJ and CSLL taxable basis of percentages varying from 60% to 100% of the expenses with technological innovation R&D (conditions must be met);
- Full depreciation in the year of acquisition of new assets used in the technological innovation R&D;
- Accelerated amortization of costs with the acquisition of intangibles linked to the technology innovation R&D.

Other benefits:

- 0% WHT on payments or credits to non-residents for the registration and maintenance of trademarks, patents, and cultivars abroad;

- 50% reduction of the IPI levied on the purchase of assets destined for technological R&D;

- Government subvention of up to 60% of the value of the remuneration of researchers holding masters or PHD degrees.

5.4. Main Special Customs Regimes Available

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

5.4.1. Temporary Admittance of Foreign Goods

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

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

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

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

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

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

5.4.2. Drawback

There are two modalities of drawback:

i. suspension of Customs duties, IPI, PIS, COFINS and ICMS levied on imports (or acquisitions in the domestic market) of goods that shall be used to manufacture products for exportation within a specified term (generally one year, which can be extended for an equal term); or

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

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

5.4.3. Bonded Warehouse

This regime suspends the payment of Customs duties, IPI, PIS-Import, COFINS-Import and ICMS for

goods admitted into Brazil in consignment.

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

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

5.4.4. Industrial Warehouse (RECOF)

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

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

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

5.5. Other Incentives

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

- Programs to Support Culture and Sports;
- Informatics and Automated Products;
- Program to Support Educational Activities (PROUNI);
- Special Regime for the Purchase of Capital Goods by Exporters (RECAP);
- Regime applicable to infrastructure projects in the areas of transportation, ports, energy, sanitation and irrigation (REIDI);
- Special Regime for the modernization and expansion of the port structure (REPORTO);
- Special Regime for the oil and gas sector (REPETRO): import and export of equipment, machinery and parts;
- Special Tax Regime for Small Businesses (SIMPLES): applicable to small companies with annual gross revenues lower than BRL 360,000 (USD 112,500) and medium sized companies with annual gross revenues greater than BRL 360,000 (USD 112,500) and not exceeding BRL 4,800,000 (USD 1,500,000). Not applicable to certain companies or activities (e.g. corporations, companies with foreign shareholders and companies engaged in consulting services); and

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

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

6. ANCILLARY OBLIGATIONS

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

6.1. Public Digital Bookkeeping System (SPED)

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

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

6.2. Eletronic Report of Foreign Trade (SISCOMEX)

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

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

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

6.4. Eletronic Invoices

Commercial invoices are issued electronically.

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

A digital bookkeeping system of tax, social security and labor obligations ("eSocial") was recently

introduced by the federal government, effective as of January 8, 2018, for the companies with annual gross revenue greater than BRL 78,000,000.00 (USD 24,375,000.00) in 2016. As to the companies that ascertained gross revenue below such limit in 2016, the eSocial will be mandatory from July 2018 onwards. Meanwhile, these companies remain obliged to inform their labor and social security obligations by means of the Unemployment Severance Fund Form and Social Security Information (GFIP).

By means of eSocial, employers must provide information regarding employees´ personal data as well as employment relationship relevant information, such as: admissions, absence periods, dismissals, detailed payroll information, FGTS, social security contributions, union relationship and occupational safety and health data under the penalty of being compelled to pay administrative fines set out by the Federal Revenue Service, the Social Security Institute and the Ministry of Labor.

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1 Estimated exchange rate: BRL 3.2 per each USD 1.00.

2 Usually applicable to small-size companies with total revenues of less than BRL 78 million (approximately USD 24,4 million) in the previous year, that are not subject to restrictions otherwise imposed by law (e.g., financial institutions, companies earning profits/income from abroad etc.). The taxable basis (deemed profit) is calculated on a quarterly basis upon the applicability of certain percentages on the company's gross sales revenue which may vary per activity performed by the company. The general percentages are 8% (for IRPJ) and 12% (for CSLL). In case of services the percentage is 32% for both taxes. Other revenues may be subject to other specific percentages or may be fully added to the taxable basis.

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

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

5 See section 1.1.2.1 (F).

6 See section 1.1.2.1 (H).

7 IAS 17 will be superseded by IFRS 16 as of January 1, 2019.

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

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

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

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

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

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

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

14 4% COFINS rate applicable for commercial banks; investment banks; development banks; savings banks; credit, financing and investment institutions; real estate credit companies; brokers; bonds and securities brokers; leasing companies; credit cooperatives; private insurance and capitalization companies; autonomous private insurance and credit agents; open and closed private pension entities, and legal entities whose purpose is the securitization of credits.

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

16 Even if they do not involve technology transfer.

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

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

19 A bill of law that establishes the extension of the IRPJ incentive until December 31, 2023 has been submitted (pending approval).

CHILE
ESPINOSA GRANESE BIANCHI ABOGADOS

CHILE CHAPTER
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HIGHTLIGHTS

NATIONAL LEVEL TAX RATES: 2018

Corporate Income Tax (First Category Tax):	25 ; 27% (art. 14 a y art. 14 b) of LIR[1] Tax year 2019
Branch Profit Tax:	35%[2]
Dividend tax:	35%
Interest:	35% or 4%[3]
Royalties:	15% or 30%
Technical Assistance	15% or 20%
Other services	35%
International leasing	1,75%[4]
Tax loss carry-forward term:	No time limited[5]
Transfer Pricing Rules:	Yes
Tax-free Reorganizations:	Mergers, stock-for-stock, divisions, changes of the legal characteristics
VAT on Sales:	19%
VAT on Services:	19%
VAT on Imports:	19%
Customs Duties:	6 % flat rate[6]
Stamp (Documentary) Tax:	0.066 up to 0.8%
Local Level Tax Rates:	
Municipal Tax:	0,0025 a – 0,005 per thousand[7]

TREATY TAXATION

ITEMS OF INCOME

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

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

1 Law 20.780 (tax reform) increased gradually the corporate tax rate. The First category tax rate for the year 2018 is 25% (attributed income system); and 27% (semi integrated system).

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

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

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

5 Loss carryback no longer exist.

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

7 Calculated on the Tax Owner's Equity up to 8,000 MTUs (equivalent to approximately US$ 627.137 with an exchange rate of US$ 1 = 603,39 Chilean pesos).

APPLICATION OF THE MOST FAVORED NATION CLAUSE

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

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

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

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

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

OVERVIEW

1. INCOME TAX

1.1. General Aspects

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

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

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

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

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

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

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

1.1.1. Income Tax Rate

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

1.1.2. Tax Regimes for Income Taxes

Taxes established in the income tax law are the following:

a) First Category Tax:

This tax is paid by the business that generates the income and is payable, at a rate of 25% or 27% for fiscal year 2018.

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

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

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

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

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

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

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

b) Second Category Tax:

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

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

c) Global Complementary Tax:

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

d) Taxes on enterprises and their owners or shareholders

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

Thereafter, when the taxpayer is taxed under the attributed income tax system the shareholders, partners or owners domiciled or resident outside Chile, and in the case of a branch, such profits are subject to the Additional Tax on accrual basis, whether distributed or not.

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

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

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

e) Transfer of Shares and Securities

The First Category Tax applies in accordance with the general or ordinary regime.

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

f) Taxes on Equity

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

The above tax is a fixed amount in the case of professionals. In all other cases, a rate is applied on the own capital of the company to develop the activity, *i.e.,* its equity. Said rate is established by each municipality and it ranges from 2.5 to 5 per thousand with a maximum of 8,000 UTM ("Monthly Tax Unit", equivalent to approximately US$ 627.137 with an exchange rate of US$ 1 = 603,39 Chilean pesos).

g) Real Estate Taxation

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

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

- Non- agricultural Real Estates destined for habitation

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

Non- agricultural Real Estates destined for residential use are exempt from paying taxations up to a valuation of $33.199.976 for the first half of 2018.

- Non- agricultural Real Estates

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

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

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

In addition, the Fiscal Value is used to determine presumed income of farmland, calculating the duties of maritime concessions, land titles domain of the Ministry of National Property, inheritance tax, land value discount in the affects real estate VAT, municipal rights division or merger of land.

1.1.3. Attributed income regime versus partially integrated regime

Gradual increase of FCIT and Dual Regime

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

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

(Article 14 B or the ITL) where foreign shareholders will be subject to the additional tax only on the effective dividends distributed by the company.

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

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

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

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

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

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

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

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

to credit a notch historic FUT, if any); except in the case of a return of capital.

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

Special Income Tax Regime

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

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

1.1.4. First Category Tax rate

The First Category Tax rate is 25% or 27% depending on which of the options the taxpayer exercised. This increase is expected to occur gradually.[8]

Elimination of FUT and new record of profits

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

1.1.5. Taxable Basis

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

1.1.6. Deductions

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

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

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

1.1.7. Depreciation

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

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

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

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

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

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

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

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

1.1.8 Inflation Adjustments

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

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

1.1.9. Tax Loss Carry forward / Carry-back

As of 2017, only loss carryforward is available and loss carryback no longer exists.
However, the right to offset losses at the level of a holding company to dividends distributed by subsidiaries (with the corresponding right to obtain a refund) will still be available

1.1.10. Tax-Free Reorganizations

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

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

1.1.11. Capital Gains Tax

The sale of shares or quotas in a Chilean company performed by foreign residents will, as a general rule, be subject to a first category tax (25% or 27%) and 35% for withholding tax, unless a special tax regime applies, i.e., exemption or no taxation (for example, shares acquired before 1984 or listed shares).

In addition, if capital gains apply to indirect transfers, the capital gains can be charged to the Chilean subsidiary that is transferred. On the other hand, interests related to investment in local companies will be deductible, regardless of the type of entity.

1.2. Payment and Filing

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

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

1.3. Additional Tax / Withholding Tax

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

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

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

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

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

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

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

Royalties: Software payment exemption

There is a Withholding Tax exemption to payments remitted abroad on account of acquired software use of licenses, including digital books.
Likewise, the Withholding Tax rate on the remuneration paid abroad for engineering or technical services as well as professional or technical services rendered by a person or entity knowledgeable in a science or technique through advice, a report or plot, whether they are rendered in Chile or overseas, is 15% unless such services are rendered to related parties or beneficiaries located in a country deemed a "tax haven" in which case the withholding rate goes up to 20% .

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

1.4. Cross-border Payments

1.4.1. Withholding Taxes

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

1.4.1.1.Royalties

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

1.4.1.2.Technical Services, Technical Assistance and Consulting Services

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

1.4.1.3.Other Services

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

1.4.1.4.Interest Payments

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

1.4.1.5 Leasing of capital assets

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

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

1.4.2. Tax Treaties

Chile has Tax Treaties to avoid the Double Taxation with Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Czech Republic, China, Japan, Korea, Croatia, Denmark, Ecuador, Italy, Ireland, Spain, France, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, Russia, United Kingdom, Switzerland, Sweden, South Africa and Thailand. There are subscribed, but non-effective tax treaties with Austria and the United States of America.

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

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

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

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

2.1.1. Tax Rates VAT general rate is 19%.

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

2.1.2. Taxable Transactions

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

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

2.1.3. Taxable Basis

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

2.1.4. Creditable VAT

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

2.1.5. Exemptions

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

2.2. Payment and Filing

VAT has a monthly taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT return must be filed and paid in full on the filing dates scheduled by the tax authorities for these purposes, which are usually within the first 12 days following the corresponding month end.

The payment of fiscal debit can be delayed up to two months, for the following taxpayers:

- Taxpayers subscribed to letter A) of article 14 ter of the Income Law (annual sales of up to 50.000 U.F (Aprox. USD $2.234.615); that is, micro and small companies).
- Taxpayers that follow the general rules, with average annual earnings of up to 100.000 U.F. (Aprox. USD $4.469.230)

3. OTHER TAXES

3.1. Real Property

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

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

letter b), N° 8, article 17, of the ITL. The aforementioned tax treatment includes certain improvements, for example, revenues that do not constitute income are only, provided all legal requirements are complied with, for natural persons or those domiciled or resident in Chile and up to a highest value equivalent to a total amount of 8.000 UF annually (USD 357.538), irrespective of the number of sales that the taxpayer performs or the number of real estate owned by the same.

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

3.2. Municipal Tax

There is a municipal tax applicable to all industrial, commercial and service activities carried out in the territory of said municipality. The taxable basis is the net equity of the taxpayer. The tax rates vary from county to county and range from 0,0025 up to 0,005 per thousand with a minimum of one Monthly Tax Unit (US$ 68 approximately) and a maximum of 8,000 Monthly Tax Units (US$ 547.000 approximately). This tax is usually paid twice a year.

3.3. Stamp Tax

Is imposed on certain specified acts. It has a limited scope and is basically applied only with respect to documents representing a debt claim (e.g. bills of exchange or promissory notes). The taxable base is the amount of the capital specified in the document. The tax rate varies depending on the period of the loan:

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

3.4. Royalty Tax

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

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

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

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

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

3.5. Importing and Exporting

Imports

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

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

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

Customs Duty

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

Free Trade Zones

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

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

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

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

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

Exports

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

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

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

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

Excise duty

In addition to VAT, excise or sales taxes apply on the sale and/or importation of specific goods. The taxable base is the same as for VAT purposes. The following examples of taxable goods and the related tax rates can be given – alcoholic and non-alcoholic beverages and similar goods, whether sold or imported habitually or otherwise, are subject to tax at various rates (from 10% to 31,5%), depending on the alcohol content; – luxury goods (e.g. gold, platinum, ivory, jewels, etc.) are subject to tax at a rate of 15% (depending on the product, the tax may be applicable only to the first sale or import, or also to subsequent transactions); – tobacco is subject to tax at different rates depending on the product (i.e. cigars 52.6%; cigarettes 0.0001288030 monthly tax units per cigarette plus 60.5% on sale price to customer inclusive of taxes; processed tobacco 59.7%); and – a fuel tax is levied on the first sale or import of automobile gasoline and diesel. Biodiesel and bioethanol are not subject to this specific tax.

3.6. Construction

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

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

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

3.7. Taxable Basis

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

3.8. Filling and Payment

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

3.9. Other taxes

3.9.1. Alcoholic, Soft Beverages and Tobacco taxation

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

3.9.2. Environmental Taxes

a. New vehicles: The new motor, light and medium vehicles, with the exceptions stated by the same

regulation, have to pay a one-time additional tax expressed in UTM, in accordance with a included formula (based on their urban performance and the vehicle's emission of nitrogen oxides)

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

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

3.10 Transfer Pricing

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

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

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

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

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

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

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

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

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

Exit charge/Tax

The tax reform modifies article 41 E of the Chilean ITL clarify that the local tax authority is empowered to assess any type of corporate or business restructuring process that is found to be removing or shifting from Chile to foreign countries any sort of tangible or intangible asset, or otherwise transferring an activity that could potentially have generated taxable income in Chile.

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

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

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

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

Passive income

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

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

Thin Capitalization Rules

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

Penalty tax rate

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

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

4. PAYROLL TAXES / WELFARE CONTRIBUTIONS

4.1. Retirement Contributions

Employees are subject to private pension funds. The contribution must be equal to at least 1,41% of the employee's wages up to 75,7 Unidades de Fomento (UF) which is approximately US$ 3.380

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

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

4.2. Health Care Contributions

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

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

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

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

4.3. Labor Risk Insurance System

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

pay the additional contribution with a surcharge of up to 100%.

4.4. Unemployment Fund Contribution

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

- When the worker has a permanent contract, the worker must provide monthly pocket 0.6% of its taxable income, to stop UF 113,5 (USD$ 5.000), while the employer contributes 2.4% of the same amount.
The contribution of the company, only 1.6% is payable on the individual account of the worker, and the remaining 0.8% admitted to distributing fund, called "Unemployment Solidarity Fund". Note that the 1.6% contribution by the employer is deductible from the compensation to which the worker is entitled to a permanent contract when fired "by business needs.

- When the employee has a fixed-term contract or one particular work or task, the entire cost of the insurance is paid by the employer, who must contribute monthly 3% of the employee's taxable income, with top-of UF 113,5 (USD$ 5.000).
Unemployment Solidarity Fund is financed by employer contributions, and contributions defined by state law. Its purpose is to finance the minimum benefits that the law guarantees to those members who -complied with pertinentes- requirements are exhausted or no resources sufficient in their individual account when losing their jobs.

5. FOREIGN INVESTMENT STATUTE

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

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

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

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

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

b) Exempt income: no taxes would apply

c) Retained taxable earnings (FUT) for income generated before January 01, 2017, in which case the former taxation regime applies In summary, ignoring for a moment the benefit enjoyed by investors domiciled in Tax Treaty countries, company owners can essentially choose between paying all of their tax each year (attributed regime) or postponing a portion of their total tax burden, but ultimately paying a higher rate (partially integrated regime).

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

However, the foreign investors who have already entered into an investment contract with the Foreign Investment Committee would continue being subject to the laws applicable to such contracts according to the current provisions.

6.- INTERNATIONAL TAX RULES

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

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

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

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

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

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

(1) The 3:1 debt-to-equity limit would be tested on the aggregated of related-party and third-party debt. Currently, only related-party debt is counted.
(2) The 3:1 debt-to-equity limit would be tested annually, in lieu of the one-time test that is currently applied upon disbursement of each loan.

(3) The 35% surtax is levied, in addition to interest, on all charges and fees linked to excessive-indebtedness.
The concept of related company now applies to all kinds of guarantees granted by the group companies.

6.2. Article 41 A of the ITL:

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

6.3. Article 41 G of the ITL: CFC Rules

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

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

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

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

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

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

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

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

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

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

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

6.4. Preferential tax regimes and CFC Regulations

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

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

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

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

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

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

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

This new categorization is especially relevant in light of the provisions incorporated by the reform regarding Passive Income, because, under the new law, when a Chilean taxpayer is in control of entities not domiciled or resident in the country, and the latter are domiciled in countries that qualify as of low or no taxation, the law presumes that the income earned by these entities are passive income and therefore, unless proven otherwise, such income shall be taxed in Chile.

6.5. Tax Crimes

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

Tax crimes that are especially regulated include:

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

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

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

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

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

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

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

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

If, in the commission of the above crimes, false, forged or adulterated invoices or other documents were maliciously used, the highest penalty will be applied. A person who maliciously makes, sells, or gives, under any title; dispatch guides, invoices, debit or credit notes that are false, whether they are stamped or not by the IRS, with the aim of committing or eventually committing one of the above crimes, he will be fined with up to 40 UTA (yearly tax units) and prison of 541 days to 3 years.

The IRS has a one-year term to audit the applicant's statement. It may challenge the taxes determined by the taxpayer and also deny the benefit if it concludes the applicable requirements are not fulfilled. In this case, the taxpayer will not benefit from the exemption of responsibility referred above. The IRS' decision can be claimed by the applicant before the tax court, according to the general rules of the Chilean Tax Code. If the relevant tax court affirms the non-compliance of the requirements, the taxpayer will not be refunded with the 8% tax it paid.

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

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

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

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

7. ADDITIONAL CONSIDERATIONS

7.1. Disallowed Expenses

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

7.2. Deduction of intra group remittances abroad.

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

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

7.3. Goodwill

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

7.4. General anti-avoidance rules

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

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

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

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

8. ENDNOTES

From January 1, 2017, the FUT was replaced by the record profits, which are different depending on whether the taxpayer adheres to or benefit attributed distributed system. i.e, each taxpayer selected one regime, taking into account the formalities established in the Law. If no regime was selected by the taxpayer, the law provides for a default rule as follows:

- Individual entrepreneurs and individual limited liability companies: Attributed Regime
- Partnerships (Sociedades de Responsabilidad Limitada) where the partners are only Chilean individuals: Attributed Regime
- Partnerships where one or more partners are legal entities or taxpayers not resident or domiciled in Chile: Partially Integrated Regime
- Taxpayers under the regime established in Article 58 No. 1 (Permanent Establishments): Partially Integrated Regime
- Stock Companies (Sociedades Anónimas y Sociedades por Acciones): Partially Integrated Regime Once the applicable regime is determined, by choice or by default, a five-year holding period is required.

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

HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax	34%
Foreign Entities	34%
Foreign Entities with PE or Branch	34%
Corporate Income Tax Surcharge	6%
Free Trade Zones Reduced Corporate Income Tax Rate	20%
Capital Gains Tax	10%
Regular Withholding Taxes on Cross-border Payments	
- After Tax Dividends (if untaxed at Corporate level)	0%, 5% or 10% (34%, 35%, 38.25% or 41.5%)
- Branch Profits (if untaxed at Corporate level)	5% (38.25%)
- Interests	The withholding tax rate on inbound credit facilities and leasing transactions varies between 0%, 1%, and 15%.
- Financial Returns of Public Private Partnerships Funding	5%
- Royalties (on software)	15%(26.4%)
- Technical Assistance, Technical and Consulting Services	15%
- Imports	No withholding
- Tax Havens	34%

Tax Loss Carry-forward Term	12 years
Tax Loss Carry-back Term	Not available
Transfer Pricing Rules	Yes, OECD-like
Tax-free Reorganizations are available if certain requirements are met.	Statutory Mergers, Statutory Divisions, Transformations and Capital Contrinbutions.
General VAT Rate on Sales, Services and Imports	19%
Consumption Tax (Specific businesses)	8%
Custom Duties	0% - 20%
Bank Debits Tax	4 per thousand
National Stamp Tax	0%

Local Level

Tax on Industrial, Commercial and Service Activities	2-13.8 per thousand
Property Tax (including Real Estate)	0.5%-3,5%
Registration Tax	0.1%-1%
Local Stamp Taxes	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%	yes
Chile	up to 7%	up to 15%	up to 10%	yes
Czech Republic	up to 15%*	up to 10%	up to 10%	yes
Ecuador	source	source	source	yes
France	up to 15%	up to 10%	up to 10%	no
India	up to 5%*	up to 10%	up to 5%	yes
Mexico	0%*	up to 10%	up to 10%	yes
Peru	source	source	source	yes
Portugal	up to 10%*	up to 10%	up to 10%	yes
South Korea	up to 10%*[13]	up to 10%	up to 10%	yes
Spain	up to 5%	up to 10%	up to 10%	yes
Switzerland	up to 15%	up to 10%	up to 10%	yes
UK	up to 15%	up to 10%	up to 10%	no

13 *The Protocols of these Treaties to Avoid Double Taxation provide a higher withholding rate when the company distributing the dividends is a Colombian company and the profits out of which the dividends are distributed were not taxed at the corporate level, as follows (i) 25% for the Czech Republic; (ii) 15% for India; (iii) 33% for Mexico, (iv) 33% for Portugal; and (v) 15% for South Korea.

1. INCOME TAX ON COMPANIES

1.1. Corporate Residence

An entity is considered Colombian for tax purposes if any of the following three criteria is met: (i) The entity is incorporated in Colombia; or (ii) its corporate domicile is in Colombia; or (iii) the entity is "effectively managed" in Colombia. An entity is managed where the key managing decisions are taken[14].

It is important to highlight that foreign companies that (i) are listed in the Colombian Stock Exchange (or in another recognized Stock Exchange), or that have issued bonds that are negotiated through such a Stock Exchange; or (ii) receive at least 80% of their total income in the country in which they are incorporated; will not be considered Colombian entities (tax residents) even if their place of effective management is located in Colombia.

Please keep in mind that in Colombia, resident entities are taxed on their worldwide income, while foreign entities and foreign entities' Permanent Establishments (including branches) are taxed only on their Colombian source income.

1.2. Permanent Establishment

Colombian regulation provides a domestic definition of permanent establishment ("PE") inspired on the PE definition included in the OECD-MC, nonetheless, the project PE is not included in the Colombian PE definition[15]. Colombian domestic regulation also provides a list of activities considered ancillary or preparatory, which do, therefore, not give rise to a PE[16].

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

Having a PE in Colombia has, among others, the following consequences for the foreign person or entity: (i) They will be required to file an income tax return and to keep accounting records, for each PE they have in Colombia, and (ii) considerations regarding transfer-pricing and PE's profits attribution are applicable to PEs (including branches)[17].

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

1.3. Income Tax Rate

The general statutory corporate income tax rate applicable both to Colombian companies and to foreign corporate entities receiving Colombian source income, regardless of whether it is attributable to

14 Colombian Tax Code §12-1

15 Colombian Tax Code §20-1

16 Decree 3026/2013 §3

17 Colombian Tax Code §20-2

a Permanent Establishment in Colombia or not, is **34%.**[18] As of 2018 the corporate income tax rate will be reduced to 33%.

Certain companies in free trade zones are eligible for a reduced **20%** income tax rate.[19]

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

Only companies that have less than 50 employees and less than approximately USD 1,3 million in assets are eligible for these benefits. If at any point the company exceeds these thresholds it loses the benefits. Such benefits include a progressive income tax rate, which was modified by the 2016 Tax Reform Act as follows:

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

Additionally, payments made to such registered small business will not be subject to back-up withholding for 5 years as of 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.

1.3.1. Corporate Income Tax Surcharge

From 2017 to 2018, a surcharge will apply on income equal or higher than COP 800,000,000 (approximately USD 280,000) taxable with corporate income tax. It is worth noting that this surcharge does not apply to taxpayers located in free trade zones.

The surcharge will be paid in two equal yearly payments, and the applicable rate varies, as follows[20]:

Taxpayer's taxable base		Marginal Surcharge Rate	
Minimum	Maximum	2017	2018
>0	<800,000,000	0%	0%
>=800,000,000	Onwards	6%	4%

18 Colombian Tax Code §240

19 Colombian Tax Code §240-1

20 Act 1739/2014 §22

1.4. Equity (income based) tax CREE Repealed

In an effort to reduce the wage-based tax burden as a job creation incentive, in 2012 three material employer welfare contributions were eliminated[21], coupling the statutory income tax rate 8 points reduction with a new net income tax ("CREE").[22].

The 2016 Tax Reform Act repealed the CREE, without reinstating the welfare contributions that had been eliminated in 2012.

1.4.1. Equity Tax (CREE) Surcharge Repealed

A surcharge on CREE was in place from FY 2015 through FY 2018. The 2016 Tax Reform Act repealed this surcharge for FY 2017 and FY 2018.

1.5. Taxable Base and Income Tax Assessment Process

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

The taxable base of the Colombian corporate income tax is the result from subtracting the taxpayer's specifically exempt items of income from the greater of (i) the Net Taxable Income ("NTI") and (ii) the Alternate Minimum Taxable Income ("AMTI"). The NTI results from the sum of all revenues realized by the taxpayer, minus the sum of all specifically excluded items of income, minus the sum of all costs and expenses allowed as deductions. The AMTI computation is explained in §1.6 below.

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

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

The 2016 Tax Act introduced changes that imply that, as of FY 2017, the taxable base of the CIT will be calculated using the financial information deriving from the accounting records kept in accordance

21 Please note that the welfare contributions were only eliminated with respect to employees that earn 10 minimum monthly wages or less

22 Act 1607/2012 §25

with International Financial Reporting Standards ("IFRS"). Nonetheless, according with the 2016 Tax Act, various adjustments should be made, in order to avoid that the taxpayer is obliged to pay tax on theoretical income or allowed to deduct theoretical expenses.

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

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

1.6. 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 **3,5%**[23].

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 used within the following five (5) taxable years. Paired with the repeal of the CREE and its surcharge, the 2016 lawmaker introduced a transition regime, which specifies how the taxpayers will be able to carry-forward the excess AMTI (determined on the net-worth) over the CREE general tax liability.[24]

1.7. 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[25]. Costs or expenses related to specifically excluded and/or exempted items of income are not deductible[26]. Certain costs and expenses may be subject to limitations, depending on the facts and circumstances of each case, (e.g., related party charges and commissions, among others). Special limitations apply to the deduction of expenses incurred outside Colombia (see §1.9. below).[27]

It is worth highlighting the following non-exhaustive list of changes to income tax deductions, introduced by the 2016 Tax Act:

a. the impossibility to deduct payments consisting in (i) penalties or sanctions, and (ii) taxes that should have been paid by a third party. The latter could affect the deductibility of payments made further to certain gross-up clauses.

23 Colombian Tax Code §188 and 189

24 Act 1607/2012 §22-1

25 Colombian Tax Code §107

26 Colombian Tax Code §177-1

27 Colombian Tax Code §121 and 122

b. royalties paid to foreign related parties or to related parties operating in a FTZ, with regards to intangible goods formed in Colombia, are not deductible.

c. royalties paid in consideration for the acquisition of finished products are not deductible.

d. as further explained in §5.5.4 below, taxpayers would be allowed to deduct 100% of the VAT paid in the acquisition/import of capital assets during the first year; previously VAT was deductible via depreciation during the lifespan of the assets.

e. a 6-month term is set for the registration of contracts regarding the import of technology, as a requirement for the corresponding payments to be deductible.

f. cross-border payments to the home office of Colombian branches and subsidiaries in consideration for management are subjected to withholding tax, regardless of whether they are deemed to generate Colombian source income or not.

1.8. Thin Capitalization Rules

Only interest derived from indebtedness with an average value not exceeding three times the entity's net equity (on December 31 of the preceding year) are deductible[28].

The aforementioned interest deductibility limitation implies, among others, the following issues: (i) it applies on indebtedness between both related parties and non-related parties; (ii) it applies on both cross-border inbound indebtedness and local indebtedness.

Thin capitalization rules do not apply only on certain narrowly defined cases (e.g. when the debtor is a financial entity, when the loan is obtained in order to finance infrastructure projects related with activities considered of public interest). [29].

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

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

Costs and expenses incurred abroad are deductible only to the extent that such deductions do not exceed 15% of the taxpayer's net taxable income assessed without taking into account these deductible items. Exceptionally, whenever the payment abroad has been subjected to the corresponding statutory withholding tax, this 15% limitation does not apply on (i) certain interest payments that are deemed not from a Colombian source, and (ii) payments on imported movable tangible property[30].

Payments to a home office or parent company abroad are only deductible if they were subject to withholding tax in Colombia and meet the transfer pricing arm's-length criteria. Additionally, the parties should be able to prove that the service was actually rendered[31]. Cross-border payments to the home office of Colombian branches and subsidiaries in consideration for management are subjected to with-

28 Colombian Tax Code §118-1

29 Act 1607/2012 §22-4

30 Colombian Tax Code §122

31 Colombian Tax Code §124 and 260-3

holding tax, regardless of whether they are deemed to generate Colombian source income or not. There are other limitations for deductibility of payments to foreign related parties, which need to be analyzed on a case-by-case basis. The application of these deducibility limitations should be carefully considered taking into account, among others, the transfer pricing regime and the application of tax treaties.

1.10. Depreciation and Amortization

Tangible fixed assets' depreciation is deductible. The applicable depreciation term varies depending on the nature of the asset.. Further to the 2016 Tax Reform Act, the depreciation term will no longer be set on regulations, and should instead be set by the taxpayer, considering for that purpose the lifespan of the asset. IFRS regulations should be regarded; however, the lifespan of an asset determined for tax purposes may differ from the lifespan determined for accounting purposes;

The maximum depreciation rate varies between 2,22% and 33%. Depreciation rates for specific assets (within the previously mentioned range) are set in the corresponding regulation[32].

For tax purposes, regular methods commonly used worldwide (e.g. straight-line method, declining balance method, etc.) are accepted in Colombia. When using the declining balance depreciation method the following limits should be observed: (i) the salvage value should be pursuant to IFRS, depending on the type of asset, and (ii) the depreciation rate cannot be accelerated by the application of additional shifts[33].

If the machinery and equipment are daily used at least for 16-hour shifts, depreciation can be accelerated, increasing the depreciation rate in 25%.

Unless specifically restricted, double and triple shift accelerated depreciation is also available and might be implemented when the asset needs to be depreciated in full in the first years of its useful lifespan. As mentioned before, as of FY2013 the 2012 Tax Reform Act prohibited the combination of the accelerated depreciation with the declining balance method.

Certain assets, including acquired intangibles, and certain costs and expenses deemed as necessary investments for the taxpayer's income producing activity that must be capitalized can be amortized throughout a minimum 5-yr. period using any generally accepted amortization method[34]. It is worth highlighting that, although under IFRS preoperative expenses are deductible when completed, for tax purposes the taxpayer should register an and deduct its value via amortization.

1.11. Transfer Pricing

Colombia has OECD-like transfer pricing rules that are applicable to all transactions between a Colombian party and (i) a foreign related party; or (ii) a related party located in a free trade zone (as explained in §3 a different set of rules applies to transactions between two Colombian related parties)[35].

Under these rules, the Colombian party exceeding certain statutory net assets or revenues thresholds must keep and file with the tax authorities supporting documentation, and a transfer pricing study

32 Colombian Tax Code §137

33 Colombian Tax Code §134 and 140

34 Colombian Tax Code §142 and 143

35 Colombian Tax Code §260-2

showing whether the corresponding prices or profit margins are arm's-length[36]. The supporting documentation shall include a master file containing all relevant global information in connection to the multinational group, as well as a local report with all information with regards to the operations carried out by the taxpayer.

The Colombian transfer-pricing regime has a catalogue of situations where two parties are deemed related. This catalogue is complex and its application requires a detailed case-by-case analysis. Parties domiciled in tax havens are deemed as related parties for transfer pricing purposes.[37]

Sale or exchange of stock or quotas in Colombian companies by foreign holders to a related party located abroad is subject to transfer pricing rules.

Lastly, whenever a Colombian taxpayer transfers functions, assets or risks to a related party abroad, it is expected to obtain an arm's length remuneration. This provision is based on the OECD report on business restructurings.

As of FY 2016, a country-by-country report shall be filed in Colombia by:

a. Colombian taxpayers that are controlling entities of multinational groups of companies; or
b. Entities (resident or non-resident) that have been designated by the controlling entity as responsible for the filing of the country-by-country report; or
c. One or more entities and/or permanent establishments pertaining to the same multinational group and having a foreign home office, provided that (i) the income generated by these entities and/or permanent establishments corresponds to at least 20% of the total income of the multinational group; (ii) the home office did not file a country-by-country report in its country of residence; and (iii) the total income of the multinational group in the previous year was equal or higher than USD 800.000.000 (approx.).

The country-by-country report should contain all information relating to the allocation of income and the taxes paid by the multinational group globally. Certain indexes in connection to the economic activity carried out by the multinational group should also be included.

1.12. 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[38]:

a. A fifteen (15) year exemption on income from power generation activities based on wind, biomass and agricultural waste technologies;
b. A fifteen (15) year exemption on income from fluvial transportation services using low draught boats;
c. Use of qualified new forestry plantations or investment in new sawmills for the use of said plantations.

As of FY 2017 most of the exempt items of income will be taxable; exceptionally a reduced 9% corporate income tax rate will apply to income from certain activities, such as (i) hotel services rendered in newly built or refurbished facilities; and (ii) eco-tourism activities.

36 Colombian Tax Code §260-5 and Decree 3030/2013 §2

37 Colombian Tax Code §260-1

38 Colombian Tax Code §207-2 and §

1.13. Certain Special Tax Frameworks

1.13.1. Research and technological investment special deduction and tax credit ("RTISD&C")

In Colombia taxpayers are allowed to deduct their investments in research and technological projects. This deduction can be coupled with a tax credit equal to 25% of the amount invested. In order to benefit from the RTISD&C, the investment should be completed through centers and entities approved by the Colombian Science and Technology Department "Colciencias" and registered with the same authority. Donations to specific scholarship funds are also a way to access this treatment. This last issue is pending regulation[39].

1.13.2. Performing Arts and Cinema

Performing arts enjoy a series of tax benefits, which include, among others, the possibility to deduct 100% of the investment made in the necessary infrastructure for the performance[40]. 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, taxpayers that make investments or donations to cinematographic projects approved by the Ministry of Culture have the possibility to deduct 165% of the amount of the investment or donation[41].

1.13.3 Leasing Tax Treatment

As a general rule, leased assets must be initially accounted for their value, both as an asset and a liability. The lease payments portion allocated to principal decreases the liability while the portion allocated to interest is a deductible expense. Depreciation and amortization deductions are available, as applicable. [42]

The 2016 Tax Reform Act introduced (a) a definition of financial leasing agreements, including the features of this type of agreements, and its particular tax treatment and (b) a definition of operative leasing agreements, with its own tax rules. It is worth highlighting that the features listed by the provision as requirements for a leasing to be classified as a financial leasing for tax purposes does not necessarily match the definition of leasing agreements provided by the Colombian financial rules and the commercial regulation.

The 2016 Tax Reform Act introduced special accounting recognition rules, based on the new accounting frameworks and other particular considerations.

The new framework is intended to apply to all leasing agreements executed as of January 2017.

1.13.4. Public Private Partnerships and Concession Agreements

The 2016 Tax Act introduced a new special tax framework for Public Private Partnerships and Concession Agreements. This new framework aims to arrange a previously existing mismatch between the moment

39 Colombian Tax Code §158-1

40 Law 1493/2011 §4

41 Law 814/2003 §16

42 Colombian Tax Code §127-1

of accrual of the income with the moment in which the amortization and depreciation expenses could be deducted by the taxpayer. This new tax framework applies whenever the concession agreement comprises both the construction and the operation and administration stages.

Whenever a concession agreement is granted only with regards to one of the stages the new rules are not applicable and the general rules for the accrual of income, depreciation and amortization deductions should be applied.

1.13.5. Regulated Fiduciary Arrangements

The 2016 Tax Act enhanced the transparency of the Fiduciary Arrangements to a full transparency tax regime, by stating that the beneficiary should report in its income tax return the income, costs and expenses accrued at the level of the fiduciary arrangement. Under the former tax framework (partial transparency) the beneficiary only had to report in its income tax return the profit or loss accrued at the level of the fiduciary arrangement.

New rules on income accrual have been enacted and should be carefully reviewed on a case-by-case basis, as they could have important tax implications for beneficiaries and settlors of the fiduciary arrangements.

1.13.6. Carbon Dioxide Tax

The 2016 Tax Reform Act created a "Carbon Dioxide Tax" which intends to be triggered by the first sale or import of fossil fuels, including oil-derived products and all types of gas that may be used as energy sources. This tax is triggered only once, either on the import or on the first sale made by the local producer. Neither exports, nor subsequent sales or operations are taxed.

The rate is COP15.000 (Approximately USD5) per ton of CO2 that a determined fossil fuel is estimated to generate. This rate will be annually readjusted. In order to ease the taxable base of this Tax, the government included the following table, which contains an already calculated estimate of the tons of CO2 produced by each of these common fuels, and therefore, already has a fix rate per unity.

Fossil Fuel	Unit of Measure	Rate/unity
Natural gas	Cubic meter	$29
Oil liquified gas	Galon	$95
Gasoline	Galon	$135
Kerosene and Jet Fuel	Galon	$148
Diesel	Galon	$152
Fuel Oil	Galon	$177

1.13.7. Joint Ventures

The 2016 Tax Reform Act established a common fiscal treatment for joint venture agreements, applicable to consortium agreements, associations (temporary company union), other joint ventures and joint accounts agreements, among others. Joint venture agreements, under the 2016 Tax Reform, continue to be regarded as non-taxpayers for CIT purposes and, therefore, as fully transparent from the tax perspective; however, additional formal obligations are established. It is important to highlight that under the 2016 Tax Reform Act the parties of the joint venture agreements maintain the obligation to report the assets, liabilities, income, costs and deductions of the joint venture in their CIT returns, according

to their participation in the agreement. The 2016 Tax Reform Act allows the parties of the joint venture to decide that the agreement should keep accounting records.

According to the new framework commercial relationships between the joint venture and its parties that imply a fixed remuneration for one of the parties should not be considered as contributions to the joint venture. The implications of this provision should be carefully reviewed on a case-by-case basis.

1.13.8. Stock Options

The 2016 Tax Reform Act introduced a new chapter dedicated to the tax treatment of stock options.

The relevant provision of the 2016 Tax Reform Act establishes the tax regime applicable to (a) stock options, i.e. when shares of a company are offered to employees and the employee has the right to decide whether to accept the offer or not; and (b) when shares are transferred to an employee as part of his labour remuneration.

The applicable provision establishes rules for accrual of taxable income and the method to calculate the taxable base both for the company offering the stock option or transferring the shares and for the employee receiving either the stock option or the shares.

1.13.9. Adjustment due to the Fluctuation of the Exchange Rate of Foreign Currencies

The 2016 Tax Reform modified the previous regime as follows

a. Income, expenses, costs, assets and liabilities in foreign currency should be accounted for at the exchange rate of the day of its initial recognition.
b. For tax purposes exchange differences shall be recognized as income or expense for the fiscal year in which (i) the asset is sold or exchanged; or (ii) the liabilities are liquidated or paid.
c. The taxable income or the deductible costs or expenses correspond to the difference between the exchange rate at the initial recognition and the exchange rate at the day of the payment or accrual of the payment.

Considering that the 2016 Tax Reform Act substantially modified the previous regime (formerly the relevant regulation stated that the adjustment to be made due to the fluctuations in the exchange rate of assets in a foreign currency owned by a taxpayer on the last day of the fiscal year or taxable period constituted income in such fiscal year), the 2016 Tax Reform Act provided a transitional regime that should be reviewed on a case-by-case basis.

1.14. Tax Loss Carry-forward

On January 1st, 2007 an evergreen tax loss carry-forward against the taxpayer's NTI was introduced in Colombia[43] for income tax purposes. The 2016 Tax Reform Act limited this carry-forward to the 12 fiscal years following the year in which the tax loss accrued. A transitory regime was introduced, according to which tax losses generated before January 1st, 2017 will continue to be subject to the previous regime.

The tax loss must arise from an income producing activity commonly taxable under the regular income taxation rules. Should the tax loss lack such nexus, i.e. be related to a non-taxable or exempt income

43 Colombian Tax Code §147

producing activity, the tax loss carry-forward would not be available. The credited amount cannot be greater than the taxpayer's NTI on the year the carry-forward is credited, i.e., a tax loss carry-forward cannot generate further tax loss. Carry-back is not available.

Except as provided for reorganizations, tax losses are not transferrable to share or quota holders, or to other taxpayers.

In the case of tax-free mergers and spin-offs the abovementioned general limitations continue to apply. Nonetheless, in these cases part of the tax losses is transferable to the beneficiary entity (ies). However, the beneficiary entities will not be allowed to benefit from all of the tax losses accrued by the entities subject to the merger or the spin-off; only the part proportionally corresponding to their participation in the net-worth of the new, surviving or resulting entities, should be deductible. In order to qualify for the tax losses transfer under reorganization tax rules, the corporate purpose of the merging/dividing entity should be the same as that of the beneficiary entity (ies)[44]. The tax loss expiration term (when applicable) is not renewed by a reorganization event.

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

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

1.15. Statutory Foreign Tax Credit ("FTC ")

Individuals and corporate persons that are Colombian tax residents and are obliged to pay income tax abroad with regards to their foreign source income, have the right to a FTC. In accordance with the FTC, the tax paid abroad can be credited against the income tax, provided that the amount to be credited does not exceed the income tax liability in Colombia. Excess tax credits can be carried forward for four years if certain requirements are met.[45]

Certain conditions need to be met in order for a taxpayer to benefit from the foreign indirect tax credit (i.e. shares not granting voting rights cannot benefit from the credit, a minimum two years holding period is required).

1.16. Income Tax Treaties

Colombia's belated development of a network of OECD-like treaties has lead to the execution of income tax treaties with Spain, Chile, Switzerland, Canada, Mexico, India, Czech Republic, South Korea Portugal France and the UK. All these treaties, except the treaty with France and the UK are already enforceable.

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.

45 Colombian Tax Code §254

Additionally, Colombia currently has limited scope income tax treaties to avoid double taxation on sea and air transportation activities with Argentina, Brazil, France (air), Germany, Italy, Panama (air), the United States of America, and Venezuela.

Lastly, besides the treaties to avoid double taxation on income and capital, Colombia has also signed information exchange tax treaties. Colombia is also an early adopter of the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters, and therefore Colombia will be exchanging tax information under the Common Reporting Standard with over 90 jurisdictions.

1.17. Consolidated Group Taxation

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

1.18. Tax-Free Reorganizations

The Tax Code's reorganizations chapter determines specific anti-avoidance rules, in an effort to curtail M&A transfer strategies that resulted in acquisitions of corporate assets and businesses in Colombia that, due to loopholes that previously existed in the statutes, avoided local taxation.

1.18.1. Tax-Free Capital Contributions of Property

According to the applicable rules, unless otherwise provided by the statute, property transfers to companies, as capital contributions, are deemed tax-free. Therefore, the stock received by the transferor will inherit the tax cost in the transferred property, while the transferee corporation keeps the same tax cost in the property that the transferor had.[46]

All capital contributions of property, including stock, where the transferor is a Colombian national individual or entity and the transferee corporation is an offshore entity (a) will be deemed as taxable without exception, and (b) must observe transfer pricing rules, regardless of (i) the existence of a related-party relationship between transferor and transferee and (ii) the value attributed to the contributed property[47].

1.18.2. Tax Free Statutory Mergers and Spin-Offs Restricted

In an effort to prevent the use of statutory mergers and spin-offs as a means of achieving tax-free status for certain acquisitions of corporate assets and businesses in Colombia, there are certain statutory requirements for these types of reorganizations to qualify for tax-free treatment. In order to achieve the tax-free treatment, the applicable rules provide for a tax cost rollover concerning both the transferred assets and the new shares issued to the shareholders.

These requirements are based on a continuity of interest ("COI") and on continuity of business enterprise ("COBE"), in absence of which the reorganization will not qualify for tax-free treatment.

In addition to the adoption of COI and COBE requirements, the statute differentiates acquisitional mergers

46 Colombian Tax Code §319

47 Colombian Tax Code §319-2

and spin-offs[48] from organizational mergers and spin-offs[49]. For the former type of reorganizations, the participating entities are not deemed related-parties under Colombian regulations, while in the latter the participating entities are deemed related-parties under Colombian regulations. The difference would consist on the adoption of stricter COI and COBE requirements for the organizational mergers and divisions.

In a reorganization between foreign entities entailing the transfer of assets located in Colombia, the transfer of the Colombian assets will be deemed as taxable, unless the Colombian assets transferred as a result of the reorganization represent 20% or less of the worldwide combined assets of the participating entities. In the latter case, the resulting transfer of the Colombian assets could be eligible for tax-free treatment observing the COI and COBE requirements and related rules, as discussed above[50].

Lastly, it is important to highlight that, for tax purposes, Colombian rules provide for joint and several liability of the entities participating in reorganizations[51].

1.19. Controlled Foreign Entities ("CFE") Regime

The 2016 Tax Reform Act introduced Controlled Foreign Entities rules ("CFE rules"). Individuals and national companies subject to income tax in Colombia that directly or indirectly control a foreign entity and hold participation equal or higher than 10% in it are subject to this regime.

The 2016 Tax Reform Act defined CFE as investment vehicles such as corporations, regulated fiduciary arrangements, trusts, mutual funds, other trust, and business and private foundations, that are incorporated or domiciled abroad, regardless of whether they have legal personality, and/or whether they are transparent for tax purposes.

A CFE is deemed controlled by one or more Colombian residents when any of the following criteria is met:

a. the CFE is subordinated of a Colombian resident according to §260-1 of the Colombian Tax Code;
b. the CFE is a related party of one or various Colombian residents according to §260-1 of the Colombian Tax Code; or
c. the CFE is domiciled in a non-cooperative jurisdiction (tax haven).

The CFE should not be a tax resident in Colombia. Income, costs and deductions relating to passive income obtained by the CFE are deemed to have accrued at the level of the Colombian residents that directly or indirectly control the CFE, in the same taxable year in which such income, costs and deductions accrued in the CFE. The tax recognition of these assets, costs and deductions should be made in proportion to the participation held by each Colombian resident in the CFE. However, it is important to highlight that the applicable provisions explicitly forbid the use by the controlling Colombian tax resident of any tax losses accrued at the level of the CFE.

Passive income comprises:

a. Dividends or any other form of distribution, except for profits that have their origin in real economic activities carried out by the CFE or its subsidiaries. This rule shall be carefully considered on a case-by-case basis;

48 Colombian Tax Code §319-3 and 319-4

49 Colombian Tax Code §319-5 and 319-6

50 Colombian Tax Code §319-8

51 Colombian Tax Code §319-9

b. Proceeds except those obtained by either a CFE controlled by a company that is subject to "surveillance" from the Colombian Superintendence of Finance, or a foreign financial institution, not domiciled in a non-cooperative jurisdiction;
c. Royalties;
d. Income from the alienation of the CFE's participation in a passive-income-producing entity;
e. Income derived from alienation or rental of immovable property;
f. Income from the trade of goods that (i) are acquired from, on behalf or for a related party; (ii) are produced, manufactured, built, farmed, or extracted in a jurisdiction different from that of residence of the CFE; and (iii) are consumed, used or disposed of in a jurisdiction different from that of residence of the CFE;
g. Income from intercompany services (technical assistance, and technical, management, engineering, architectonic, scientific, qualified, industrial or commercial services) rendered for or on behalf of a related company in a jurisdiction different from that of the CFE.

This regime is not applicable to profits from active income. However, all revenues, costs and deductions of the CFE are presumed to give rise to passive income, when passive income represents 80% or more of the total revenues of the CFE.

The fact that (i) the income from trading and from the provision of services is deemed passive income, and (ii) entities controlled by Colombian tax residents are deemed CFEs, regardless of whether they are subject to a low or high level of taxation in their tax residence, is rare and implies the need to review the impact of this new regime on a case-by-case basis for taxpayers with operations abroad.

1.20. Disclosure of Beneficial Ownership

A new rule, according to which the Colombian companies owned Colombian or foreign companies, as well as the Colombian permanent establishments (including branches) of foreign companies, regulated fiduciary arrangements and mutual funds owned by foreign companies, shall report to the Tax Service information in connection to their Beneficial Owners. For instance, they shall report the following information: name, date of birth, identification number, and participation in the capital of the company, among others.

The concept of Beneficial Owner comprises individuals that meet any of the following conditions:

a. Have effective direct or indirect control of a Colombian company, an agent, a regulated fiduciary arrangement, an investment fund or a permanent establishment of the foreign company; or
b. Be a direct or indirect beneficiary of the operations and activities carried out by the Colombian company, agent, regulated fiduciary arrangement, investment fund or permanent establishment of the foreign Company;

Certain entities, to be defined by the Government, will collect and disclose information in connection to the beneficial owners of financial accounts.

1.21 General Anti-Avoidance Rule ("GAAR")

Traditionally, the Colombian tax service has attempted to challenge tax abusive transactions based on the constitutional principle of substance over form and based on general law abuse considerations.

Additionally, as of December 27th, 2012 a GAAR was adopted. This GAAR was modified by the 2016 Tax Reform and currently states that tax abuse comprises the use or implementation of one or more

contrived acts or legal transactions, without an apparent economic or commercial purpose, in order to obtain a tax benefit, which is defined as the alteration, disfigurement or modification of the tax effects, for instance, the elimination, reduction, or deferral of a tax due, or increasing the balances or tax losses, or the extension of tax benefits and/or exemptions.

This GAAR introduces the following non-exhaustive list of cases in which a business is deemed to lack commercial or economic purpose:

a. The legal act or transaction is executed in a way that, in economic and/or commercial terms, is unreasonable;
b. The legal act or transaction results in a higher tax benefit that is not proportional to the economic or business risks borne by the taxpayer; or
c. An act or business apparently correct hides the true and real intention of the parties.

The previous regulation set quantitative thresholds and the need to meet 3 out of 5 criteria to shift the burden of proof from the Tax Service to the taxpayer. These requirements were eliminated through the 2016 Tax Reform Act; under the new regulation the Tax Service should always bear the burden of proof. Additionally, the 2016 Tax Reform Act established a new administrative procedure for these cases and an inaccuracy penalty of 160%.

The new rule maintains the provisions according to which the Tax Service could (i) re-characterize or reconfigure every transaction or series of transactions that are deemed abusive for tax purposes, as well as disregard their effects in order to prove the reality of the transaction; and (ii) pierce the corporate veil from the companies or entities that were part of the transaction(s) considered abusive.

1.22. Filing and Payment

The taxpayer must file the income tax return and pay the corresponding tax liability on the year immediately succeeding the fiscal year for which the return was prepared. Every year, the tax authorities issue a filing and payment schedule with specific deadlines that vary depending on the last number of the taxpayer's Tax Identification Number. Usually, filing and payment dates are similar year after year.

For FY2016, all entities including corporations must file their income tax return between April and May 2017. 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 2017, observing the yearly payment schedule issued by the tax authorities[52].

There are special filing and payment schedules issued by the tax authorities for certain companies in the list of "grand income taxpayers." For FY2016 all "grand income taxpayers" must file their return between March and April 2017. "Grand income taxpayers" benefit from a three (3) installments payment facility. For FY2016 these installments are due on February, April and June 2017.[53]

1.22.1. Foreign Held Assets Special Return

Taxpayers who pay income tax in Colombia with respect to their worldwide income and hold assets abroad should yearly file a special return disclosing such assets.[54]

52 Decree 1625 /2016 §1.6.1.13.2.12.

53 Decree 1625 /2016 §1.6.1.13.2.11.

54 Colombian Tax Code §607

1.22.2. Statute of Limitations

Through the 2016 Tax Reform Act, the statute of limitations that the Tax Service has to audit taxpayer's returns was modified. Prior to the 2016 Tax Reform Act, with only few exceptions, the Colombian Tax Service had a 2-year term to audit tax returns. The general statute of limitations was extended to a 3-year term. A special 6-year term statute of limitations for income tax returns of taxpayers obliged to comply with the transfer pricing regime was created.

The statute of limitations of tax returns that report tax losses or carry them forward was also extended. Formerly, the statute of limitations to audit these tax returns was 5 years and such term was extended to 6 years. Please bear in mind that the 6-year statute of limitations for tax returns reporting losses would be extended for 3 additional years if the taxpayer offsets the tax losses during the last two years of the initial 6-year term.

It is important to highlight that under an alternative interpretation, which might be defended by the Tax Authorities, the statute of limitations for returns in which tax losses are reported could be of 12 years. This new rule lacks clarity and is extremely complex and could, therefore, be construed in different ways.

1.22.3. Non-payment and Lateness Penalties

Unpaid taxes are subject to daily interests at a rate equal to the highest legally accepted three (3) month rate certified by the Financial Regulatory Agency. The 2012 Tax Reform Act changed the interest calculation from a composed interest to a simplified one.[55]

Depending on the facts and circumstances of each case, other penalties apply, e.g., for non-filing, late filing, or inaccurate filing, which may range from 5% up to 200%[56] of the corresponding tax liability.[57]

1.22.4. Tax Evasion as a Criminal Offence

The 2016 Tax Reform Act introduced two new criminal offences, one in connection to income tax and one in connection to VAT.

1.22.4.1.Income Tax: Criminal Offence for Omitting Assets or Reporting Non-Existent Liabilities

The corresponding provision establishes a Criminal Penalty for taxpayers that intentionally affect their income tax due or their reported income tax balance by (i) omitting assets or filing inaccurate information regarding their assets; or (ii) reporting non-existent liabilities, or filing inaccurate information regarding their liabilities. The omitted assets or non-existent liabilities should be equal to or higher than 7.250 minimum wages (approx. COP 5.000.000.000 or USD 1.667.779).

The penalty comprises (i) imprisonment from 48 to 108 months and (ii) 20% of the amount of the omitted asset or the non-existent liabilities. The criminal liability would extinguish when the taxpayer presents or corrects the tax return and performs the corresponding payments.

55 Colombian Tax Code §634 and 635

56 The highest 200% rate is applicable for unreported foreign held assets, as of January 1st, 2018.

57 Colombian Tax Code §641 to 650-1

1.22.4.2.VAT and Consumption Tax: Criminal Offence for not Collecting VAT or Consumption Tax

Formerly there was a criminal offence referring only to taxpayers that, having collected taxes, did not pay them to the Tax Service. This provision continues to apply but was broadened to comprise taxpayers that having the obligation to collect and pay to the Tax Service VAT or Consumption Tax fail to do so.

The penalty comprises (i) imprisonment from 48 to 108 months and (ii) double of the amount of the unpaid VAT/Consumption Tax. The criminal liability would extinguish when the taxpayer presents or corrects the tax return and performs the corresponding payments.

It is important to highlight that the corresponding provision explicitly states that if the criminal offence is committed by an entity, the natural persons in charge of fulfilling the tax obligations of the entity would be held liable.

2. DIVIDENDS TAX / BRANCH PROFITS TAX

For three decades Colombia did not tax dividend distributions, provided that the distributed profits had previously been taxed at the level of the distributing entity. However, the 2016 Tax Reform Act modified this system by taxing both the distributing company and the shareholder receiving the distributed dividends, as explained herein below.

2.1. Definition of Dividend

Dividend distributions comprise any distribution of benefits, in cash or in kind, out of equity (and not only out of profits) made by a company to its shareholders. The transfer of profits from permanent establishments in favour of their home is a deemed dividend distribution.

Distributions corresponding to paid-in capital or share premiums paid-in by the beneficiary of the distribution are not deemed dividends and are, therefore, not taxable.

2.2. Rates

Beneficiary	Profits Taxed at the Corporate Level	Profits Untaxed at the Corporate Level
Colombian companies	0%	34% (2017) 33% (As of 2018)
Resident individuals	0%, 5% or 10%	35%, 38,25% or 41,5%
Foreign companies	5%	38,25%
Non-resident individuals	5%	38,25%
Permanent Establishments (including branches)	5%	38,25%

It is worth highlighting that:

a. except in the case of Colombian companies, dividends paid out of profits that were not taxed at the corporate level, are subject to an additional withholding, after applying the "general" 35% withholding. This provision should be carefully reviewed under the treaties to avoid double taxation that have been executed by Colombia, particularly considering that in many of them a 0% withholding on dividends has been agreed upon.
b. dividends received by a Colombian Company would be untaxed while dividends received by a Colombian branch of a foreign company would be taxed at a 5% withholding tax rate.
c. the fact that non-resident individuals are always subject to a 5% rate, while resident individuals can be subject to either a 0%, 5% or 10% rate could be considered discriminatory. A lawsuit in connection to the constitutionality of this provision was already filed before the Constitutional Court.
d. The new regime is applicable to distributions of profits generated as of 2017, i.e. distributions of profits generated on of before December 31st 2016 would be subject to the previous regime, even if distributed in 2017 or thereafter.

3. CAPITAL GAINS

The general statutory long-term (2-year holding period required) capital gains tax rate for the sale or exchange of property (including stock in Colombian corporations) is **10%**[58]. Short-term capital gains are deemed as a regular item of income subject to income tax.

The taxable base of the capital gains tax is the result of the amount realized, minus the taxpayer's adjusted tax basis on the asset, plus any recaptured depreciation, amortization or deductions, as applicable. Capital gains can be offset with capital losses only.

Except in certain isolated cases, the taxpayer's capital gains tax is assessed, filed and paid with the taxpayer's regular yearly income tax assessment.

The tax authorities can challenge, through an audit, the amount that the taxpayer reported as realized in the sale or exchange of assets. Such an audit is authorized by law only when there is evidence that the taxpayer breached certain statutory pricing thresholds that use criteria such as (i) the asset's fair market value; (ii) the greater of its cadastral appraisal or the owner's self-appraisal in the case of real estate; and (iii) 115% of the "intrinsic" value in the case of stock or quotas[59].

In the case of intangibles, taxpayers must be on the lookout, because the 2016 Tax Reform Act introduced new rules to assess capital gains in the sale or exchange of intangibles, depending on whether the intangible is formed or acquired, among others[60].

Special thresholds and valuation methods apply if the operation takes place between a Colombian taxpayer and a foreign related party (see §1.11).

58 Colombian Tax Code §300 and 313

59 Colombian Tax Code §90

60 Colombian Tax Code §74 and 75

4. WITHHOLDING TAX ON CROSS BORDER PAYMENTS

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

4.1. Dividends

As explained in §2 below, a withholding tax on cross-border payments of dividends/branch profits applies, as follows: 5% o 38,25%

If the corresponding profits were taxed at the corporate level, a 5% withholding tax applies; otherwise a 38,25% withholding tax would be applicable to all non-resident entities/individuals. In the case of PE's of foreign companies (including branches), the same withholding rates would be applicable on distributions of profits to the home office.[61]

4.2. Royalties

Outbound royalty payments are subject to a 15% withholding tax, with the exception of royalties on software that are subject to an effective withholding tax of 26.4%.[62]

It is worth highlighting that as a consequence of the 2016 Tax Reform Act, royalties paid (i) to foreign related parties or to related parties operating in a Free Trade Zone, with regards to intangible goods formed in Colombia, are not deductible; and (ii) in consideration for the acquisition of finished products are not deductible.

4.3. Technical Services, Technical Assistance and Consulting Services

Outbound payments for technical services, technical assistance and consultancy services rendered by non-residents, in Colombia or abroad, are subject to a 15% withholding tax[63].

4.4. Other Services

Other services, different from technical services, technical assistances and consultancy services, if rendered from abroad, are not subject to withholding tax[64]. Conversely, if rendered in Colombia, a 15% withholding tax applies, unless otherwise provided by special rules.

4.5. Interest and Leasing Payments

Pursuant to the 2016 Tax Reform Act, except otherwise provided by applicable regulations, cross-border interest payments on credit facilities will be subject to a 15% withholding tax, with only few exceptions as (i) payments made in consideration for leased equipment (i.e. provided that the equipment is a vessel, helicopter or an airplane), case in which the reduced applicable withholding tax rate is 1% and (ii) financial returns from the funding of public private partnerships, as further explained in §4.6. below.

61 Colombian Tax Code §407

62 Colombian Tax Code §408, 410 and 411.

63 Colombian Tax Code §408

64 Colombian Tax Code §418

4.6. Financial Returns of Public Private Partnerships Funding

A special 5% withholding tax rate applies on cross-border payments of interest and other financial returns, in connection to loans granted to fund infrastructure projects under a Public Private Partnership structure, which are granted for an 8-yr. term, or longer. It is worth highlighting that the general withholding tax rate on cross-border payments of financial returns is 15% (see §4.5. above).[65]

4.7. Capital Contributions Repatriation

For the foreign share or quota holders, reimbursements of capital contributions not corresponding to dividend or profit distributions are non-taxable items of income. Therefore no withholding tax should apply.

4.8. Tax Havens (Non-Cooperative Jurisdictions)

Payments directed to a tax haven beneficiary corresponding to items of income deemed from a Colombian source, are subject to withholding tax at a 34% (for FY 2017) and 33% (as of FY 2018) of.[66] Otherwise the corresponding deduction will not be allowed. This higher withholding tax rate should not be applicable to certain payments related with financial operations duly registered with the Central Bank, provided that they meet the criteria to be deemed as income from a foreign source.

Colombian transfer pricing regulations apply on all the transactions involving a person or entity located, resident or domiciled in a tax haven, regardless of whether between related or unrelated parties. Whenever a Colombian taxpayer has operations of that kind exceeding certain thresholds, it must keep and file with the tax authorities supporting documentation, and a transfer pricing study.[67]

On October 2013 the Government published a list (updated on October 2014) indicating what countries are considered as tax havens for Colombian tax purposes[68].

The 2016 Tax Reform replaced the concept of tax havens' by the concept of "non- cooperative jurisdictions, with no or low imposition and preferential tax regimes".

On the one hand, the Government will continue to define which jurisdictions are non-cooperative (previously "tax havens"), according to the following criteria: (i) absence of imposition or low imposition regarding tax regime parallel to Colombian standards; (ii) lack of effective information exchange; (iii) absence of transparency at a legal or regulatory level; (iv) the absence of a requirement of either a substantive presence, or the exercise of a real activity which has economic substance; and (v) other criteria internationally accepted for the identification of non-cooperative jurisdictions. Not all of the criteria need to be met; meeting only one criterion could be enough for a jurisdiction to be classified as non-cooperative.

On the other hand, the taxpayer will have to identify the preferential regimes. For that purpose, the relevant provision of the Tax Reform Act states that preferential regimes are those that meet at least 2 out of the following 5 criteria: (i) absence of imposition or low imposition regarding tax regime parallel to Colombian standards; (ii) lack of effective information exchange; (iii) absence of transparency at

65 Colombian Tax Code §408

66 Colombian Tax Code §408

67 Colombian Tax Code §260-7

68 Decree 1966/2014 (as modified by Decree 2095/2014)

a legal or regulatory level; (iv) the absence of a requirement of either a substantive presence, or the exercise of a real activity which has economic substance; and (v) the fact that the regime is available only for non-residents (ring fencing).

Notwithstanding the above, the Government could issue a list of preferential regimes, based on the aforementioned criteria and on any other internationally accepted criteria.

In order to determine whether tax havens' regulation is applicable in a certain case, the individual facts and circumstances should be carefully considered.

4.9. Capital Gains

Outbound payments taxable in Colombia as long-term capital gains (according to §3 above) are subject to a 10% withholding tax (i.e. the same rate as that of the final tax). Taking into account that the withholding is performed on the gross payment, while the tax is assessed on a net basis, the taxpayer will always have a balance, which can only be recovered by claiming it back from the Tax Authorities.

5. VALUE ADDED TAX ("VAT")

5.1. Tax Rates

VAT's general rate is **19%**.[69] A reduced **5%** rate applies for certain goods and services.[70]

Certain economic activities are subject to a non-creditable consumption tax at a general statutory **8%** rate, and not to VAT.[71]

5.2. Taxable Transactions

The sale and importation of movable tangible property, intangible property, as well as the provision of services in Colombia or from abroad, are subject to VAT. As a general rule, and with the exception of the first sale of residential real estate, the sale of fixed assets does not levy VAT[72]. Certain public entities of the national and local territorial level are not subject to VAT.[73]

In the case of services provided to a Colombian party from abroad, a reverse charge applies and, thus, it is the Colombian party that is obliged to perform VAT back-up withholding and directly pay to the tax authorities **100%** of the accrued VAT.[74]

69 Colombian Tax Code §468

70 Colombian Tax Code §468-1 and 468-3

71 Colombian Tax Code §512-3

72 Colombian Tax Code §420

73 Act 21/1992 §100 and Act 30/1992 §92

74 Colombian Tax Code §437-2

Certain goods and services are exempted ("zero-rated")[75] or not taxable with VAT ("excluded")[76]. In the case of excluded goods and services, any input VAT paid by the taxpayer to its goods and services suppliers has to be capitalized as part of the cost of the excluded goods sold. In the case of zero-rated goods and services, any input VAT paid by the taxpayer to its goods and services suppliers generates a VAT credit[77] (See §5.4. below). In certain cases VAT credits from zero-rated transactions may result in a refundable VAT balance. Exports are VAT exempt (exempt with credit).

The lists of zero-rated and excluded goods are extensive and should be reviewed in detail on a case-by-case basis

Please bear in mind that in Colombia there is also a consumption tax, which replaced the VAT that was previously charged by restaurants and bars. The general consumption tax rate is **8%**.[78]

5.2.1. Digital Services

The 2016 Tax Reform Act establishes a presumption under which any service rendered from abroad but with a beneficiary located and resident in Colombia is deemed as a service rendered inbound, and therefore, subject to VAT unless otherwise provided. This presumption especially has an impact over electronic services rendered to Colombian beneficiaries through software, mobile applications, and satellite broadcasting, among others.

In order to enforce the VAT triggered by the above-mentioned services, the 2016 Tax Reform Act states that the Colombian entities that issue credit cards or debit cards, as well as the sellers of gift cards or prepaid cards in Colombia for such services, and any other Colombian entity or person who receives payments on behalf of foreign renderers of the following services should withhold the VAT triggered as a consequence of the provision of such services at the general rate of 19%:

a. Streaming services (including movies, TV shows, music, sports and any other kind of streaming).
b. Digital platform for the digital distribution of mobile applications.
c. Supply of online marketing/advertisement services.
d. Educational or instructional electronic supply.

It is worth highlighting that the VAT withholding referred to above will be applicable only after 18 months as of the entry into force of the Tax Reform Act.

5.3. Taxable Base

As a general rule, the taxable base is the price or value of the consideration paid for the goods or services; this consideration should correspond the fair market value of such goods or services.[79]

There are cases in which certain items must be either included or excluded from the taxable base and/or cases with either mandatory or optional taxable bases, which should be analyzed on a case-by-case basis.

75 Colombian Tax Code §477 to 481

76 Colombian Tax Code §423-428

77 Colombian Tax Code §489

78 Colombian Tax Code §512-3

79 Colombian Tax Code §447

5.4. Creditable VAT

Unless otherwise provided, all VAT paid to suppliers of goods and services that constitute a cost or expense of the taxpayer's income producing activity, is creditable towards the VAT collected by the taxpayer from its clients.[80]

Unless otherwise allowed by law (See §5.5. below), VAT paid on the acquisition and importation of goods that become fixed assets for the buyer is neither creditable against VAT nor against income tax. This VAT should be capitalized increasing the taxpayer's cost basis of the fixed asset.[81]

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

5.5. Selected VAT Incentives

The following are some of the available statutory VAT incentives:

5.5.1. Temporary Importation of Heavy M&E

Temporary importation of "heavy" M&E not produced in Colombia and effectively used in a "basic industry" in Colombia, should not be subject to import VAT.[82]

5.5.2. Acquisition and Permanent Importation of Heavy M&E

Act 1739/2014 extended to acquisitions the formerly only applicable to imports VAT deferral benefit in connection to the payment for Heavy Machinery and Equipment.

In fact, although acquisition and permanent importation of heavy M&E (whether or not produced in Colombia) is subject to VAT, if the M&E is going to be used in a "basic industry" and it's CIF value exceeds approximately USD 500.000, payment of the VAT can be deferred (40% upon acquisition or importation, and 30% in each of the following 2 years). In addition, in these cases the VAT paid can be credited against the taxpayer's income tax in the taxable year in which the VAT was paid or in the subsequent taxable years if the VAT paid cannot be initially credited in full[83].

Please note that if the asset acquired is sold before the end of its useful lifespan a proportional recapture applies.

5.5.3. Environmental Monitoring and Control Systems

Any domestic or imported equipment or devices to be used in the construction of control and monitoring systems required by environmental law and standards in any activity, are not subject to VAT. Access to this exemption requires certification of the environmental authority qualifying the specific equipment or devices acquired[84].

80 Colombian Tax Code §484-1 and 485

81 Colombian Tax Code §491

82 Colombian Tax Code §428

83 Colombian Tax Code §258-2

84 Colombian Tax Code §428

5.5.4. Income Tax Deduction of VAT paid in the Acquisition or Import of Capital Assets

The 2016 Tax Reform Act states that as of fiscal year 2017 taxpayers can deduct 100% of the VAT paid in the acquisition/import of capital assets. This implies the possibility to deduct in the first year the VAT paid, instead of recovering it via depreciation throughout the lifespan of the asset. However, this change in the regulation does not imply a full credit; it is worth highlighting that in accordance with the Andean Pact Directives Colombia should be offering taxpayers a full credit, however, under the current regulation this commitment is not being fulfilled.

The deduction of the paid VAT will only be allowed on the CIT return of the year in which the capital asset is imported or acquired, and cannot be concurrently applied in the import of heavy machinery for basic industries since an independent, yet similar treatment is available.

5.6. Payment and Filing

VAT is paid on a bimonthly or every four months , depending on the taxpayer's gross income from the previous year.[85] The VAT return must be filed and paid in full on the filing dates scheduled by the government for these purposes.[86]

5.7. Andean Pact VAT Harmonization

Andean Pact Directive 599 establishes the framework for the harmonization of the VAT regimes in member countries, which is expected to take place in the future.

6. CONSUMPTION TAX

In addition to the goods and services that were already taxed with the general consumption tax (restaurant services, bar, grills, pubs), the 2016 Tax Reform Act taxed with consumption tax (not creditable): (i) franchised restaurant sales, at the general 8% rate; and (ii) mobile internet services provided by the carriers at a reduced 4% rate. This is on top of the already existing 4% for the telephone service component of the mobile plans.

7. WEALTH TAX AND NORMALIZATION TAX

7.1. Wealth Tax

Act 1739/2014 introduced a new Wealth Tax that applies on companies from 2015 to 2017.[87]

In general, Colombian entities, as well as foreign entities, owning a gross-worth net of liabilities equal or higher than COP 1,000,000,000 (approx. USD 350,000) on January 1st 2015 are subject to this tax[88].

85 Colombian Tax Code §600

86 Decree 2623 /2014

87 Colombian Tax Code §292-2

88 Colombian Tax Code §294-2

7.1.1. Taxable Base

In general, the taxable base of the wealth tax corresponds to the result of subtracting from the taxpayer's net-worth the value of the shares directly or indirectly owned by the taxpayer in Colombian companies.

Foreign entities are subject to the tax on the wealth they own directly or through Permanent Establishments. Notably, in contrast to the net-worth tax that was in place in previous years, the wealth tax covers foreign entities that do not file an income tax return in Colombia (i.e. entities exclusively taxed via withholding taxes). This has an important impact concerning in-bound inter group loans (nevertheless the application of this rule in a tax-treaty context should be reviewed).

Foreign entities that have Permanent Establishments in Colombia are taxed on the net-worth attributable to such Permanent Establishments. This should be determined based on an attribution study elaborated considering the assets used, the functions performed, the personnel involved and the risks assumed by the Permanent Establishment.

Foreign companies can subtract from the taxable basis the value of international leasing operations and its yields, if the underlying assets of the leasing operation are located in Colombia

Foreign Financial Institutions can subtract from the taxable basis the value of the loans granted to Colombian taxpayers[89].

7.1.2. Tax Rate

The tax rate varies from year to year, as follows[90]:

Taxpayer's net-worth		**Marginal Tax Rate**		
Minimum	Maximum	2015	2016	2017
>0	<2,000,000,000	0.20%	0.15%	0.05%
>=2,000,000,000	<3,000,000,000	0.35%	0.25%	0.10%
>=3,000,000,000	<5,000,000,000	0.75%	0.50%	0.20%
>=5,000,000,000	Onwards	1.15%	1.00%	0.40%

Please bear in mind that in this edition of the wealth tax, the lawmaker introduced a taxable base lock-mechanism, aiming to prevent positive or negative variation of the taxable base first reported in 2015, higher than 25% of the inflation of the corresponding year.

7.2. Normalization Tax

For the years 2015 to 2017, Act 1739/2014 introduced a tax on the value of non-reported assets, when an obligation to report them existed. This tax should be assessed, paid and filed with the wealth tax return.

Hence, this normalization tax only applies to taxpayers who, either mandatorily or voluntarily, file a wealth tax return.[91]

89 Colombian Tax Code §295-2

90 Colombian Tax Code §296-2

91 Act 1739/2014 §35

It is worth noting that the applicable regulation introduces a special provision indicating how rights in foreign trusts and foreign private interest foundations should be reported.[92]

The tax rate of the normalization tax varies from year to year as follows[93]:

2015	2016	2017
10%	11,5%	13%

The normalization tax should be paid and filed one time only, and the assets that have formerly been omitted should be taken into account in the assessment of the corporate income tax of the year in which the normalization tax is paid and onwards.

No penalty in connection to (i) corporate income tax, (ii) CREE, or (iii) the breach of foreign exchange regulations, should be imposed as a consequence of not having reported the omitted assets in previous tax returns, provided that such assets are reported in the normalization tax return and the corresponding tax is paid.[94]

8. BANK DEBITS TAX

This is a national level tax. Colombian banks (and other savings institutions) must withhold the tax at source. It applies on any funds deposited that are either withdrawn or transferred from checking or savings accounts[95]. The taxable base is the amount withdrawn or transferred. The tax rate is **4 per thousand.** There are very limited exemptions to this tax. It is an important tax to keep in mind when structuring a transactions' cash flow.

9. LOCAL TAX ON INDUSTRIAL, COMMERCIAL AND SERVICE ACTIVITIES

This is a municipal (local) level tax applicable to income deriving from all industrial commercial and services activities performed in the territory of a municipality[96]. The taxable base is the sum of the taxpayer's gross revenue from the activity carried out in the relevant municipality. The tax rates vary from one municipality to the next and range from **2 per thousand** to **13,8 per thousand.** This tax is usually paid and a return is filed yearly, with the exception of some municipalities that have adopted a two (2) month taxable period (e.g., Bogota). Incentives for this tax are created and regulated by each municipality. Therefore, the availability of incentives must be confirmed on a case-by-case basis.

92 Act 1739/2014 §37

93 Act 1739/2014 §38

94 Act 1739/2014 §39

95 Colombian Tax Code §871

96 Act 14/1983 §32

10. PROPERTY TAXES

There are municipal (local) level taxes on real estate and vehicles. Each municipality adopts the applicable tax rates. Therefore, they vary from one municipality to the next. Real estate tax rates usually range between **0,5%** and **1,6%,** however, certain exceptions may apply[97]. Motor vehicles tax rates range between **1,5%** and **3,5%**.[98] Unless otherwise specified, the taxable base in the case of real estate is the cadastral value of the property, and in the case of motor vehicles is their fair market value. Unless otherwise specified in the corresponding municipal ordinances, filing and payment is usually on a yearly basis.

Available local tax incentives, if any, are regulated by the relevant municipal ordinance, applicable in the municipality in which the property is located or registered. Therefore, the availability of incentives must be confirmed on a case-by-case basis.

11. REGISTRATION TAX

A taxpayer registering acts and documents with the cadastral registry or merchants' registry offices is subject to this tax. Depending on the type of act or document, the tax rate ranges from **0,5%** to **1%** when the registration is with the cadastral registry office, and from **0,1%** to **0,7%** when the registration is with the merchants' registry office.[99] Unless otherwise provided, the taxable base is the amount of the price or consideration reflected in the document. Very few documents subject to registration are exempt from this tax. If one of the parties to the document is a public entity, the taxable base is reduced to 50% of the regular taxable base.

12. LOCAL STAMP TAXES

Certain laws authorize departments to enact local stamp taxes to support investments in hospitals, universities and other public entities and activities. Such local stamp taxes are usually levied at a **1%** rate on the gross income attached to the taxable event.

Pursuant to a revenue ruling from the Colombian Tax Service, in some cases the amounts paid by the taxpayer that correspond to stamp taxes can be deducted from corporate income tax.

Before engaging in activities, agreements or transactions with effects within the jurisdiction of any department in Colombia, the taxpayer should confirm whether a local stamp tax that could be triggered by such activity, agreement or transaction is in place, as well as the applicable rate of any relevant stamp tax.

97 Act 1450/2011 §23

98 Act488/1998 §145

99 Act 223/1995 §230

13. ROYALTIES ON NATURAL RESOURCES EXPLORATION ACTIVITIES

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

14. WELFARE CONTRIBUTIONS

14.1. Retirement Contributions

The employee can choose between private or public pension funds[100]. The contribution must be equal to at least **16%** of the employee's wage; both employer and employees can make additional voluntary contributions. Contributions must be computed and paid to the pension funds monthly. The employer must cover 12%, and the employee the remaining 4%. The employer must withhold the employee's part of the contribution and deposit **100%** of the monthly contribution in the pension fund.[101]

14.2. Health Contributions

The employee must be affiliated to a general Health Care Plan ("HCP"). Contributions to the HCP must be equal to **12,5%** of the employee's wage. Contributions must be computed and paid monthly. The employer must cover 8,5% and the employee the remaining 4%. The employer must withhold the employee's part of the contribution and pay **100%** of the monthly health contribution.[102]

14.3. Employment Risks Insurance System

The employee must be affiliated to an employment risk insurance system of its election. The contribution varies between **0,348%** and **8,7%** of the wage of the employee (depending on the activity) and are computed and paid monthly. The employer must cover and pay to the insurer **100%** of the contribution.[103]

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

These contributions were mostly eliminated as a consequence of the introduction of the CREE (see §1.4. above).

14.5. Unemployment Fund Contribution

The employer must contribute an amount equal to one monthly wage per year to the employee's

100 Act 100/1993 §59

101 Act 797/2003 §7 and Decree 4982/2007 §1

102 Act 100/1993 §204

103 Decree 1772/1994 §13

unemployment fund of choice[104]. In addition, the employer must pay to the employee a 12% yearly interest on the amount of that yearly contribution[105]. Both the contribution and the interest must be paid on a yearly basis.

14.6. Incidence on Wages Deductibility

Payment of the abovementioned welfare contributions is a requirement for the corresponding wages paid by the employer to be deductible[106].

15. CUSTOMS IMPORTS REGIME

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

15.1. Imports Custom Duties

Unless exempted, zero-rated or exceptionally subject to a different rate, importation of goods is subject to a 19% import VAT[107]. In addition to import VAT, imports are also subject to custom duties generally ranging between 5% and 20%.[108] Colombia has entered into Preferred Custom Duties Agreements with many countries, reducing the applicable custom duties for certain goods.

15.2. Taxable Base

Unless otherwise provided, custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties.[109]

15.3. Customs Valuation

Colombian custom valuation rules are those of the WTO valuation rules. For valuation purposes, the Andean Pact valuation rules in Directives 378 and 379 apply. These rules are also similar to the first mentioned rules.[110]

15.4. Filing and Payment

An import return must be filed upon nationalization of the goods. As a general rule in the ordinary importation regime, custom duties and import VAT must be paid and an imports return filed within the first month following the arrival of the goods to Colombia. In certain cases the importer can request to the custom authorities a one (1) month filing extension.[111]

104 Colombian Labor Code §249

105 Act 52/1975 §1

106 Colombian Tax Code §108

107 Colombian Tax Code §468

108 Decree 2153/2016

109 Colombian Tax Code §459 and Colombian Customs Code §26

110 Colombian Customs Code §167

111 Colombian Customs Code §115

15.5. Used M&E

Importing used M&E (and spare parts) requires a previous import license that is granted by the foreign trade authorities if the M&E are not produced locally or in an Andean country. In practice, the importation of used spare parts is hardly authorized.[112]

15.6. Free Trade Agreements

Colombia currently has thirteen Free Trade Agreements (FTAs) in force, including, among others, FTAs with various Latin-American countries, an FTA with the United States of America, an FTA with Canada and an FTA with the European Union. Although these FTAs differ in the details of the specific regulation therein, the structure of most of them is quite similar.

The FTAs are divided by chapters, each regulating a particular area that affects trade. Some of the main chapters regulate: (i) National Treatment and Market Access – establishing main rules for market access of goods and tariff elimination schedules, (ii) Rules of Origin – establishing rules to consider a product's origin, (iii) Traditional Trade issues – comprising rules on technical barriers to trade, and sanitary and phytosanitary measures, (iii) Trade Remedies – regulating subsidies, safeguards, and antidumping and countervailing measures, (iv) Investment – establishing investment protection and international arbitration for solving investment disputes under the FTA, (v) Trade in Services – liberalizing market access in services, and (vi) Intellectual Property – providing for further protection and regulation on intellectual property. Other issues such as government procurement, labor, environmental matters, among others, are also dealt with in some of these FTAs.

It is important to take into account that each FTA differs on the specific regulation of the areas mentioned. For instance, tariff elimination schedules vary for each FTA, as well as the rules of origin, services liberalization schedules, and most of the rules and procedures established in each agreement.

15.7. Selected Custom Duties Imports Regimes Available

In addition to the ordinary importation regime, a variety of special customs regimes are available for M&E imports. The applicable duties and VAT vary depending on the applicable regime.

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

Please bear in mind that last year the Colombian government issued a new Customs Code, which introduces some changes regarding the imports regimes described below. However, these new modalities are not yet in force, because their regulation has not yet been issued. Once the regulation is issued, some changes regarding the time and the requirements for the imports described below will enter into force.

15.7.1. Regular Imports Regime

It applies to all goods that will remain permanently in Colombian territory without restrictions[113]. Upon nationalization, full payment of custom duties and import VAT is required. For foreign exchange

112 Decree 925/2013 §14

113 Colombian Customs Code §117

purposes, these imports may be reimbursable or non-reimbursable. Non-reimbursable imports require an importation license.

15.7.2. Long-Term Temporary Imports Regime

It applies to M&E and spare parts listed as "Capital Goods" in the applicable regulation. This regime is used whenever the temporally imported goods are expected to remain in Colombia for a period between 10 months and 5 years. Under special circumstances, the Customs Administration has the authority to approve a longer importation period. During the importation period, the payment of custom duties and import VAT will be deferred, being payable in equal installments every six months.

It is important to keep in mind that the value of the customs duties and the import VAT must be computed upon the temporary nationalization and that the customs return must be file within the above-stated one (1) month period. Regardless of whether the Customs Administration authorizes an extension of the importation, the duties and VAT must be paid within the initial 5-year period.

The importer must extent a compliance bond, guaranteeing payment default or delays. For foreign exchange purposes, the temporary importation may be reimbursable or non-reimbursable. Non-reimbursable imports require an importation license. Upon expiry of the term, the importer can either re-export or nationalize the goods without paying any additional amounts for custom duties or import VAT[114].

15.7.3. Long-Term Temporary Imports Regime for Leased Equipment

The rules of this regime are similar to the above-explained rules. Nevertheless, given that for foreign exchange purposes lease payments are treated as foreign debt payments, the imports should be treated as non-reimbursable. In addition, this regime allows the substitution of the goods initially imported and the importation of the corresponding spare parts (if any)[115].

15.7.4. Short-Term Temporary Imports

This regime applies to specific goods that will be used for a certain activities taking no longer than six (6) months. The customs service can authorize a three (3) months extension. At the expiration of the authorized importation period, the goods must be re-exported or the importer must apply for a long-term importation regime; otherwise the goods are forfeited and/or a **200%** fine will be imposed. Although for control purposes an imports return must be filed, the operation triggers neither customs duties nor VAT, provided that a guarantee for **150%** of the VAT and customs duties amount is subscribed[116].

15.7.5. VAT Incentives

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

15.7.6. Free Trade Zones ("FTZ")

Colombia has an attractive FTZ regime that should be carefully explored by importers and investors interested in operating in Colombia. Besides the logistic advantages of operating in a FTZ, the Colom-

114 Colombian Customs Code §145

115 Colombian Customs Code §153

116 Colombian Customs Code §144

COSTA RICA CHAPTER
FACIO & CAÑAS – FAYCATAX

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FACIO & CAÑAS – FAYCATAX

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate	30%
Capital Gains Tax:	0%
Branch Profits Tax:	30%
Dividends Tax:	15%
Withholding Taxes on:	
Interest:	15%
Royalties:	25%
Technical or Administrative Advice	15%-25%
Any other remittances abroad do not regulated in the articles 49 and 50 of the Income Tax Law, generated from the Costa Rican source income.	30%
Imports:	0%
Labor services:	10%
Tax losses carry- forward term:	Restricted to 3 years (industrial) Or 5 years (agriculture)
Tax losses carry-back term:	Not applicable
Transfer Pricing Rules:	Applicable
Tax-free Reorganizations:	Mergers
VAT on sales:	13%
VAT on services (specific according to the VAT Law):	13%
VAT on Imports:	13%
Custom Duties:	From 5% to 15%
Net- worth (Assets) Tax:	Not applicable
Stamp (Documentary) Tax:	Scheduler rates
Bank Debits (Transfers) Tax Rate	Not applicable

COSTA RICA

Local Level Tax Rates:	Varies in each municipality
Tax on Industrial Activities:	Varies in each municipality
Tax on Commercial Activities:	Varies in each municipality
Tax on Service tax:	Not applicable
Real Estate Tax:	0.25%
Taxes on Other Property:	Scheduler rates applicable at National Registry, for registration purposes.
Excise Taxes:	3-5%
Statute of limitations	4 years, and 10 depending of some circumstances

1. INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate

The general statutory corporate income tax rate for Costa Rican entities including Costa Rican branches of foreign companies is 30%. For purposes of corporate Income Tax only, there are two preferential rates of 20% and 10% based on Gross Income amounts.

1.1.2 Taxable Base

All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income, i.e. the sum of all Items of Income realized by the taxpayer. The result is the Gross Taxable Income from Which Costs and Expenses are deducted. The after-deductions result is the Net Taxable Income. The result of applying the 30% tax rate is the Resulting Income Tax Liability (Tax Credits only apply for individuals.)

1.1.3.Deductions

As a general rule all costs and expenses deductible provided that they are related, proportional and necessary to the income producing activity. Any costs or expenses related to Excluded and /or Exempted Items of Income are not deductible, and the lack of appropriate apportionment could lead to a proportional rejection on overall deductible costs and expenses. Some costs and expenses are limited to quantitative ceilings, e.g. royalties and technical fees between a branch and foreign headquarters.

1.1.4. Depreciation

Tangible fixed assets depreciation is deductible. Depreciation term varies depending on the asset. Globally used methods are generally accepted in Costa Rica for tax purposes e.g. straight-line method, sum of year's digits method.

1.1.5. Transfer Pricing

Costa Rican legislation approved on February 13, 2013 a new Transfer Princing Regulations, including:

- Rules for identifying related parties
- Introduction OECD methods and sixth method (international traded goods).
- Functional analysis and comparability.
- Documentation (transfer pricing studies)
- Previous Agreements (APAS)

1.1.6. Inflation Adjustments

Costa Rica does not have inflation adjustments mechanisms. The revaluation of tangible or intangible fixed assets is forbidden.

1.1.7. Tax Losses Carry- forward / Carry-back

A Costa Rican industrial or agricultural taxpayer can carry-forward its losses for a maximum term of 3 or 5 taxable year, respectively. There is no carry-back possibility.

Tax losses can be credited towards (and are capped by) the taxpayer´s net income for the deduction´s taxable year. Therefore, a tax loss deduction cannot generate further tax losses.
Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations such as a merger. Costa Rica does not specifically regulate spin-offs.

This deduction is allowed only when the tax loss arises from an income generating activity ordinarily taxable under the general income taxation rules. Should the tax loss lack such nexus, i.e., be related to a non – taxable or exempt income generating activity, then the taxpayer is not allowed to take the loss deduction.

1.1.8. Financial Leasing Tax Treatment

As a general rule, the assets leased must be entered on the lessee´s books as an asset and in addition its value must be also be entered as a liability. The part of the lease payments corresponding to principal decreases the registered liability, while the interest portion is a deductible expense. The lessee will have the right to take depreciation or amortization deductions on the asset, provided the asset is either depreciable or amortizable. In contrast, the Operative leasing is considered as a normal rental contract and the lessee would total amount of the recurring payments.

Under IFRS leasing contracts (with optional purchase) are recorded as an Asset Accounting (IAS 17). Effects this operation corresponds tax register as an expense to the extent the payment or indebtedness of the lease.

1.2. Payment and Filing.

Ordinary Tax Year covers period between October 1st and September 30th. Tax Administration has the discretionary authority to approve a special Tax Year, being the typical the calendar Tax Year (January 1st – December 31st), particularly for transnational or multinational corporations that need to homologate their consolidated financial statements. All taxpayer must observe a filling deadline of two months and fifteen working days after the closing of the corresponding tax year.

There are installments or partial payments calculated on the average on Income Tax of the last three years, and any excess of such installments over the income Tax Liability constitutes an account collectible by the Taxpayer.

1.3. Interest and Penalties on Unpaid Tax or late payment

Unpaid taxes are subject to lateness interest that should be assessed at the official rate fixed every year by the Tax Administrations, according to banking interest rates, and penalty of 1% monthly that could range up to 20% of the corresponding tax liability.

Errors without malice will be subject to a penalty of 50% of the unpaid amount, while omissions or mistakes with bad intentions will incur fines of 100% for so-called "serious behavior", and 150% on those denominated "very serious behavior."

1.4. Dividends Tax / Branch Profits Tax

There is 15% remittance tax on dividends and branch profits remitted abroad to non-domiciled foreign entities or individuals.

1.5. Cross-border Payments

1.5.1. Withholding Taxes

When Costa Rican sourced income is remitted abroad to a beneficiary that is a non-domiciled foreign individual or entity, the payment should be a subject to a withholding tax.

1.5.1.1. Dividends

See 1.4.

1.5.1.2. Royalties

Royalty payments are subject to 25% withholding tax on remittances abroad.

1.5.1.3. Technical Administrative or other Advisory Services.

Whether rendered in Costa Rica or abroad by a non- domiciled party, advisory services are subject to 25% withholding tax on remittances abroad.

1.5.1.4. Other Services

If rendered from abroad and could not be considered as advisory services, then no withholding tax applies. If the services were rendered in Costa Rica, then a 10% (labor) 15% (professional) or 30% (generic) withholdings should apply. (There are other specific rates for certain services, such as transportation or communications, or insurance premiums).

1.5.1.5. Interest Leasing Payments

Interest Payments are subject to a 15% withholding tax rate, unless some exemptions apply, such as loans with a non-domiciled first order Bank, or interest paid in connection to imports. The financial Leasing Payment, typically linked to importation of goods or assets, is exempted and ordinary leasing is subject to a 15% tax rate.

1.5.1.6. Equity Reimbursements

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

1.5.1.7. Tax Havens

Costa Rican tax laws do not have Tax Havens provisions.

1.5.2. Tax Treaties

In terms of international taxation, Costa Rica has in effect only an agreement to eliminate double taxation, namely, the one with the Kingdom of Spain, ratified by Law 8888 of 2010, which came into effect on January 1, 2011 , although it had been signed in March 2004.

On February 13, 2014 a treaty with Germany was signed, and the ratification happened by Law 9345 of February 2nd 2016. The effects of DTA begin on January 1st, 2017.

1.5.3. Tax Information Exchange Agreements

Costa Rica has an exchange of information valid with the following countries: Argentina, Australia, Canada, USA, France, Holland, Mexico and Central American.
Also has signed treaties with Denmark, Ecuador, Iceland, Faroe Islands, Finland, Greenland, Norway, Sweden, South Africa.

Includes the Convention on Mutual Assistance and Technical Cooperation between Tax and Customs Administrations.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1. Tax Rates

VAT´S general rate is 13%. There is a reduced rate of 5% for energy supply. There is a comprehensive list of exempted goods, and the zero- rated treatment is extensive. There are also some VAT exemptions for specific public entities of the national or local territorial level.

2.1.2. Taxable Transactions

There are: sale and importation of movable tangible property; and services rendered in Costa Rica. In the case of services, only the services specifically included in a list are taxable, leaving the non mentioned services excluded from the VAT coverage.

2.1.3. Taxable Base

As a general rule, the taxable base is the price or value of the considerations paid for the good services.

There are cases where certain item must be either or excluded from the taxable base and/or cases, which should be analyzed on case-by-case basis.

2.1.4. Creditable VAT

As a 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, provided that they constitute a cost or expense of the taxpayer´s income producing activity.

The VAT paid in the acquisition of good that will become fixed assets for the buyer is creditable in VAT account.

There are limitations in the VAT credits available for VAT on costs and expenses (e.g. capital assets, raw materials), especially for non-manufacturing companies.

2.2 Selected VAT Incentives

The VAT law does not include selective incentives.

2.3. Payment and Filing

VAT has one month taxable period. Therefore, the tax must be assessed and a VAT return filed monthly. The VAT return must be filed and in full on the filing date, 15 working days after the closing of the monthly period.

3. OTHER TAXES

3.1. Property Taxes

There national taxes on real estate and vehicles according to the corresponding laws. Real estate tax has a 0.25% tax rate. Motor vehicles tax ranges from approximately US $ 25 up to a 3.5% on the fair market value of the motor vehicle. The taxable base in the case of real estate is the registered value of the property in the Municipality. These taxes are paid yearly.

3.2. Industry, Commerce and Service Tax

This is also a municipal tax applicable to all industrial commercial and service activities performed in the territory of said municipality. The taxable base is typically the gross revenue received by the taxpayer and arising from the activity performed in said locality, even though some municipalities use a mix of gross and net income. The tax rate varies according to each every one of the 81 municipalities. The tax is usually paid filed yearly.

3.3. Stamp Tax

This is a documentary tax applicable to a list of with effects in Costa Rica or for Costa Rica party, with scheduler rates. The taxable base is the full amount of considerations agreed in the document, unless otherwise indicated by law. There are several exemptions to this tax, which must be checked depending on the different types of documents.

3.4 Registration Tax

The registration of acts and documents with the National Registrar Office is subject to registration taxes that varies according to a scheduler classification. The taxable base is the amount of the price or consideration shown the document.

3.5. Annually Corporate tax

Costa Rica has approved an annual tax on all corporate entities registered in Costa Rica. The law comes into effect on April 1, 2012. In january, 2015 this tax Has been found unconstitutional by the Sala Constitucional for the Court Supreme for Justice.

3.6. Solidarity Tax for the Strengthening of Housing Programs

The Costa Rica Government introduced Luxury Tax on Houses valued at more than 121 million colones (local currency) in 2014. The tax is also known as the 'Ley Impuesto Solidario Para el Fortalecimiento de Programas de Vivienda'. The Luxury Tax is paid in addition to the other existing property taxes.

The Luxury Tax on Houses is calculated on an annual basis and is due for payment every first of January each year.

4. CUSTOMS REGIME GENERAL ASPECTS

4.1. Custom Duties

In addition to import VAT, imports are also subject to custom duties that range between 5% for most goods, and the application zero rating to certain goods in the context of Free Treaties of Costa Rica.

4.2. Taxable base

Customs duties are calculated on the CIF value goods, while import VAT is computed on the CIF value corresponding custom duties.

4.3. Transfer Pricing

Custom valuation rules follows the GATT valuation code (1994). The department of the Custom Administration has the authority to manage a valuation database.

4.4. Filing and Payment

An important tax return must be filed upon nationalization of the good, and all import procedures must be performed through an authorized custom agent.

4.5. Selected Custom Duties Regimes Available

4.5.1. Ordinary Importation Regime

It applies to all goods that will remain permanently in Costa Rican territory. Full payment of custom duties and import VAT is required upon nationalization.

4.5.2. Temporary Importation Regime

This regime allows the suspension of import taxes payment for an ordinary term of one year, and applies to goods not subject to physical transformation. This regime does not require the subscription of guarantee.

4.5.3. Active Improvement Regime

This regime allows the suspension of import taxes and applies to goods subject to physical transformation within Costa Rican Territory, and does require the subscription of a guarantee.

4.5.4. Passive Improvement Regime

This regime allows the temporary export of goods to physical transformation outside Costa Rican Territory.

4.5.5. Duty Drawback Regime

This regime allows for the reimbursement of tax payments on raw materials imports that were used in the manufacturing process of exporting goods, as long as the export is executed within a year from the raw materials importation.

4.5.6. Free Trade Zone Regime

This regime facilitates the operation of exporting-oriented companies financed through direct foreign. It has exemptions and tax benefits for VAT and Income taxes, subject to compliance of a Contract signed with the Ministry of Foreign Trade competent authorities.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Social Security Systems

The Costa Rican Social Security Institute (Caja Costarricense del Seguro Social) manages and operates the Social Security System and National Health System. These systems provide services and benefits related to illness treatment (Health Care), disability and pension systems, old age, maternity, and death insurance. Social Security taxes are applicable to employer and employees. The taxes are based on the monthly salaries with a 26.17% rate for the employer and 9.34% for the employee, with no brackets or ceilings on the taxed amounts.

5.2. Retirement Contributions

Employee Protection Act No 7938 (February 16, 2000) created and additional employer contribution (3% of employee´s monthly salary) that applies for the whole employment term and does not have a ceiling or a temporal limit. Such employer contributions are deposited in Labor Capitalization Fund under the specific employee´s name, funding in halves a Mandatory Complementary Pension and savings fund. The Costa Rican Social Security Administration collects these contributions through a Centralized Collection System.

5.3. Labor Risk Insurance

This mandatory insurance is covered under the state owned monopoly of the Insurance National Institute covers all the labor force. The employer has to pay insurance according to the schedule of primes updated by the Insurance National Institute.

5.4. Incidence on Wages Deductibility

For purposes of the Corporate Income Tax deductible expenses, the deduction of wages is conditioned to the accurate applications of Income Tax on Salaries and Social Security contributions.

6. CHANGES IN THE LAW APPLYING SINCE 2014

6.1. Comprehensive Amend to the Law No 8634 of the Banking System Development.

This reform covers topics of interest, commissions and other financial expenses paid to Banks by companies domiciled abroad and those went from not being taxed, to be taxed at a rate of 15% of the amount paid. Eliminates the exemption established at the current section 59 of the Income Tax Law, related to payments of interests, commissions and financial expenses paid to financial entities recognized by the Central Bank of Costa Rica, as institutions which usually engaged to make international operations. This reform includes a change on the withholding on remittances abroad.

6.2. The section 27 of the Regulation of the Law Sales Tax has been updated with the modification that ruled the Ordinance No. 38579-H to the subsection f) of that section.

The Tax Administration is authorized to grant special purchase orders, in order to file or the taxpayers make acquisitions of goods without previous tax payment.

6.3 AMPO (Informative Return- Formal compliance)

Multifunctional Tool Analysis Preprogrammed . This resolution is mandatory for the major taxpayers which have to be done electronically through "AMPO" tool. The information that must be reported is General Data Company Name, ID Tax Number, Address Fiscal Domicile, number employees, tax period, date of registration as a taxpayers, information of the Legal Representative, Shareholders, tax obligations, agencies, branches, and other info.

7. NEW LAWS APPLYING SINCE 2014

7.1. Creation of Tax Procedure Regulation

Was effective since April 2nd, 2014 and repeal the General Tax Audit and Collection Regulations, giving the taxpayer clarity, transparency, legal certainty and simplicity in implementing the Tax Code of Standards and Procedures.

7.2. Tax Reform: Bill to improve the fight against tax fraud (Law Draft)

This tax reform, was included with the purpose of reduce the tax avoidance and the breach. This law came into play on December 20th 2016.

7.3 In February, 2016 the Tax Administration presented at Congress the project to corporate taxes with the number 19.818.

This project aims to replace the corporate tax that was found unconstitutional.

7.4 On September 13th 2016, came into play the "Transfer Pricing declaratory" which is an informative tax return which due date is the month of June every year.

7.5 On December 2017, the Costa Rican Congress has received under analysis the VAT and Corporate Income Tax (CIT) project to amend the current law.

For the VAT purposes the project proposes that the all services will be subject to pay VAT. The credits only will be allowed if they have relation directly with the taxable event, in order to use those credits against the tax debit.

Regarding to the CIT, the capital gains of the assets used in the economic activity subject to the CIT and necessary to generate the income, will be subject to pay income tax, currently only the capital gain are taxable if they come from the depreciable assets, also if they come from the habitual activity becoming in ordinary income.

DOMINICAN REPUBLIC CHAPTER
DR&R ATTORNEYS & TAX CONSULTANTS

DOMINICAN REPUBLIC
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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	27%
Capital Gains Tax:	27%
Branch Profits Tax:	27%
Dividends Tax:	10%[1]
Tax on local sales by Free Zone Companies:	3.5%[2]
Withholding Taxes on:	
- Interest:	10%
- Royalties:	27%
- Other Services:	27%
Tax losses carry-forward term:	5 years
Transfer Pricing Rules:	Economic group transfer pricing rules[3]
Tax-free Reorganizations:	i) mergers; ii) reorganizations and splits, and iii) sales and transfers within an economic group
VAT on Sales:	18%[4]
VAT on Services:	18%
VAT on Imports:	18%
Custom Duties:	from 0% to 20%
Selective Consumption Taxes:	In the majority it is of a rate of 20%, the highest being 78%[5]
Bank Checks and Transfers Tax Rate:	0.15%[6]
Personal Property and Assets Tax:	1%[7]

Local Level Tax Rates[8]:	
Stamp (Documentary) Tax:	2% on mortgages, motor vehicle transfers
Turnover Tax:	16% ad-valorem on fossil fuels
Real Estate Tax:	3% transfer tax

Treaty Taxation:

Countries	Interest	Dividends	Royalties
Canada[9]	Up to 18%[10]	Up to 18%[11]	18%
Spain	10%	10%	10%

OVERVIEW

INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate

The general statutory corporate income tax rate for entities incorporated in the Dominican Republic, including branches or permanent establishments of foreign companies, is **27%**.

1 Branches or other forms of permanent establishments of foreign companies shall withhold and pay the same tax rate when sending payments to a parent company abroad.

2 Free Zone Enterprises when transferring goods or services to a person or entity in the Dominican Republic are subject to payment of a three point five percent (3.5%) fee on account of income tax on the value of gross sales made in the local market. Commercial Free Zones are subject to a 5% fee.

3 In order to establish transfer pricing between related entities, the Dominican source income of branches or other forms of permanent establishments of foreign companies operating in the country will be determined based on actual results obtained from their operations in the Dominican Republic. Decree No. 78-14, about Transfer Pricing, regulates the order of priority of the different valuation methods ruling transfer pricing, as well as the informal declaration obligation over transactions with related parties or affiliates. In that sense, the adjusted amount that will govern for 2017 is RD$ 11,015,961.00 (approximately US$222,995.00) for tax payers whose transactions with related parties do not exceed said value.

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

5 Goods subject to excise taxes are: leaded and unleaded fuel (16% ad-valorem tax); cigarettes (per each number of cigarettes in each pack, and 20% ad-valorem), alcoholic beverages (Degree per liter of absolute alcohol and 10% ad-valorem tax), telecommunications (10%), insurances (16%) except if they fall under Law 87-01, electronic items (10-20%); among others.

6 A tax of RD$1.50 per every thousand pesos (RD$1,000.00) is levied on the values of all checks or wire transfers.

7 This rate applies on the total value of the assets, including real estate properties as reflected in the tax payers' balance sheet, not adjusted by inflation and after applying the deduction for depreciation, amortization and reserves for non-collectable accounts. It will be excluded from the taxable base of this tax stock investments made in other companies, land located in rural areas, fixtures on agricultural exploitation and advance taxes.

8 Reference is made to the most usual rates, but different rates may apply.

9 There is a Non Discrimination clause in the treaty.

10 It is currently 10% as per our applicable national law.

11 It is currently 10% per both our applicable national law and most favored nation clause.

1.1.2. Taxable Base

All revenue from domestic source is subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income. The result is the Gross Taxable Income from which all expenses incurred in obtaining taxable income are deducted. The after-deductions result is the Net Taxable Income. The Exempted Items of Income are subtracted, resulting in the Taxable Base to which the 27% statutory corporate tax rate is applied. The result of applying the 27% tax rate is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the Income Tax Liability.

[+] Sum of All Revenues
[=] Gross Income
[–] Deductible Expenses
[–] Exempted Items of Income
[=] Net Taxable Income (Minimum Presumptive Income Tax)
[=] Taxable Base
[*] 27% Corporate Tax Rate
[=] Resulting Income Tax
[–] Tax Credits
[=] Income Tax Liability
[=] Income Tax Charge Payable

1.1.3. Deductions

- Non-resident physical or legal persons or entities that obtain gains in the Dominican territory by means of a permanent establishment shall pay taxes on the total amount of the income applicable to said establishment in accordance to what is established for legal entities in the Tax Code, notwithstanding any norm that may be specifically applicable. Nevertheless, these permanent establishments do not automatically acquire the characteristics of a resident.

- Non-resident physical or legal persons or entities that obtain income without a permanent establishment shall pay taxes separately for each particular income subject to taxation.

- As established in Article 287 of the Tax Code of the Dominican Republic, the following rules apply:

- Contributors that make payments over Fifty Thousand Pesos (RD$50,000.00), in fiscal invoices with fiscal credit value, shall use any of the means established in the banking and financial system that single out the beneficiary and that are different from payment in cash, in order to be able to confirm costs and expenses that may be deducted or that may constitute fiscal credit and other income with tax effect. This amount may be adjusted by the inflation as published by the Central Bank.

- Financial Interests: Limits to their Deductibility.

The same Article establishes that when the expenses incurred through the constitution, renewal or cancellation of the debt, constitute taxable income to the lender, under the provisions of articles 306 and 306 bis of the same Tax code, the deduction shall be limited to the amount arising from applying to the expense the result of the application of the abovementioned articles, for a resident and

non-resident lender, respectively, and the rate established in accordance to the dispositions of article 297 of the DR Tax code.

Example:

Credit Entity	Interests	Withholding (10%)	Withholding Paid	TET
ABC Bank of USA	225,000.00	10%	22,500.00	10%
ABC Bank of Panamá	350,000.00	10%	35,000.00	25%

Part of the deductible expense			
	Deductible	Non-deductible	Percentage Loss
10/27*225,000=	83,250.00	141,750.00	63%
25/27*350,000=	325,500.00	24,500.00	7%

Notwithstanding other norms relating to deduction of interests, the amount to be deduced for said concept shall not exceed the value resulting from multiplying the total amount of interests accrued in the fiscal period (I) multiplied by three times the existing relationship between the average annual amount of the accounting capital (C) and the average annual amount of all the debts (D) of the contributor that accrues interests (I*3(C/D)).

Example:

Expenses for Financial Interests	200,000.00
Corporate Capital at Beginning	300,000.00
Corporate Capital at End	500,000.00
Average Corporate Capital	400,000.00
Debts that generate interests	
Pending at the Beginning	2,000,000.00
Pending at the End	1,800,000.00
Debt Average	1,900,000.00

Limit on the deductions	
Corporate Capital / Debts	21%

Final Result = (I*3(C/D)	126,315.79
Deductible Proportion	63%
Non-deductible Portion	37%

The limitation established in the Article of reference shall not apply to entities of the financial system regulated by the financial and monetary authority.

Interest not deducted in a fiscal period may be deducted in the following ones, up to the period three years from the date they were accrued.

- Deduction of education expenses shall apply as long as the service has been effectively invoiced by the education entity with a valid fiscal invoice with fiscal credit up to a maximum of ten percent (10%) of the taxed income. Nevertheless, said deduction shall not exceed twenty-five percent (25%) of the minimum exemption established in article 296 of the Tax Code of the Dominican Republic.

- Also deductible:

- Insurance premiums that cover risks on goods that produce profits.

- Depletion. In the case of the exploitation of a mineral deposit, including any gas or petroleum well, all the costs concerning exploration and development, as well as the interest attributable to it, must be added to the capital account. The amount deductible as depreciation for the fiscal year shall be determined through the application of the Unit of Production method to the capital account for the deposit.

- Amortization of Intangible Assets. The depletion of the monetary cost of each intangible asset, including patents, copyrights, drawings, models, contracts and franchises whose life has a defined limit, must reflect the life of said asset and the method of recovery in a straight line.

- Uncollectible Accounts. Losses arising from bad credit, in justifiable amounts, or in amounts separated to create a reserve fund for bad accounts.

- Donations to Public Institutions of Charity.

- Investigation and Experimental Expenses.

- Losses.

- Contributions to Pension and Retirement Plans. Contributions to pension and retirement plans approved in accordance of the Law issued for its regulation, and the Rules of Application of this tax, as long as these plans are established for the benefit of the employees of the companies, up to 5% of the applicable tax for a fiscal exercise. However, as per Law 87-01 all contributions to pensions and retirement plans will be deductible regardless of such 5% limit,

- Treatment of natural persons

Individual taxpayers, except those who are salaried, that carry out activities distinct from the business, have the right to deduct from the gross income of such activities the verified expenses necessary to obtain, maintain and conserve taxed income.

Natural persons shall be subject to a 25% tax rate when their income exceeds RD$ RD$867,123.01; 20% when their income falls between RD$624,329.01and RD$867,123.00; 15% when it is between RD$416,220.01and RD$624,329.00; while total income below those ranges is exempted . This scale will be adjusted by inflation early each year.

Period	Contribution Exemption	
	Annually	Monthly
1998	90,720.00	7,560.00
1999	97,800.00	8,150.00
2000	102,792.00	8,566.00
2001	120,256.00	10,000.00
2002	125,256.00	10,438.00
2003	138,420.00	11,535.00
2004	197,470.00	16,455.83
2005	240,000.00	20,000.00
2006	257,280.00	21,440.00
2007	290,243.00	24,186.92
2008	316,017.00	26,334.75
2009	330,301.00	27,525.08
2010	349,326.00	29,110.50
2011	371,124.00	30,927.00
2012	399,923.00	33,326.92
2013	399,923.00	33,326.92
2014	399,923.00	33,326.92
2015	399,923.00	33,326.92
2016	409,281.00	34,106.75
2017	416,220.00	34,685.00

1.1.4. Depreciation

For the purposes of the DR Tax Code, the concept of depreciable assets means the assets used in a business that loses value due to wear and tear, deterioration or disuse.

The amount allowed in a fiscal year for depreciation deduction of any category of assets shall be determined by applying to an asset account, at the close of the fiscal year, the percentage applicable to such category of assets.

Depreciable assets must fall in one of the following categories:

Category 1. Buildings and other structural components used to generate taxable income may be deducted at a 5% annual rate and is calculated by applying the depreciation coefficient to the depreciable base of each asset individually.

Category 2. Automobiles and light trucks for common usage; office equipment and furniture; computers, information systems and data processing equipment may be deducted at a 25% annual rate over the acquisition or construction cost of such assets, minus the ITBIS that has been paid in the acquisition of a business.

Category 3. Any other depreciable assets may be deducted at a 15% annual rate over the acquisition or construction cost of such assets, minus the ITBIS that has been paid in the acquisition of a business.

Category 2 and Category 3 assets will be registered in a joint account and the depreciation will be calculated by multiplying the depreciation coefficient by the depreciable base of its joint account.

The initial addition to an asset account for the acquisition of any asset shall be its cost plus insurance, freight and installation expenses. The initial addition to an asset account for an asset of one's own construction shall include all taxes, charges, including customs duties and interest attributable to such asset for periods prior to its placement into service.

Amortization of intangible assets is permitted by the depletion of the monetary cost of each intangible asset, including patents, copyrights, drawings, models, contracts and franchises whose life has a defined limit, but it must reflect the life of said asset and the method of recovery in a straight line.

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

1.1.5. Transfer Pricing

The Dominican Republic has transfer pricing rules applicable to transactions with related companies. The general principle is that when legal acts between a local enterprise of foreign capital and a natural person or legal entity domiciled abroad that directly or indirectly controls it shall be considered to be, in principle, made between independent parties when their provisions adhere to normal market practices between independent entities.

The transfer pricing rules shall also apply when a resident performs commercial or financial transactions with either a (i) related resident, or (ii) natural person or legal entity domiciled, organized or located in states or territories with fiscal paradise or with low taxes, be them related or not.

In order to determine the price or amount of the operations between related parties, the conditions of the transactions between them must be compared with other comparable transactions executed between independent parties.

1.1.5.1. Valuation Methods

For the purposes of determining the price of the operations executed between related enterprises, one of the following methods must be chosen:

a. Non controlled comparable price method (MPC);
b. Resale price method (MPR);
c. Additional cost method (MCA);
d. Comparable profits method (CPM)
e. Transactional net margin method (TNMM)

1.1.5.2. Advanced Pricing Agreements (APA) and Cost Sharing Agreements

Taxpayers may submit an Advanced Pricing Agreement request to the tax authorities on transfer prices that set the values of the operations or financial or commercial transactions carried out with other related parties, prior to the their execution and for a limited time.

Likewise, Cost Sharing Agreements are permitted, as long as they comply with Article 3 of Decree 78-14.

1.1.6. Inflationary Adjustments

The Executive Branch shall order an adjustment for inflation for each calendar year on the basis of the regulated Consumer Price Index, which is calculated and published by the Central Bank of the Dominican Republic.

a. The adjustment ordered for any fiscal year shall be applied to the following concepts determined as of the closure of the preceding fiscal year:

1. The steps in the tax scale for personal income tax;

2. Any other amount expressed in Dominican currency ("RD$");

3. Up to the limit set forth in the Regulations, any net participation in the capital of a business or in any capital asset not related to business;

4. The transfer to future periods of the net losses for operations and of dividend accounts;

5. The credit for taxes paid abroad; and,

6. The nontaxable minimum established for individuals.

b. The Regulations shall include:

1. Regulations that describe how, in the case of businesses, the amount of the adjustment set forth in clause (a) shall be distributed among all the assets in the balance sheet of business, with the exclusion of cash, accounts receivable and stocks and bonds;

2. Provisions for rounding-off the adjusted amounts up to the appropriate limit in order to efficiently administer the taxes; and

3. Provisions that contemplate interim annual adjustments for the calculation of reserves for taxes, insufficient payments and payments in excess, undue payments, amounts paid through retention of an estimated tax and similar matters in which it is necessary to make said adjustments in order to carry out the goals of this Article.

c. The Executive Branch, if necessary, may establish adjustments with respect to inflation in other matters that affect the assessment of taxable income or the payment of taxes.

1.1.7. Tax Loss Carry-forward

The Dominican Republic taxpayers may carry-forward tax losses for a maximum term of 5 fiscal years in accordance to the following rules:

a. In no case, in the current or future tax period, losses will be deductible from other entities in which the taxpayer has made a reorganization process nor losses generated from non-deductible expenses.
b. The enterprises may only deduct their losses of twenty percent (20%) of the total amount of such losses per year. In the fourth (4) year, this twenty percent (20%) will be deductible only to a maximum of eighty percent (80%) of the net taxable income related to such fiscal period. In

the fifth (5) year, the maximum amount is of seventy percent (70%) of the net taxable income. The twenty percent (20%) portion of losses not deducted in a year cannot be deducted in further years nor will it trigger any reimbursement by the Dominican State. The deductions can only be made when filing the income tax returns.

The enterprises that in their first fiscal year present losses in their first income tax return will be exempted from this rule. The losses generated in their first fiscal year may be offset against 100% of their income in the second fiscal year. In the event that such losses could not be fully offset, the remaining credit will be offset following the deduction procedure explained herein.

There is no carry-back possibility.

Losses arising from the sale or disposal of stock or shares may only be computed against capital gains of the same nature.

Tax losses cannot be transferred to other taxpayers.

The Dominican Republic Tax Code allows for three types of tax-free reorganizations:

i. Tax-free mergers, preexisting through a third one that forms, or by the absorption of one of them;
ii. Tax-free split or division of an enterprise into others that jointly continue with the operations of the first, and,
iii. Sales or transfers within an economic group.

1.1.8. Tax-Free Reorganizations

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

i. Approval of the local IRS office of the reorganization: All transfers of rights and obligations are subject to the prior approval of the local IRS office. The non-compliances of the formal duties of the entities whose reorganization results in their dissolution, whether by merger, splits, take over, sales or equity transfers, will be assumed by the surviving entity for the period the statute of limitations that have not yet elapsed and will be liable of any sanctions for the infractions made by the predecessor company.

ii. Dissolution of the absorbed entity: The mergers, acquisitions, sale or transfer of equity from one enterprise to another, leads to the closing of activities of the absorbed entity and obligates such company to make a final income tax return within sixty (60) days after the closing of its activities.

iii. Compliance with the Commerce Code requirements: the publication and registration requirements set forth in the Commerce Code, Law 3-02 of the Mercantile Registry, and Law 479-08 regarding Commercial Companies and Individual Limited Liability Companies must be observed.

1.1.9. Leasing Tax Treatment

The leasing of moveable or immovable assets directly affects the corporate income tax and the Tax on the Transfer of Industrialized Goods and Services (ITBIS) of individuals and corporations.

For the leasing of assets, the rent payments will be treated as deductible expenses to the lessee's income tax, but for financial leasing such payments will be deducted provided that they are not considered to be capital amortization to the assets granted in lease.

If the payment of the lease is made to an individual (the landlord), the rent payment will be subject to a 10% withholding over the amount paid as rent and it will be considered to be a payment on account. Enterprises or corporations are not subject to any withholding when receiving rent payments.

If the landlord is a corporation, the leased asset will be considered to be part of the corporation's tax equity at the end of the operational period subject to inflation adjustments and depreciations, and consequently, affect the income tax to be paid.

To determine tax equity and further apply the inflation adjustments, the following steps must be followed:

a. The financial leasing company must omit from its assets, the accounts receivables for capital settlements insofar as the company is allowed to deduct expenses for depreciation of assets granted in lease;

b. The company that receives the assets in lease must omit from its liabilities (i) the accounts payable for capital settlements, and (ii) the fixed assets received in lease.

The payments made for the lease of moveable and immovable property are levied with an 18% tax rate for ITBIS applied over the lease price. If the landlord is a natural person or individual and the lessee is a corporation, the latter must withhold the 100% ITBIS amount to be paid and file the same before the local IRS. Rent of housing for personal use is exempted from the payment of ITBIS.

In the case of leasing of moveable assets between entities, the paying entity is required to withhold 30% of the ITBIS to be paid.

1.2. Foreign Exchange Gains and Losses

With respect to the application of income tax, our tax regime considers that foreign exchange gains or losses not made at the end of the fiscal year, derived from adjustments to the exchange rates over the currencies of the corporation or obligations in foreign currency, will be considered as taxable income for tax purposes or as deductible expenses depending on each particular case. To that effect, the referred exchange rate adjustments will be made in accordance to the exchange rate index published by the tax administration.

The entries subject to these readjustments are a) all asset entries in foreign currency which are permanent in the country or abroad. In this case, entries such as cash in foreign currency, account receivable entries, titles, rights, certificates, deposits and investments made in foreign currency must be adjusted; and b) all liabilities in foreign currency. The exchange adjustments to the assets in foreign currency must be made against an income-statement account "Exchange Rate Results", while the exchange rate adjustments to the liabilities in foreign currency must be made against each corresponding asset, if applicable, or against the income-statement account "Exchange Rate Result". The income-statement account will be considered for the Profit & Loss Statement and also for tax purposes.

1.3. Payment and Filing

All enterprises or corporations incorporated in the country or abroad domiciled in the country that obtain Dominican source income and/or foreign source income from investments and financial earnings, will be obligated to file an income tax return within 120 days after the closing of the fiscal year.

The individuals or persons, including those that operate business with or without organized accounting and the other physical persons, domiciled or not in the country, taxpayers of Dominican Source income and for foreign income of investments and foreign earnings, must file annually before the tax administration an income tax return of the previous fiscal year, and pay the tax no later than March 31st of each year.

No later than March 15th of each year, the corporations or entities that act as employers shall file separately their income tax declaration on the taxes withheld and paid on the previous calendar year for the wages paid to its employees as well as the independent staff that rendered work or services.

1.4. Penalties on Unpaid Tax or Tax Paid Belatedly

The Dominican Tax Code sets forth certain penalties for incompliance with formal requirements and for incompliance with material obligations.

Penalties for non-compliance of formal requirements are imposed on the following infractions:

i. Omitting presentation of tax declarations within the set period is penalized with a surcharge of 10% of the first month and an additional 4% of each month or fraction thereof, interests of 1.10% per each subsequent month or fraction of a month, and a fine of five (5) to thirty (30) minimum salaries (a minimum salary is equal to approximately US$250.00). In addition to this fine, a sanction of 0.25% of the income declared in the previous fiscal year may be imposed on the taxpayer. However, the surcharges, interests and fines may be reduced up to 40% or 30% if the taxpayer voluntarily pays the due tax by rectifying its tax declarations prior to any requirement made by the tax administration and if no tax audit has been initiated for the tax or the corresponding fiscal period;
ii. Close down of businesses, which may be applied on establishments for lacking registry books, not registering determined goods or equipment, the delay in making the accounting registration after it has been required to do so, the destruction or hiding of goods, documents, books and accounting records, among others.

Amongst penalties for incompliance with substantial obligations:

i. Tax Evasion: this is fined with a penalty of two (2) times the tax that has been omitted, notwithstanding the closure of the establishment. In the event that the amount of the tax evasion could not be determined, a fine will be set between ten (10) to fifty (50) minimum salaries;
ii. Tax Fraud: this is fined with a penalty from two (2) to ten (10) times the tax being evaded; the confiscation of the merchandise or products and the vehicles or other elements utilized for committing the fraud; closure of the establishment for a maximum period of 2 months; cancelation of the license, permits related to the activities performed by the taxpayer for a maximum period of 2 months. In the event of withholding or perception agents, this will be sanctioned with a penalty equal to the payment of two (2) to ten (10) times of the tax withheld or perceived after the expiration of the time limits in which they must remit them to the tax administration. When

the amount of the tax fraud cannot be determined, the sanction will be from five (5) to thirty (30) minimum salaries. Imprisonment of 6 days to 2 years may apply in some circumstances. The amounts of the fine may be reduced whenever the incompliance is not repeated and upon rectification or voluntary filing of the tax.

1.5. Dividends Tax / Branch Profits Tax

The distribution of dividends by local entities or corporations, as well as the repatriation by foreign branches established in the county of Dominican source profits, to natural persons or legal entities residing or domiciled in the country or abroad, are subject to a 10% withholding to be made and paid by the local entity or corporation making the distribution or the branch remitting the profits abroad.

1.6. Cross-border Payments

1.6.1. Withholding Taxes

Those who pay or credit on account taxable income from Dominican sources to physical or legal persons or entities neither residing nor domiciled in the country, must withhold and pay to the Administration, as sole and definitive payment of the tax, 27% of such income.

The gross income paid or credited on account is understood to be, without admitting evidence to the contrary, net income subject to withholding, except when the DR Tax Code establishes the presumptions referring to obtained net income, in which case the tax base for the calculation of the withholding shall be this latter one.

1.6.1.1. Interest on Loans Obtained Abroad

Whoever pays or credits to the account interests of a Dominican source to non-resident physical or legal persons or entities shall withhold and present before the Administration, as a onetime and definitive payment, the ten percent (10%) of said interests.

1.6.1.2. Interest Paid or Credited to Residing Physical Persons

Those who pay or credit interests to physical persons residing or domiciled in the country must withhold and present before the Tax Administration, as a onetime and definitive payment, the ten percent (10%) of said amount.

Physical persons may decide to make their Income Tax statements so as to request the return of the amount withheld from interests, in which case it shall be considered as a payment to the account of Income Tax, when one of the following conditions is met:

a. When the net taxable income, including interests, is inferior to two hundred forty thousand pesos (RD$240,000.00);
b. When the net taxable income is under four hundred thousand pesos (RD$400,000.00), as long as the income for interests is not over twenty-five percent (25%) of the net taxable income.

As of 2015, the scale established above shall be adjusted annually by the accumulated inflation corresponding to the previous year, in accordance to the numbers published by the Central Bank of the Dominican Republic.

1.6.1.3. Dividends

Please refer to section 1.5.

1.6.1.4. Royalties

Royalty payments made to non-domiciled companies or natural persons are subject to a 27% withholding tax. If the double taxation treaty with Canada or Spain applies, an 18% or 10% withholding will apply, respectively.

1.6.1.5. Technical Assistance, Engineering and Consulting Services

Technical assistance, engineering and consulting services rendered by non-domiciled corporations or natural persons are subject to a 27% withholding tax.

1.6.1.6. Payments to Non-Residents

Payments to non-residents working on a temporary basis in Dominican Republic will be subject to a 27% withholding tax on their gross income.

1.6.1.7. Rental Payments on moveable property

These are subject to a withholding rate of 10% when the beneficiary of the payment is a natural person. When the beneficiary is an entity or corporation, no tax withholding will apply.

1.6.1.8. Rental Payments on real estate property

Just the same as above, these are subject to a withholding rate of 10% when the beneficiary of the payment is a natural person. When the beneficiary is an entity or corporation, no tax withholding will apply.

1.6.1.9. Proceeds from the sale of any type of property

These are subject to a 3% transfer tax and, if applicable, a capital gains tax of 27%. To determine the capital gain subject to tax, the acquisition or production cost adjusted by inflation shall be deducted from the price or value of the transfer of the asset. When dealing with depreciable assets, the acquisition or production cost to be considered shall be their residual value, and based on this the referred adjustment shall be made.

1.6.1.10. Others

The general withholding rate applicable to other cross-border payments not included within those mentioned above are subject to a general withholding rate of 27%.

1.7 Money Laundering Legislation

1.7.1 Law No. 155-17

Law No. 155-17 on Money Laundering and Financing of Terrorism published on June 1, 2017 on the Official Gazette, presents some important novelties from the tax point of view, as follows:

- Effective on June 1, 2017, tax offenses such as tax fraud are hereinafter also considered violations to our new money laundering rules under Law No. 155-17.

- Identification of the final beneficiary of corporate stock. According to said Law 155-17, the obligated parties have the obligation to identify the final beneficiaries of any corporate stock and to provide any pertinent information of the same. Therefore, in order to comply with the provisions of said Law, the Tax Administration (DGII) proceeded to modify some of its filing forms by adding to the same several annexes regarding the identification of the final beneficiary of any corporate stock. Such is the case form IR-2 (Annual Affidavit of the Tax on the Income of Legal Entities) whose new annexes are the H-1 and H-2. Likewise, in Form RC-02 (Affidavit for the Registration and Updating of Legal Data) and Annex D has been added.

1.7.1.1 General Rules

As a result of Law No. 155-17 on Money Laundering and Financing of Terrorism published on June 1, 2017 on the Official Gazette, the Tax Administration (DGII) has issued the following General Rules on Sectorial Money Laundering (hereinafter "GRSML")

i) GRSML No. 01-18 dated January 18th, 2018, regarding the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by lawyers, notaries, accountants and factoring companies;

ii) GRSML No. 02-18 dated January 18th, 2018, about the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by natural or legal persons who regularly engage in the purchase and sale of motor vehicles, ships and aircraft;

iii) GRSML No. 03-18 dated January 18th, 2018, regarding the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by real estate agents, construction companies and fiduciary non-financial or public offerings;

iv) GRSML No. 04-18 dated January 18th, 2018, regarding the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction that must be observed as "Obligated Subjects" by the traders of precious metals, precious stones and jewelry, natural or legal persons who are dedicated to the purchase and sale of firearms and pawnshops; and,

v) GRSML No. 05-18 dated January 18th, 2018, which establishes the administrative sanctioning regime of non-financial subject to the regulation and supervision of the DGII for the prevention of money laundering, financing of terrorism and the proliferation of weapons of mass destruction.

On the other hand, the Tax Administration (DGII) proceeded to modify some of its forms such as the IR-17 (Sworn Statement and/or Payment of other Withholdings and Supplementary Remuneration); and IT-1 (Sworn Statement and/or Payment of Tax on Transfers of Industrialized Products and Services (ITBIS)).

Regarding the form of IR-17 (Affidavit and/or Payment of other Withholdings and Supplementary

Remuneration), in its line "Other Withholdings" the following variations were made:

- The following boxes were added: i) Internet games (Law 139-11, Article 7) and; ii) Other Income (Decree 139-98, Article 70, Literal a and b).
- The name of the box "Other Income" was changed to "Other Income (Law 11-92, Art. 309, Literal b)".

Regarding the form of IT-1 (Affidavit and / or Payment of the Tax on Transfers of Industrialized Products and Services (ITBIS)), an "Annex A" has been added.

2. VALUE ADDED TAX (VAT), A.K.A. ITBIS

2.1. General Aspects

2.1.1. Tax Rates

The general VAT rate is 18%. A reduced VAT rate is established for the goods listed below:

Description	Examples	2015	From 2016	2017
Milk products	Yogurts, butter	13%	16%	16%
Coffee	Coffee, even toasted and decaffeinated	13%	16%	16%
Animal Oils or Edible Vegetables	Soy Oil, peanuts, palm, sunflower, coconut	13%	16%	16%
Sugars	Sugar from Canes and other sugars	13%	16%	16%
Cocoa and Chocolate	Powdered, block and tablet Cocoa	13%	16%	16%

There are also some VAT exemptions for specific public entities of the national or local territorial level, religious institutions, free zones, health services (except gymnasiums), financial services – including insurance -, pension and retirement plans, ground transportation for persons or freight, electricity, water and garbage disposal services, rent of housing for personal use and personal care services, amongst others.

2.1.2. Taxable Transactions

Transactions subject to VAT are the sale of goods, the provision of services in the Dominican Republic and the importation of goods.

In some cases, services rendered outside the Dominican Republic are exempted from the payment of VAT. However, the tax authorities do not always accept this exemption.

2.1.3. Taxable Base

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

2.1.4. Creditable VAT

As a general rule the VAT taxpayer shall have the right to deduct from the gross tax the amounts that, by reason of this tax, have been advanced within the same tax period:

a. To local suppliers for the acquisition of goods levied by this tax; and
b. In customs, for the introduction to the country of goods levied by this tax.

2.2. Selected VAT Incentives

Some entities or corporations under a special tax regime law are exempted from the payment of VAT:

2.2.1. Free Zones Entities under Law 8-90

Free Zone entities are exempted from all taxes, including the payment of VAT for the importation of goods and services, and from the acquisition of goods or services.[13]

2.2.2. Tourism Development Law 158-01

Investments made on some tourism projects are exempted from the payment of VAT but limited to the machinery, equipment, materials and moveable assets that are necessary for the construction and for the initiation of operations of the tourism facilities.

2.2.3. Law 28-01 for Border Development

Corporations and entities that install their operations in the border provinces with Haiti are exempted from the payment of VAT.

2.2.4. Law 56-07 that Declares as a National Priority the Sectors Belonging to the Textile Chain, Apparel and Accessories; Fur, Manufacture of Footwear and leather Goods

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

2.2.5. Law 122-05 Regarding Nonprofit Organizations

Nonprofit organizations are exempted tom the payment of VAT.

2.2.6. Law 502-08 on Books and Libraries

This law establishes a VAT exemption on the importation, as well as on their sale on the local market, of books and other editorial products with cultural and scientific character.

2.2.7. Law 108-10 on the Promotion of Cinematographic Activity

This law establishes a VAT exemption over equipment, material and furniture required for equipping for the first time and putting into operation new movie theaters.

13 Starting on late 2016, shareholders of free zone corporations, are now subject to the 10% with holding described on point/section 1.5.

2.2.8. Other

Other incentive laws grant selective tax incentives. Before the entry into force of Law 253-12, on Tax Reform, an exemption applied to all exporters and producers of exempted goods. Currently, the exemption previously granted has been limited to some sectors of goods exporters and producers of exempted goods, namely, milk, cereals and milling products, beans, chicken and sausage, educational materials, medicines for human and animal use, fertilizers and chemicals products.

2.3. Payment and Filing

VAT returns must be filed within the first twenty (20) days of each month. In the case of definitive imports, the tax is determined and paid along with custom duties.

3. OTHER TAXES

3.1. Personal Property and Assets Tax

This is a 1% tax levying company assets which are included in the taxpayers' general ledger, not adjusted by inflation, after applying all deductions by depreciation, amortization, provisions for bad debts, investment in shares in other companies, land located in rural areas, properties affixed to rural production plants and advance taxes.

The National Bank for Housing Development as defined by Law 6-04, The Pension Fund Administrators as defined by Law 87-01, which creates the Dominican Social Security System and the Pension Funds, the stock market trading corporations, the investment funds managers and those equity issuing companies as defined in Law 19-00, as well as the electrical companies dedicated to the generation, transmission and distribution, as defined by the General Electricity Law No. 125-01, shall pay this tax on the basis of their total fixed assets, net of depreciation as it appears in their balance sheet, with the exclusion of financial intermediation entities or corporations, as defined by the Monetary and Financial Law 183-02, which shall pay their tax pursuant to their productive net financial assets, which encompasses: a) their loan portfolio, net of provisions and b) their investments in titles, net of provisions, but excluding any investments in Dominican government's or the Dominican Republic Central Bank's titles.

The liquidated amount in respect of this tax, when applicable, shall be considered to be a tax credit against the corporate income tax corresponding to the same fiscal year. In the event that this liquidated amount equals or exceeds the assets tax to be paid, the payment obligation shall be considered extinguished. If after the payment is made, there is a difference to be paid, in the event that the assets tax exceeds the income tax, the taxpayer shall pay the difference in two equal installments, the first due within 120 days from the end of the fiscal year and the remaining balance within a term of six (6) months from the due date established for the first payment.

The following tax payers shall be exempted from this tax:

a. The corporations that are exempted from Income Tax (IT);

b. Those investments as defined by the local IRS as Intensive Capital Investment, meaning;

c. Those investments that by the nature of its activities have an installation, production and operation cycle of more than 1 year;

d. Taxpayers who are operating under the umbrella of a law that includes tax exemptions in connection to corporate income tax;

e. The investments defined regularly by the Tax Administration as intensive capital or the investments that by their nature have an installation, production and commencement of operations cycle exceeding one (1) year, performed by new or pre-incorporated companies, may benefit from a temporary exemption of this tax, after providing proof that their assets qualify as new or derive from an investment capital; and,

f. Those tax payers that declare losses in their income tax returns may request a temporary exemption for the payment of Assets Tax.

The Assets Tax declaration must be filed along with the income tax return of the company (A.K.A. IR-2) and shall be paid in two equal installments: 50% at the date of filing of the declaration and the 50% remaining balance shall be paid six (6) months later. If an extension is granted by the local IRS in filing the income tax return, it will also extend the term to file the assets tax declaration.

For physical persons (resident or non-resident) a personal property tax is levied of 1% on the real estate properties that are destined for housing, commercial or industrial activities owned by individuals whose approximate value –accounting for all properties, and including the land – currently exceed USD$150,437.00. This value is annually adjusted pursuant to local official inflation rates.

The personal property tax (A.K.A. I.P.I.) must be filed by the physical person during the first 60 days of each year and liquidated in two installments: (i) 50% of such tax on March 11 of each year; and (ii) the remaining balance of 50% on September 11 of each year.

On 2016, the tax over assets was eliminated and substituted by the personal property tax rate of one percent (1%) established by Law 18-88 on Luxury Homes, therefore applying to real estate property of both physical and legal persons.

3.2. Municipal Tax

Entities or corporations who privately use or utilize the soil, subsoil or public roads to exploit and supply services which affect all or some part of the municipality will be subject to pay a 3% municipal tax levied on their gross income generated from their annual invoices for each municipal term.

3.3. Stamp Taxes

A transfer tax levies the transfer of real estate property in the Dominican Republic. The tax rate is of 3% over the purchase price of the real estate property as set forth in the purchase and sale agreement or the value of the property assigned by the tax authorities, whichever is higher.

All other real estate operations (registration of mortgages, liens or encumbrances, among others) are subject to a 2% ad-valorem tax.

The transfer of motor vehicles is subject to a unified 2% ad-valorem tax rate applied over the value of the motor vehicle.

3.4. Bank Checks and Transfers Tax Rate

This tax is of RD$1.50 per thousand pesos on the values paid by checks or wire transfers. Payments made to public entities such as the Social Security Treasury Department, the Tax Administration and the General Customs Department are exempted from the payment of such tax.

3.5. Selective Consumption Tax

The selective consumption tax levies all transfers of goods produced locally at the manufacturing level, as well as its importation or the rendering of local services. The applicable tax to these services is as follows:

a. 10% on telecommunications;
b. Specific amounts per liter of pure alcohol;
c. Specific amount per cigarettes packages; and,
d. Specific amount per gallons or tons of fossil fuels and oil derivatives[14].

The individuals, corporations, national or foreign companies that produce and manufacture these goods are obligated to pay these taxes at the last phase of the process, regardless of the fact that their intervention occurs through services rendered by third parties, importers of goods levied by this tax by their own account or by third parties, and the service providers levied by this tax.

The payment of this tax shall be made within the first 20 working days of the month following the declared fiscal period. Importers shall pay this tax along with any custom taxes.

Insurances are levied by this tax at a rate of 16%. Insurances set forth by Law 187-01 are exempted. Electrical appliances are levied with a selective consumption tax between 10% and 20%.

The products derived from tobacco and alcohols are levied with a selective consumption tax, which shall apply on the retail prices of such products. The rates are of 10% for the products derived from alcohol and 20% for products derived from tobacco. The table of specific amounts to collect the Selective Consumption Tax to the products deriving from alcohol and tobacco are modified on an annual basis.

3.5.1 Regulation No. 1-18 for the Application of Title IV of the Selective Consumption Tax (ISC) of the Tax Code of the Dominican Republic

This Regulation just enacted on January 10, 2018, repeals and replaces the provisions regarding the manufacture of alcohol and tobacco products contained in Regulation No. 79-03 dated February 4, 2003, the scope of which, according to the Article 1 covers "transfers of goods of national production and their importation, described in article 375 of the Tax Code, at the level of manufacturing or production and import thereof; and the services encumbered with this tax according to the Tax Code and special laws. "

Among the novelties of this Regulation, there are the following:

14 In addition to this levy an excise ad-valorem tax of 16% shall apply on domestic consumption of these fossil fuels and oil derivatives. Furthermore, an additional tax of two Dominican pesos (RD$2.00) is established per each gallon of gasoline and diesel, regular and premium, as provided in Law No. 112-00 on Hydrocarbons.

1. Determination of the retail price (Article 8). The retail price, which is the tax base of the ad-valorem ISC tax, dramatically changes its concept and instead of being determined from the list price, it will now be from the Suggested Retail Price (PVP) (sale price to which the producer suggests his client to sell to the final consumer), not including the ISC and ITBIS taxes.

2. Renewal of licenses (Articles 16 and 27). The renewal of producer and importer licenses will be issued only if the taxpayer is up-to-date in its taxes with the Tax Administration (DGII), which leaves the DGII with the power to determine whether a person (physical or legal) is up to date from standpoint.

3. Fees (Articles 36 and 50). The request for the acquisition of the control mechanisms must be made prior to the payment of the "corresponding fees", but the Regulation does not establish, as legally required, the law under which such rates would be established, these being a type of tax.

4. Information on new products (Article 21). From the entry into force of the Regulation the companies that decide to produce or market a new product must inform so to DGII 20 working days in advance. This could imply leaking information to the competition.

5. Import of caps (Article 52). Imported caps or any tax control mechanism must be consigned to the DGII.

3.6. Tax on Motor Vehicles

In 2012, the annual circulation tax on motor private vehicles was established at a rate of one percent (1%) on the vehicle's value, to be applied according to a reference table, arranged by type and year of vehicle, provided by the Dominican Tax Authorities. This tax shall only apply to imported vehicles entering the DR after the date of entry of Law 253-12 on Tax Reform. However, this tax rate has yet to be implemented, with the old regime being maintained, which amounts to what follows:

a) One Thousand Two Hundred Dominican Pesos (RD$1,500.00) for vehicles with over 5 years or until 2012 of manufacture; and,
b) Two Thousand Two Hundred Dominican Pesos (RD$3,000.00) for vehicles of 5 years or under 5 years of manufacture.

All private vehicles, at the time of registration will be taxed according to their CO2 emissions per kilometer, according to the following rates applied over the CIF value (cost, insurance and fleet) of the vehicle:

g CO2 / Km	Rate
Over 380 g CO2/km	3%
220-380 g CO2/km	2%
120-220 g CO2/km	1%
120g CO2/km	0%

4. CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties

Importation of goods and are subject to import VAT at a rate of 18% plus custom duties that range between 0% to 20%, depending on the type of asset imported, and with the exception for assets with special treatment.

4.2. Taxable Base

As a member of the WTO and having subscribed the Agreement for the Application of Section VII of the GATT, the value of the goods is established on account of the price paid. If this is not possible, other methods of valuation and the corresponding adjustments are applied. Duties are computed on the CIF value of the goods.

4.3. Transfer Pricing

Please see Section 1.1.5.

4.4. Filing and Payment

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

4.5. Selected Custom Duties Regimes Available

There are several importation regimes applicable in the Dominican Republic, as noted below.

4.5.1. Ordinary Importation Regime

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

4.5.2. Temporary Importation Regime

It applies to merchandise that is to remain in the country for a specific purpose to be re-exported within a period of 90 days from the date of entry of such good in the Dominican Republic. This time period may be renewed for three (3) additional periods of ninety (90) days by request of the party, which shall be renewed if the basis of this request is considered to be valid by the Customs Department.

The temporary importation regime benefits the following products: (a) professional equipment, including press and television, computer programs and cinematography and radio equipment necessary for the business activities, or profession of the business person that qualifies for the temporary entry of products in accordance to Foreign Investment Law 16-95; (b) merchandises used for exhibition or display; (c) commercial, movies and advertising samples; and (d) merchandises admitted for sporting events.

Several conditions must be met to import these merchandises to Dominican territory.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

Employees are liable for both income tax and social security contributions to be withheld to their salaries as required by applicable law. Employers are also designated as withholding agents for tax and contribution purposes, thus subject to withhold income tax and said contributions to its employees and pay such taxes directly to the competent authorities. On the other hand, employers are liable for withholding their own employees' social security contributions. Both withholdings and contributions are collected and paid monthly on the basis of the gross remuneration.

5.1. Retirement Contributions

The employee's withholding for retirement funds equals to 2.87%, calculated on the employee's wage. Employers whose main activity is to hire or provide services must also contribute to the social security system for retirement funds in an amount equivalent to 7.10% of the monthly wage paid to the employee.

The maximum wage applicable would be the equivalent of 20 minimum wages.

5.2. Health Contributions

The employee must be affiliated to a Family Health Insurance ("FHI"). Contributions to the FHI administering entity must be equal to 10.13% of the employee's wage, 7.09% of which is paid by the employer while the remaining 3.04% is contributed by the employee. The employer is responsible for withholding the employee's corresponding 3.04% and for paying the Treasury of the Social Security 100% of the monthly health contribution.

The maximum wage applicable shall be the equivalent of 10 minimum wages.

5.3. Workers Compensation Insurance System

This insurance is financed with an average contribution of one point twenty percent (1.20%) of the wages, covered totally by the employer. The total contribution from the employer will have two (2) components:

i. A fixed base rate to be applied evenly to all employers.

ii. A variable rate of up to zero point three percent (0.3%) established in agreement with the field of activity and risk factor of each enterprise as per the following 4 employers categories:

1. 0.10%
2. 0.15%
3. 0.20%
4. 0.30%

In both cases, said percentages shall be applied on the basis of the applicable wages.
The maximum contribution in this insurance is of four (4) wages.

All applicable as per an average national minimum wage of RD $ 9,855.00 (approximately USD$208.00).

5.4. Technical Professional Training Institute

All companies are subject to the payment of a monthly contribution to INFOTEP (the governmental Institute of Technical Professional Training). This contribution is equivalent to 1% of the wage of the employee.

The employee must pay 0.50% of the annual bonuses received from the employer if the bonuses apply.

5.5. Payroll Taxes and Contributions

Payroll taxes and contributions in the Dominican Republic shall be made in accordance to the following chart:

Payroll Taxes	
Annual Wages	**Rate**
Income until RD$416,220.00	Exempted
Income from RD$416,220.01to RD$ 624,329.00	15% of the surplus of RD$416,220.01
Income from RD$624,329.01to RD$867,123.00	RD$31,216.00 plus 20% of the surplus of RD$624,329.01.
Income from RD$867,123.01 and beyond	RD$79,776.00 plus 25% of the surplus of RD$867,123.01

Early each year, the established scale is adjusted for cumulative inflation for the previous year, according to the figures published by the Central Bank of the Dominican Republic.

Social Charges Contributions on Wages		
Social Charges	**Employee**	**Employer**
Social Security (Pensions)	2.87%	7.10%
Social Security (Health)	3.04%	7.09%
INFOTEP	0.50% (if applicable)	1.00%
Social Security (Labor Risk)		1.20%
Subtotal nowadays	6.41%	16.39%
Christmas Salary		8.33%
Vacations		6 %
Profit Sharing Bonus (when applicable)		18 %
Sub-total:	6.41%	48.72%
Severance		8%
Prior notice		10%
TOTAL:	6.41%	66.72%

6. MISCELLANEOUS

6.1. Simplified Tax Procedure (PST)

The Simplified Tax Procedure (PST) is a method that facilitates the tax compliance of medium and small taxpayers, be those legal entities –eligible if their purchases do not surpass RD$40,759,725.00 (approximately USD$864,339.93)– or individuals –eligible if their income does not surpass RD$8,771,771.50 (approximately USD$185,366.24).

It allows for the liquidation of Income Tax (ISR) based on their purchases and / or income, as well as paying the VAT (ITBIS) based on the gross value added.

The main advantages of the PST are: organized accounting is not required; no tax advances paid on Income Tax (ISR); not subject to Assets Tax; automatically, a payment agreement is conceded for the ISR (3 installments for purchases and 2 assessments for income); for those on the purchase method, not having to make a payment for ISR for the first six (6) months of the year; no need to send the information of tax identifiers on their purchases and sales from the previous year.

6.2. Special Formal Duties

6.2.1. Tax Identifiers ("Comprobantes Fiscales")

These are codified fiscal operations identifiers that give credit to the transfer and leasing of goods or the provision of services. Common identifiers apply to invoices that generate tax credit and/or support costs and expenses, bills to final consumers (with no tax credit value), debit notes and credit notes.

Special identifiers apply to informal providers, single records of revenue, petty cash, special tax regimes and transactions with the government.

6.2.2. Fiscal Solutions

Formerly known as fiscal printers, these apply to taxpayers who sell products or provide services to end users subject to VAT (ITBIS). Printers, or other alternative mediums, store the data of sales for the taxpayer which is to be sent monthly to the IRS in order to allow more fiscal control over said sales.

6.3. Special Withholding Agents

In the taxation of VAT (ITBIS) and Selective Consumption Tax on the operations of entities under special customs fiscal regimens, the physical person or legal entity that purchases the good or service shall be considered as the contributor. Entities under the abovementioned regimes that transfer goods or services shall be constituted as withholding agents for the abovementioned taxes.

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NATIONAL LEVEL TAX RATES

Corporate Income Tax: 25% (10% about reinvested profits)

Companies that reinvest their profits may obtain a reduction of 10 percentage points of the Income Tax rate on the reinvested amount, only in the following economic activities.

- Usual exporters;
- Receptive tourism; and,
- Those that are dedicated to the production of goods, including those of the manufacturing sector, that have 50% more of the national component, as established in the regulations to the Internal Tax Regime Law.

Tax on capital gains: Added to taxpayer's taxable income and taxed at regular rates

Branch Profits Tax: 25% (*)

(*) Dividends Tax: 0% Distribution of dividends and profits to Tax Haven Jurisdictions are subject to a 10% withholding tax, 0% - 35% (beneficial owner) natural person resident in the Ecuador.

Withholding Taxes on:

(*) Interest: 25%, 35% if remitted to Tax Haven Jurisdictions
(*) Royalties: 25%, 35% if remitted to Tax Haven Jurisdictions
(*)Technical assistance: 25%, 35% if remitted to Tax Haven Jurisdictions
(*)Technical Services: 25%, 35% if remitted to Tax Haven Jurisdictions
(*) Other Services: 25%, 35% if remitted to Tax Haven Jurisdictions
(*) The tax reform enacted in December 2017 established that the tax rate is 25% (versus 22%) of local companies, branches and permanent establishments if the shareholders are residents in Ecuador.

However, the aforementioned, the Income rate would increase to 28% in the following cases:

i) The proportion of the tax base corresponding to the direct or indirect participation of partners, shareholders, participants, beneficiaries, constituents or similar, who are residents or are established in tax havens or lower tax regimes.

ii) In the event that the participation exceeds individual or joint, equal or superior to 50%, the rate of 28% will be applicable to the entire tax base.

When companies fail to comply with the duty to report on the participation of their shareholders, partners, participants, constituents, beneficiaries or similar.

(*) The 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, provided they are not located in Tax Haven Jurisdictions, otherwise a 13% withholding tax will apply.

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: [5%] (*)

(*) 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
Argentina *					
Brazil	15%	0%	15%		
Belarus	10%	5%-10%	10%		
France	10-15%	0%	15%		
Germany	10-15%	0%	15%		
Italy	10%	0%	5%		
Mexico	10-15%	0%	10%		
Romania	10%	0%	10%		
Spain	10%	0%	10%		
Switzerland	10%	0%	10%		
Uruguay	10%	0%	5-10%		
Canada	15%	0%	15%		
Chile	15%	0%	10-15%		
Belgium	10%	0%	10%		
China	10%	0%	10%		
Korea	12%	0%	5-12%		
Singapore	10%	5%	10%		
Andean Pact Countries	0%	0%	0%		
Non Treaty Countries	25%	0%	25%	25%	25%
Tax Haven Non Treaty Countries	0- 35%	13%	35%	35%	35%

(*) Only applicable to air transport rentals.

OVERVIEW

1. INCOME TAX

TAX BRACKETS FOR INDIVIDUALS FOR 2018

Taxable income exceeding	Taxable income not exceeding	Tax on lower amount	% Rate on excess
0	11.270	0	0%
11.270	14.360	0	5%
14.360	17.950	155	10%
17.950	21.550	514	12%
21.550	43.100	946	15%
43.100	64.630	4.178	20%
64.630	86.180	8.484	25%
86.180	114.890	13.872	30%
114.890	in onwards	22.485	35%

TAX BRACKETS FOR INHERITANCES, LEGACIES AND DONATIONS FOR 2018

Taxable income exceeding	Taxable income not exceeding	Tax on lower amount	% Rate on excess
0	71.810	0	0%
71.810	143.620	0	5%
143.620	287.240	3.591	10%
287.240	430.890	17.953	15%
430.890	574.530	39.500	20%
574.530	718.150	68.228	25%
718.150	861.760	104.133	30%
861.760	in onwards	147.216	35%

1.1. General Aspects

Corporate Income Tax. Corporate Income Tax *(hereinafter referred to as CIT)* is levied on companies domiciled in Ecuador. Companies domiciled in Ecuador include those incorporated in Ecuador and companies incorporated in foreign countries that have been approved as branches by the Superintendence of companies after a legal proceeding. Companies incorporated in Ecuador are subject to tax on their worldwide income. Foreign companies are subject to tax on income derived from activities within Ecuador and from goods and assets located within Ecuador.

1.2. Taxable Base

The base for calculation of Income Tax is composed by the totality of ordinary and extraordinary taxable income, minus devolutions, discounts, costs, expenses and deductions attributable to such income. Additionally to this taxable base, taxpayers must add non-deductible costs and expenses and subtract the exempt income, in accordance with the Tax Law.

1.3. Rate of corporate Tax.

The standard rate of CIT for 2017 is 22%. However, a 28% CIT will apply for those companies that have a 50%, or more, shareholders participation located in Tax Haven Jurisdictions.

1.4. Capital Gains.

The Tax Reform enacted on December 2014, decreed that capital gains derived from sales of shares are no longer exempt. The gain will now add to the taxable base of taxpayer and will be taxed according to the general rates.

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.

h. Income derived from capital gains, profits, benefits or financial yields distributed by investment funds, welfare funds, pension funds and merchant trust funds to their beneficiaries, provided said funds have complied with their obligations as taxpayers;

i. Indemnities received from insurance policies,

j. Thirteen and fourteen salaries,

k. Severance indemnities received by workers and employees, etc.
l. Government Joint Venture, 10 years

m. New Investment in Production, Commerce and Investment. COPCI, 10 to 12 years

1.6 Expenses Incurred Abroad

Are generally deductible, provided appropriate taxes are withheld if the payment constitutes taxable income for the payee.

Amounts that taxpayer remits abroad as reimbursement of costs and expenses incurred abroad, directly related to the activity carried out in Ecuador by taxpayer, shall be deductible as expenses for local purposes are taxed at a rate of 25% and 35% if sent to Tax Haven Jurisdictions.

With respect to payments remitted abroad on account of interest on foreign loans contracted by the private sector, the withholding tax rate for 2018 is 25% (35% if payments are remitted to Tax Haven Jurisdictions) and 0% if the payments are remitted to International Financial Banks and Institutions.

The following payments abroad are deductible within specified limitations:

- Payments for imports, including interest and financing fees, as provided in import licenses;
- Export fees of up to 2% of the export value;
- Interest with respect to foreign loans registered with the Central Bank of Ecuador, provided the foreign loans are Government to Government loans, International Financial Banks and Institutions loans or loans granted by the World Bank, the CAF, the BID, and other multinational organisms. In addition, in order for interest of foreign loans to be deductible, the amount of the foreign loan shall not exceed 300% of the foreign debt-capital stock relation.
- Payments on account of international lease of capital goods
- 50% - 75% of the insurance or reinsurance premiums paid to foreign companies that do not have a Permanent establishment or representation in Ecuador

Nondeductible expenses include the following:

- Interest on foreign loans, to the extent the interest rate exceeds limits established by the Central Bank Board, and interest on foreign loans not registered at the Central Bank of Ecuador; and
- Losses on sales of assets to related parties.

Deduction of costs and expenses incurred abroad and elimination of the tax exemption for reimbursement of costs and expenses remitted abroad.

Amounts that taxpayer remits abroad as reimbursement of costs and expenses incurred abroad, directly related to the activity carried out in Ecuador by taxpayer, shall be deductible as expenses for local purposes and taxed at a rate of 25% (for 2016) (35% if sent to TAX HAVEN Jurisdictions)

With respect to payments remitted abroad on account of interest on foreign loans contracted by the private sector, the withholding tax rate for 2018 is 25% (35% if payments are remitted to Tax Haven Jurisdictions) and 0% if the payments are remitted to International Financial Banks and Institutions

1.7. Tax Depreciation and amortization

Depreciation is generally computed using the straight-line method. The following are some of the straight-line depreciation rates provided in the tax law:

Asset Rate	(%)
Commercial and industrial buildings	5%
Office equipment	10%
Motor vehicles, trucks and computers	20%
Plant and machinery	10%
Computers and software equipment	33%

In general, if the percentages indicated are greater than those calculated according to the nature of the assets, the duration of their useful life or the accounting technique, the latter will apply.

For other assets that produce income must be amortized for 5 years, using a linear amortization rate of 20%.

Intangibles must be amortized over any term of the relevant contract or a period of 20 years, the impairment of intangible assets with indefinite useful life will not be deductible.

1.8. Transfer Pricing Rules

On 31 December 2004, Ecuador incorporated to its legislation several rules regarding the taxability of transactions between related parties, tax havens and the methods to apply the Arm's Length Principle.
In the transactions celebrated between related parties, the price shall be adjusted through the individual or combined application of any of the below described methods, in such a form that the "arm´s Length Principle" is reflected in their result.

The methods are:

- Comparable Uncontrolled Price method
- Resale Price method. - (Resale minus)
- Cost Plus method
- Profit Split method
- Transactional Profit method or Transactional net margin method

The Transfer Pricing Annex and Integral Report. Taxpayers have the obligation to file with the Local Internal Income Service a Transfer Pricing Annex when their transactions with related parties above in a fiscal year exceed USD 3,000,000.00 and a Transfer Pricing Integral Report detailing the transactions carried out with related parties in a fiscal year when their transactions with related parties abroad exceed USD 15,000,000.00. The Local Internal Income Service can request information also with regard to transactions carried out with related parties within Ecuador

According to the tax reform enacted 23 December 2009, taxpayers are exempt from the transfer-pricing regime, when:

a. The income tax liability exceeds 3% of their taxable income,

b. Do not carry out transactions with parties domiciled in Tax Haven Jurisdictions

c. Do not maintain contracts for the exploration or exploitation of non-renewable resources with the Government

Technical and Methodological measures to avoid the abuse of transfer prices

The measures established shall be mandatory for taxpayers of income tax, tax residents or permanent establishments in Ecuador, in their operations with related parties, provided that:

1. In the case of operations that correspond to:

a) Exports or any other type of sale of crude oil, direct or indirect, under any modality,

b) Exports or any other type of alienation of gold, silver or copper or another metallic mineral in any state, direct or indirect, under any modality,

c) Exports or any other type of sale of bananas, direct or indirect, under any modality.

2. Such transactions are carried out between the taxpayer of the income tax and one or more of its related parties that are framed in at least one of the following conditions:

a) Are residents or are established in countries, jurisdictions or regimes designated as tax havens or lower tax jurisdictions or are subject to preferential tax regimes, according to the resolution issued by the Internal Revenue Service.

b) Are international intermediaries without fiscal residence in Ecuador who do not reside in the country or jurisdiction of final destination of the goods. For this purpose, goods to intermediate ports or other spaces that are used for logistical or other purposes will not be considered as the final destination of the goods when the merchandise does not enter the customs territory or is not nationalized.

The indexing methodology is established at the limit applicable to the prices of exports from bananas to related parties, from the fiscal year 2018.

1. International Indicator: The monthly indicator "BANANA, US" of Commodity Price Data, published by the World Bank website, will be used http://www.worldbank.org/en/ research / commodity-markets.
2. Calculation of the adjustment factor: The simple average of the indicator for the twelve months that have elapsed from the month of November of the previous year, until the month of October of the current year, will be obtained with four decimals; this result will be divided for the simple average of November 2013 to October 2014, that is, USD $ 0.9309.
3. Indexed limit: The limit established in the Organic Law of Incentives for the Production and Prevention of Tax Fraud, that is, forty-five cents (USD $ 0.4500), will be multiplied by the adjustment factor calculated according to the previous number The result will be the current limit as of January 1 of the following year.

1.9. Tax Losses carry-forward / carry-back. Relief for Losses.

Net operating losses may be carried forward and offset against profits in the following five years, 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

Presentation of withholdings at the source
Withholding in monthly source of taxes will be made in the corresponding forms and other means, in the form and conditions established by the Internal Income Service (IIS). Even in the case when a withholding agent does not perform withholdings at source during one or more monthly periods, he shall be however obliged to file the tax returns corresponding to those months. This obligation shall not apply to those employers that only have workers who do not reach the minimum annual taxable income. Withholding agents shall provide to the Internal Income Service the complete information regarding withholdings at source effected by them, including the RUC number, sale voucher number, authorization number, amount of tax levied, name and identification of supplier and the date of transaction, in the means and in the manner instructed by the Internal Income Service.

Terms for filing and paying. Withholding agents will file the return with the declaration of the amounts withheld and these will be paid in the following month in the date corresponding to the ninth digit of the RUC number.

If the return contains mistakes or errors, it can be replaced by a new declaration containing all the pertinent information, but only provided the new declaration implies a bigger amount to be paid to the Internal Income Service.

Rules Regarding Filing and Payment of Income Tax. Terms for filing Income Tax Returns shall be filed annually in the places and dates determined in the General Regulation to the Tax Law Rules Regarding advanced Filing of Income Tax Return in cases of Termination of activities, mergers and Spin-offs of corporations

In the case of termination of activities before the end of the fiscal year, taxpayer will file an anticipated income tax return. Only when this anticipated return has been filed, the proceedings for the cancellation of the RUC, or the authorization for cease of operations, will be allowed to start. This rule will also apply for individuals that must leave Ecuador for a period exceeding the end of the tax year.

Payment of Income Tax and "Anticipated Payment of Income Tax"

Taxpayers must pay their income tax, in accordance with the following rules:

1. The balance due on account of income tax corresponding to the preceding fiscal year must be paid by on-line debit or depositing said balance with the financial institutions legally authorized to collect levies on behalf of the Government.
2. Individuals and inheritance trusts, 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 Internal Income Service will proceed on determining it and will then issue the corresponding tax assessment and warrant for collection, including the applicable interest.
6. Taxpayers shall be entitled to request the Internal Income Service 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. The Internal Income Service will order the refund to the taxpayer of amounts undue paid or the amounts paid in excess, through the issuance of a credit note, cheque or other mean of payment.

The Internal Income Service may order the refund of the amount paid on account of anticipated payment of income tax, of any given year, elapsed in a three year period, when due to causes of force majeure or acts of God, the economic activity of taxpayer has been severely affected in any given current year.

The amount paid 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 Internal Income Service periodically will release the withholding percentages that in no case will exceed 10% of the payment or credit into account.

Local Tax Credit. The amount withheld will constitute tax credit for taxpayer whose income was subject to withholding tax and he will be enabled to offset the amount withheld to the tax liability in his annual return.

In the case that the amounts withheld and/or the amount paid as anticipated income tax exceed the annual total tax liability, taxpayer will have the right to choose between filing a refund claim for the portion of taxes paid in excess or to offset it with future tax liabilities of next fiscal years.

Tax credit for taxes paid abroad. Regardless the provisions set forth in international treaties, Ecuadorian resident individuals and Ecuadorian corporations that receive income from abroad, subject to income tax in the country of origin, will be allowed to deduct from the Ecuadorian tax liability the Taxes paid abroad 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.

Obligation to withhold. -The obligation to withhold becomes mandatory in all payment or credit into account exceeding

Ecuador does not tax distribution of dividends to domestic companies or branches of foreign corporations, nor dividends remitted abroad to foreign companies or foreign shareholders 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 25% and 35% if sent to Tax Haven Jurisdictions

Technical Services, Technical Assistance and Consulting Services. Technical Services, Technical Assistance and Consulting Services paid or remitted abroad to non-treaty countries are taxed at the flat final rate of 25% and 35% if sent to Tax Haven Jurisdictions

Other Services. All other services paid or remitted abroad to non-treaty countries are also taxed at the flat final rate of 25% and 35% if sent to Tax Haven Jurisdictions

Leasing Payments. Lease payments remitted abroad are taxed at the flat final rate of 25%. and 35% if sent to Tax Haven Jurisdictions

Interest, Effective 1 January 2012, payment of interest on account of foreign loans, are subject to a 25% and 35% if sent to Tax Haven Jurisdictions and 0% if the payments are remitted to International Financial Banks and Institutions

Equity Reimbursements. Equity reimbursements are not taxed in Ecuador.

1.14 Limits on the application of conventions to avoid double taxation (CDI´S)

1. The maximum amount for automatic application of benefits of the CDI, will be 20 non taxable basic fractions of income tax for natural persons, i.e. that by 2018, it would be $225,400 (US $ 11.270 x 20), this value applies on the sum of all payments and credits accounts to one source, in the event that exceeds the database, one must retain the rate of 25% of income tax, without considering the benefits provided for in the CDI´S.
2. The requirements for the deductibility and sustenance of spending and NO withholdings at source of tax income for the implementation of CDI´S:
    a. Certificate of residence tax that will find translated to the language Castellano, updated each year.

b. Certificate of relevance of the expenditure).
c. Issue liquidation purchases of goods and provision of services by each sales receipt received from the outside and it must tax of 12% value added tax.
d. To issue proof of the source of the income tax withholding and tax value added.

3. The sanction for not acting as agent of retention will be equivalent to thetotal of the deductions that should be made more interest by mora.
4. For operations which exceeded the specified limit may be subject to a return meeting the following requirements:

Procedure to return the values in respect of the retention of the income tax made to non-residents on the application of conventions to avoid double taxation

1. Periodicity.- the non-resident who chooses to return may submit an application for each month by agent retention or a cumulative basis, for several months or several agents of retention in the same month.
2. Requirements the taxpayer not resident will present your application in the form published on the website www.sri.gob.ec, with the following requirements:

As regards the holding:

a) The respective proof of retention. With respect to the operation:
b) Settlement of purchases of goods and services which were issued relating to the request for referral back.
c) Contract and invoice or its similar showing the contractual link between the non-resident and the person who provided the service.
d) For each of the transfers the certificate issued by any of the involved institutions or Bank document - SWIFT--example, stating the following information:
    1. Identification of the holders of the accounts Bank of origin and destination;
    2. Identification of the institutions of origin and destination;
    3. Numbers of account of origin and destination;
    4. Country in which are involved, origin and destination, institutions that transfer and indeed receive payments;
    5. Total amount of the transaction; and,
    6. Date of the transaction.

Legitimation of the applicant:

e) Original or copy of the passport of the person natural or of the representative legal, in case of society, attaching the respective copy of the appointment of the representative legal.
f) Certificate of fiscal residence.
g) Get the user key for the use of online services, themselves undergoing institutional website.
h) If you request a refund through a third party, applicable general or special power, or its equivalent.

All foreign documents must be translated into the Spanish language if applicable and will have the formalities necessary for its validity in Ecuadorian territory.

1.15 Withdrawals in the Source on Outside Payments

The duty to inform if a company reports as a last level of its chain of property or as an effective beneficiary, to a natural person who is not a fiscal resident of the equator, may be a nominal or formal holder that, consequently, is not the beneficial owner, or reveal the real ownership of the capital, will be deemed fulfilled if the reporting company demonstrates that said natural person is not a nominal or formal holder under the aforementioned regime.

1.16

The 25% will be taxed by the companies that make investments for the exploitation of large and medium scale metal mining and the basic industries, as well as the same tariff for investments that contribute to the change of the productive matrix of the country.

ORGANIC CODE OF PRODUCTION COMMERCE AND INVESTMENTS. Enacted on December 2010

CONTAINS THE FOLLOWING TAX INCENTIVES
Tax Incentives are of three kinds:

1. General: For all investments made in any location of the national territory. These are:

b. For investments made in special development economic zones
c. Additional deductions for the calculation of income tax, as a mechanism to improve productivity,
d. Benefits arising out of the opening of the capital stock of the company on behalf of its employees,
e. Ease of payments on taxes on the external trade,
f. Exemption of the 5% Capital Flight Tax for foreign financing operations,
g. Exemption of the Anticipated Payment of Income Tax during five years for all new investments,
h. The reform for the calculation of the Anticipated Payment of Income Tax

2. Sectorial and for the fair regional development

For those sectors that contribute to the change, strategic substitution of imports, improvement of exports, as well as for the rural development all around the country,

3. For depressed zones

In addition to the fact that these investments will be benefited by the general and regional incentives, as aforementioned, new investments in these zones will prioritized, granting them an additional tax benefit, for 5 years, consisting in the deduction of 100% of the hiring cost for contracting new employees.

INVESTMENT AGREEMENTS

By initiative of investor, it will be permitted to enter with the Government into INVESTMENT AGREEMENTS, whereby the treatment to the investment will be clearly detailed. INVESTMENT AGREEMENTS will grant stability on the tax treatment and tax incentives during the term of the Agreement. They will detail the supervision mechanisms for the fulfillment of the parameters of

investment agreed upon by the parties. They will have a term of 15 years, renewable for the same term just once.

SETTLEMENT OF DISPUTES

Controversies between an investor and the Government that have been exhausted in the administrative stage, will attempt to be resolved amicably , through direct dialogues, for a term of 60 days. In the event that no solution has been reached, the next step is a mediation process within 3 months after the formal commencement of direct negotiations.
Should the case be that after this mediation term, the conflict still exists, it can be brought to national or international arbitration, in accordance with the international treaties of which Ecuador is a party. Rulings of this Arbitration Tribunal shall be "in right", applicable legislation will the Ecuadorian legislation and the rulings will be definitive and mandatory for the parties.
If after the term of 6 months of being terminated the administrative stage, parties have not reached an amicably solution, nor subdued to the arbitration jurisdiction for the settlement of the dispute, controversy will be resolved by the Ecuadorian justice. Tax matter will not abide by arbitration.

TAX EXEMPTION FOR THE DEVELOPMENT OF NEW AND PRODUCTIVE INVESTMENTS

Companies incorporated after the enactment of the PCIC, as well as new companies incorporated by existing companies, aimed at making new and productive investments, will be granted an exemption of the corporate income tax during the first five years, after the date in which they begin to generate taxable income attributable directly and exclusively to the new investment. But only if the investment is made in any of the following areas:

a. Manufacturing of fresh food, frozen or industrialized,
b. Forest and Agroforestry and their products,
c. Metal Mechanic,
d. Petrochemistry
e. Pharmaceutical,
f. Tourism,
g. Renewable energy,
h. External Trade logistic services,
i. Biotechnology
j. Sector of substitution of imports and development of exports

TRANSFER OF STOCK TO WORKERS/EMPLOYEES OF THE COMPANY

The company that transfers (sells) no less than a 5% of its paid-in capital on behalf of at least 20% of its workers/employees, will be enabled to defer the payment of its corporate income tax for a term of up to five fiscal years (interest bearing however). This benefit will apply while the transferred stock remains in the ownership of workers/employees.

DEFERRAL OF THE PAYMENT OF THE *"ANTICIPATED PAYMENT OF INCOME TAX"*

Newly incorporated companies, new investments, individuals obliged to keep accounting records and inheritances obliged to keep accounting records, that initiate entrepreneurial activities, will be subject to the payment of the *"Anticipated Payment of Income Tax"* after the fifth year of effective operation, being understood as such, the commencement of the industrial and commercial process.

This term can be extended, prior authorization of the Internal Income Service.

PAYMENT OF THE 15% PROFIT-SHARING TO WORKERS AND EMPLOYEES WITH STOCK OF THE COMPANY

Prior agreement between Employer and Employees/Workers the 15% Profit-Sharing can be paid with stock of the Company, provided the Company is duly registered in the Ecuadorian Stock Market.

ORGANIC LAW FOR INCENTIVES TO PRODUCTION AND PREVENTION OF TAX FRAUD. Enacted on December 2014

REFORMS TO THE TAX CODE

The facilities for payment of taxes are changed, broadening the term for the facility from 6 to 24 months and from 2 to 4 years.

REFORMS TO THE INTERNAL REVENUE SYSTEM LAW (THE TAX LAW) TAX RESIDENCE:

New provisions to consider an individual or a corporation as tax residents in Ecuador are enacted.

EXONERATIONS AND ELIMINATION OF EXEMPTIONS

It shall be considered as of Ecuadorian source, income arising out of direct or indirect sale of stock or quotas representative of capital that allow the exploration, exploitation, concession or similar of corporations or permanent establishments domiciled in Ecuador.

It will be regarded as Ecuadorian source income the unjustified equity increase.

Exemption to income tax on gains from occasional sale of shares or quotas is eliminated.

In the case of new and productive investments in the economic sectors considered as basic, the IT exemption will stretch out for 10 more years effective from the first year in which income is generated, attributable to the new investment.

DEDUCTIBILITY OF EXPENSES

In the case of revaluated assets the expense for depreciation of the revaluated assets shall not be deductible.

The definitive write-off of the uncollectible receivables shall be done through coverage charged to this provision and to the results of the fiscal period in the portion not covered by the provision, when the requirements set forth in the Regulation have been met.

Expenses on account of promotion and advertising of food and products for human consumption regarded as harmful for health (junk food) cannot be deducted.

Deductibility of expenses on account of royalties, technical, administrative and consulting services effected between related parties cannot exceed 20% of the taxable income plus such costs and expenses

RATE FOR CORPORATE INCOME TAX

Taxable income obtained by corporations, branches and permanent establishments, will pay CIT at the general rate of 25% on their taxable income. But this rate will increase to 25% on the portion of taxable income that corresponds to the direct or indirect participation of partners, shareholders, quota holders and beneficiaries that are resident or are settled in Tax Havens. If said participation exceeds 50%, the tax rate of 25% shall apply to ALL the taxable base.

Likewise, the 25% tax rate shall also apply to the taxable income of the company that does not comply with its obligation to inform regarding its corporate composition, its shareholders, partners and other beneficiaries.

LOANS TO SHAREHOLDERS.-

When a Corporation grants loans to its shareholders or partners, this transaction shall be considered as payment of anticipated dividends and therefore the Company must withhold the corresponding amount, at the rate applicable to corporations on the amount of the transaction. Such withholding shall be declared and paid within the next month, and will constitute tax credit for the Company in its IT annual return.

NON RESIDENTS INCOME.-

Non Resident´s Taxable Income, paid or credited into account, will pay the general rate applicable to corporations on said taxable income. If the taxable income is received by individuals resident in Tax Havens, the applicable rate will be of 35%

OBLIGATION TO REPORT AND DECLARE THE SALE OF SHARES, QUOTAS AND OTHER RIGHTS.

Failure in filing this information shall be penalized with a fine of 5% of the market value of the transaction.

PENALTIES FOR NON DECLARATION OF SHAREHOLDERS CORPORATE STRUCTURE.-

When the Company that distributes dividends or profits fails to comply with its duty to inform regarding its shareholders corporate structure, it shall be presumed that the effective beneficiary of the income is an Ecuadorian resident individual, and thus the withholding at source of income tax on those dividends will proceed.

REFUND OF VALUE ADDED TAX (VAT) TO SENIOR CITIZENS.-

The devolution will apply only on VAT paid in the purchase of goods and services of first necessity, of personal use and consumption.

REFORMS TO THE ORGANIC CODE FOR PRODUCTION, COMMERCE AND INVESTMENT

TAX STABILITY INCENTIVES IN INVESTMENT AGREEMENTS.- Exploitation of metallic mining activities on a great scale shall be granted tax stability for a determined period of time.
Such stability can be extended to other sectors, provided that the amount of the investments exceeds USD 100 million dollars

BASIC INDUSTRIES FOR PURPOSES OF SPECIAL BENEFITS

A. Copper and aluminum Smelting and refining,
B. Siderurgic smelting for the production of plain steel,
C. Refinement of hydrocarbons,
D. Petrochemical Industry,
E. Cellulose Industry,
F. Construction and repair of vessels

These activities will be entitled to an additional 100% deduction of the annual depreciation cost or expenses, generated by said investments during 5 years effective from the date of the start of the productive use.

REFORMS TO THE TAX FAIRNESS LAW OF ECUADOR

EXEMPTIONS TO THE CAPITAL FLIGHT TAX (ISD)

It will be exempted from the Capital Flight Tax the following payments: Payments remitted abroad, sourced from financial yields, capital gains, and capital of said investments made abroad, in securities issued by juridical persons domiciled in Ecuador, that have entered into Ecuador, and remained here at least a year, intended to the financing of housing of micro credit nature. This exemption does not apply when the payment is made directly or indirectly to individuals or corporations residents or domiciled in Ecuador, or in Tax Havens or between related parties.

ORGANIC LAW FOR THE REACTIVATION OF THE ECONOMY, STRENGTHENING OF THE DOLLARIZATION AND MODERNIZATION OF FINANCIAL MANAGEMENT

- Exemption from income tax of 5 years in the merger of entities of the popular and solidarity financial sector.

- Exemption from income tax for new micro-enterprises for 3 years, counted from the first year in which operating income is generated, in case there are more exemptions, it should be applied to the most favorable.

- Unique income tax for the activities of the banana sector eliminates the values paid for the tax on rural land will constitute tax credit for the payment of this tax, as well as for the fees of the simplified regime.

- The reinvestment of profits in the case of the usual exporting companies (minimum 6 exports in a fiscal year and in different months), including those of the manufacturing sector, that have 50% or more national component and those receptive tourism companies that reinvest their profits in the country, may have a reduction of 10 percentage points of the rate of income tax on the amount reinvested in productive assets.

- For micro-enterprises, the exemption is established to determine the tax base for income tax one basic fraction not taxed for natural persons. (for the year 2018 the basic fraction not taxed is $ 11,270)

- Micro and small companies of habitual exporters, will have a 3% reduction of the income tax

rate, to benefit from the reduction of 3 percentage points, it must be demonstrated that employment is maintained or increased.

- Payments for concepts of eviction and employer retirement pension will not be deductible, in accordance with the provisions of the labor code, which do not come from provisions declared in previous fiscal years. The aforementioned will apply without prejudice to the provisions that the taxpayer establishes for the purposes of the payment of the aforementioned items.
  It is important to note that this provision considered as a non-deductible expense would generate a deductible temporary difference, that is, a deferred tax asset.

- **New Subjects Liabilities obliged to Keep Accounting**
  They are obliged to keep accounting for individuals, and undivided estates whose gross income from the immediately preceding fiscal year (2017) is greater than USD 300,000

  The natural persons who develop the following activities will be included in this amount:
  - Agricultural;
  - Livestock;
  - Forestry or similar;
  - As well as professionals, commission agents, craftsmen, agents, representatives and other self-employed workers.

- **Banking of Expenses**
  Any payment over USD 1,000 must obligatorily use any institution of the Financial System to make the payment, through:

  - Turns;
  - Transfer of Funds;
  - Credit or Debit Card;
  - Checks;
  - Any other electronic means of payment;

Advance Income Tax

Advance Income Tax considerations:

- It is added to the calculation of the Advance Income Tax of the literal a (tax on the income caused - withholdings of the IR of the current fiscal year), the natural persons undivided successions obliged to keep accounts that do not exercise business activities.

- The calculation of the income tax advance is excluded, for the item of costs and expenses, wages and salaries, the thirteenth and fourth remuneration, employer contributions.

- The tax administration upon request of the taxpayer may grant the total or partial refund of the surplus, provided that it is verified that the employment has been maintained or increased and in case of fraud a 100% surcharge will be applied on the amount unduly returned.

- The sectors, sub-sectors or segments of the economy that have suffered a significant decrease in their income and / or profits are exempt from payment.

- For the purpose of calculating the income tax advance, assets (affected by 0.4% air), costs and

expenses (affected by 0.2% air) deductible from said tax and equity will be excluded from the corresponding items (affected 0.2% air), when applicable, the amounts referred to incremental expenses for the generation of new employment, as well as the acquisition of new productive assets that allow to expand the future productive capacity, generate a higher level of production of goods or provision of services, thereby eliminating expenses for improvements in the wage bill.

Return of the Advance Income Tax:

1. When the Advance Income Tax exceeds the Caused Income Tax and the Effective Tax Rate (Income Tax Caused Presumptive)

When the economic activity of the taxpayer has been significantly affected in the respective fiscal year and provided that this (advance) exceeds the tax caused, in the part that exceeds the average effective tax rate of taxpayers, defined by the Internal Income Services by resolution of a general nature, in which an average Effective Tax Rate may also be set per segment.
However, the excess subject to refund may not be greater than the difference between the advance and the tax caused.

2. When employment has been maintained or increased

The Internal Income Services may return all or part of the surplus between the advance paid and the income tax caused whenever it is verified that the net employment has been maintained or increased. The Internal Income Services will find indications of fraud with and without prejudice to legal actions, will apply a surcharge of 200% of the declared value unduly.

2. VALUE ADDED TAX (VAT)

2.1. Value-Added Tax (VAT)

VAT is levied on the transfer of goods, imports and services provided.

The following transactions are exempt from VAT:

- Contributions in kind to corporations
- Awards arising from inheritances and liquidation of companies
- Sale of businesses in which the assets and liabilities are transferred
- Merges, spin-offs and transformation of corporations
- Donations to public entities and charities
- Transfer of shares, participations and other securities

2.2. Transfers levied with "0" rate:

a) Food Products of agricultural, aviculture, cattle, apiculture, cuniculture, aquaculture and forest nature; meats and fish in natural estate;
b) Milks in natural estate, pasteurized, homogenized, powdered, maternity milks, child protein milks;
c) Bread, sugar, brown sugar, salt, grease, margarine, oats,cornstarch, noodles, flours for human consumption, canned tuna, mackerel, sardines, trout, and oils for human consumption, except olive oil;

d) Certified seeds, bulbs, plants, live roots. Fish flour, balanced foods, fertilizers, insecticides, pesticides, herbicides and veterinarian products;
e) Tractors with tires up to 200 HP, drill plows, harvest and crop machinery, bombs for irrigation.;
f) Medicines and drugs for human consumption, as well as raw material to produce them. Vases and labels for medicines;
g) Paper and books printed in paper;
h) Goods to be exported;
i) Goods imported to Ecuador by: Foreign Diplomats and officers of International organisms, provided they are exempt from custom duties, Passengers entering the country, Donations on behalf of Government entities, Goods imported under the Temporary Import Regime, while they are not nationalized, Imports of capital goods made by Government entities, Andean Development corporation, Interamerican Development Bank and World Bank

2.3. Services levied with "0" rate:

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 electric energy, potable water, sewage, those of garbage collection; and, of irrigation and drainage,
5. – Education Services,
6. – Kindergarten, childcare 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$ 800.00 for each case,
16. - Toll for the use of roads and highways,
17. - Lottery conducted by Junta de Beneficencia and Fe y Smile (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% VAT and it must be calculated and paid in the monthly VAT tax return made by taxpayer. The acquirer of the service provided from abroad must withhold and pay 100% of the VAT levied in the contracting of service. It shall be regarded as importation of services, those provided by a 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 VAT is the total amount of the movable goods of corporal nature that are being transferred or of the services provided, calculated upon their sale prices or of the price of the providing services, which includes taxes, surcharges and other expenses legally attributable to the price.

2.5. Taxable Base on Imported Goods

VAT taxable base on imports is the result of adding to the CIF value the taxes, custom duties, surcharges, fees and other expenses as declared in the import permit and other relevant documents.

2.6. Rate

The general rate for VAT is 12%

2.7. VAT Credit

As a mandatory general rule, VAT credit will be granted on VAT paid in the purchase and utilization of goods and services levied with this tax, provided such goods and services are destined to the production and merchandising of other goods and services levied with 12% rate. There will be no VAT credit in the local purchase 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. VAT Refund on Export Activities

Individuals and corporations that have paid VAT in the local purchase or import of goods, used in the manufacturing of goods to be exported, will be granted a refund for the tax paid, without interest, in a period of time not exceeding ninety days. If the refund is made after this term, interest will apply.

Notwithstanding the above rule, this will not apply to oil & gas exports, due to the fact that oil & gas are not manufactured, but rater extracted from the soil.

2.9. Commissions for concept of Severe Securities Services with 0% Tax Value Added Value (VAT).

Commissions for securities services that pay a 0% rate of Value Added Tax.

a) For Stock Exchanges:

1. Commission for the use of physical and technological infrastructure for transparent access to proposals for the purchase and sale of registered securities.
2. Commission for the use of the SIUB Sole Market System, for the stock exchange negotiation of securities and financial instruments.
3. Registration and maintenance so that issuers can negotiate the securities.

b) For Stock Houses:

1. Commission that the Stock Houses charge for carrying out the negotiations.
2. Commission for the administration of securities portfolios or third-party funds to invest them

in Securities Market instruments in accordance with the instructions of their principals.
3. Commission in underwriting or subscription of an issue or part of it, for subsequent resale in the market, with legal entities of the public sector, the private sector and with collective funds.
4. Commission for advice and information on matters of finance, securities, structuring of securities portfolios, mergers, spin-offs, acquisitions, trading of share packages, purchase and sale of companies, and other operations of the stock market.
5. Commission for carrying out repurchase transactions.
6. Commission for carrying out the operations of brokerage of equities or fixed income of the public and private sectors, inscribed in Stock Exchanges.
7. Commission for entering into correspondent agreements with securities intermediaries in other countries.
8. Commission for entering into referral agreements with securities intermediaries from other countries.
9. Commission for structuring processes of issuance of negotiable securities in the Stock Market.

c) For centralized clearing and settlement of securities deposits:
1. Commission to receive deposits of securities registered in the Public Cadastre of the Securities Market and to take charge of its custody and conservation until its restitution to the corresponding one.
2. Commission for registration of short and long-term issues.
3. Commission in the settlement and compensation of the securities deposited that are traded on the Stock Exchange.
4. Commission for carrying out the dematerialisation of the securities registered in the Public Cadastre of the Securities Market through its book entry.
5. Commission for acting as a paying agent of dematerialized issuances authorized by the Superintendency of Companies, Securities and Insurance.
6. Commission for providing the numerating agency services.
7. Commission for fractionation and consolidation of securities.

d) For the Administrators of Funds and Trusts:
1. Commission for the administration of investment funds and commercial securitization and investment trusts.

2.10. Minimum Publicity Space to Access the Deductibility of 100% of Expenditure.

Minimum advertising message

a) When the value of 12% of VAT in Ecuador is in force, in accordance with the law: "The use of Cash from my cell phone in the payment of goods and services allows access to the automatic refund of 2 VAT points."

Characteristics of printed visual material or fences.

a) In "Swiss" font type, printed in legible, clear and using high contrast colors between the letters and the background of the material, having to occupy at least 10% of the total allocated space, including the commercial image of the use of electronic money.

2.11 The Procedure and Conditions for the Verification of the Tax to the Added Value (Vat), Subject to the Budgetary Compensation Process, are established

The general rules that regulate electronic invoicing by taxpayers, companies or individuals that hire, promote or manage the provision of public shows in the country, who can issue invoices through data messages and signed electronically are established

2.12 Rules for the Return of the Tax to the Added Value (VAT) Paid by the Elderly Adults

It establishes the procedure for the refund of the Value Added Tax paid by the elderly in the local acquisition of goods and services that are of national origin or imported, of first necessity and for their use and personal consumption.

2.13

The proportion of VAT paid in purchases of goods or services susceptible to be used monthly as a tax credit will be established by relating to severe sales with 12% rate, more exports, more sales of receptive tourism packages, billed in or out of the country, provided to non-resident natural persons in Ecuador, plus direct sales of goods and services taxed with zero percent rate of vat to exporters plus the sales of the goods indicated in numeral 17 (*) of article 55 of the law of tax regime, of national production, with the total of the sales.

* Electric household cookers and those that work exclusively by electric induction mechanisms, including those with an electric oven, as well as household pots, designed for use in induction cookers and electric water heating systems for use domestic, including electric showers.

3. TAX ON SPECIAL CONSUMPTIONS

3.1. Object of Tax Special Consumptions

Tax Special Consumptions applies to the consumption of cigarettes, beers, soft drinks, and luxury or sumptuary articles, national or imported.

3.2. Taxable base

Taxable base of products subject to Tax Special Consumptions locally manufactured, shall be determined adding the "exfactory" price, costs and commercialization margins, minus VAT and the own Tax Special Consumptions. The rates established in the law shall be applied to this taxable base.

For imports subject to Tax Special Consumptions, the taxable base will be established increasing to the "Ex-Custom Price" an additional 25% on account of costs and expected commercialization margins.

3.3. Rates of Tax Special Consumptions

Tax Special Consumptions is levied on the following products

GROUP I	RATES
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 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:

RATES

- Pick up and Vans which price to the public is up to USD 30,000.00 5%
- Other motor vehicles which price to the Public is up to USD 20,000.00 5%
- Motor vehicles, excepting Pick Up and Vans, which price to the public ranges between USD 20,000.00 and 30,000.00 15%
- Motor vehicles, excepting Pick Up and Vans, which price to the public ranges between USD 30,000.00 and 40,000.00 25%
- Motor vehicles, excepting Pick Up and Vans, which price to the pubic exceeds 40,000.00 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 1,500.00 a year 35%

3.4. Special Consumption Tax for plans and fixed telephony services that market only voice, data and SMS and non-alcoholic drinks

It is not taxed with Tax Special Consumptions, the sale of time air companies for marketing back to individuals through modalities such as: brokers, resale, distribution agreements and other similar ones.

In the case of non-alcoholic beverages having fifty percent (50%) or less than content natural, shall

not be deemed for the purposes of the application of the Special Consumption Tax, the natural sugar of the fruit which is part of the drink, so that the corresponding fee shall apply only on the added sugar.

3.5. Reminder to the passive subjects of the Special Consumption Tax

The kitchens, kitchens, water heaters and water heating systems for domestic use, which operate totally or partially through the combustion of gas, regardless of their presentation for commercialization to the final consumer, are subject to the 100% Tax Special Consumptions tariff. those cases in which these goods are marketed assembled or in parts.

For purposes of calculating the tax, all the items referred to in Article 76 of the Internal Tax Regime Law must be considered, including the assembly values of the asset, whether this process is carried out abroad, in which case it must be included in the ex-customs price, or that it is done in the country, in which case it must be included in the ex-factory price.

3.6. To the national producers of assets taxed with Special Consumption Tax

The Internal Income Service clarifies to the passive subjects of the Tax Special Consumptions the following:

1. For the purposes of calculating the ex-factory price, in the Tax Special Consumptions regime, the following shall be taken into account:

to. For the calculation of the ex-factory price, the items provided for that purpose in the relevant standards must be included in the cost of the product, even when they are carried out through independent business units or third parties, whether these parties are related or not, in exchange. of a price or retribution and even free of charge, regardless of the way in which the manufacturer registers such items. The value obtained in this way must be added the marginal utility of the manufacturer, in the cases that apply depending on the structure of the business, as indicated in the current tax regulations.

b. In order to obtain the ex-factory price within the processes for determining the tax base of the Tax Special Consumptions, this Tax Administration considers the production process as a single economic process, which ends with the transfer of the manufacturer or producer to the next marketing stage -or final consumer, when appropriate-, of a good in its presentation to the final consumer, regardless of whether said productive process has been divided into different subprocesses by different subjects.

3.7. The referential prices are established for the calculation of the taxable base of the Tax Special Consumptions of perfumes and toilet waters, marketed through direct sales, for the fiscal period 2018

They must be calculated for each product, increasing to the ex-custom price - in the case of imported goods - and, to the total production costs - in the case of domestically manufactured goods - the percentages detailed in the following table:

EX-CUSTOMS PRICE RANGE OR TOTAL PRODUCTION COSTS PER PRODUCT IN USD		% of increase
Since	Until	
-	1,50	150%
1,51	3,00	180%
3,01	6,00	240%
6,01	In onwards	300%

The total production costs of domestically manufactured goods will include raw materials, direct labor and manufacturing costs and indirect costs.

For purposes of calculating the tax base of special consumption tax, payments for royalties calculated on the basis of volume, value or amount of sales that do not exceed 5% of said sales, shall not be considered manufacturing costs or expenses; in case the royalty payments exceed that percentage, the aforementioned value will be incorporated into the total production costs.

3.8. The specific rates set out in group V of article 82 of the tax regime law are established for the calculation of the Tax Special Consumptions, which will apply from january 1, 2018

GRUPO V	TARIFA ESPECÍFICA
Cigarettes	$ 0.16 per unit
Alcoholic beverages, including craft beer	7.22 USD per liter of pure alcohol
Industrial Beer	USD 12 per liter of pure alcohol
Non-alcoholic and carbonated drinks with sugar content greater than 25 grams per liter of beverage, except energizers.	0.18 USD per 100 grams of sugar

3.9 The base taxable by liter of drink of the Special Consumption Tax of alcoholic beverages, including beer, applicable to ad valorem tariff during the fiscal 2018 period is established

For purposes of determining the taxable base for the application of the ad valorem rate of the Special Consumption Tax of alcoholic beverages, including beer, the value of the ex-factory and ex-customs price is established, as indicated in the literal b) numeral 2 of article 76 of the Internal Tax Regime Law, at USD 4.32 per liter of drink.

4. CAPITAL FLIGHT TAX (ISD)

Tax Rate: 5% on all moneys, funds, currencies remitted abroad, with or without the intervention of Financial Institutions. It includes 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. It also includes the

offsetting or compensation of accounts with entities abroad. All these transactions shall be subject to a 5% tax on the amount remitted, transferred or carried outside Ecuador

Taxpayers subject to this tax:

a) Ecuadorians and foreign individuals residents of Ecuador
b) Undivided inheritances
c) Private national corporations, Branches of foreign companies and permanent establishments domiciled in Ecuador, even in the cases when they offset or compensate accounts with entities, related or not, from abroad
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 custom authority can accurately identify the transaction and collect the tax whenever applicable.

According to the December 2017 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 11,270.00 for 2018), shall be exempt from this tax. In the excess will be subject to the tax. Transfers remitted abroad of up to USD 1,000.00 will equally be exempt from the Special Consumption Tax, 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 Special Consumption Tax 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.

4.1 Exemption from tax on the exit of currencies payments made with credit cards or debit for consumption to withdrawals up to an amount of up to us $ 5,000 a year.

4.2 Rules, conditions and limits for the application of the benefit of exemption from the tax on the exit of currency and customs tariffs.

This Resolution establishes the rules, conditions and limits for the application of the benefit of exemption from the Excise Tax and Customs Duties, in the payment and in the clearance process of the goods, as appropriate, related to imports of goods. of capital not produced in Ecuador, that are destined to productive processes or to the rendering of services that are carried out in the provinces of Manabí and Esmeraldas, by the taxpayers that have suffered a direct economic affectation in their productive assets as a consequence of the earthquake of 16 April 2016, and have their domicile in those provinces.

Limit.- Regarding the customs value of the imported goods, a maximum limit is established to which the exoneration of the Exit Tax on Foreign Exchange and Customs Duties will be applied, according to the following classification:

a) For micro-enterprises, and individuals (ECUADORIAN SIMPLIFIED TAX REGIME, natural persons not obliged to keep accounts, and natural persons obliged to keep accounts), with annual income of up to USD 100,000, it is 20% of the upper limit of each income range, up to a maximum quota of USD 12,000, according to the table described below:

Annual sales revenue (en USD)	Maximum value in customs for imports of capital goods, to which the exemption of ISD and Customs Duties will apply.
0-5000	1,000
5.001- 10.000	2,000
10.001- 20.000	4,000
20.001- 30.000	6,000
30.001- 40.000	8,000
40.001- 50.000	10,000
50.001- 60.000	12,000
60.001- 100.000	12,000

For taxpayers with annual sales revenue between USD 60,001 and USD 100,000, a maximum value of USD 12,000 is established on the customs value of the imported goods to which it will be applied in the exoneration.

b) For small, medium and large companies, and for individuals with incomes above USD 100,000, it is 20% of the productive assets registered in the last income tax return filed and defined for that purpose, having a floor of USD 12,000 and a maximum quota established by company size, in accordance with the table described below:

Classification of companies	Annual revenue by sales (in USD)	Maximum limits (in USD)
Little	Of 100.001 - 1'000,000	50000.00
Median	Of 1'000.001 - 5'000.000	125000.00
Big	More de 5'000.000	500000.00

4.3 Reminder to the passive subjects of the Currency Exit Tax

The Internal Revenue Service will control the correct application of the following provisions:
In the event that the respective taxpayer transfers, transfers or sends foreign currency through public or private entities, which enjoy some exemption for the payment of the Currency Exit Tax or that fall within any of the non-subjection cases contemplated in the Reform Law for Tax Equity in Ecuador, shall declare, settle and pay the corresponding tax in the legally established terms and in the means provided for that purpose by the Internal Revenue Service, without prejudice to the legal actions and

responsibilities to the that there may be, in accordance with the provisions of article 36 of the Tax Code, in article 298 of the Comprehensive Organic Penal Code, and other pertinent regulations in the Official Registry.

4.4 Rules for the retention of the tax to the exit of currencies in the accreditation of securities in outside accounts, arising from administrative acts issued by the Internal Income Service

In the accreditation of securities in foreign accounts by the Central Bank of Ecuador (CBE), derived from administrative acts issued by the Internal Income Service , the CBE must act as a withholding agent of the Foreign Exchange Tax that is generated by such transfers, discounting the amount to be credited for the Currency Exit Tax generated, in accordance with the provisions of the Tax Reform Law for Ecuador, the Regulations for the Application of Excise Tax and other current tax regulations. The provisions set forth above shall also apply, in case the accreditation is derived from judicial decisions issued in relation to such administrative acts.

4.5 Exemption of Currency Exit Tax for persons who are disappearing from catastrophic diseases.

4.6 Return of Currency Exit Tax in the exports activity of raw materials, supplies and capital goods, with the purpose of being incorporated in productive processes of goods that are exported, within a period not greater than 90 days.

5. TAX ON ASSETS AND INVESTMENTS MAINTAINED ABROAD

5.1 Assets levied with the tax: available funds and investments maintained outside Ecuador by private entities controlled by the Superintendence of Banks and Insurance and by entities controlled by Stock Intendancies of the Superintendence of Companies. This tax encompasses the ownership or possession of monetary assets maintained outside Ecuadorian territory, either in the form of accounts, checking accounts, time deposits, investment funds, portfolio investments, investment trusts or any other financial instrument.

5.2 Taxable base: The taxable base will be the simply monthly average balance of the daily balance of the funds available in a foreign institution, domiciled or not in Ecuador and of investments issued by issuers domiciled outside Ecuador. In the case of ownership or possession of several investment documents abroad, the taxable base will be calculated by adding the monthly average balances obtained by each one.

5.3 Rate: The rate of the tax on assets maintained abroad is of 0.25% - 0.35% monthly, applied on the consolidated taxable base

5.4 The monthly tax is established on the available funds and investments that keep outside the banks, savings and credit cooperatives and other private entities dedicated to carry out financial activities; administrating societies of funds and trusts and other private entities of the securities market; insurance, reinsurance companies and as well as the companies of administration, intermediation, management and / or purchase of portfolio.

5.5 They are obligated to the payment of the tax to the assets abroad in quality of taxpayers the banks, savings and credit cooperatives, funds administrating societies and trusts; insurance, reinsur-

ance companies; in addition, the companies of administration, intermediation, management and / or purchase of portfolio.

6. TAX ON TOTAL ASSETS

6.1. Rate

The rate is 0.15% on the amount of total assets located in a specific municipality.
The beneficiaries of this tax are the municipalities of Ecuador.

6.2. Taxpayers

Taxpayers of this tax are the individuals, juridical persons, companies, and businesses of all kinds, which maintain a domicile in the respective municipal jurisdiction, habitual y carrying out commercial, industrial, and other financial activities in said jurisdiction

6.3. Deductions

For purposes of the calculation of this tax, obligations of up to one year owed by taxpayers and contingent liabilities will be allowed as deductions.

6.4 Annex of assets and liabilities of Companies and Permanent Establishments

The Internal Revenue Service establishes the obligation to present the "Appendix of assets and liabilities of companies and permanent establishments", for the following subjects that have a total of assets or liabilities abroad that exceeds the value of five hundred thousand dollars (USD. 500,000.00):

1. Companies legally incorporated in Ecuador, according to the definition of Article 98 of the Internal Tax Regime Law; and,
2. Permanent establishments domiciled in Ecuador of non-resident foreign companies.

They will not be obliged to present the "Annex of assets and liabilities of companies and permanent establishments", the following subjects:

1. The institutions and entities that make up the public sector.
2. Public companies.
3. Legal entities with majority public capital, as well as independent or autonomous assets with or without legal status constituted by the State Institutions as long as the beneficiaries are said institutions;
4. The international organizations recognized by the Ecuadorian State and its foreign officials duly accredited in the country; diplomatic missions, consular offices, or foreign officials of these entities, duly accredited in the country;
5. The institutions that make up the national financial system
6. Insurance and reinsurance companies.

The components that make up the "Annex of assets and liabilities of companies and establishments permanent "the following concepts are considered:

1. ASSETS

a. Cash and investments in financial institutions and other depositories in Ecuador and abroad
b. Representative rights of capital in Ecuador and abroad
c. Accounts receivable in Ecuador and abroad
d. Movable property and construction in progress, in Ecuador and abroad
and. Motorized land vehicles, ships and aircraft, in Ecuador and abroad
f. Rights in Ecuador and abroad
g. Real estate in Ecuador and abroad
h. Other assets in Ecuador and abroad

2. LIABILITIES

a. Debts incurred in Ecuador and abroad

7 . MUNICIPAL TAXES

7.1 Tax on urban real estate

Real estate located within the limits of a particular municipality shall be subject to municipal Taxes, which are paid annually. The tax is levied depending on the amount of the appraisal of the property assessed by the respective municipality. Each municipality will update the appraisals every 5 years, splitting separately the commercial value of the land and the constructions.
Taxable base for this tax is the commercial value of the real estate, as appraised by the municipality, minus 40% of said value, which is the general reduction authorized by the law. On the taxable base, a progressive scale of taxes will be imposed. A fixed amount of tax is applied to the basic portion and on the excess rates range from 0.3% to 0.16%

7.2. Tax on rural real estate

This applies to real estate situated out of the urban limits. As in the above case, this tax is collected depending upon the commercial value and the rates are slightly lower than those applied to the real estate located within urban limits

7.3. 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%.

7.5 Through the reform of the reformatory law for tax equity in Ecuador, chapter III of the creation of the tax to rural lands is eliminated

7.6 The general rules that regulate the compliance of formal duties related to occasional public shows with the participation of non-resident foreigners in the country are executed

The general norms that regulate the presentation of the guarantee of 10% of the amount of the ticketing authorized by the competent authority for the realization of public spectacles are issued, same that must be made by the natural persons or societies that organize, promote or administer said spectacles occasional publics, with the participation of foreigners not resident in the country; as well as the requirements for obtaining the certificate of compliance with tax obligations as withholding agent, for such concept.

8. UNIVERSITY OF GUAYAQUIL TAX

8.1. Beneficiary

This tax was created for the benefit of the Hospital of the University of Guayaquil and taxpayers of this levy are individuals and corporations engaged in commercial, industrial and financial activities within the city of Guayaquil.

8.2. Rate and Taxable Base

The annual rate is 0.20% calculated on the amount of own capital stock declared by taxpayers in their respective commercial and industrial registries. Payment must be made within the first quarter of each calendar year in the Treasury Department of the University of Guayaquil.

9. SUPERINTENDENCE OF COMPANIES TAX

9.1. Taxpayers

Domestic companies and branches of foreign companies that are under the surveillance and control of the Superintendence of companies will pay this annual tax to the Government entity. The amount of the tax shall be issued annually by the Superintendence of companies.

9.2. Taxable base

The annual amount of this tax shall be established and paid based upon the amount of real assets of each company, as shown in the general balance or financial statements of the preceding fiscal year.

9.3. Rate

The annual tax to the Superintendence of companies for years 2018:

Amount of real assets of the companies (in US Dollars)		Contribution per thousand over the real asset
Since	Until	
0	23,500.00	0,00
23,500.01	100,000.00	0,71
100,000.01	1,000,000.00	0,76
1,000,000.01	20,000,000.00	0,82
20,000,000.01	500,000,000.00	0,87
500,000,000.01	And on	0,93

9.4. Terms for payment

Taxpayers will be allowed to pay this annual tax in two installments, provided at least 50% of the tax is paid until September 30 of each year and provided there are no amounts owed for past years. The remaining 50% can be paid until 31 December of same year.

9.5 Information that must be sent to the Ecuadorian companies that have foreign companies as partners or shareholders.

Is duty of the legal representative of the national company having as partners or shareholders foreign societies, present in digitized form, to the Superintendency of companies, securities and insurance in the month of January of each year, the following information:

a) General information:

1 the name or business name of the national company and its file number.

2 name and position of the legal representative of the national company.

b) Specific information:

1. A certification extended by the authority competent of the country of origin that accredits the existence legal of the society foreign, partner or shareholder of the company Ecuadorian. Such certification shall be authenticated by or Ecuadorian consul.

2. A complete list of all partners, shareholders or members of the foreign company, signed and certified before a notary public by the Secretary, administrator or official of the pre-designate foreign company, which is authorized in the connection, or by a legally constituted Attorney. If the list has been signed on the outside, it shall be authenticated by or Ecuadorian consul.

10. TAXES ON IMPORTS

10.1. Custom Duties

Custom Duties can be "ad-valórem" (according to the value), specific (on weight or measure units) or combined. In Ecuador, custom duties are generally "ad valórem" and are calculated on CIF value of the merchandises. Tariffs range from 5% (bottom) to 35% (ceiling)

10.2. Value Added Tax (VAT)

The rate is 12% and the taxable base is the result of adding to the CIF value all taxes, custom duties, surcharges, fees and other charges that appear in the UDI (Unique Document of Importation)

10.3 Differ to 5% the ad valorem tariff tariff for the importation of "WIRE special characteristics", classified in the tariff subparts 7213200000, 7213911000, 7213919000, 7213990000, 7227100000, 7227200000 and 7227900000, for a contingent of 13,200 tons, since 01 from january 2018 to december 31, 2018, for natural or legal persons registered in the ministry of industries and productivity (mipro), who access the import license established in this resolution.
In case of overriding the contingent, they will pay the corresponding rate tariff.

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. REDEEM ABLE TAX ON NON -RETURNABLE PLASTIC BOTTLES

Its purpose is to reduce the environmental pollution and to encourage the recycling process. The tax incidence is born when bottling liquids in non-returnable plastic bottles, utilized for containing alcoholic and non-alcoholic drinks, beverages, soft drinks and water. In the case of imported beverages, the tax incidence will occur upon their customs clearance for home use.

Tariff: For each plastic bottle levied with this tax, the rate will be of up to two cents of US dollar (USD 0.02) amount that will be fully reimbursed to whomever collects, delivers and returns the bottles. The Internal Income Service will determine the amount of the tariff for each specific case. Taxpayers of this tax will be the bottlers of drinks contained in plastic bottles and importers of drinks in plastic bottles.

Dairy products and medicines filled in plastic bottles are exempt from this tax. This tax will not be considered as a deductible expense for income tax purposes.

12.1 Form 114 for the declaration of the redeemable tax to non-returnable plastic bottles

The Form 114 for the Declaration and Payment of the Plastic Products Redeemable Tax (IRBP) is approved and additionally establishes:

a) As of the declaration of May 2016, the bottlers will not be able to compensate the tax for the bottles recovered and subject to this tax.

b) The obligated companies must present the IBP Annex monthly, the following information:

1. Number of Beverages bottled in non-returnable plastic containers taxed.

2. Number of units, and sold of finished product bottled in non-returnable plastic containers taxed.
3. Number of imported units of finished product bottled in non-returnable plastic containers taxed.

12.2 The conversion values of the number of non-returnable, recovered or collected plastic bottles are established to their equivalent in kilograms from January to June 2018.

PERIOD	RATE IN USD POR KG.	No. PET PLASTIC BOTTLES
January - June of 2018	USD 0.42 per Kg. Of PET plastic bottles	21 PET plastic bottles per Kg.

13. TAX ON VEHICULAR ENVIRONMENTAL CONTAMINATION

TAX ON VEHICULAR ENVIROMENTAL CONTAMINATION is levied on the contamination (pollution) of the environment for the use of ground transportation motor vehicles. The tax incidence is born from the environmental contamination produced by ground transportation motor vehicles. Taxpayers of Tax on Vehicular Enviromental Contamination are individuals, undivided inheritances and national or foreign corporations, proprietors of ground transportation motor vehicles. There are several vehicles exempt from this tax, among them, Government vehicles, public transportation of passengers, school buses, taxis, those vehicles directly related to the productive activity of taxpayer, ambulances, moving hospitals, vehicles regarded as "classical", electric vehicles, and those destined for the use and transportation of handicapped persons.

14. TEMPORARY IMPORT REGIME

14.1. Concept

Temporary Import Regime is a special custom regime whereby payment of import taxes and custom duties are suspended while merchandises are entered into Ecuador to be utilized in a determined purpose, during a certain period of time, and later re-exported without further modification.

14.2. Nationalization and payment of duties

If the merchandises that entered into Ecuador under the Temporary Import Regime are nationalized, the payment of import taxes and custom duties will be effected at the current rates and exchange rate in force at the time of filing the import to local consumption petition.

14.3. Re- exportation

At the time of re-exporting merchandises that were entered into Ecuador under the Temporary Import Regime for the construction of works or for the providing of services, the proportional part of the custom duties that were suspended will be levied.

15. PAYROLL TAXES AND PROFIT-SHARING

15.1. Social Security Contributions

Employer must pay a monthly contribution to the Social Security equal to 11.15% of the employee's monthly salary. Additionally he must pay 0.5% for SECAP (Ecuadorian Services for Professional Training) and another 0.5% for IECE (Ecuadorian Institute for Educational Credit) The Reserve Fund is a fringe benefit that employer must pay to the Social Security on behalf of employees. It is an annual contribution and is equal to the employee's one month salary. According to a recent reform, the employee has the right to choose whether he/she wants it to be paid annually or monthly.

15.2. Profit-Sharing

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

15.3. Basic salary unified for the worker in general from January 1, 2018

Is approves the agreement generated in the full of the Council national of work and wages and accordingly set starting from the 1 of January of 2018 the wage basic unified for the worker in general, microenterprise in USD$ 386.00 dollars of the United States of America monthly.

15.4. The profit-sharing payment

Employers who are natural or legal persons required to take accounting, including societies in fact, undivided and autonomous heritages, with staff under dependency relationship are required to pay to register and regulated in the present instruction manual.
15% of the profit-sharing, will be distributed as well: 10% will be divided among all workers and former workers; and the remaining 5% will be given to workers and former workers, in proportion to their dependants.

For the calculation of these percentages the employer shall take as a basis statements or determinations that are made for the payment of the tax income concerning profit-sharing for workers. In addition, the employer considered the length of service, without making any differentiation with the remuneration or the type of occupation or activity of the person worker or former worker who worked during the fiscal year in which generated earnings.

Calculation of 10% of the participation of utilities-the value that should perceive each individual worker or former worker for 10% of the profit-sharing concept, is obtained by multiplying the value of 10% of earnings for the time in days that the person has worked, divided for the total days worked by all workers and former workers.

The employer is offering 15% of profits until April 15 of each year.

15.5 The regulation is issued to guarantee the labor inclusion of persons with disabilities, through the registration and control of substitute workers, workers substitutes for human solidarity and people who have their charge the maintenance of persons with disabilities

For the application of this Regulation, substitute workers are considered to be relatives up to fourth degree of consanguinity and second degree of affinity, spouse, partner in legally constituted fact, legal representative or persons under their responsibility and / or care to a person with severe disability; In the same way, the parents of girls, boys or adolescents with disabilities or their legal representatives are considered as direct substitute workers, which may be part of the percentage of compliance with labor inclusion.

This benefit may not be transferred to more than one (1) person, for each person with severe disability, as determined by Article 48 of the Organic Law on Disabilities.

It will be considered as a substitute worker by human solidarity to those persons who without kinship of consanguinity or affinity, can be included as a substitute for a person with severe disability, who does not have a family referral and who, because of his condition, is unable to do so; in these cases the substitute for solidarity will be responsible for the maintenance and expenses related to the goods described in article 74 of the Organic Law on Disabilities; and, services of first necessity for use and consumption of the person with severe disability.

The person accredited and certified as a substitute for human solidarity is responsible for the care of a person with a disability, being able to be a relative of the substitute person or by contracting services related to the needs of daily life of care and attention.
However, this benefit may not be transferred to more than one person, for each person with severe disability.

16.1. Amendments to the organic law of tax incentives for various productive sectors.

1. Employers will have a deduction of additional 100% for the costs of private health insurance or prepaid medicine contracted in favour of workers, provided that the coverage is for all workers, without prejudice that is or not by net wage, and than by contracting with companies domiciled in the country, with the exceptions ", limits and conditions laid down in the regulation."

2. Other sub-sectors of sector agricultural, fishing or acuaicultor, shall benefit from this regime for its production phase, when the President of the Republic, by Decree, so have it, provided that there is the report on the corresponding fiscal impact of the Internal Income Service. The rates will be set by Executive Decree, within the range of 1% to 2%. Taxpayers in these subsectors that are in the simplified tax regime may maintain that system, provided that the aforementioned Decree thus has it.

The values paid by rural land tax shall constitute a tax credit for the payment of this tax, as well as for fees of the simplified scheme referred to in the previous paragraph, in accordance with the rules and conditions laid down by regulation. When that tax credit is increased to the flat tax or the designated quota, it may be used up to two following fiscal years and in any case will be subject to repayment or claim of improper payment or in excess.

3. Natural persons and undivided not forced to take accounting, societies and popular and solidarity economy organizations which meet the conditions of micro-enterprises and enterprises who have subscribed or enter into contracts for exploration and exploitation of hydrocarbons in any contractual form."

4. The Internal Income Service may provide refund of the advance payment established in the literal b) when it has been affected significantly the economic activity of the taxable person in the respective fiscal year, provided this exceeds caused tax, in the part exceeding the average effective

tax rate of taxpayers in general defined by resolution of general tax administration in which you can also set an average effective tax rate by segments. For the effect, the taxpayer will present his duly substantiated request that the Internal Income Service will carry out checks and controls that correspond. "This advance, in case of not be accredited to the payment of the tax to the income caused or of not be authorized your return is shall constitute in payment final of tax to the income, without right to credit tax later."

5.-Them operators of transport public and commercial legally constituted not considered in the calculation of the advance, both in active, costs, expenses and heritage, the value of the units of transport and their couplings with which meet your activity economic."

6. - The price ex custom is one that is obtained of the sum of them rates tariff, funds and rates extraordinary collected by the Authority customs to the time of UN-bonded them products imported, to the value in custom of them goods."

7.- Them institutions of the network public Integral of health may recognize until them amounts established in the tariff issued by the authority health national, them expenses that their affiliates or users should pay by concept of over not covered by them companies that finance services of attention integral of health prepaid or of safe that offered coverage of insurance of assistance medical whenever the provision in a private health establishment has been qualified or accredited in accordance to defined on the standards established for the effect.

The payment referred to in the foregoing paragraph may be provided make the respective bypass, which will be authorized by the institution of the public comprehensive network of health in cases where by non-availability or that, in an effort to ensure proper access to the right to health and social security, the derivation is justified administrative, civil or criminal responsibility of all officials or individuals directly or indirectly involved in the referral process, without prejudice to their degree of participation in the Act or illegal omission; the payment will be made upon the revision of medical technical relevance and billing is done for effect. Equal provision apply to all other cases of referrals that you can make the institution of the comprehensive public health network, permitted by the regulations in force.

9.- The principal payments or dividends made abroad, in an amount equivalent to the value of the capital entered the country by a resident, both own financing without interest or as capital contribution, provided they intended to undertake productive investment, and these values have remained in the Ecuador for a period of at least two years from your income.

For access to the benefit detailed in the subsection above, the capital returned due have fulfilled to the time of its output of the country, with all them obligations tax.

The capital inflows must be registered in the Central Bank of Ecuador and comply with the conditions and limits established by the Internal Income Service.

10.- The producers in the sectors agriculture, livestock, aquaculture; as well as forest plantations they are not subject to the tax to the patent and therefore natural, legal persons societies, national or foreign engaged in these activities cannot be subjects of collecting by any municipal or metropolitan decentralized autonomous Government of the country.

16.2. Reforms to the Regulation for the Implementation of the Organic Law of Tax Incentives for various productive sectors.

1.- In the event that there are new employees who do not meet the condition of being under dependency ratio for at least six months within the corresponding fiscal year, will be considered as new employees for the following fiscal year, provided that in that year completed the minimum period in a row.

Not be considered as new employees, for the purposes of the calculation of the additional deduction, hired workers to cover spaces for which this benefit is already applied.

2. - Employers subtract 100% additional expenses incurred directly by them in payment of private medical insurance or prepaid medicine contracted in favour of all of the payroll of workers, with fiscal entities resident in the country, provided that the individual monthly value of the premium does not exceed the established limits. In case of overcoming them, it will be excluded from the benefit of the additional deduction to the surplus.

Means that costs of private health insurance or prepaid medicine include premium and costs directly related to these services.

3.- Cases in which can request is exemption, reduction or refund of the advance-until the month of June of each year las people natural and undivided not forced to take accounting, societies and organizations of popular and solidary economy, they may ask the corresponding to the Internal Income Service exemption or reduction of payment of the advance of the tax income up to the established percentages, when they demonstrate that the taxpayers income-generating activity will generate losses in that year that taxable income will be significantly lower than those obtained in the previous year, or covering the amount of the income tax withholding at the source of the income tax turn off in the office.

4. - Natural persons and the undivided forced to take accounting and societies, may apply to the Internal Income Service refund paid by concept of anticipation of the income tax as the total of the deductions that have been made, application which shall be served by the tax administration within a maximum period of 90 days, after which will generate interest that apply.
In any case the return value may be greater than the difference between the paid advance and caused tax.

Means that taxable persons have suffered a significant economic involvement when they have to pay an advance mayoral average effective tax rate of taxpayers in general or segments.

5. - Payments partners of road transport operators-in payments made by the operators of ground transportation partners enrolled in the single registry of taxpayer (RUC) under the general regime, retention will be on the total value paid or credited into account, in the same percentages established by the resolution issued by the Internal Income Service applicable to the transport sector. This retention will not proceed in the case of payments to members registered in the tax under the simplified tax RISE regime."

6. - Transportation.- the services of commercial road transport services, unless provided by taxis, will be carried out only through operators duly authorized by the competent traffic authority. Partner will issue respective sales receipt to the operator for the services rendered by this, such proof shall be subject to the requirements laid down in the rules of sale receipts, withholding and complementary documents and which are established by a resolution issued by the Internal Income Service.

For the purposes of the Act, the transport of hydrocarbons and their derivatives by oil pipelines, gas pipelines, or pipelines, will be considered freight transport.

Services of postal mail and parallel, understanding as such the receipt, collection, transport and distribution of correspondence, are taxed with rate 14%.

7. - Tax credit applicable to fees RISE originated in the payment of the tax to rural land-values paid by rural land tax shall constitute a tax credit, for the payment of the fees of the sub-sectors of sector agricultural, fishing or acuaicultor taxpayers.

When that tax credit greater than designated quotas, it may be used up to two fiscal years following, and in any case will be subject to repayment or claim of improper payment or in excess.

8. - Vehicles of public property service from professional chauffeurs, at the rate of a vehicle by each holder, as well as the property of the operators of public transport of passengers and taxis legally constituted, in accordance with the procedure and the requirements to determine the tax administration will be exempt from this tax.

17. MISCELLANEOUS MATTERS

17.1. Foreign Exchange Controls

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

17.2. Foreign Investment:

Ecuador does not impose any limitation or pre-requisites to foreign investors. A foreign individual or corporation can own 100% of a local corporation. Tax and Legal treatment, in general, is equal for Ecuadorians and foreigners. Repatriation of profits and capital invested has no limitation whatsoever.

17.3. Tax Stability

The Tax Stability consists in granting to foreign and local investors the maintenance, for a fixed period of time, of the applicable income tax rate in force at the time of making the investment.

17.4. Declaration of Personal Equity

According to Resolution issued by the Internal Revenue Service on June 6, 2017, it indicates that they are required to submit a financial declaration, with closing on January 1 of the current year, all natural persons whose total assets exceed 20 fractions not taxed. Income tax US $ 225,800 for 2017 and if a conjugal partnership is maintained, the amount of US $ 451,600 (40 Basic Fractions not taxed).

The assets to be declared are: Real Estate: Land and buildings, movable goods: cash, cash in banking accounts and other deposits in financial institutions, other deposits, investments, stock, participations, commodities, portfolio, credits and receivables, motor vehicles, planes, boats, movable goods, and home furniture, machineries and equipments, merchandises and raw materials, animals.

The only exemptions are library collections and music collections owned by declarer, jewelry, paint-

ings, precious metals, art works, etc., rights: usufruct, rights of use and housing, authorship rights, inheritance rights, etc. The Internal Income Service alleges that this Declaration of equity has the purpose to compare the increase in the equity of an individual versus the income declared in the Income Tax Return, and that there is no intention to create a tax on equity.

17.5. Special Zones for Economic Development (ZEDE)

The December 2010 Tax Reform created the establishment of Special Zones for Economic Development (ZEDE) as a custom destination, in specific locations of the national territory, for the settlement of new investments granting them several tax incentives, provided the specific objectives set forth in the tax reform are met.

Standards for accounting differentiation of rents from activities carried out within the territory of the ZÉDÉ and out by ZEDES operators

Them people natural and them societies considered as operators of ZEDES that additionally obtain incomes from of activities developed out of the territory of the ZÉDÉ, for the application of the reduction of five points percentage of its rate of tax to the income and others benefits tax; must distinguish in its accounting them operations performed within it ZÉDÉ, on which is apply such benefits, of those made out of the same, and must for such effect:

1. Create specific ledger accounts other than those where the operations carried out outside that territory are recorded in the chart of accounts developed operations within the territory of the ZÉDÉ.
2. Register revenues of the taxable person within the territory of the ZÉDÉ accounted for separately from the registration of income earned outside this territory.
3. Register accounted for by cost center operations carried out within the territory of the ZÉDÉ independently to log by operations carried out outside such territory.
4. Disclose in the notes to the financial statements the operations, indicating if they were executed within or outside the territory of the ZÉDÉ.

17.6. New Tax Havens

The Internal Income Service incorporated to its list of Tax Havens or Lesser Taxation Jurisdictions: BONARE, SABA Y SAN EUSTAQUIO, CURAZAO, MANCOMUNIDAD DOMINICA (Estado Asociado), SAN MARTIN.

Additionally, preferential tax regimes will be considered and will have tax haven treatment, the following:

1. HONG KONG is considered a Tax Haven

2. Preferential tax regimes will be considered and will have tax haven treatment, the following:

    1. With regard to the Netherlands:
        a. The tax regime applicable to investment companies, exempt or qualified for a zero rate of income tax.
        b. Regimes subject to advance tax decisions or "tax rulings".
        c. Regimes of "innovation box" or "innovation box".

2. With respect to the United Kingdom:
   a. Regimes that allow companies to maintain capital representative rights with nominal or formal holders that do not support the economic risk of the property and of which it is not known who their effective beneficiaries are.
   b. Regimes of "innovation box" or "innovation box".

3. With respect to New Zealand, the tax regimes applicable to trusts or "Trusts".

4. With respect to Costa Rica, the regimes of private companies, created under their laws, but not registered with the Costa Rican Tax Administration.

17.7. Rules governing the procedure of the companies considered for tax as nonexistent or Phantom effects.

For the identification of the companies considered to effect tax such as nonexistent or phantom, as well as natural persons and companies with alleged activities and/or non-existent transactions, the Internal Income Service be carried out an analysis of actual execution of activities or economic transactions with own taxpayer or third party information which consists of their databases.

The tax administration may consider the absence of the designated place as tax domicile, as well as the absence or insufficiency of assets, staff, infrastructure, which are necessary for the provision of services, production or marketing of goods that justify the execution of economic activities or the transactions, among other elements.

17.8. Limit applicable to prices for exports of bananas to parties related to the year 2018

The limit of export prices of bananas to parties related to the year 2018 will be 0,5084 USD per kilogram of bananas 22XU.

17.9. Conditions, deadlines and exceptions to inform the corporate composition, and approve the "annex to shareholders, participants, partners, Board members and administrators" and its contents.

1. You are required to submit these annex societies, in accordance with the definition of article 98 of the tax law

2. Subjects bound to present information, must report through the annex to shareholders, participants, partners, members of Directors and members of Board of managers and administrators, the following:

   a) Designation, company name or names and full names
   b) Number of single registry of taxpayer (RUC), or number, or tax identification code issued in your country of residence.
   c) Type of person (natural or legal), and in the case of foreign legal entity not resident in Ecuador, specify the type of company concerned and its legal;
   d) Country and jurisdiction of residence tax;
   e) Fiscal regime, identifying if it is in a general scheme, tax haven, in a preferential tax regime or lower taxation jurisdiction;
   f) Percentage of participation of each one of the holders or beneficiaries;

g) Signs on whether its owners or beneficiaries of rights representing capital, Board members or administrators.

17.10 The agreements, agreements for the promotion and reciprocal protection of investments, subscribed between the Republic of Ecuador and the different governments are terminated.

Report and therefore declare terminated the Agreement for the Promotion and Reciprocal Protection of Investments between the Government of Ecuador and the following governments:

- Republic Venezuela
- Argentine Republic
- Canada
- United States of America
- Kingdom of Spain
- Republic of Peru
- Republic of Bolivia
- Italian Republic

17.11 Passivary subjects credit card companies and credit card administrators; financial institutions under the control of the superintendency of banks, except mutualists of savings and credit for the housing; special contributors; the exporters; taxpayers that possess authorization of printing of sales proofs, retention and complementary documents, through computed systems (auto impresores); contributors who realize sales through the internet, shall sent credit notes, debit notes, referral guides and retention proofs only through data messages and signed electronically, according to the following calendar:

- As of October 1, 2017: credit notes and withholding vouchers.
- As of January 1, 2018: debit notes and referral guidelines.

17.12. The obligatory of the entities that compose the national financial system of reporting information to the service of internal income is established by transactions carried out by these or their customers, towards or from tax havens, which individually equal or exceed the five thousand dollars of the United States of America (USD 5,000.00) or its equivalent in other currencies and transactions carried out by these or their clients, towards or from countries with which the Ecuador maintains a convention to avoid the double taxation, which individually equals or exceeds the fifty thousand dollars of the United States of America (USD 50,000.00) or its equivalent in other currencies.

17.13. The administrative procedure is established for subjects required to report to the UAFE, for the purposes of registration in this unit, their risk prevention system and the manual for the prevention of money laundering and financing of crimes

The procedure for the registration of the Risk Prevention System or Manual for the Prevention of Money Laundering and the Financing of Crimes before the Financial and Economic Analysis Unit (UAFE) will be as follows:

• The subjects obliged to report that they have and do not have their own control bodies, will register in the Financial and Economic Analysis Unit (UAFE) their Risk Prevention System or Manual for the Prevention of Money Laundering and the Financing of Crimes, the same that must observe the guidelines that for the effect establish the respective regulatory body to which they are subject.

GUATEMALA CHAPTER
MAYORA & MAYORA, S.C.

GUATEMALA CHAPTER
MAYORA & MAYORA, S.C.

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES: 2018

Corporate Income Tax	25% (or 5% or 7% Flat Tax)
Capital Gains Tax	10%
Capital Income Tax	10%
Branch Profit Tax	25% (or 5% or 7% Flat Tax)
Dividends Tax	5% (income tax)
Whitholding Taxes on:	
Interests	10 %
Royalties	15%
Technical, scientific, administrative Services	15%
Imports	0%
Labor services	15%
Others	25%
Tax Loss carry-forward term	Not available
Tax Losses carry-back term	Not available
Tax-free Reorganizations	Not available
VAT on Sales	12%
VAT on Services	12%
VAT on imports	12%

Local Level Tax Rates:	
Tax on Industrial Activities:	Not applicable
Tax on Commercial Activities:	Not applicable
Tax on Service Activities:	Not applicable
Real Estate Tax:	Q2 to Q9 per Q1,000
Taxes on Other Property:	Not applicable
Document Registration	Rates applicable at several Registrar Offices

TREATY TAXATION:

No Tax Treaties are in force yet. Nevertheless according to Tax Authorities several Double Taxation Treaties are being negotiated. The first treaty was signed with México in 2015. However, it is not mandatory yet because It has not been approved by the Congress.

OVERVIEW

1. INCOME TAX

1.1. General Aspects

1.1.1. Income Tax Rate.

In general terms Guatemalan Income Tax is territorial, objective and schedular tax. Therefore, all incomes generated in Guatemala are taxable according to their origin. The Guatemalan income tax has an applicable poll to each kind of rent.

The general statutory corporate income tax rate is a 25% on net income. Alternatively, there is 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. When the taxable income is less of US$ 4,051.87 the applicable tax rate is 5%. If the taxable income is above the equivalent to said amount the 7% tax rate is applicable on the surplus, plus a fixed amount of US$ 202.59

1.1.2. Taxable Base

Refer to 1.1.1 above

1.1.3. Deductions

There are no deductions applicable to the 5%-% or 7 % Regime; for the 25% Regime, as a general rule, all costs and expenses related and necessary to the income producing activity, are considered deductible expenses. Every cost and expense must be evidenced by the relevant legal documentation, i.e., authorized invoices, special invoices, non-residents' invoices, import permits, payroll receipts, etc. Excluded and/or exempted items of income are not deductible, and the lack of appropriate

apportionment could lead to a proportional rejection on overall deductible costs and expenses. Some costs and expenses are limited to quantitative ceilings; e.g., royalties, unrecoverable debts.

In regards to deduction of interest payments, income tax has assumed an undercapitalization rule which allows for a maximum deduction equal to the rate determined by the Monetary Board applied to net asset value multiplied by three.

1.1.4. Depreciations

For the 25% Regime, tangible and intangible fixed assets´ depreciation is deductible. Depreciation term varies depending on the nature of the assets.

1.1.5. Transfer Pricing

Since 2013 Guatemala has Transfer Pricing rules applicable to transactions between Guatemalan entities and non-resident foreign related entities. Such rules do not apply to related Guatemalan resident entities. Price supporting documentation must be ready at the moment of delivering tax return.

The system follows with sufficient approximation the OECD rules on transfer pricing, including valuation methodology, reporting requirements and criteria on company groups.

Different methods to apply the arm´s length principle, as well as definitions of related parties are contemplated. Income tax also contains rules regarding advance pricing agreements.

Following article five from OECD Model Tax Convention on Income and on Capital, the Guatemalan income tax does not provides a close definition on permanent establishment preferring to highlight situations and partial aspects which try to elaborated this proposed definition.

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 25% 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% or 7 % regimes must file their returns on a monthly basis.

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

Unpaid taxes are subject to an interest charge that 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 multi-plying the unpaid tax times the number of days of delay by a factor of 0.0005.

1.4. Dividend Tax /Branch Profits Tax

Payment of dividends is considered as a taxable income for income tax purposes. A 5% withholding tax is levied on the dividends paid to both residents and nonresident shareholders, as well as on the remittances made to Parent Corporation of local branches.

1.5. Cross-Border Payments

1.5.1. Withholding Taxes

Because the income tax has adopted a close definition of resident for tax purposes, the poll of non-residents has adopted 2 different regimes: a) non-residents with permanent establishment; and b) non-residents without permanent establishment.

When Guatemalan sourced income is remitted abroad to a beneficiary that is a non-resident without permanent establishment, payment is subject to a withholding tax. In the other hand, if the alien has a permanent establishment in Guatemala, the poll of non-residents with permanent establishment, sets that taxes have to be paid as a resident.

1.5.1.1. Royalties

Royalty payments are subject to a 15% withholding tax.

1.5.1.2. Dividends

Please refer to numeral 1.4 above.

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

Payments made to non-resident without permanent establishment for technical, administrative, scientific, financial or economical Services are subject to a 15% withholding tax.

1.5.1.4. Other

Cross-border payments.
Other payments not specifically characterized, to non-resident without permanent establishment are subject to a 25% residual withholding tax.

In all cases, the payer must withhold the tax on credit or payment and pay it on behalf of the non-resident (the actual taxpayer) to the Tax Administration within the first ten working days of the following month of the withholding date.

1.5.2. Interest payments.

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$20,259.37 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 the first sale of real estate property; imports; leasing of movable assets or real estate property; donations; inventory's consumption, losses or destruction, withdrawals of movable goods from a business firm and services rendered in Guatemala.

2.1.3. Taxable Base

With respect to sales and services, the taxable amount is the price excluding any discounts granted in accordance with trade practices, and including amounts charged separately to the acquiring party also including taxes other than VAT.

With respect to imports, the taxable amount is the CIF value plus customs duties and other related charges.

With respect to the leasing of movable or immovable property, the taxable amount is equal to the rent plus any financing charge. With respect to withdrawals of movable goods from a business firm, the taxable amount is the acquisition price or the production cost of the goods.

The VAT tax liability is the difference between the total fiscal debits and the total fiscal credits generated.

The VAT Credit is the sum of the tax charged to the taxpayer on imports and/or purchases of local goods and services (which need to be directly related to his/her production, distribution and/or sale process). This is determined on a monthly basis.

The VAT Debit is the sum of the tax charged tax by the taxpayer in his/her transactions subject to VAT in the same period

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 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 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 to US$ 0.27 to US$ 1.22 per US$ 135.06 a year, calculated on a fiscal basis which can be appraised according to different procedures contained in the law.

3.2. Stamp Tax

This is a documentary tax applicable to all written agreements and payments vouchers. The Stamp Tax has fixed rates for some specific documents and agreements; for documents which are not subject to a fixed rate, there is a general tax rate of 3%. The taxable base is the full amount of the 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.

This tax is levied exclusively on documents representing transactions and contracts and, therefore, the non-existence of the document brings about the non-existence of the tax liability.

The second sale (and subsequent) of real estate property is subject to 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 performed 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. This system provides 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.

4.3 Payroll Tax

In regard to labor income, the Guatemalan income tax establishes that Tax-resident employees are liable to pay income taxes at 5% or 7%, depending on the amount of the taxable income. Employees with an income less of US$ 40,518.75 are taxed at 5%. Those making that amount or more are taxed at 7% on the surplus, plus a fixed amount of US$ 2,025.94. It should be noted, however, that the only deductions allowed include: a) cost of living allowance at about US$ 8,103.75 per year; b) social security contributions and contributions to pension funds; and c) life insurance premiums (that do not provide for rescue value). The employer must calculate the monthly withholding to be made through the year, but a final payment is made at the end of the fiscal year, if more or less than the required tax would have been withheld.

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	30%
Capital Gains Tax:	30%
Branch Profits Tax:	30%
Dividends Tax:	Not taxed if derived from CUFIN. (i.e. previous corporate taxed profits) Otherwise 30% on the grossed-up dividend.
Tax Withholdingto foreign residents on:	
Interest:	From 4.9% to 35%
Royalties:	5%, 25% or 35%
Rental property and assets:	25%
Sale of real estate and shares of stock:	25%
Other Services:	25%
Net Operating Tax Losses Carry-Forward Term:	10 years
Transfer Pricing Rules:	Yes
Tax Free Reorganizations:	Mergers, spin-offs, transfer of shares, etc., provided that certain requirements are met.
VAT on sales, services, use and enjoyment of goods, and imports:	16% (general rule)
VAT on exports:	0%

Treaty Taxation

	Dividends		Interest [1]	Royalties
	General	Substantial shareholding		
	(%)	(%)	(%)	(%)
Australia	15	0	10/15	10
Austria	10	5	10	10
Bahrain	---	---	4.9/10	10
Barbados	10	5	10	10
Belgium	15	5	10/15	10
Brazil	15	10	15	**10/15
Canada	15	5	10	10
Chile	10	5	**5/10/15	**10/15
China (People'sRep.)	5	5	10	10
Colombia	---	---	5/10	10
Czech Republic	10	10	10	10
Denmark	15	0	5/15	10
Ecuador	5	5	10/15	10
Estonia	---	---	4.9/10	10
Finland	---	---	10/15	10
France	---	5/15	**5/10/15	**10/15
Germany	15	5	5/10	10
Greece	10	10	10	
Hong Kong	---	---	4.9/10	10
Hungary	15	5	10	10
Iceland	15	5	10	10
India	10	10	10	10
Indonesia	10	10	10	10
Ireland	10	5	5/10	10
Israel	10	5/10	10	10
Italy	15	15	**10/15	15
Japan	15	–/5	10/15	10
Korea (Rep.)	15	0	5/15	10
Kuwait	---	---	4.9/10	10
Latvia	10	5	5/10	10
Lithuania	15	0	10	10
Luxembourg	15	5/8	10	10
Malta	---	---	5/10	10
Netherlands	15	5	5/10	10
New Zealand	15	---/5/15	10	10
Norway	15	---	10/15	10
Panama	7.5	5	5/10	10
Peru [30]	15	**10/15	**10/15	15
Poland	15	5	10/15	10
Portugal	10	10	10	10
Qatar	---	---	5/10	10

Romania	10	10	15	15
Russia	10	10	10	10
Singapore	---	---	5/15	10
Slovak Republic	---	---	10	10
South Africa	10	5	10	10
Spain	15	5	**5/10/15	10
Sweden	15	–/5	10/15	10
Switzerland	15	---	5/10	10
Turkey	15	5	10/15	10
Ukraine	15	5	10	10
United Arab Emirates	---	---	4.9/10	10
United Kingdom	–/15	–/15	5/10/15	10
United States	10	–/5	4.9/10/15	10
Uruguay	5	5	10	10

** A most favored nation clause may be applicable with respect to dividends, interest, or royalties.

OVERVIEW OF THE MEXICAN TAX SYSTEM

INCOME TAX

1.1.a) Corporate taxation (Mexican resident entities)

A legal entity is deemed as a tax resident when it has established in Mexico its principal administration or its effective place of management.

Joint venture contracts, or *"asociación en participación"*, shall be treated as corporations for tax purposes.

Resident corporations of Mexico are subject to Mexican corporate income tax on their worldwide revenue.

The corporate rate is 30%.

All entities must use the calendar year. There exists the obligation to make monthly provisional (or advance) tax payments on account of the annual tax. The annual tax return has to be filed and the tax paid within 3 months after year-end.

Taxable profit shall be determined by subtracting from gross income earned in the fiscal year, the authorized deductions and the employee profit sharing.

Taxable revenues include all types of income, whether received in cash, in kind, in services or in credit, as well as income received from abroad. This includes all profits from transactions, income from investments not relating to the regular business of the corporation, and capital gains.

Ordinary business expenses are deductible if they are properly recorded and supported. Typically, deductions are fully taken on an annual basis; however, investments are deducted on the corresponding depreciation coefficients throughout the corresponding number of tax periods.

1.1.b) Optional tax treatment for small size sole proprietorships

A special tax treatment based cash flows based may be adopted by corporations formed exclusively by individuals (as partners or shareholders), and whose annual income does not exceed 5 million pesos.

These taxpayers shall accrue the income obtained when effectively obtained, and shall apply their authorized deductions when effectively paid. No inflationary adjustments shall be made at the end of the fiscal year.

Investment depreciation shall begin in the year in which the taxpayer begins to use the assets or in the following year, even if the acquisition value of the investment has not been totally paid in such fiscal year.

Instead of applying the cost of sales system (deduction of goods and supplies until the fiscal year of the sale of the inventory), the corresponding deductions shall be applied in the fiscal year when the costs of production are actually incurred.

Monthly payments in advance of the annual income tax may be determined by subtracting the authorized deductions from income obtained in the corresponding period.

This tax treatment is subject to the compliance of certain requirements, including notification of its application by the taxpayer to the tax authorities.

1.2 Interest regime

Interest tax treatment is applied to the following elements:

- Inflationary annual adjustment.
- Interest income and interest expense.
- Exchange gains and losses.

A comparison of the annual average balance of debts and the annual average balance of credits has to be made. If the former is higher than the latter, the difference is multiplied by the inflation factor of such year, and the result is the accruable inflationary annual adjustment.

Loss from inflation is deductible (deductible inflationary annual adjustment). In accordance with the above mentioned procedure, if the annual average balance of credits is higher than the annual average balance of debts, the difference is multiplied by the inflation factor of such year and the result is the deducible inflationary annual adjustment.

Interest income is included in the taxpayer's taxable income on accrual basis.

Accrued interest is deductible (at its nominal value, without any adjustment, since it will be subject to the inflationary annual adjustment) providing the funds obtained from the loan are invested in the business' corporate purposes.

As mentioned, exchange gains and losses resulting from financial assets and liabilities are deemed as interest for income tax purposes. If a Mexican company has foreign currency liabilities, a devaluation of the peso will result in an exchange loss. The exchange loss is recognized on an accrual basis and is added to the interest expense for the month.

If a company has an exchange gain resulting from a financial asset denominated in a foreign currency (i.e., a Mexican company with accounts receivable in U.S. dollars), then the gain is added to interest income.

1.3 Capital Gains

An inflation adjustment is made to the acquisition cost of (i) shares of stock or (ii) fixed assets to compute the gain on their sale. Capital gains and losses are treated as ordinary income.

1.4 Depreciation

The basis for deductible depreciation is the acquisition value as defined in the law, adjusted for inflation.

Depreciation should be computed using the straight-line method at the maximum rates.

Examples of such rates are:

Buildings and other related structures	5%
Office furniture and fixtures	10%
Computer equipment	30%
Peripheral computer equipment	30%
Patents, trademarks, copyrights, etc.	15%
Automobiles, heavy trucks, tractor trucks, tow trucks, buses	25%
Anti pollution equipment and equipment for conversion to natural gas consumption	100%
Equipment used in research of new products and development of technology	35%

In the cases of the railway system, telephone and satellite communications, depreciation rates are subdivided, according to the different kinds of assets they involve.

Automobile investments are limited to $175,000 pesos. Regarding automobiles powered by rechargeable batteries, electric with internal combustion engine or hydrogen-powered engines, the investment deduction is limited to $250,000 pesos.

A temporary tax incentive consisting in the accelerated deduction of fixed asset investments is granted to Mexican resident individuals and corporations who qualify as "small and middle scale enterprises" (those whose annual income does not exceed 100 million pesos), as well as to taxpayers involved in the transportation infrastructure and energy industries. The tax incentive will apply in fiscal years 2017 and 2018.

1.5 Cost of Sales

Mexican corporate income tax follows at cost of sales system treats the purchase of inventory as deductible when sold. As such, it is necessary to compute the cost of goods sold for tax purposes.

1.6 Employee Profit Sharing

Profit sharing contributions to employees may be subtracted from revenues obtained in order to determine the taxable profit. Thus, said contributions have a deductible effect for corporate income tax matters.

1.7 Specific Deductible and Non-deductible Expenses

1.7.1 Provisions

Provisions to create or increase asset or liability reserves are not deductible.

1.7.2 Payments for Labor Benefits

Payments made in the benefit of employees that in turn are considered as exempt income for such individuals will be deductible for Mexican entities only up to 47% of the disbursement made (or 53% when the benefits are not reduced with respect to the previous tax year). It is important to note that for income tax purposes, payments considered as labor benefits encompass fringe benefits, savings funds, separation payments, bonuses, overtime, and vacation and Sunday bonuses, amongst others.

1.7.3 Contributions for retirement plans

These are only deductible up to 47% of the disbursement made (or 53% when the contributions are not reduced with respect to the previous tax year) and when companies comply with the following requirements:

- Contributions should be funded through an irrevocable trust ("fideicomiso") in a Mexican banking institution, or be managed by mutual insurance companies or institutions, brokerage houses, mutual-fund operators, or retirement fund management companies authorized to operate in Mexico
- Contributions must be computed based on an actuarial study
- At least 30% of said reserves should be invested in government securities or in investment in shares of debt securities mutual funds (the difference is subject to specific rules when it comes to its investment)

1.7.4 Other Non-deductible Items

- Expenses incurred for renting airplanes that do not have a permit or concession from the Federal Government to be commercially exploited.
- Social security fees owed by employees but paid by the employer.
- Goodwill.
- Expenses incurred abroad and allocated on a pro-rata basis.
- Payments to members of the board of directors, bondholders or other parties where the payments represent shares of profits or are contingent upon the taxpayer's profits.
- Sanctions, indemnities for damages and contract penalties unless imposed by the Law.
- Disbursements made by a Mexican entity when such expenses are also considered as deductible items for a related party.
- Certain interest, royalty or technical assistance payments made to residents abroad when (i) such entity is not considered as a taxpayer in its country of residence; (ii) the payment made is considered non-existent; or (iii) the expense incurred is not considered as accruable income for the foreign entity.

1.8 Dividends

It is established that when corporations distribute dividends, they must calculate the related tax by applying the 30% tax rate to the amount resulting from multiplying said dividends by a factor of 1.4286; which derives in an actual (or economic) effect of taxation at a 42.86% rate.

This tax can be considered as a tax credit against the income tax of the year of dividend distribution and carried forward for the 2 subsequent tax periods.

Dividends paid from the net taxable income account (CUFIN), which is defined as the income for which corporate tax has already been paid in past years, are not subject to the corporate tax on dividends as previously referred.

Mexican resident entities must withhold an additional 10% income tax on dividends paid to both (i) individuals resident in Mexico and (ii) legal entities or individuals resident abroad.

A temporary tax incentive consisting in a credit against the additional 10% tax on dividends is granted to Mexican resident individuals for dividends distributed by Mexican resident entities derived from profits generated from January 1st, 2014 to December 31st, 2016, as long as said income is reinvested in the productive unit, and the distributing entity complies with certain formal obligations. The tax credit will be determined according to the following chart, and will not be considered as accruable income for tax purposes:

Fiscal year	Amount of Tax Credit
2017	1% of distributed dividend
2018	2% of distributed dividend
2019 onwards	5% of distributed dividend

1.9 Tax Integration

Mexican law allows corporate groups to be taxed under an *integration* regime that allows the companies part of the group to differ a part of their income tax due for that tax year over a three year period.

For income tax purposes, an integrated group consists of the Mexican holding company and the subsidiaries in which it has effective direct or indirect ownership interests in excess of 80% of the voting shares. It is important to note that the integration regime works on a proportional basis, based on the percentage owned directly or indirectly by the controlling company.

Only companies resident in Mexico can be part of the integration regime.

1.10 Losses carry forward

Tax losses can be carry forwarded 10 years. The amount of the tax loss that can be carried forward to a given year is inflationary adjusted. Loss carry backs are not allowed.

1.11 Permanent Establishments

A permanent establishment of non-residents can be created due to the following circumstances:

i. By conducting business activities, in whole or in part, within Mexico.

ii. By performing construction or installation projects, maintenance or assembly activities on real property or supervisory activities in connection therewith, should such activities last more than six months (including working days of subcontractors), consecutive or not, in a twelve-month period.

iii. When performing business activities in Mexico through a *"fideicomiso"*.

iv. When conducting business activities in Mexico through a dependent agent.

v. When conducting business activities in Mexico through an independent agent that does not act pursuant to the ordinary course of his own activities; considering that such occurs when the agent:

- Exercises the authority to enter into contracts on behalf of the foreign entity.
- Assumes risks in the name of the resident abroad.
- Acts under instructions or general control of the resident abroad.
- Performs activities that economically correspond to the foreign resident, not to its own activity.
- Obtains guaranteed remuneration, regardless of the results of his activities.
- Having inventories with which deliveries are made on behalf of a foreign entity.
- Carries out operations with the resident abroad, establishing prices or compensation different from those that would be used between independent parties in comparable transactions.

vi. Insurance companies that obtain insurance payments from within Mexico or issue insurances on risks located within Mexico through a person other than an independent agent, except in the case of reinsurance.

Basically, permanent establishments are subject to the same taxing rules as Mexican resident companies or Mexican resident individuals, as the case may be.

The income tax treaties that Mexico has in force ordinarily establish narrower hypotheses under which a permanent establishment is deemed to exist.

1.12 Non-Residents Having Taxable Source of Wealth Located in Mexico

Non-residents, either legal entities or individuals that do not have a permanent establishment located in Mexico may be taxed on certain specific sorts of revenues.

Generally, the Mexican payer must withhold the corresponding tax on the gross payment made to a foreign resident.

Mexico's income tax treaties with other countries reduce the withholding tax rates on certain Mexican source payments made to non-residents.

A Mexican payer that is subject to tax withholding must deliver the income tax (i) when the payment becomes due or (ii) when the payment is actually made, whatever occurs first. In addition, the gross payment is subject to tax withholding without deductions.

In specific cases, the non-resident may be subject to taxation under a "net" basis, and not on a "gross" income which is the general rule. This usually occurs when the non-resident has a representative in Mexico, who remains as jointly liable of the tax so triggered.

Some of the relevant tax rates levied on gross income are as follows:

- Services on real estate projects, 25%
- Rental of property and assets, 25%
- Sale of real estate and shares of stock, 25%
- Technical assistance, 25%
- Royalties for the use of patents, invention or improvement certificates, trademarks, and commercial names, 35%
- Other royalties, 25%
- Interest paid to foreign banks, 4.9% or 10%.
- Interest from certain securities, 4.9% or 10%
- Interest paid to suppliers of machinery and equipment, 21%.
- Interest paid to other creditors, 35%
- Any payment to residents of territories with preferential tax regimes (tax havens), 40%

Shareholders resident abroad that receive dividends or profits derived from capital redemptions paid by a Mexican entity will be subject to an additional 10% income tax on the amount received. The tax due will be withheld by the Mexican entity.

Profit obtained from the transfer of shares in the Mexican Stock Exchange will be taxed at a 10% rate; however, when the seller is resident in a country with which Mexico has a Treaty for the Avoidance of Double Taxation, such tax will not be triggered subject to the completion of certain formal requirements.

1.13 Transfer Pricing

In interpreting / applying this regime, tax authorities and taxpayers use the OECD Commentaries; this pursuant to administrative rules issued by the Federal Executive Branch that so establishes it.

Throughout the period in which transfer pricing rules have been adopted, the Mexican tax authorities have been taking a more international approach, rather than a local one (Mexican) to audit related parties transactions.

1.13.1 Persons and/or entities subject to transfer pricing

The transfer pricing rules apply to related resident and nonresident legal entities and individuals, as well as to permanent establishments in Mexico of nonresidents.

The term legal entity includes commercial and civil entities, governmental agencies developing commercial activities, credit institutions, and associations. Nonprofit organizations and mutual funds are not subject to the rules of transfer pricing.

Mexican joint ventures (*"asociación en participación"* agreements) are treated as taxpayers, and thus, subject to transfer pricing regulations themselves.

The pricing of transactions is regulated only in the case of transactions between related parties.

It should be stressed that Mexican resident companies are obliged to apply this system not only with respect to their transactions with related parties residing abroad, but also with other related parties resident in Mexico.

Two or more parties are related when one party participates directly or indirectly in the management, control or capital of the other, or when one party or group of parties participates directly or indirectly in the management, control or capital of others.

It is worthwhile to mention that when related parties enter into transactions, they are obliged to determine their taxable revenues and/or deductible items considering the prices and/or considerations that would have been agreed upon unrelated parties in comparable transactions.

1.13.2 Transactions subject to transfer pricing

Transfer pricing rules are applied to any import or export or goods, services and rights entered into between related parties.

1.13.3 Methods

The arm's length nature of a transaction between related parties (i.e., a controlled transaction) is tested by comparing the pricing, terms, and other characteristics of the transaction in question with the pricing, terms, and other characteristics of comparable transactions entered into between unrelated parties (i.e., uncontrolled transactions).

The comparable uncontrolled price method preempts the applicability of other methods; and only if said is not suitable for the taxpayer's circumstances, the taxpayer should elect any other of the five additional methods contemplated by the law.

Herein are the acceptable methods for price fixing under transfer pricing rules:

a. Comparable Uncontrolled Price Method. The CUP method requires comparison of pricing in the controlled transaction to pricing in uncontrolled transactions.
b. Resale Price Method. Under the Resale Price Method, the resale price charged by the controlled party to unrelated purchasers is reduced by an appropriate gross profit amount to arrive at the deemed sales price on the sale between the controlled parties.
c. Cost Plus Method. Under the Cost Plus Method, the cost of the company selling to the related party is first determined and then an appropriate gross profit margin is added to this amount, to arrive at the appropriate deemed sale price on the sale between the controlled parties.
d. Profit Split Method. Under the Profit Split Method, the profitability of a related company group is allocated among members of the group in accord with their economic contributions to the enterprise.
e. Residual Profit Split Method. Consists in assigning the operation profit obtained by the related parties in the proportion in which it would have been assigned among unrelated parties.
f. Operation Marginal Transactional Method. Consists in determining in transactions among related parties, the operational profit that would have obtained comparable unrelated companies in comparable transactions, based on profitability factors taking into account variables such as sales and costs.

1.13.4 Standards of comparability

The lack of comparable data in Mexico is one of the problems that Mexican taxpayers are facing.

The current sources of comparable used by the taxpayers are the following: (i) internal comparable, (ii) data from the Mexican Stock Exchange (approx. 300 companies are publicly trading in the Stock Exchange) and (iii) public Mexican company's data basis (information from approx. 90% of companies belonging to the public sector). If no comparable are found in these sources of information, Mexican taxpayers are using foreign databases (US and Europe) and are making price adjustments taking into account the specific characteristics of the Mexican market.

Mexican law allows the use of secret comparable. Secret comparable have not yet been used by the Mexican authorities and according to officials of the Tax Administration; they are viewed as a last resort information resource.

There are rules stating that confidential information obtained either by the taxpayers as well as tax officials during transfer pricing procedures, should remain secret, and their improper use is subject to penalties.

1.13.5 Arm's length range

In some cases, application of a pricing method will produce a single result that is the most reliable measure of an arm's length result. However, in other cases, application of a method may produce a number of results from which a range of reliable results may be derived. A taxpayer will not be subject to adjustment if its results fall within such range (the arm's length range).

Mexico has included in its regulations the concept of the arm's length range and have also provided for statistical methods in order to increase the reliability of the analysis made (i.e. interquartile range).

The Mexican regulations only make reference to adjustments made to the median of the results, in case statistical methods are applied; in this respect, it should be mentioned that these methods are not always applied. Also, the income tax law does not include a detailed description on how to reach the arm's length range, and does not make any differences between class A and class B comparables.

Mexican regime includes the possibility of using multiple year data when analyzing the comparability of transactions or entities.

1.13.6 Advanced Pricing Agreements ("APA")

The current APA regulations empower the issuance of rulings approving APAs for the effective year requested, as well as for one prior year and three subsequent years.

1.13.7 Information and documentation requirements

Only with respect to transactions with non-residents, Mexican law provides for information and documentation requirements in order to be able to demonstrate if required, that the arm's length principle has been accomplished.

There is no specific legal provision establishing that this information / studies need to be obtained when performing transactions with Mexican resident parties as in the present case; however, factually, they are needed in order to prove –in its case- before the Mexican tax authorities proper compliance with the applicable transfer pricing rules.

Derived from the recent international standards set forth by the Organization for Economic Cooperation and Development ("OECD") to avoid tax evasion, additional reporting obligations are included for

certain taxpayers regarding transactions carried out with related parties residing in Mexico and abroad. The taxpayers subject to these reporting obligations are the following:

i. Mexican resident corporations that have reported accruable income equal or greater than $644,599,005 pesos in the last fiscal year (this amount will be annually updated for inflation purposes), as well publicly traded corporations.
ii. Business entities subject to the "integrated entities regime".
iii. State-owned entities of the Federal Public Administration.
iv. Foreign residents with a permanent establishment in Mexico.

The relevant informative returns must be filed on December 31st of the applicable fiscal year, at the latest (starting on December 31, 2017 regarding fiscal year 2016) and consist of the following:

- Master informative return of related parties in a multinational business group ("Master File"). It is intended to provide a general view of the multinational business group to assist the tax authorities in the evaluation of the existence of any significant risk for transfer pricing purposes.

- This file shall contain information regarding the organizational structure of the business group, the description of the activity, the intangible assets and financial activities with related parties, and the fiscal and financial position of the business group.

- Local informative return of related parties ("local file"). Its main purpose is to provide information related with intercompany transactions. This information will be useful to verify proper compliance of the applicable transfer pricing rules.
  This file shall contain information regarding the description of the organizational structure, business and strategic activities, description of the transactions with related parties, and financial information of the taxpayer and the entities or transactions used as comparables in the analysis.

- Country-by-country informative return of the multinational business group -only applicable to multinational entities that generate annual consolidated income equal or greater than 12 million pesos- ("country by country report" / "CbC").

- The entities obliged to file this report are (i) Mexican-resident controlling entities having subsidiaries or permanent establishment abroad, that report consolidated financial statements and obtained consolidated income for an amount greater than 12 thousand million pesos in the preceding fiscal year, as well as (ii) legal entities residing in Mexico or residing abroad with a permanent establishment in Mexico, that are designated for such purposes by the controlling entity of the multinational group residing abroad.

- The information to be provided in this report includes information by tax jurisdiction on the global distribution of income and taxes paid; location indicators of economic activities in the tax jurisdictions in which the multinational business group operates in the taxable year; and, a list of all entity-members of the multinational business group and their permanent establishments, including the main economic activities of each of the entities of the multinational business group.

- Tax authorities may require the CbC report to the Mexican resident legal entities that are subsidiaries of a company resident abroad, or to the foreign residents with a permanent establishment in Mexico, when the authorities are unable to obtain the relevant information through the information exchange mechanisms established in international treaties in force in Mexico. The taxpayers required to submit the CbC report in these terms will have a period of 120 working days for the filing.

Non-compliance of these reporting obligations will derive in economic penalties and the prohibition to conclude procurement agreements, leases, services or public works with the Federal Public Administration and the Attorney General of the Republic.

1.13.8 Secondary adjustments

Pursuant to transfer pricing principles, when a principal adjustment is made by the tax authorities, it is logic / reasonable that a secondary adjustment needs to be done.

However, under the income tax law, the possibility of this secondary adjustments are only expressly provided with respect to international transactions in which a contracting party is a resident of a country with which Mexico has in effect a treaty in income tax matters.

Accordingly, with respect to local adjustments, this secondary adjustment is not expressly provided for under current law; however, we are of the opinion that the related party is legally empowered to do it once its correspondent counterparty has been subject to a principal adjustment by the tax authorities.

Effectively, under the income tax law transfer pricing rules taxpayers are obliged to (i) accrue as taxable income principal adjustments pursuant to transfer pricing rules, as well as to (ii) deduct the taxable items considering the same transfer pricing amounts.

1.14 Tax-Haven Rules

Mexican tax residents are subject to this special tax treatment when (i) income is generated through foreign legal entities or legal figures in which they participate directly or indirectly, in the proportion of their participation in such legal entities or figures, as long as said income is subject to preferential tax regimes ("PTR") or (ii) income is obtained through fiscally transparent foreign entities or legal figures.

a. Income subject to PTR

   It is deemed that income is subject to PTR if it is generated indirectly through foreign entities or legal figures in which Mexican tax residents participate directly or indirectly, in the proportion of their participation in such entities or legal figures, as long as said income (i) is not taxed abroad or (ii) the income tax triggered and paid abroad results in less than 75% of the income tax that would have been triggered and paid in Mexico in accordance with the provisions of the income tax law.

   In order to determine whether or not their foreign source of wealth income should be subject to this tax regime, a comparison needs to be done between (i) the effective income tax paid abroad, and (ii) the tax that would have been due if such income would have been subject to Mexican taxation rules.

   Although the sole fact of indirectly generating income subject to PTR triggers the application of the special tax regime, the income tax law establishes some exceptions to this general rule (e.g. lack of control exception, active income exception, royalties' exception, etc.).

b. Income obtained through tax transparent entities or legal figures

   Income obtained through foreign entities or legal figures fiscally transparent is subject to this tax special treatment, even if such income is not subject to PTR (i.e., even if it is taxed abroad in more than 75% of the applicable Mexican income tax).

Tax transparent legal figures or entities are those that: (i) are not considered as income taxpayers in the country in which they are incorporated or where their main administration or seat of effective direction is located, and (ii) the revenues generated through such entity or legal figure are attributed to its members, partners, shareholders or beneficiaries.

Based on the above, generating income through foreign tax transparent vehicles triggers the application of the special tax regime. The law establishes two extremely narrow exceptions to said general rule (i.e., corporate reorganizations exception and financial institutions exception), same that require proper disclosure to the tax authorities. In addition, the Regulations of the law include a lack of control exception to this regime.

c. Tax consequences

In general terms, income under this special tax treatment is subject to tax in the fiscal year in which such income is generated abroad, even though the income has not yet been distributed. The payment of the corresponding income tax has to be made together with the annual tax return of the fiscal year in which the income is generated abroad.

d. Informative tax return

Taxpayers must file in the month of February of each year an informative return before Mexican tax authorities regarding: (i) income generated in the previous tax year subject to PTR, (ii) income generated in jurisdictions of the "Black List", or (iii) transactions carried out through tax transparent foreign legal entities or figures.

1.15 Thin Capitalization Rules

Companies are required to meet the 3:1 proportion (debt / net worth ratio).
The main features of the regime are the following:

- Interest derived from debts with foreign related parties, which exceed three times the net worth of the company, is not deductible.
- The procedure established to determine the non-deductible interest may produce awkward effects contrary to the spirit of the provision. In certain events, the higher the proportion of debt contracted by a company with its foreign related parties is, the higher will the proportion of non-deductible interest be, and the lower the proportion of debt is, the lower will the proportion of deductible interest be.
- Debt contracted (i) by the members of the financial system in the performance of their activities, and (ii) for the construction, operation and maintenance of the productive infrastructure linked with strategic areas or for the generation of electric energy, will not be considered for thin capitalization purposes.

1.16 Tax Treaties

Mexico has a wide array of tax treaties in income tax matters; such treaties may only provide benefits with respect to the regime set forth in the Mexican law. Thus, such treaties may not impose burdens not established in the Mexican law.

Examples of treaty benefits are:
- Lower rates than those provided in the local law.
- Stringent cases (compared with those established under the local law) under which a permanent establishment is deemed to exist.

- Revenues not subject to taxation as the local law provides, example: "technical assistance" services payments.
- Non-discriminatory principle, which entails that the treaty partners' resident may not be taxed higher than local tax residents.

2. VALUE ADDED TAX

Mexico has a federal VAT based in the European VAT tax systems.

It is known that, VAT has a keen territorial feature whereby taxed acts / activities are those performed within the applicable territory (Mexico) and without transferring its effect to outbound operations, reason why exports of goods and services are taxed with the 0% tax rate.

Thus, the following acts / activities furnished in Mexico will be subject to VAT:

i. Transfer of goods.
ii. Rendering of independent services.
iii. Granting the use of goods.
iv. Import of goods / services.

VAT is triggered in each phase of their production, with the right of crediting the tax so transferred to the acquirer / recipient of the goods / services; thus the ultimate person that bears the economic burden of the VAT is the final consumer of the goods / services.

Given (i) the right to credit VAT transferred to the taxpayer, and (ii) its transfer to the customers, VAT basically creates a financial effect and does not imply a remarkable economic burden for the taxpayers. This is true except for VAT exempted taxpayers that not being able to transfer VAT to their customers, need to integrate in their cost structures the VAT so transferred to them by their suppliers.

As a general rule, VAT is triggered at a 16% rate calculated over the consideration received as payment (i.e. on cash flow basis); however, there are special rules (e.g. in loans from financial institutions VAT is triggered on accrued interests.)

3 OTHER TAXES

3.1 Estate Taxes

Mexican law does not provide estate taxes; moreover, revenues obtained *mortis causa* by Mexican resident individuals are income tax exempted.

Notwithstanding the above, it is important to consider that residents abroad that acquire shares issued by Mexican entities or properties in Mexico as part of an estate will be subject to income tax at a 25% rate.

3.2 Special Taxes

Special taxes are levied on the sale of vehicles, alcohol, alcoholic beverages, beer, flavored (sugared) beverages and energy drinks, foods with a high caloric content, manufactured tobacco and certain fuels.

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 10%
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:	0-40%
Net-worth (Assets) Tax:	N/A
Stamp (Documentary) Tax:	N/A

LOCAL LEVEL TAX RATES

Tax on Industrial Activities	National Level
Tax on Commercial Activities	National Level

Tax on Service Activities	National Level
Real Estate Tax:	0,5 - 1%

TREATY TAXATION:

ITEMS OF INCOME

Country	Interest	Dividends	Royalties
Chile	30%, 15%, 6%, VAT 10%	15%	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 Stateor to entities dedicated to social welfare or education;
12. Expenses and contributions paid to staff for health care, education, cultural development, or training;

The following items, amongst others, are expressly not allowed as deductions:

1. Penalties imposed because of fiscal infringements;
2. Earnings in any fiscal period retained in the business as capital increases or reserve accounts;
3. Goodwill amortization;
4. Personal expenses of the owner, partners or shareholders;
5. Expenses for obtaining tax exempt income;
6. Value Added Tax (hereinafter "VAT"), except when it is affected directly or indirectly by untaxed transactions (not applicable for exportation) as well as the 5% tax credit surplus occurred at the end of the year.

1.1.4. Depreciation.

The percentage of depreciation of fixed assets will be equal and constant, and determined by the number of years of expected useful life of the asset.
The depreciation of each of the assets will start from the month after, or fiscal year, to its incorporation to the company's fixed assets, or after the total or partial construction in the case of buildings, at the option of the taxpayer.
Useful life periods on the basis of which the relevant annual rate of depreciation will be applied are:

1. Fixed Assets

a. Movable property: 4 or 10 years.
c. Ground transport: 4, 5 or 10 years.
d. Air transport: 5 or 10 years.
e. Maritime and fluvial transport: 5 or 20 years.
f. Real State: 10, 25 or 40 years.

2. Intangible Property

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

1.1.5. Transfer Pricing.

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

1.1.6. Tax Loss Carry-forward.

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

1.1.7. Tax-Free Reorganizations.

Transfers resulting from company reorganization or capital contributions to a company will not be considered taxable. In these cases, the predecessor's tax credits will be transferred to the successor in proportion to the net assets transferred in relation to the total net assets of the predecessor.

1.1.8. Leasing Tax Treatment.

The taxable base of an operating or financial leasingis 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 10% VAT.

When a loan is granted by a foreign third party, the 30% tax is levied on 50% of the interest payment (i.e. an effective 15% rate), plus a 10% VAT.

When the loan is granted by a well-known financial institution, a 30% tax is levied on 20% of the interest payment (i.e. an effective 6% rate), plus a 10% VAT.

1.6.1.5. Payments to non-residents:

A payment made to a 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.

1.7.3. Tax Incentives

The tax incentives granted are as follows:

- Exemption from national and municipal taxes on organization, filing and registration of companies;
- Total exemption from customs duties on imports of capital goods;
- Exemption from taxes on remittances of dividends and profits provided the amount of the investment is at least USD. 5,000,000;
- Total exemption from the Tax on Acts and Documents for the beneficiary on acts, contracts and obligations documenting investments.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects.

The VAT is levied upon the sale of goods, the rendering of services, excluding those of personal character that lend in dependency relation, and the introduction of goods in to the country. The sale of goods and the rendering of services performed within Paraguayan territory and the introduction of goods regardless of the place where the contract was entered into or the parties' domiciles, residence or nationality will be taxed.

2.1.1. Tax Rates.

The standard rate is 10%, with a lower 5% rate applying to supplies of basic foodstuffs, pharmaceutical products, agricultural products in its natural state, hunting and fishing animals, alive or not, in natural state, and the transfer of the right to use goods or immovable property. Exports are zero-rated. Exemptions include raw farm products, some fuels, foreign currency, books and newspapers.

2.1.2. Natural and legal persons subject to VAT:

VAT taxpayers are:

a. Individuals on personal services.
b. Sole proprietorships.
c. Companies, with or without legal personality, and private entities in general.
d. Autonomous entities, government corporations that engage in commercial, industrial or service activities.
e. Importers of goods to Paraguay.

2.1.3. Taxable Transactions:

The taxable event occurs with the earlier of delivery of the goods, issuance of the invoice or any equivalent act. In services, the obligation is specific to the first occurrence of any of the following acts:

a. Issuance of invoices.
b. Payment of the total or partial payment of the service provided.
c. Upon expiration of the deadline for payment.
d. With the conclusion of the service.
e. In the case of imports, the tax liability occurs at the moment of numeration of the customs declaration of goods at the Customs.

2.1.4. Taxable Base:

This tax is calculated on net amounts invoiced for sales and services. The tax base shall in all cases include the value of other taxes applicable to the transaction but excluding VAT.

In the case of imports the taxable base shall be the Customs value plus Customs duties in addition to other taxes applicable to the delivery of goods, but excluding VAT.

2.1.5. VAT Credits:

Tax Credit shall consist of:

- Tax included in the purchase bill's of goods or services during the month before.
- The tax paid within the month of the importation of goods.
- The tax included in the purchase invoices in case of adjustments.
- The tax 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. Foreign currency and public and private values.
b. Assets of an estate in favor of heirs of specific devise or legacy, or heirs of general legacy or devise, excluding cessionaries
c. Credits cession.
d. Educational, cultural, and scientific interest magazines, books and journals.
e. Capital goods produced by domestic manufacturers of direct application in the industrial or agricultural production cycle made by investors who are protected under the Law 60/90.

Services:

a. Interests of public and private values.
b. Deposits to banks and financial institutions regulated by Law No. 861/96, as well as in Cooperatives, entities of savings and housing loans, and public financial entities.
c. Those provided by permanent staff or employed by embassies, Consulates and international organizations accredited by the national government.

Imports of:

a. Goods whose sales are VAT exempted.
b. Traveler's luggage.
c. Goods introduced into the country by members of the Diplomatic Corps, Consular and International Organizations, accredited by the national government in accordance with the law.
d. Capital goods directly applicable in industrial or agricultural production cycle made by investors who are protected under the Law 60/90.

2.3. Payment and Filing:

VAT filing and payments are due monthly, with the due date determined according to the taxpayer's registration number.

The deduction of the Tax credit is conditional to the fact that the same comes from goods and services affected directly or indirectly to the transactions subject to the tax.

When the tax credit exceeds the tax debit, such excess may be used as such in the next tax liquidation, from the month immediately following, but without generating right to reimbursement under any circumstances.

If a credit arises from the deduction of VAT credit assimilated to export, it can be returned by the delivery of certificates of credit or against the payment of others taxes of the exporter.

In the case of import VAT will be liquidated and pay in the Customs Office prior to removal of goods.

3. OTHER TAXES

3,1, Personal Income Tax

Law Nº 4673/2012 on Personal Income Tax (hereinafter "IRP" for its Spanish acronym) was passed on July 23, 2012 and is in force as of August 1, 2012.

3.1.1. This tax applies to the following:

- Individuals residing in Paraguay;
- Professional corporations: those which do not have features from other entities regulated by the Paraguayan Civil Code or special laws, and whose purpose does not involve a commercial or agricultural activity.

IRP applies, during the first period, to taxpayers whose income exceeds 10 monthly legal minimum

wages[13] or 120 annual legal minimum wages, the latter equals to approximately USD 42,629[14]. This threshold will decrease annually in 12 monthly legal minimum wages up to 36 monthly legal minimum wages per annum.

3.1.2. Base of calculation

Deductive expenses admitted by law and duly documented are subtracted from the total gross income from the activities performed. The result of the latter is net income. IRP's rate applies to the total net income.

3.1.3. Taxable Income

- Taxable income will be Paraguayan-source income derived from:
- Income derived from personal services rendered either as an employee or free-lance contractor from public or private entities, decentralized entities, autonomous or semi-public companies or binational entities.
- Fifty (50%) percent of the dividends, utilities, or surpluses, obtained by shareholders or partners of entities engaged in activities subject to Income tax on commercial, industrial and service activities (IRACIS for its Spanish acronym) and or Farm Income Tax (IMAGRO for its Spanish acronym), distributed or credited, including activities from cooperatives.
- Capital gains arising from the occasional sale of immovable assets and from rights, shares or quotas of capital from corporations assigned.
- Interests, commissions and savings income.
- Any other income exceeding 30 legal minimum wages[15], approximately USD 10,657.[16]

3.1.4. Rates

- IRP's rate is 10% of the net income of the relevant fiscal year when income exceeds 120 annual legal minimum wages (approximately USD 42,629), and 8% of the net income of the relevant fiscal year when income are equal or lower than 120 annual legal minimum wages (approximately USD 42,629).
- Non-residents who occasionally receive Paraguayan source income are subject to income tax at a twenty (20) tax rate over the 50% of the gross income received.

4. AGRICULTURAL ACTIVITIES INCOME TAX (IRAGRO)

4.1. General Aspects

On October 7th 2013, Paraguay enacted Law No. 5061/2013 ("Law") which modifies the Income Tax on Agricultural Activities ("IMAGRO") established by Law No. 125/91 and provides a new tax regime denominated Agricultural Income Tax ("IRAGRO").On December 27 2013, Paraguay enacted Decree No. 1031/2013 ("Decree") which regalement the Law.

13 Legal minimum wage established in December 2016 is Gs. 1.964.507 (USD 355 approximately)

14 Exchange rate USD 1 = Gs. 5.530

15 Legal minimum wage established in December 2016 is Gs. 1.964.507

16 Exchange rate USD 1 = Gs.5.530

The IMAGRO taxed incomes obtained from agricultural activities performed in Paraguayan territory.

For tax purposes, the IMAGRO considers agricultural activities to those performed with the purpose of obtaining commodities, vegetable or animal, through the use land, capital and labor.

While IRAGRO maintains this definition and most of the provisions of the IMAGRO it also implements modifications mainly extending the application of VAT to the agricultural industries well as adopting other tax measures designed to achieve price controls on export operations.
In sum, the main changes implemented by the Law are:

4.1.1. New taxable events

One of the innovations of the Law is the inclusion of new taxable events that were previously exempted such as breeding of new animal species and certain business activities related thereof. Italso taxes the income generated by the fixed assets involved in agricultural activities.

4.1.2. Unified tax rate

Under the previous regime, the income earned by the owners of real estate properties that were deemed to be "medium" or "undeveloped" were subject to a tax rate of 2.5%. With the enactment of the Law, such distinction between medium or undeveloped real estate properties disappears and tax rates are unified. Accordingly, income of taxpayers is subject to VAT at a rate of 10%, regardless of the size of their real estate properties.

In addition, taxpayers with an income of less than 36 times the minimum wage throughout the period of a year are exempted from IRAGRO.

4.1.3, New liquidation regime

Under the IMAGRO, income of owners of medium real estate properties and undeveloped properties earned in a rational manner were calculated on a presumptive basis taking into account the size, location and characteristics of the land as parameters. IRAGRO eliminated the presumptive method of taxation. Instead, income is always calculated on an actual income basis.

Taking into account this modification, the simple possession of undeveloped property is no longer taxed by the IRAGRO as it previously was by the IMAGRO presumptive taxation regime.

4.1.4. Application of VAT is extended to the sale of agricultural products

The domestic sale of "unprocessed" or "natural" agricultural products is now taxed at a rate of 5%over the sale price. The Law also provides that the tax authority -in accordance with its regulatory powers- is entitled to increase this percentage to a rate of up to 10%.

4.1.5. 50% of recoverable VAT on exports instead of 100% refund provided by the IMAGRO

Under the IMAGRO, taxpayers were entitled to recover 100% of their VAT tax credits obtained in local procurement of goods and services affected to their export operations at the time them exported the agricultural products.
The IRAGRO provides that the VAT refund is reduced to 50% regardless if exports are related to agricultural products in their natural state or if they are undergoing basic industrialization processes.

4.1.6. New price assessment system for export operations

For the purposes of determining the IRACIS, the Law empowers the tax authorities to adjust the agreed prices of export operations of commodities

4.2. Tax Rates

The standard rate is 10% applied to agricultural activities performed in Paraguayan territory and the income from agricultural activities as a pig farm, cuniculture, flower farming, sericulture, aviculture, apiculture, and silviculture, when this activities are carried out by the producer and the income from these activities do not exceed 30% of the total revenue of the establishment.

The activities that involve manipulation, processes or treatments are under the IRAGRO, except when the activities are performed by the producer for the conservation of those goods.

4.3. Taxpayer of the IRAGRO

IRAGRO taxpayers are:

a. Sole proprietorship;
b. Companies with or without legal personality;
c. Corporations, private entities in general;
d. Publicly owned corporation, independent entities, decentralized entities and a mixes economy society;
e. Individuals or entities incorporated or domiciled abroad and their agencies or establishes in Paraguay.

The foreign headquarter will pay the taxes for their taxable activities obtained from their independent activities.

4.4. Taxable Base

This tax is paid on an annual basis on profits that taxpayers were accrued in the year before. The tax liability is set on June 30 of every year.

When the taxpayer of the IRAGRO is also a taxpayer of IRACIS, IRPC or IRP, the closing year of the fiscal year shall be on December 31 of every year.

4.5. Tax Regime Liquidation

The taxpayers of the IRAGRO settled tax basis of the following regimens settlement:

a. Liquidation regime of countable result: this is mandatory for companies in general. To the sole proprietorship, when their income earned in the previous calendar year are more than Gs. 1.000.000.000 (USD. 180,832 approximately17)
b. Liquidation regime of medium rural taxpayer: this regime is for the sole proprietorship, when their incomes earned in the previous calendar year are equal to or more than Gs. 500.000.000 (USD. 90,416 approximately), and not more than Gs. 1.000.000.000 (USD. 180,832 approximately).

17 Exchange rate USD 1 = Gs. 5.530

c. Liquidation regime of small rural taxpayer: this is for the sole proprietorship when their total incomes earned in the previous calendar year are lower than Gs. 500.000.000 (USD. 90,416 approximately).

To computing the total income amounts mentioned above, will be added the income from activities as a pig farm, cuniculture, flower farming, sericulture, aviculture, apiculture, and silviculture, when these activities do not exceed 30% of the total revenue of the rural establishment.
The amounts of the income mentioned above is calculated without taking into account the VAT included in the corresponding sales receipts.

5. REAL PROPERTY TAX

Real property is subjected to an annual tax administered and collected by the municipalities where the property is located, at a rate of 1% (0.5% for certain rural properties) of the cadastral value. This value shall be increased annually until they match prices set by the market following the consumer price index. Increases shall not exceed 15% per annum. In the case of rural properties any improvements or buildings shall not be computed in the tax base. Tax payers are the owners, any of the co-owners in case of shared ownership, or usufructuaries of the land.

5.2. Selective Consumption Tax

A selective consumption tax it's applicable to certain products, whether imported or produced locally. This tax is levied on the importation of these goods, and in the case of domestic products, on their initial sale. The export or subsequent sales of these products will not be levied by this tax.

The rates are set by Executive Decree within the limits established by Law.

Goods and tax rate applicable:

Goods	Tax rate
Cigarettes and cigars	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	50%
Perfumes, eau de toilette and makeup preparations	5%
Natural pearls and precious stones in general	5%
Luxury watches	5%
Air conditioning equipment	1%
Appliances	1%
Arms and ammunition	5%
Musical instruments, toys, games and recreation products	1%

Importers and manufacturers of the taxable domestic products shall be liable for this tax. In the case of imports the taxable base shall be the value for the customs plus Customs Duties and fees for services. In the case of domestically manufactured goods the taxable base shall be the ex-factory price excluding VAT and this tax. In the case of fuel oil the taxable base shall be the sales price to the public established by Executive Decree, except on items not subject to price controls, which shall be subject to the rules governing imports.

This tax shall be liquidated on a monthly basis except in the case of fuels, which shall be liquidated weekly, from Sundays through Saturdays.

6. CUSTOMS REGIME – GENERAL ASPECTS

6.1. Custom Duties.

All imported goods, except those expressly exempted, are subject to a customs duty. The maximum rate of this tax is 30% on the taxable value of the goods, according to the classification and tariff classification of them.

Categories	Ad valorem rates
Intrazone Tariff (MERCOSUR)	0%
MERCOSUR's Common External Tariff (CET) averages	0-30%
Average basic list of exceptions	10%
Capital goods	0-2%
Telecom & IT	0-2%
Exceptions List	0-25%
Average automotive sector - Intrazone	0-20%
Average automotive sector - Extrazone	0-28%
Sugar sector	30%
Raw materials	0-14%

Imports from MERCOSUR (Intrazone), with some exceptions, have a general rate of 0% and the average Common External Tariff for member countries to products from third parties (Extrazone) is 10% - 18%. In addition to the custom tariff rates other taxes must be paid:

Categories	Rates	Observation
Valuation Services	0,5%	On the value determined by Customs
VAT (General)	10%	On the value determined by Customs and on customs duties that affect the operation, prior to the withdrawal of goods from the customs area
VAT (Tourist regime)	1,5%	It applies to products that are sold to nonresident foreigners.
Selective Consumption Tax	18%	Average applied to the affected goods on the customs value determined prior to the withdrawal of goods from the customs area.
Advance income tax	0,6%	On the value determined by Customs
National Indigenous Institute Tax	7%	On the cost of consular fees
Fiscal Patent	2%	On vehicles whose value exceeds USD 30.000

6.2. Taxable Base.

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

6.3. Filing and Payment.

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

6.4. Selected Custom Duties Regimes Available.

6.4.1. Ordinary Importation Regime.

It applies to all goods that will remain permanently in Paraguayan territory. Full payments of customs duties and import VAT are required upon filing of the custom declaration.

6.4.2. Temporary Importation Regime.

This regime allows the suspension of duties and taxes on imports of certain goods aimed for a specific purpose and intended for re-exporting within a specified period, either without or having undergone a process of transformation, repair or manufacture. Prior authorization is required, and this regime shall not exceed 12 (twelve) months, renewable only once for the same term. For capital goods this regime could not exceed 3 (three) years, renewable only once for the same period.

Regardless of the filing of a request for a temporary admission, the temporary importer must present the production and export plan for the review and supervision of the competent authority.

The Maquila regime, a special economic regime created to promote foreign investment, allows the temporary entry of goods, products and services into the country to be assembled, repaired, improved and manufactured or be used in manufacturing processes, for subsequent export after incorporation of value added or national components.

6.4.3. Drawback regime.

The Drawback regime is not applicable in Paraguay.

6.4.4. Free Trade Zone Regime.

Companies operating in the Paraguayan free zones are exempted from any tax levied on the formation of societies, profit remittances, payment of commissions and fees and all other remuneration for services, technical assistance, technology transfer, loans and financing and any other service provided to them from third countries.

Companies involved exclusively in exportation are taxed on a single tax called the "Tax Free Zone", where the rate is 0.5% of total gross revenues from those sales.

Imports into the customs territory from companies located in export processing zones are subject to all import taxes. Capital goods introduced into the free zones are exempted from all taxes. Exports of any kind from the customs territory of a zone are made as if exports to third countries.

7. PAYROLL TAXES/WELFARE CONTRIBUTIONS

7.1. Retirement and Health Fund Contributions.

The Social Security Administration (Spanish acronym IPS) is the ruling public body of the social security system, collecting the installments made by companies and employees and keeping up to date the record of the labor history of each member.
Generally, income from any source, whether in money or in kind, received by an employee in remuneration for services performed in the country, is subject to the Social Security Tax.
The employer must make part of the contribution to Social Security and the employer must make the other part. The respective contribution rates are as follows:
- Employee contribution: 9.00% of salary received.
- Employer contribution 16.50% of salary paid.
Payments are done on a monthly basis.

7.2. Labor Risks Insurance System

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

7.3. Family Bonus.

Workers are entitled to collect a supplement equivalent to 5% of the minimum monthly legal wage (approximately USD. 355[18]) for each marital, non-marital or adopted child, up to 18 years of age when the worker earns less than 200% of minimum monthly legal wage amongst other legal requirements.

7.4. Benefits

The most important benefits are:

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

18 Exchange rate USD 1 = Gs. 5.530

interests of the company.

PERU CHAPTER
RUBIO, LEGUÍA, NORMAND & ASOCIADOS

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	29.5 %
Dividends Tax:	5 %
Withholding Taxes (Non Resident) on:	
-Interest:	4.99% or 30%
-Royalties:	30%
-Technical Assistance:	15% or 30%
-Independent personal services:	24%
-Employment:	30%
-Imports:	N/A
-Capital Gains - sale of shares	
- Lima Stock Market:	5%
- Others:	30%
Tax losses carry-forward term:	4 years or for unlimited time up to 50% of the net income each year
Tax losses carry-back term:	Not permitted
Transfer Pricing Rules:	OECD Guidelines
Tax-free Reorganizations:	Merge and Spin offs
VAT on Sales:	18%
VAT on Services:	18%
VAT on Imports:	18%
Custom Duties:	0%, 6% or 11%
Depending on the tariff classification of the goods	
Temporal Net Assets Tax:	0.4% of the value of the total assets over PEN 1M
Stamp (Documentary) Tax:	N/A
Financial Transactions Tax:	0.005%

Local Level Tax Rates:

Real Estate Property Tax:	Up to 1%
Motor Vehicular Property Tax:	1%
Real Estate Transfer Tax:	3%. The first 10 tax units are exempted

Treaty Taxation:

	Item of Income				
Countries	**Interest**	**Dividends**	**Royalties**	**General Services**	**Technical Assistance**
COLOMBIA		Unlimited source taxation only(*)			
BOLIVIA		Unlimited source taxation only(*)			
ECUADOR		Unlimited source taxation only(*)			
CHILE	No more than 15%	10% or15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
CANADA	No more than 15%	10% or15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
BRASIL	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State. In case of Technical Assistance services, no more than 15%	
SOUTH KOREA	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State. In case of Technical Assistance services, no more than 10%	
PORTUGAL	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
MEXICO	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State.	
SWITZERLAND	No more than 15%	10% or 15%	No more than 15%	Residence taxation, unless a Permanent Establishment in the Source State. In case of Technical Assistance, no more than 10%	

(*) Under Andean Community Decision to avoid international double taxation.[13]

OVERVIEW[14]

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.

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

14 Please note that this section is intended to be a merely informative summary of the Peruvian main tax dispositions. It does not include or intends to provide any kind of legal advice.

Companies and legal entities non residents in Peru are levied only on their Peruvian source income, as it is defined in the Peruvian Income Tax Law. Furthermore, domestic branches, agencies and any other permanent establishment of non-resident entities which are established in Peru are also subject to tax only on their Peruvian source income.

The tax year as well as the accounting year must be considered on the basis of the calendar year. No exception is allowed regarding this matter.

1.1.1. Income Tax Rate.

29.5% rate applicable to resident companies including Peruvian branches, agencies and other permanent establishments of non-resident companies. Dividends and profit distribution are subject to a 5% withholding (not applicable to resident companies).

For permanent establishments, branches and agencies of foreign companies, a distribution of profits is deemed to occur on the deadline for filing their annual corporate income tax return (generally, at the end of March – beginning of April of the following year).

The tax on dividends is basically applied through a withholding mechanism. The withheld amount is considered a final payment.

1.1.2. Taxable Base.

Income derived from commercial or business activities are deemed taxable income. This includes income from sale of goods, rendering services, capital gains and results of transactions entered into with third parties. All revenues are subject to income tax unless otherwise excluded by law.

For local corporate purposes, income is recognized on an accruals basis.

1.1.3. Expenses Deductions.

As a general rule, all costs and expenses are tax deductible provided that they are necessary to produce taxable income, or to maintain its source. Any costs or expenses related to exempted income are not deductible. Some costs and expenses are limited (e.g. as vehicles expenses, donations, directors fees, travel and recreation expenses, etc.); or forbidden (e.g. expenses without invoices, expenses derived from transaction with companies resident in tax heavens).

It is necessary to use certain means of payment for the deduction of expenses in excess of approximately PEN 3,000 or US$1,000. 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, or transactions that take place from, to or through tax heavens.

For Income 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 and whenever the value agreed for the transaction causes in Peru a minor Income Tax compared to the one that would have been determined in application of the transfer pricing dispositions. This domestic legislation establishes that market value, for transactions between related parties or made from, to or through countries or territories with low or zero taxation, shall be the prices and amount that would have been agreed with or between independent parties in comparable transactions, under the same or similar conditions.

Since 2017 corresponding to fiscal year 2016, local entities subject to transfer pricing rules whose yearly accrued income USD 3 million approximately, must file an annual tax transfer pricing local file regarding the transactions associated to taxable income and/or tax cost/expenses.

Furthermore, local entities subject to transfer pricing rules whose yearly accrued income USD 25 million approximately, must file an annual Master File, showing among other information, the entity corporate structure, business information, transfer pricing policies, group information, financial and tax position.

Local entities that belong to a multinational group, must file a "Country by country report", showing information about the global income distribution, taxes paid, information about the business activities of every entity confirming the multinational group. The CbC report and Master File specifications and regulations is still under development.

In 2017, it was introduced to our Income Tax Law, in case of intercompany services, the need to comply the "benefit test" and keep the documents that would proof the effective provision of said type of services, as well as, the documents that would proof the cost or expenses associated to the provision of the received services.

The Regulations to our Income Tax Law (not yet approved) should bring more clarity to the above-mentioned dispositions.

1.1.6. Thin capitalization.

Interest derived from loans entered into between related parties will not be regarded as deductible expenses for tax purposes whenever the loan exceeds three times the net equity of the borrower (debt-equity ratio 3:1). Thin-cap rules are also applied in the context of local financing among related parties that are resident or established in Peru.

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). 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.

1.2. Payment and Filing

1.2.1. Monthly Advance Payments on net income.

1.5% on every month net income of start- up companies and companies with tax losses in the last year. For the other cases, tax contributors should determine the advance payments with a ratio (annual income tax over annual net income) and said resulting amount should be compared to the one resulting from the use of aforementioned percentage. The companies should choose the higher amount as the payable advance payment.

1.2.2. Annual Tax return and payment.

During the first three months of each next calendar year.

1.3. Penalties.

Monthly lateness interest rate is of 1.2 %, and penalties may range from 5% up to 100% of the corresponding tax liability.

1.4. Dividends Tax.

Dividends and other profits distribution to nonresident companies or individuals (resident or not) are subject to a 5 % 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 depends on the type of income.

Income	Company	Individual
Interest Loans	4.99 %	N/A
Preferential Interest (up to Libor + 7)	4.99%	30%
Non Preferential Interest	30%	30%
Dividends and other profits distribution	5%	5 %
Gains of Transfer of Real State	30%	5%
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[3]	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%

1.5.2. Tax Treaties.

See a brief in the highlights section.

3. The Peruvian recipient of the service shall have a report issued by an auditors' company of international prestige certifying that "technical assistance" has been effectively provided, in case the retribution of the service is above 140 UIT.

1.5.2.1. Regime within the Andean Community.

Decision No. 578 determines the regime to avoid double taxation among Member Countries of Andean Community (Bolivia, Colombia, Peru and Ecuador). This regime is based on the State-of-source taxation principle. Therefore, income which is taxed in one Member Country will be regarded as non-taxable income in the other Member Country.

1.5.2.2. Treaties with other countries.

Nowadays, Peru has signed Tax Treaties with the following nations:

- Canada
- Republic of Chile,
- Federative Republic of Brazil
- Republic of Korea
- Switzerland
- Portuguese Republic
- United Mexican States

Tax treaties executed with all the countries listed above 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 the UUNN 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 guarantees for at least a 10 years period the following conditions: (i) application of a permanent rate of the Income Tax Regime that would be settled at the beginning of the agreement; (ii) no exchange controls; (iii) non discrimination; (iv) application of custom duties in force at the time the agreement is settled; and, (v) setting disputes in national and international arbitration tribunals.

1.6. Related Taxes

1.6.1. Temporal Net Assets Tax (TNAT):

A 0.4% tax applies of the net assets set forth in the company balance sheet as of December 31 of the prior year, provided it exceeds S/. 1 000 000.00 (one million Peruvian Soles), or approximately US$ 350 000 (three hundred fifty thousand Dollars). It is to be noted that the tax works as a Minimum Income Tax, because the amount paid by the company is creditable to offset its Income Tax and the excess may be reimbursed by the Tax Administration. Companies at a pre-operative stage are no subject to TNAT.

1.6.2. Financial Transactions Tax.

A 0.005% tax applies to the value of most of financial transactions such as: bank accounts credits or debits, certified checks, bank certificates, travel checks, wire transfers, payment orders, credit cards, etc. Payments over S/. 3 500 or US$ 1 000 shall be made through financial transactions, in order to be considered as a tax expense for Income Tax purposes.

2.VALUE ADDED TAX (VAT)

2.1. General Aspects

2.2.1. Tax Rates.

The General Sales 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 retribution for the supply of goods or the provision of services will be regarded as the taxable base for IGV purposes.

2.1.5. Payment and Filing.

Tax must be self-assessed on a monthly basis.

2.1.6. Zero-rated goods and services.

Exports of goods and services are taxed at zero-rated. IGV paid on purchases to produce goods to be exported is eligible to be recovered from: (i) output IGV; (ii) Income Tax; (iii) other tax debts; and/or, (iv) cash or check refund from the Tax Administration.

2.2. Early Recovery System.

Companies on a preoperative stage may qualify to an Early IGV Recovery System. In order to be entitled to this system, the companies: (i) shall enter into an investment agreement with the Peruvian government for projects of a minimum invest cost of US$ 5M; and, (ii) must have not less than two years of preoperative stage.

3. OTHER TAXES

3.1. Real Estate Property Tax.

Local Authorities require owners to pay a tax up to 1% on their real estate property within their jurisdiction. Rates depend on the property value 0.2%, 0.6% and 1%.

3.2. Motor Vehicular Property Tax.

Motor vehicles are subject to a tax of 1% on the value of the vehicle. This tax will be imposed only for the first three years after the registration of the vehicle into the National Public Registry.

3.3. Real Estate Transfer Tax.

Sale of real estate is known as Alcabala Tax and it is subject to a tax of 3%. The taxable base is the transfer value, which cannot be less than the taxable value (autovalúo) of the property. The first 10 tax units are exempted. For the year 2017, the Tax Unit rises to S/. 4 050.00 (four thousand and fifty Peruvian Soles). The Alcabala tax must be paid by the purchaser within the calendar month following the month in which the transference takes place.

4.CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties.

Ad Valorem Custom Duties are levied on the customs value of the imported goods with rates of 0% (i.e. capital goods), 6% (i.e. mobile phones, agriculture, fishery goods, raw materials, chemicals etc.) and 11% (i.e. fabrics, footwear, fruits, dairy products etc.). Some products such as sugar, milk and corn are subject to a plus value fix by the Government.

4.2. Customs Valuation.

For customs duties the value of imported goods is determined according to WTO´s Customs Valuation Agreement methods, and other regulations approved by the Customs Administration for such purpose.

4.3. Temporary Importation Regimes.

Peruvian regulations allow the entrance of goods duty free for a limited period of time for: (i) the production of exportation goods; (ii) warehouse; or, (iii) use of machinery in industry, mining or other activities.

4.4. Drawback.

A drawback regime applies to producer/exporter companies to recover the import duties paid for the importation of materials to produce the exported goods. The restitution tax applicable is 4 %.

4.5. Stability agreements:

See section 1.5.2.3.

5.PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Retirement Contributions.

The employee might choose between a private pension fund (AFP) or a public pension Fund (SNP). In the first case, the employee must contribute 13.22% approximately of their salaries, depending on the respective AFP. In the SNP, employees must contribute a 13%. The employer is responsible for withholding the employee's corresponding contribution in a monthly basis.

5.2. Health Contributions.

9% of the total payroll shall be paid by the employer to the National Health System (ESSALUD). In addition, employers might acquire further coverage with private health care companies (EPS). In this case, employers can use part of the fees paid to the private system as a credit against the contribution, but not in excess of the 25% of it.

5.3. Labor Risks Insurance System.

The employer must provide an insurance coverage to its employees that carry out activities involved in a significant level of risk.

5.4. Other legal benefits.

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

- Salary: A minimum monthly payment of approximately US$ 288.
- Legal Bonuses: Legal bonuses to be paid in July and December, each one equal to one monthly salary.
- Compensation for Time of Services: The employer must deposit in a bank account elected by the employee an amount equal to one monthly salary per year. This amount must be paid on May and November.
- Family Allowance: To be paid monthly to employees with children under 18 years old, it is equal to approximately US$ 28.3 (10% of the minimum legal salary).
- Profit-Sharing: Employees are entitled to share in the profits of the company through the distribution of a percentage of the annual income before taxes. The distribution percentage varies from 5% to 10% depending on companies activities.
- Vacation Leave: Employees who work more than 4 hours per day for the same employer are entitled to 30 calendar days of paid vacation leave for each full year of service.

Under the "Integral remuneration Peruvian regulations" it is possible to negotiate an integrate amount remuneration, which substitute all mentioned benefits.

5.5. Employment contracts.

Employment contracts can be entered for an indefinite term, fixed term and part-time work. Fixed term contracts may be entered into whenever it is required by the market needs or because of the increase of the production activities of the company, as well as whenever it s required by the temporary or occasional nature of the services to be provided, or work to be performed. These contracts must be made in writing and submitted to the Administrative Labor Authority.

Foreign personnel contracts are limited to the 20% of the total number of workers and the remuneration must not exceed 30% of the cost of the total payroll. These contracts must be entered into in writing and for a fixed term. There are specific cases in which the foreign worker is not considered in the aforementioned limitations, among others, this is the case of specialized professional or technical staff, and directors and managers of a new business or in the case of business reorganization.

5.6. Labor Stability.

Dismissals in Peru can only be due to justify causes, expressly stated in the law. If the employer performs an unjustified dismissal the employee can file a claim in order to be hired again in the company or to obtain an indemnity payment, which in case of employees without a fixed term equals to one and a half remuneration for each year of services or in case of employees under a fixed term contract, said indemnity payment could go up to one and a half remuneration for each month of services until de expiring date of the contract. In any case said indemnity payments could not exceed twelve remunerations.

URUGUAY CHAPTER
FERRERE

URUGUAY
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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	25%
Capital Gains Tax:	25%
Branch Profits Tax:	25%
Dividends Tax:	0
Withholding Taxes on:	
- Dividends	7%
- Interest:	12% / 25%
- Royalties:	12% / 25%
- Technical Assistance:	12% / 25%
- Technical Services:	12% / 25%
- Other Services:	12% / 25%
Tax losses carry-forward term:	5 years
Tax losses carry-back term:	0 years
Transfer Pricing Rules:	OECD like
Tax-free Reorganizations:	Depends on chosen way[13]
VAT on Sales:	22%
VAT on Services:	22%
VAT on Imports:	22%
Custom Duties:	0-35%
Net-worth (Assets) Tax:	1.5%
Local Level Tax Rates:	
Tax on Industrial Activities:	National Tax Level
Tax on Commercial Activities:	National Tax Level
Tax on Service Activities:	National Tax Level

13. Please refer to 1.1.9.

Real Estate Tax:	Enforced by the Municipal Government
Taxes on Other Property:	N/A
Document Registration Tax:	N/A
Excise Taxes:	Depending on the goods

Treaty Taxation:

Items of Income

Countries	Interest	Dividends	Royalties	Tech.Services
Germany	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Hungary	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 10%
Spain	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	No withholding
Mexico	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	No withholding
Switzerland	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Ecuador	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 15%	No withholding
Liechtenstein	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Malta	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Portugal	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Romania	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Finland	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Korea	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
India	Shall not exceed 10%	Shall not exceed 5%	Shall not exceed 10%	Shall not exceed 10%
United Arab Emirates	Shall not exceed 10%	Shall not exceed 7%	Shall not exceed 10%	Shall not exceed 10%
United Kingdom	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Vietnam	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%
Belgium	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Luxemburg	Shall not exceed 10%	Shall not exceed 15%	Shall not exceed 10%	No withholding
Singapur	Shall not exceed 10%	Shall not exceed 10%	Shall not exceed 10%	No withholding
Chile	Shall not exceed 15%	Shall not exceed 15%	Shall not exceed 10%	Shall not exceed 10%

OVERVIEW

1. INCOME TAX

1.1. General Aspects

Uruguay collects taxes following the principle source: investments located and activities performed outside Uruguayan territory are not subject to taxation. However, since 1st January 2011 there is an extension of the principle source and some investments located outside Uruguayan territory from Uruguayan fiscal residents are subject to taxation.

1.1.1. Corporate Income Tax Rate.

Annual tax at a rate of 25% is imposed on income from industrial or commercial activities of Uruguayan

source as well as on income from agricultural activities.

1.1.2. Taxable Base.

Tax is levied on profit or net income of any economic activity of any nature (Economic Activities Income Tax - Spanish acronym: IRAE). Income resulting from activities performed, assets situated at or rights economically exercised within the Republic shall be considered as coming from a Uruguayan source, regardless of the nationality, domicile or residence of parties in the transactions and of the place where the legal business takes place. The taxable amount is determined by the net income, estimated according to fiscal regulations, which in practice is usually similar to accounting standards with the addition of specific limitations as to the deduction of certain expenses.

We illustrate below this assessment process for further clarification:

[+] Net income
[–] Tax-exempt Income (Income not included, income from foreign source, Tax exempt Income).
[+] Expenses for obtaining tax exempt income
[+/–] Inflation adjustment[14]
[–] Tax losses from previous years
[–] Savings Channeling[15]
[–] Tax exemption for Investments[16]
[=] Net taxable income
[*] 25% Corporate Tax
[=] Income Tax Charge Payable

1.1.3. Minimum Taxable Income.

Income obtained by tax payers whose annual income does not exceed a certain minimum amount established by the Executive Branch will be tax exempt. Notwithstanding that, the Executive Branch may establish a minimum number of dependants or any other indexes for 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 agricultural activities.
c. Those who have decided to be levied by the Economic Activities Income Tax.
d. Those whose income does not come from business operations.

1.1.4. Deductions.

As a general rule, all expenses necessary to obtain and preserve taxable income are deductible in determining net income, provided they are duly documented.

14 Inflation adjustment is calculated on the basis of balance sheets at the beginning of the financial year.

15 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).

16 A maximum amount of 40% of income destined for acquiring certain assets or perform some improvements from the investment made during the financial year is tax exempt.

In application of the so-called "padlock rule", the only expenses that can be deducted are those that constitute for the other party (resident or non-resident), income levied by business or personal income tax, and in the proportion resulting from applying to the expense the ratio between the maximum rate applicable to income of the other party and 25% corresponding to the IRAE rate.

Certain expenses are not subject to this proportionality rule.

The following items are expressly not allowed as expense deductions:

- Expenses for obtaining tax exempt income.
- Personal expenses of owners, partners, shareholders or relatives.
- Losses stemming from illegal operations.
- Penalties imposed because of fiscal infringements.
- Amounts drawn by stockholders that may be deemed profit distributions.
- Books profits credited to capital or reserves.
- Income tax, specific additional Income tax on large scale mining and Net Worth tax provisions.
- Goodwill amortization.
- The amounts paid in respect of leases, subleases and credit agreements for use of properties; if it has not been provided for in the respective contract that the corresponding amounts agreed in money are to be accredited into an account in a financial intermediary institution or it has not been made effective through this modality.
- The amounts paid for freight and fees for services provided by free-lance professionals if not made effective by means of electronic payment or through accreditation into an account in financial intermediaries' institutions or by electronic money instrument.

1.1.5. Depreciation.

The straight line method must be applied. However, an alternative method may be authorized by the Tax authorities.

Acquired intangible assets, such as trademarks, patents and copyrights are amortizable on a straight-line basis over five years, 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 and suburban properties, 3% per year for rural properties and up to 10% per year for new vehicles.

1.1.6. Transfer Pricing.

Uruguay has developed transfer pricing rules in Law number 18,083.
Transfer pricing rules are applicable to: i) transactions with related companies, ii) transactions with third parties located in tax havens. The Executive Branch, per Decree Nº 56/2009 has issued the list of jurisdiction considered tax havens for the purpose of applying transfer pricing rules.

While some aspects differ from the OECD transfer pricing directives, the rules generally reflect those guidelines, which can be used as a reference and relevant precedent when interpreting the Uruguayan rules. The rules adopt the five methods suggested by the OECD guidelines:

- The comparable uncontrolled price method.
- The resale price method.
- The cost-plus method.

- The profit-split method.
- The transactional net margin method.

The regulations establish no preferential order for applying the methods, stating only that the "most appropriate" method should be chosen. The analysis can include the situation of the local company as well as that of the foreign entity. Also, for some commodity import and export transactions, the transfer price must be adjusted to the quotation for the commodity on an internationally recognized transparent market at the date of execution of the contract, provided the adjustment generates a higher taxable amount for income tax purposes.

In addition, Law number 19,484 establishes an annual obligation for the IRAE taxpayers, which are part of a multinational group with a large economic dimension, to submit a "Master Report " and a "Country-by-Country Report ".

1.1.7. Inflation Adjustments.

This is used as a fiscal adjustment in the computation of the taxable base. It is calculated 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:

a. The value of the assets adjusted for tax purposes less the assets affected for obtaining non-taxable income, fixed assets and livestock.
b. The amount of the liabilities at the beginning of the financial year composed of debts of sums of money or in kind, reserves and temporary liabilities.

In the event of such result being positive, tax losses will be calculated by inflation, otherwise, benefits will be calculated for the same concept.
This adjustment will only be made in those years in which the percentage change in the Consumer Price Index (CPI) accumulated in the thirty-six months prior to the closing date exceeds 100%.

1.1.7. Tax Losses Carry-forward / Carry-back.

A Uruguayan taxpayer can carry-forward the tax losses which can be deducted as an expense from gross taxable income of the following five financial years (refer to 1.1.2). There is no carry-back possibility. The deduction for tax losses is limited to 50% of the net taxable income obtained after making all other adjustments for net income.

Therefore, the taxable income will depurate/set apart the tax losses from previous years already computed. Tax losses will be adjusted for each year, using the wholesalers' index price between the moment when the losses occurred and the date of the fiscal year we are calculating. In short, a tax loss deduction cannot generate further tax losses.

Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations. In the case of mergers, sometimes tax losses are transferable to the new or surviving entity under some conditions.

Please note, that in all cases, inflation adjustments are applicable to update tax loss amounts and that the deduction is computed on the adjusted amounts.

1.1.8. Tax-Free Reorganizations.

Acquisition or merger operations may trigger income tax (IRAE) and value-added tax, but taxation will depend on the way chosen to carry out such operations. Reorganization of companies (mergers, acquisitions or demergers) can be exempted from Uruguayan income tax only by decree of the Uruguayan government as established in Law 16,906.

In case of selling a corporation, for the seller the excess of the price received, or the value of the shares received in the case of a merger, over the fiscal value of the net assets transferred (assets less liabilities) is treated as taxable income. For the buyer this excess is treated as goodwill, which cannot be amortized, not even in the case of a merger.

An acquisition or a merger can always be affected in a more tax effective manner by transferring the shares or the capital quotas. In case of an acquisition by transfer of assets, or assets and liabilities, Uruguayan commercial law provides for certain procedures 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 subject to a 12% withholding tax or 25% if the transfer is made by entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The General Revenue Service has published the list of jurisdictions that meet these conditions.

If there is an acquisition in cash of assets, the buyer cannot change the fiscal value or the valuation and depreciation criteria for tax purposes. For the seller, the price received in excess of the fiscal value for the assets transferred is considered gross taxable income. For the buyer, the excess is treated as goodwill, as explained before.

1.1.8. 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.

1.1.9. 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 file 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 and the refund of VAT included on local purchases of goods. Likewise, the government may approve exemptions from net worth tax on assets that involve improvements related to industrial activities, brands, patents and any other goods that contribute to technological enhancement.

Other benefits include an accelerated amortization schedule for fixed assets or the possibility to reduce employer Social Security payments for manufacturing industry.

Furthermore, Law No. 18,083 provides for an Exemption for Investments granted to all taxpayers at a maximum rate of 40% (from IRAE) upon the investments carried out during the financial year for obtaining:

a. Machines and premises for commercial, industrial and services activities (excluding financial activities and leasing of real properties).
b. Farming Machines.
c. Fixed improvements in farming sector.
d. Utility vehicles.
e. Personal property used for equipping and re-equipping hotels, motels and tourist restaurants.
f. Capital assets for improving the services rendered to tourists.
g. Equipment for electronic data processing and communications.
h. Machines, premises and equipment for the productive innovation and specialization.
i. Phosphate fertilizers (only for livestock producers).

The exemption provided above comprises exclusively taxpayers whose incomes within the previous year of the investment execution, not exceed 10 million indexed units. This limitation does not extend to professional charge transport companies.

Benefits for specific investments, Law No. 16,906

These benefits may be granted to industrial, agricultural and services-related activities, provided the investment project to be carried out is approved first.

The tax benefits that the Executive Branch may grant through this procedure are the following:

- Exemption of fees, other taxes (VAT) and duties on importation of machinery and capital assets required for the project approved, in the event the same are certified as not competitive with Uruguayan national industry.
- Exemption of income tax (depending on the investment sum and the filed project).
- Net Worth Tax: movable property included in the Project is exempted during its entire useful life. Also, real property (construction or repair) located in Montevideo is exempted for 8 years and real property located in the interior of the country is exempted for 10 years. This does not include the land.
- Reimbursement of the Value Added Tax included in the acquisition of services exclusively used in construction works.

Projects of great economic significance (investments of over us$ 730,000.000 approximately) will receive a special treatment.

1.1.10. Notional dividends

Until 2016, the profits shareholders receive on their stakes in companies were taxed at 7% upon formal approval of their distribution by a shareholders meeting.

According to Law N° 19437, profits generated as of 2007 are deemed to have been distributed upon lapsing of three years from their generation and taxed at a 7% rate. The only exception is if they are reinvested in line with the conditions set forth in the rules.

1.2. Payment and Filing of Tax Returns.

Nationwide taxes are administrated by the General Tax Office (DGI).

All information furnished by taxpayers to the Tax authorities or obtained by them 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 filing date should be the day determined according to the last figure of the Tax Sole Register number (Spanish acronym: RUT for "Registro Único Tributario").

Filing and payment dates are generally similar year after year.
Taxpayers must make advance payments 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$ 14 (fourteen United Stated Dollars, amount fixed for 2017)

Tax liabilities related to any financial year prescribe five calendar years after the year of the closing date. This period is extended to ten calendar years in case the corresponding tax return was not filed to the corresponding Tax authorities or in case of fraud.

1.4. Dividends Tax / Branch Profits Tax.

Local branches of foreign companies are subject to income tax at the rate of 25% on annual net profits and may also be subject to withholding tax on profits when remitted or credited to the head office.

Local branches of foreign companies are also subject to Net Worth tax, which is levied on assets at year-end less certain debts. The tax rate is of 1.5%.

In short, local branches of foreign companies are ruled by the same tax regulations as the Uruguayan Corporations.

1.5. Cross-border Payments

1.5,1, Withholding Taxes (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: (i) sojourning less than 183 days in Uruguay during the course of the year or (ii) have Uruguay as his/her principal base of activities or interests (for example, when most of his/her income is Uruguayan sourced or his/her family – spouse and children - reside in Uruguay). Furthermore, foreign companies operating in Uruguay without a permanent establishment are considered non-resident.

1.5.1.1.Dividends.

Dividends paid abroad by Uruguayan companies are subject to a tax withholding of 7% applicable over income tax by IRAE at the company's level; the remitting company will be the withholding agent of said tax.

1.5.1.2. Royalties.

Royalty payments are subject to a 12% withholding tax or 25% for royalties paid to entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The General Revenue Service has published the list of jurisdictions that meet these conditions.

Income arisen from leasing, subleasing, assignment of use or possession rights upon tangible perso-

nal 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

This income includes leases, subleases, or assignment of the right to use or possess real properties located in Uruguay. The applicable rate is 12% or 25% for entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The General Revenue Service has published the list of jurisdictions that meet these conditions.

Income arisen from equity growths are those resulting from transferring, promises to transfer, assignment of promises to transfer, assignment of inheritance rights of tangible and intangible assets. This income is levied at a 12% rate or 25% for entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The General Revenue Service has published the list of jurisdictions that meet these conditions.

1.5.1.4. Services and Technical Assistance

Payments of fees related to industrial and mechanical processes are subject to a 12% withholding tax, or 25% for entities incorporated or located in no-tax or low-tax jurisdictions. or 25% for entities incorporated or located in no-tax or low-tax jurisdictions. An entity is considered to be incorporated in a no-tax or low-tax jurisdiction when both of these conditions are met: (i) the effective tax rate is lower than 12% and (ii) there is no exchange of information agreement with Uruguay in place. The General Revenue Service has published the list of jurisdictions that meet these conditions.

Income obtained and related to technical services granted in a foreign country shall be considered of Uruguayan source only if these services are related to the obtaining of income included within the IRAE.

Therefore, services and technical assistance rendered by non-residents individuals will be taxed at a rate of 12% or 25%, which shall be withheld by the entities subject to the Economic Activities Income Tax who pay for the services and technical assistance rendered by non-residents. The withholding may be eliminated or reduced to 0.6% (or to 1.25% in the case of no tax or low tax jurisdictions) if the entity that receives the services has no or less than 10% income subject to IRAE.

1.5.1.5. Earnings of local branches to their parent companies:

Same conditions as in dividends are applied (25% of the branch's local income tax and 7% on distribution).

1.5.1.6. Interest Payments:

These incomes are considered capital returns, including the income obtained from monies or in kind coming from deposits, loans and in general any capital or credit collocation of any kind and nature. The general tax rate for interest payments is 12% (25% withholding applicable to interest payments made to entities incorporated or located in no tax or low tax jurisdictions).

Interests from loans granted to Uruguayan companies, whose assets affected for acquiring tax-exempt income exceed 90% of the total of assets are tax exempt.

2. VALUE ADDED TAX (VAT)

2.1. General Aspects

Value Added Tax will be levied upon the internal circulation of goods, the rendering of services within national territory, the importation of goods, and the increase of value arisen from building on real property.

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 foreign individuals.
- Services provided abroad by International Call Centers.
- Quality control services, advisory services, commission agent activities provided exclusively to persons abroad relating to export of goods and services.
- International freight for the export of goods, ship maintenance or provisioning; insurance and reinsurance for exported or imported goods, freight for transportation of goods abroad.
- Data processing services if data corresponds to activities carried out, goods located or rights used abroad insofar as the processed product is enjoyed exclusively abroad.
- Services which must be provided exclusively within the free trade zone.

2.2. Tax Rates.

VAT is the principal source of state revenue in Uruguay. The standard VAT rate is 22%. However, a reduced rate of 10% (minimum rate) is imposed on sales of specific products and services (for instance, this minimum rate levied certain items of the family basket, health services, medications, travel packages and the provision of hotel services).

Law No. 18,083 reduced between 2 and 4 points of VAT applicable to purchases of goods and services to final clients provided such goods or services are paid through credit or debit cards, or other similar instruments.

2.3. Individuals and legal entities subject to VAT.

All business entities that are Income tax payers are also VAT payers. VAT also applies to professionals, self-employed individuals or associations of individuals rendering professional services. Legal

entities that carry out taxable activities will be also included, although they do not have permanent establishments.

2.4. Taxable Transactions.

This tax is levied on imports, sales of goods, and the rendering of services in Uruguay.

The VAT liability arises at the time of delivering goods, rendering services and delivering or introducing goods through Uruguayan borders.

2.5. Taxable Base.

This tax is calculated on net amounts invoiced for sales and services, and must be specified in the invoice.

The tax paid to suppliers regarding goods and services purchased which are directly or indirectly included in the cost of goods sold or services rendered by the taxpayer (provided it is clearly specified in the purchase invoice), is compensated with the tax invoiced by the taxpayer on their own sales and services.

2.6. Creditable VAT.

VAT paid on imports, local purchases of goods, raw materials and services grants tax credit, provided that imports and purchases are supported by the vouchers and invoices accepted by the Tax Law.

In the case of Zero-rated Exports, the VAT is not computed on the net amounts invoiced, thus allowing for the refund of the VAT included in the purchase of goods or services when these are part of the cost of exports.

In the case of tax exempt goods or services, the tax invoiced for goods or services purchased 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 and goods to be used on agricultural production and its row materials.
- Books, newspapers, magazines and educational material.
- Water supply for family consumption.
- Mutton, pork, white meat (bird and fish), fruits, vegetables, and horticultural products in their natural state.
- Firewood.

2.8. Payment and Filing.

The 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 agricultural income taxpayers, the credit certificates issued by Tax authorities regarding the paid VAT on purchases can be used to compensate other tax liabilities or be endorsed to the exporter as a mean of payment.

These certificates can be requested monthly by exporters and annually by farming income taxpayers. They are generally issued within two or three months after the application date.

3. OTHER TAXES

3.1 Net-worth Tax

This is a national level tax assessed at a flat rate of 1.5% per year. This tax rate arises from the difference between taxable assets located in Uruguay and deductible fiscal liabilities. In the case of banks or financial institutions the rate is 2.8% calculated over the net equity. The applicable rate for liabilities and debentures, saving documents and any other similar bearer documents will be of 3.5%.

Individuals will also be taxpayers of this tax (please, see item 3.5 Taxation on Individuals).

The following liabilities are deductible from the tax computation: an average of the value of the loans from local banks at the end of each month, debts owed to suppliers of goods and services (except for loans, loans, guarantees and balances on the imports), debts from taxes and rendering to non-governmental public entities, debts issued as from the effective date of the law documented in liabilities, debentures and any other securities if they were issued by public subscription and are quoted at the Stock Exchange, and any particular conditions and debts incurred with foreign financial institutions for the financing of long-term productive projects.

Assets located abroad are not taxable.

This tax must be paid within 120 days after the closing balance sheet date and monthly payments of 11% of the tax paid in the last fiscal year must be made.

3.2. Trading companies tax

For offshore trading activities, it is also possible to use regular Uruguayan corporations under a regime that allows them to compute their Uruguayan source taxable income on a notional basis.

Under this regime, the taxable income of trading companies is deemed to be equal to 3% of their gross margin (i.e. sales less cost of goods sold). This taxable income is subject to the regular Uruguayan 25% corporate tax rate. Dividends paid by these trading companies are subject to the general withholding tax (only for the part considered as Uruguayan income –3%-).

Uruguayan income source is defined at 3% of the difference between the selling price and the purchase price of the goods or services in the following cases:

- Operations involving the purchase and sale of goods that are not physically transferred through Uruguay
- Intermediation in the rendering of services provided these are rendered and economically used outside Uruguay.

3.3. Corporations Control Tax (ICOSA)

This tax is mandatory for all Uruguayan domestic corporations and also for foreign companies redomiciled in Uruguay, and is levied on the minimum capital established by the Government to incorporate a domestic company.
ICOSA is applied:

i. upon incorporation of the corporation, at a rate of 1.5% on a base established by law (the tax is approximately US$ 1,120), and
ii. at the close of each corporate year at a rate of 0.75% on a base established by law (the tax is approximately US$560)

Corporations can deduct the amount paid for the Corporate Oversight Tax when computing their Net Worth Tax.
This tax is not levied on free zone corporations, pension fund administrators, -or foreign entity branches.

3.4. Taxation on individuals

Before Law No. 18,083 there was a partial system of personal income tax that was withheld by employers at the time of paying their duties. This applied to any dependent individual or employee, but individuals with a non-dependent relationship were not taxed.

As from the Tax Reform that entered into force on July 1st 2007, individuals are taxed in two categories of income, pure capital income and labor or personal services income. Although the territorial principle is maintained, since 1st January 2011 there is an extension of the source principle and some investments located outside Uruguayan territory are subject to taxation. Also, Uruguayan residents dependent of local companies must pay income tax over activities performed abroad.

The first category, pure capital income, includes lease, equity growth, interests, royalties and dividends (among others).

The applicable rate of the capital income will be as follows:

Concept	Rate
Interests corresponding to local currency deposits and deposits in pegged units for more than one year.	7%
Interests from liabilities and other debt documents, issued for terms longer than three years by means of public subscription and quoting at the Stock Exchange.	7%
Income of participation certificates issued by financial trusts by public subscription and quoted in a stock exchange on national entities, for terms over three years	7%

Interests corresponding to a one-year term or less constituted in local currency without the adjustment clause	7%
Concept	**Rate**
Dividends or profits paid by Uruguayan commercial companies	7%
Income from copyright of literary, artistic or scientific works	7%
Dividends or profits paid or credited by Corporate Income Tax payers originated in returns from movable capital, arising from deposits, loans and generally in all equity placement or any kind of credit, such as returns that come from non-resident entities and constitute passive income.	12%
Other Income	12%

The second category includes income derived from a dependent activity or non-dependent relationship.

Work incomes are taxed with progressive rates applicable to each income stage. There is a non-taxable minimum for these incomes. The applicable rate goes from 0% to 36%, notwithstanding the advance payments that shall be made during the year.

Furthermore, there exists a deductions system based on progressive rates; the deductible expenses are included in a short restricted list and capped at 10% or 8% depending on the income level.

There is also a net-worth tax levied on assets of individuals, family units and undivided estates that is applied on assets located in the country less certain liabilities and also on nominated bank accounts. Only assets located, placed or economically used in Uruguay are subject to tax.
The rate applicable to IP is annual and progressive from 0.7% to 1% according to a scale.

3.5. Excise Tax (Domestic Specific Tax)

This tax levied the first transfer, at any title, made by the manufacturer or the importer of certain goods in the local market, namely vehicles, drinks, tobacco, perfume, cosmetics and fuel.

Also, this tax levied the destination of the taxed goods to the personal usage and the import of such goods by non-taxpayers.
Neither exports nor subsequent transfers are subjected to this taxation. The rates vary by item and are usually set by the government within certain ceilings established by Law.

Rates are applied to the real values or fixed values set by the Executive Branch taking into consideration the consumer's sale price.

4. CUSTOMS REGIME –GENERAL ASPECTS

4.1. Customs Duties

Uruguayan economy is free and open and there are no restrictions on imports and exports, therefore,

there is freedom to import all kind of goods[17].

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.

17 Notwithstanding regulatory requirements.

The only entities that can use this regime are industrial companies or commercial companies registered within the Industrial and Commerce Chamber.

To apply to this regime one of these three conditions must be fulfilled:

1. The product to be imported does not exist in the local market
2. The product to be imported exists in the local market but the price is significantly expensive to produce the final product.
3. The product to be imported exists in the local market at a reasonable price but the productive process takes longer than if the product is imported.

Prior authorization is required and the final products must be exported within a period of 18 months.

Applying to this regime, manufacturing companies may introduce without duties: raw materials, parts, pieces, engines, containers and packing materials, molds, casts and models, semi-elaborated and intermediate products, cattle and farming products and products that are consumed during the productive process, taking part directly in the elaboration of the product to be exported and being in contact with it, but are not incorporated into the final product.

4.4.3. Draw-back regime

There is a DRAW-BACK regime for certain products, which allows the devolution of imports duties, when re-exported, after being industrialized or in the same state.

4.4.4. Exports regime

Regarding exports, Uruguay has a promotion policy through instruments of a diverse nature and reach, all of which satisfactorily fulfill the regulations of the WTO Subsidy Code.

The basic principle is freedom of exports with no impositions or bans. Exceptionally, the exports of certain derivatives from the cattle and farming sector are subject to taxes and 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. Moreover, Intellectual Property rights and other intangible assets income are also exempt, provided that they stem from research and development activities performed within the Free Trade Zone.

Pursuant to the dispositions in force, the allowed activities for the Free Trade Zone Companies are:

- Trading of goods, deposit, storage, improvement and transformation within the place of the free trade zone.
- Rendering of several services from the free trade zones to other users of the free trade zone, to abroad or to IRAE tax payers.
- Rendering of telephonic or informatics' services from the free trade zones to the non-free zone of the Uruguayan territory.
- Ancillary activities, with a prior authorization of the Executive Branch.

Some Free Trade Zone Users[18] are allowed to develop complementary activities outside of the Free Trade Zone, in certain administrative offices specifically supplied in order to do it. Public relationships, storage of auxiliary documents, billing and collection of goods and services are considered "complementary activities". Sales and services transactions will not be considered as complementary activities under any circumstances.

The normal social contribution and payroll taxes are imposed on all employees working for companies 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. The Executive Branch is empowered to authorize an alternative limit of up to 50% of the total number of employees, considering the particularities of the activities of the company.

In addition to the tax benefits described above, the Uruguayan free zones offer other significant benefits in areas, such as, logistics, communications, and availability of skilled workforce. For these reasons, they have become one of the preferred locations where multinationals can set up different types of operations to serve their affiliates and/or customers throughout Latin America.

The types of operations that are conducted in the Free Zones include:

- in the case of multinationals that are setting up so-called entrepreneur or principal type structures for the Latin American region, Uruguayan Free Zones are possible locations for the principal and/or for the toll or contract manufacturer;
- treasury functions, such as, group lending, hedging and pooling activities may be conducted, on a regional basis, from regional treasury centers located in one of the free zones;
- these zones are also suitable locations for shared service centers where internal functions, such as, accounting systems, financial control services, invoicing, procurement of products and services, HR support and other administrative and clerical back-room type functions, may be centralized;
- service and calling centers may also be set up in the free zones to provide services to customers throughout the region. In this regard, it is important to point out that the government's telecommunication and electricity monopolies are not applicable in these zones and, as a result, companies may use other suppliers;
- for internet-related companies with activities, such as, e-commerce (B2C or B2B), portals, incubators and software houses,
- it is, in many situations, advantageous for multinationals to set up assembly or manufacturing plants in the free zones to centralize production.

18 Free Trade Zone Users located outside of a the Metropolitan Area, a geographic zone within a radius of 40 kilometers from Montevideo.

- Storage and warehousing facilities may also be used to deliver products to affiliates and, in many cases, defer the payments of custom duties in the countries where those affiliates are located.

5. PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Retirement and Health Fund Contributions

The Social Security Bank (Spanish acronym: BPS), is the ruling public body of the social security system, collecting the installments made by companies and employees and keeping up to date the record of the labor history of each member.

Generally, income from any source, whether in money or in kind, received by an employee in remuneration for services performed in the country, is subject to the Social Security Tax.

Employers and workers are required to make social security contributions to the Social Security Administration on up to a maximum monthly salary of approximately US$ 5,500.

Part of the contribution to Social Security must be made by the employer and part must be made by the employee. The respective contribution rates are as follows:

Employer:

1. Retirement: 7.5%

2. Health: 5%

3. Labor Reconversion Fund: 0.125%

Employee:

1. Retirement: 15%

2. Health: Between 3% and 8%

3. Labor Reconversion fund: 0.125%

The ceiling of US$ 5,500 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 an incompetent person there is a 10% supplement. These contributions are financed with the retirement contributions.

5.7. Benefits

The most important benefits are:

- 13th month salary – It is also called complementary annual salary, equivalent to 1/12 of annual salaries paid by the employer during the 12 months prior to the first day of December of each year.
- Paid annual vacation - workers have the right to twenty days paid vacation per year.
- Vacation Salary – It is an additional sum equal to 1/30 of the monthly salary per day of vacation.

VENEZUELA CHAPTER
TORRES, PLAZ & ARAUJO

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HIGHLIGHTS

NATIONAL LEVEL TAX RATES

Corporate Income Tax:	Bracket # 2 – 15% to 34%
	Upstream Oil Activities at 50%
	Local banks and Insurance companies at 40%
	Overseas Insurance Companiesat 10%
Capital Gains Tax:	Bracket #2 – 15% to 34%
Branch Profits Tax:	(equalization tax) 34%
Dividends Tax:	(equalization tax) 34% (50% oil)

Withholding Taxes on (for non resident entities payees):

Interest:	Bracket 2 (top 34%)
Interest to Qualified Financial Institutions	4.95%
Royalties:	30.60%
Technical Assistance:	10.20%
Technical Services:	17.00%
Services Other than Professional Services:	30.60%
Professional Services:	30.60%
Commissionaire Agent:	5.00%
Insurance Premiums (and payment upon reinsurance):	3.00%
Lease of property (immovable)	Bracket 2 (top 34%)
Lease of property (immovable)	5%
Sale of Shares in a Venezuelan Company	5%
Sale of Shares in Venezuelan Stock Exchange	1%

Tax losses carry-over term:	3 years / with limitations
API losses	No API loss carryover
Tax losses carry-back term:	No loss carry-back
Transfer Pricing Rules:	Yes (OECD Guidelines apply supplementary)

Tax-free Reorganizations:	Statutory mergers, change of legal form to partnership (see-through), and contributions to equity at cost

VAT on Sales:	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[13] and Cooperation treaties)
Net-worth (Assets) Tax:	Repealed in 2004
LargeFinancial Transactions Tax (corporate)	0.75%
Special Petroleum Windfalls Taxes	20% / Excess of Avg. price Ven basket over budget price 80% / Price Venezuelan basket btwn 80 and 100 USD 90% / Price Venezuelan basket btwn 100 and 110 USD 95% / Price Venezuelan basket for USD 110 and in excess

Excise Taxes:

Spirits & Alcohol	(on retail sale price) 8.5 - 10%
Spirits & Alcohol	0.0006 – 0.102 T.U.[14][15]/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

13 Venezuela was suspended from MERCOSUR in early 2016 and remains suspended to date.

14 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 500, which is equivalent to USD 0.010 (at the exchange rate under Exchange Agreement 39).

Motor Vehicles Tax:	1-4 Tax Units (T.U.) p/a
Legal Gaming & Gambling:	5-10% p/a
Commercial Advertisement Tax:	Established by each Municipality, commonly 1 T.U. per Square Meter
Tax on Public Shows and Performances:	Established by each Municipality, commonly 10%
Duties:	Vary for each service

Treaty Taxation (Income & Capital):

Items of Income

Countries	Interest[1]	Dividends[2]	Royalties	Tech.Services	Tech.Assistance
Austria	4.95-10%	5-15%	5%	5%	0-5%
Germany	5%	5-15%	5%	No WHT	No WHT
Barbados	5-15%	5-10%	10%	10%	10%
Belgium	10%	5-15%	5%	No WHT	No WHT
U.A.Emirates	10%	5-10%	10%	10%	10%
Brazil	15%	10-15%	15%	15%	15%
Canada	10%	10-15%	5-10%	5-10%	No WHT
China	5-10%	5-10%	10%	10%	10%
Korea	5-10%	5-10%	5-10%	5-10%	0-10%
Cuba	10%	10-15%	5%	5%	5%
Denmark	5%	5-15%	10%	10%	5%
Spain	4.95-10%	0-10%	5%	5%	No WHT
USA	4.95-10%	5-15%	5-10%	No WHT	No WHT
France	5%	0-5-15%	5%	No WHT	No WHT
Indonesia	10%	10-15%	20%	20%	10%
Iran	5%	5-10%	5%	5%	5%
Italy	10%	10%	7-10%	10%	10%
Kuwait	5%	5-10%	20%	20%	20%
Malaysia	15%	5-10%	10%	10%	10%
Mexico	4.95-15%	5%	10%	0-10%	10%
Norway	5-15%	5-10%	12%	12%	9%
Netherlands	5%	0-10%	5-7-10%	No WHT	No WHT
Portugal	10%	10%	12%	12%	10%
UK	5%	0-10%	5-7%	5%	No WHT
Czech Republic	10%	5-10%	12%	12%	12%
Russia	5-10%	10-15%	15%	10-15%	10%
Sweden	10%	5-10%	7-10%	7%	7%
Switzerland	5%	0-10%	5%	5%	No WHT
Trinidad & Tobago	15%	5-10%	10%	10%	10%
Qatar	5%	5-10%	5%	No WHT	5%
Belarus	5%	5-15%	5-10%	5-10%	0-10%
Vietnam	10%	5-10%	10%	10%	10%
Saudi Arabia	5%	5%	8%	8%	No WHT

(*) 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.

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%.**

In the last amendment of the Income Tax Law (published in the Extraordinary Official Gazette No. 6.210, dated December 30, 2015), Article 52 was amended adding a new paragraph to bracket # 2. Under the same net income resulting from banking, financial, insurance or reinsurance activities in the country is subject to a flat forty percent (40%) rate.Conversely, income sourced in Venezuela for foreign insurance and reinsurance companies (i.e. not domiciled in Venezuela) is taxable at a flat 10% rate.

1.1.3. Taxable Base.

All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of Income are subtracted from Gross Income, i.e., the sum of All Items of Income realized by the taxpayer. The result is the Gross Taxable Income from which Costs and Expenses are deducted. The after-deductions result is the Net Taxable Income to which the statutory corporate tax bracket is applied. Net income may be further impacted by the result from the application of the Adjustment per Inflation System (API)to be recognized as income or losses to be added to or subtracted from the taxable base. The result of applying brackets #1, # 2 or #3 to the taxable base (net taxable income) is Income Tax from which applicable Tax Credits are subtracted to find the actual Income Tax Liability.

We illustrate below this assessment process for further clarification:

[+] Sum of All Revenues
[=] Gross Income
[–] Excluded Items of Income
[=] Gross Taxable Income
[–] Costs and Deductible Expenses
[=] Net Taxable Income
[–] Exempted Items of Income
[=] Taxable Base
[–] Conciliation API (increase/reduction taxable base)
[*] Corporate Tax Bracket (top marginal rate 34%)
[=] Resulting Income Tax
[–] Tax Credits
[=] Income Tax Liability payable

1.1.4. Minimum Taxable Income.

Currently there are no provisions requiring a minimum taxable income or providing for payment of a minimum alternative tax.

1.1.5. Credits for Activities and Investments.

The credits for activities and investments included in the Income Tax Law of 2007 were repealed in the December 2015 amendment.

Chapter I of Title IV, regarding the system of credits for activities and investments (industrial, tourism, agricultural and environmental), was deleted, along with the reference to the possibility of carrying forward such credits for up to 3 years.

1.1.6. Timing for taxation.

Under the December 2015 amendment of the Income Tax Law, there was a significant change in the timing for income recognition.

Under the same most scenarios under which income arises upon payment where repealed and income is hence triggered upon realization.

The following are now considered as triggered upon realization of the transactions giving rise to

income, rather than payment: (a) the assignment of the use or enjoyment of movable or immovable property; (b) income derived from royalties or akin interests; (c) sales of immovable property; (d) income from professional services. Sources of income which continue to arise upon payment: (i) incomeresulting from dependent services; and (ii) income resulting from games and gambling.

1.1.7. Deductions.

As a general rule all costs and expenses are deductible provided that they are related, proportional and necessary to the income producing activity. Any costs or expenses related to Excluded and/or Exempted Items of Income are not deductible. In case the same are not clearly identifiable (i.e. allocable to taxable or excluded income) the law calls for an apportionment. Some costs and expenses are limited or disallowed, depending on the facts and circumstances for each case, e.g., related party charges, commissions, gifts, among others. All Other Taxes and Contributions, Customs Tariffs and Duties and Payroll Taxes and Welfare Contributions (see § 3, 4 and 5, below) are deductible for income tax purposes unless otherwise expressly provided in the law setting the tax or contribution.

1.1.8. Tax holidays.

The Venezuelan Income Tax Law was amended by the end of 2014 (Official Gazette of the Bolivarian Republic of Venezuela Number 6.152 (Extraordinary) of November 18, 2014). One of the amendments corresponds to the repeal of long standing tax holidays (exemption from tax), as applicable tonon-profit institutions devoted to religious, artistic, scientific, environmental conservation, fostering of technology, culture, education (including Universities and schools) or sports activities. The now repealed holiday conditioned the benefit so that said institutions acted for non-profit, and the income obtained to be a means of achieving their purposes, while the same were notto make any distributions to owners or partners. The rule remained the same in the December 2015 amendment of the Income Tax Law (currently in force).

1.1.9. Depreciation.

Tangible fixed assets' depreciation is deductible. Depreciation terms vary depending on the nature of the asset, and the same are not provided by Law nor Regulations but referred to Venezuelan GAAP (but for certain rules related to oil & gas assets); common practice is 20 years for real estate, 10 years for many other tangible fixed assets, except for motor vehicles and computers for which a term varying from 3 to 5 years, or 1 to to 2 years for the latter, is commonly applied. Globally used methods are generally accepted in Venezuela for tax purposes, e.g., straight-line method and UOP. Depletion is recognized for mining and hydrocarbon assets and investments, and other methods such as declining balance method or inverted digits method, *inter alia*, may be applied with the consent of the Tax Authority. While changes in useful life do not require from prior consent from the tax authority, changes in the method for depreciation or amortization do. The taxpayer may take an impairment on the basis of Venezuelan GAAP, any future changes would result in a recapture.

1.1.10. Transfer Pricing.

Venezuela has OECD like transfer pricing rules applicable to all transactions between a Venezuelan party (i.e. a Venezuelan resident taxpayer or company or a P.E. of a foreign company in Venezuela) and a foreign related party. In fact, the 1995 OECD Directives on transfer pricing are called in for application in a supplementary manner as provided by the Law and the Regulations(as they may be adjusted over time, and hence presumably as the said directives were amended in 2010, and may be further amended under BEPS). Transfer pricing provisions do not apply to transactions between two parties who are

Venezuelan resident taxpayers but solely on cross-border transactions. There are no particular rules regarding the tested party or comparable bases (local or overseas) to be used, but the Tax Authority extensively relies on international data bases as there is little local information and the marketplace is very small. Under the Venezuelan transfer pricing rules, the Venezuelan party must keep and file supporting documentation with the tax authorities (PT-99 transfer pricing return), as well as it must perform a transfer pricing study showing that its prices or profit margins on the transactions are within the comparable arm's-length prices or profit margins ranges for its activity and similar transactions, on a yearly basis. Parties in low tax jurisdictions are deemed as related parties for these purposes (an assumption the taxpayer may trump). The Venezuelan transfer pricing regime provides for a number of situations where two parties are deemed related. The catalog is complex and its application should require a more detailed analysis on case-by-case basis. Venezuelan provisions allow for corresponding adjustments when a transfer pricing adjustment is made by a tax treaty partner, and the law (Master Tax Code) allows since 2001 for the execution of Advance Pricing Agreements (APA) with the Tax Authority; not a single APA has been executed to date.

1.1.11. Thin Cap.

The transfer pricing section of the ITL includes a single provision regarding thin capitalization rules, under which interest owed/paid to related parties may only be deducted up to the amount corresponding to a debt to equity ratio of 1:1 (including all debt –related and unrelated-) averaged for the fiscal year. Any excess amount is treated as net equity for all purposes of the law, including API. In any case, the Tax Authority may reject deduction if debt with related parties is not entered into at "market conditions" (presumably arm's length), for which the statutes express the Tax Authority shall use as a proxy: (i) size of indebtness of the taxpayer, (ii) whether the taxpayer may have accessed the lending with a non-related party without the intervention of the relevant related party; (iii) amount of lending to which the taxpayer may have accessed with a non-related party without the intervention of the relevant related party, (iv) interest rate which the taxpayer would have obtained from a non-related party without the intervention of the relevant related party, and (v) other terms and conditions which the taxpayer would have obtained from a non-related party without the intervention of the relevant related party.

1.1.12. Inflation Adjustments.

Venezuela has since 1991 an inflation adjustment system applicable to all non-monetary assets and liabilities16 and to the taxpayer's net-worth. The yearly adjustment is determined by applying the inflation index (Venezuelan Consumer Price Index "CPI") to the cost basis of the non monetary assets and the result is a greater cost basis entered against a taxable income for the taxpayer. On the other hand, the non-monetary liabilities and the net-worth of the taxpayer are similarly adjusted and the corresponding increase is entered against an increase in expenses. The difference between the taxable income and the expenses originated in the yearly inflation adjustments should result either in a net item of taxable income or a net loss for inflation (this loss is deductible).

Effective for fiscal years beginning on March 2007 onwards, the API system is to recognize adjustments in value (i.e. exchange gain or loss) at the close of the fiscal year for assets and liabilities de-

16 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.

nominated in foreign currency –as a necessary balance since the same are to be treated as monetary assets and liabilities under the law-. The provision has been amended over time resulting in different interpretations about timing for recognition of DIE. The interpretative issues are compounded by the lack of clarity of the provisions dealing with foreign currency exchange under the F/X control system in place since 2003.

Under the Venezuelan Income Tax Law (ITL) passed at the close of 2014, banks, financial institutions and insurance and reinsurance companies were excluded from the API system, and the Tax Administration (SENIAT) issued authority regarding the adjustments to the taxable base pursuant to the exclusion.

Furthermore, the ITL amendment passed at the close of 2015coversan express exclusionfrom the API system for taxpayers qualified as special taxpayers by the Tax Administration (SENIAT).

In addition, the amendment of 2015 establishes that Tax Administration shall issue the regulations-dealing with the accounting adjustments to be made by the taxpayers due to the "suppression" of the inflation adjustment for special taxpayers (no such regulations have been issued to date -other than those referred above for banking and insurance companies).The exclusion includes a transitional provision under which advanced income tax to be filed in an "estimated tax return" will recognize net taxable income for the prior year without taking into account the effects of API.

1.1.13. Tax Losses Carryover.

A Venezuelan taxpayer can carryover her tax losses for a maximum term of 3 taxable years. There is no carry-back.

Tax losses can be credited towards (and are capped by) the taxpayer's net income for the taxable year and the same are neither assignable nor transferable to third parties (they could only be transferred as a tax attribute through a statutory merger).The carryover term is not refreshed by the occurrence of a tax-free reorganization, e.g. statutory merger.

In addition to the 3 taxable years term limitation, an additional limitation now applies under the amendment introduced at the close of 2014, in the way of a cap or apportionment in any given carryover year. The carry-over losses may not exceed in any given year 25% of the net income resulting for the taxpayer for the given fiscal year.

The NOL deduction is allowed only when the tax loss arises from an income generating activity ordinarily taxable under the general income taxation rules. Should the tax loss lack such nexus, i.e., be related to a non-taxable or exempt income generating activity, the commonly applicable criteria by the Venezuelan Tax Authority is that the taxpayer is not allowed to take the tax loss deduction, nonetheless there is a trend in case law allowing for applying losses from exempted activities against other income of the taxpayer.

Venezuelan tax law and regulations provide for other limits (or conditions) for the computation and deduction of tax losses other than those generated as net operating losses (NOL), such as losses in the sale of shares in a Venezuelan company (which requires meeting a substantial activity and holding period tests), the sale of shares listed in stock companies (subject to a schedular rate of 1% on the amount of the sale), and losses which are the result of applying the API system (carryover was limited to 1 year prior to the Income Tax Law amendment of November 2014, with effect on FYs beginning of from February 2015).

While not exempted from risk, the common interpretation was that inflation adjustments were applicable to update the tax loss amounts and that the deduction was computed on the adjusted amounts, and that further, the 1 year carryover limitation was to apply solely if an income position –prior to API- ended turning into a loss as a result of the API system.

1.1.14. Tax-Free Reorganizations.

There is only one type of tax-free reorganization authorized by Venezuelan law, i.e. a statutory tax-free merger where the tax attributes of the target company are transferable to the surviving or resulting corporation. Statutory mergers are considered exempt from other taxes such as VAT (only if there is no increase in capital) or registered capital tax (stamp duty).

While other reorganization transactions are not expressly authorized under Venezuelan tax law and regulations, some advantages may be achieved from contributions to capital and distributions of capital of Venezuelan corporations since neither the law nor the regulations require for the same to be carried out at fair market value. In such sense, deferral may be achieved by transferring (contributing or distributing) assets at their tax cost (basis), which basis will be carried over (not stepped up) in the hands of transferee.

1.2. Payment and Filing.

For any given taxable year the corresponding income tax return and tax liability must be filed and paid on the dates set out by the Tax Authority during the immediately following year, commonly corresponding with a term of three months following the closing of the fiscal year of the relevant taxpayer (e.g., the filing corresponding to fiscal year 2017 of a taxpayer closing on December 31st, 2017, could take place up until the last day of March, 2018, or the first half of April for Special Taxpayers.

There are special filing and payment schedules issued by the tax authorities for corporations and individuals classified as Special Taxpayers ("Contribuyentes Especiales"). All Special Taxpayers must file their return no later than on the day indicated according to their last digit of the TIN as expressed in the calendar published by the Tax Authorities in their web site www.seniat.gov.ve.

Filing and payment dates are ordinarily similar year after year. The Tax Authority has imposed filing of income tax returns exclusively through electronic means, which has resulted in additional restrictions for the taxpayers as SENIAT´s web site assumes certain interpretations which are not necessarily consistent with the law and/or the Constitution. However, recently the Venezuelan Tax Administration extended the filing date of returns for fiscal year 2017 to May 31, 2018 (extensions were common in the past, but this is the first extension granted in the last decade).

1.3. Penalties and Interest on Unpaid Tax or Late Payment.

Unpaid taxes are subject to late interest that should be assessed at the official rate fixed on a monthly basis by the corresponding regulations. Late payment interest rate is 1.2 times the banking rate posted by the government, currently somewhere between 20% to 25%.

Under the amendment of the Master Tax Code of November 2014 (Official Gazette of the Bolivarian Republic of Venezuela Number 6.152 (Extraordinary) of November 18, 2014), there is an increase in penalties applicable for non-filing or inaccurate filing, which may range from 100% up to 300% of the corresponding tax liability (which amount is adjusted per inflation on the basis of Tax Units (T.U.), depending on the facts and circumstances in each case.

1.4. Dividends Tax / Branch Profits Tax.

Since the amendment of the law in 1999 (and effective from 2001) both dividend and "deemed dividend" taxes where reinstated under Venezuelan income tax. The applicable rate is a flat 34%, which is ultimately to be applied on the excess of financial (accounting) income over net taxable income. i.e. the Venezuelan dividend tax is clearly not a classical system dividend tax, nor it is an imputation system dividend tax, it performs as an equalization tax.

Dividend tax arises on dividends paid by Venezuelan companies (corporations, such as the *sociedad anonima*, or LLC, such as the *sociedad de responsabilidad limitada*), and the same only arises on the excess –if any- of financial (accounting) earnings and profits of a Venezuelan corporation over net taxable income subject to income tax, and is a single tier dividend tax. i.e., dividends paid on the basis of already taxed dividends are not subject to dividend taxation. Allocation rules help identify earnings and profits to which the dividends will be attributed to, i.e., first to net taxable income, then to dividends received, then to any excess of financial income over net taxable income. Then with regards to timing, the allocation rules refer to a LIFO in earnings and profits, recognizing first the distribution of E&P of later years.
The amount of said dividend tax on dividends paid to overseas entities may be further reduced or removed on the basis of tax treaty provisions (Cf. tax treaties chart above).

While the tax is a tax on the shareholder, the same is withheld at source at company level, and the rate remains the same, i.e. 34% regardless of whether the shareholder is a Venezuelan resident taxpayer or an overseas individual or entity.

On the other hand, a dividend tax also applies on out-bound investments, such tax applies on dividends paid from overseas corporations to Venezuelan resident taxpayers or Venezuelan P.E. of foreign entities. The applicable rate is 34% on the gross dividend amount and any taxes paid on said dividends may be credited under the Venezuelan FTC system.

A tax on "deemed dividends" (or branch remittance tax) applies also to amounts which may be remitted overseas by branches or P.E. of foreign entities in Venezuela, at a flat 34% rate.

While the statutory provisions refer to the shareholders in the overseas entity as the taxpayers, the tax is applied regardless of whether or not dividends are paid by the overseas entity home office or even regardless of whether earnings are actually remitted overseas by the branch or P.E. In fact, the tax applies on any earnings subject to remittance provided the same are not reinvested in fixed assets in Venezuela (such reinvestment to be certified by an independent auditor) for a term of at least 5 years (after which said amounts could be remitted tax free).
The "deemed dividend" tax is applied on the excess –if any- of financial (accounting) earnings and profits of the Venezuelan branch or P.E. over its net taxable income subject to income tax.

As with the dividends tax, the amount of said deemed dividend tax on dividends paid to shareholders of overseas entities with a branch in Venezuela may be further reduced (say, for Canada or USA) or removed on the basis of tax treaty provisions (most other tax treaties).

1.5. Cross-border Payments

1.5.1. Withholding Taxes

When Venezuelan sourced income is remitted abroad to a beneficiary that is a non-resident alien individual or entity, the payment is commonly subject to a withholding tax, which is commonly

deemed a final payment of tax in Venezuela for payee (based on the relevant facts and circumstances a return may also have to be filed with the closing of the fiscal year).

1.5.1.1. Dividends.

If the corresponding profits were taxed at the corporate level then no income tax withholding 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. The applicable rate would be **50%** for dividends paid by companies engaged in upstream oil activities and **40%** for dividends paid by banks, financial institutions, insurance and reinsurance companies.

1.5.1.2. Royalties.

The domestic income tax definition of royalties is neither directly tied to the nature of the goods transferred (e.g. intellectual property, such as copyright rights, patented rights or trademarks) nor to the rights afforded with the transfer, but rather to the form of payment. Royalties are defined under the Venezuelan income tax law as the amount paid for the use or enjoyment of patents, trademarks, copyright rights and other procedures, fixed in relation to a unit of production or sale, whatever the denomination of the transfer under the relevant contract.

In this latter case –royalties, net income is a notional 90% -far more burdensome than the above- of the invoiced amount and the general tax brackets apply, with a commonly applicable top marginal rate of 34%. Therefore, royalty payments are subject withholding tax up to an effective **30.60%.**

As it should be clear, the term royalties used in our domestic tax laws is clearly not consistent with the understanding of such term in the international arena (e.g. OECD Model Tax Convention on Income and Capital, and even the U.N. Model Double Taxation Convention between the Developed and Developing Countries), and it is defined by the way payment is structured. In such sense, under Venezuelan domestic tax law, royalties may include transfers otherwise characterized as technological assistance or technological services, but at the same time it expands beyond covering trademarks.

1.5.1.3. Technical Services, Technical Assistance and Consulting Services.

Technical assistance is defined under the Venezuelan domestic income tax law as the supply of instructions, writings, recordings, movies and other similar technical instruments, destined to the elaboration of a work or product to be sold or the rendering of a specific service for the same sale purposes.

Furthermore, when referring to technical assistance the law provides that it may include the transfer of technical knowledge, engineering services (including execution and supervision of the assembly, installation and start up of machinery, equipment and production plants; the calibration, inspection, repair and maintenance of machinery and equipment; and to carry out tests and trial, including quality control), project R&D (including elaboration and performance of pilot programs; laboratory research and experiments; exploitation services and technical planning or programming of production units), advisory and consultation services (on overseas procurement, representation; advisory and instructions supplied by technicians, and the supply of technical services for the administration and management of corporations in any of the activities or operations thereof) and the supply of production procedures or formulas, data, information and technical specifications, diagrams, plans and technical instructions, and the supply of elements of basic and detailed engineering.

On the other hand, technological services cover the concession for use and exploitation of invention patents, models, industrial drawings and designs, improvements or perfection to the same, formulas, revalidation or instructions and all technical elements subject to patenting. As it is clear from the law, the focus is placed on the characteristic of patentability of the intellectual property so transferred.

Net income is a notional 30% of the invoiced amount in the case of technological assistance, while a 50% of the invoiced amount in the case of technological services. In either case the general tax brackets apply, with a commonly applicable top marginal rate of 34%. Hence, technical services and technical assistance payments are therefore subject to withholding for income taxes up to 10.2 % (technical assistance) and 17% (technology services).

1.5.1.4. Other Services.

If rendered from abroad and not considered technical services or technical assistance, then withholding tax up to an effective **30.60%** should apply, unless otherwise provided by special rules.

1.5.1.5. Interest Payments.

As a general rule, payments performed pursuant to foreign debt agreements are subject to withholding on the full amount of interest and financial charges paid at the corporate rate (bracket # 2). A reduced **4.95%** withholding rate applies on interest paid to Qualified Financial Institutions ("QFI") incorporated overseas and not domiciled in Venezuela. A QFI would be an entity which is formally chartered in its home country to carry out financial, banking or insurance activities or an entity which is not otherwise limited from carrying out financial activities under the laws in place in its home country, and performs such financial activities. Thin Capitalization rules have been introduced earlier this year, with effect for fiscal years beginning on or after March 1st, 2007 (see under 1.1.7 above).

1.5.1.6. Equity Reimbursements.

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

1.5.1.7. Low Tax Jurisdictions.

There are no provisions requiring for particular WHT on payments corresponding to items of income deemed from a Venezuelan source directed to a low tax jurisdiction beneficiary nor any particular limitations for deduction on said payments. In any case, any such payments are presumed –unless proven otherwise- among related parties and transfer pricing provisions apply. While there is a whole Chapter of the Venezuelan Income Tax Law dealing with Low Tax Jurisdictions and a "Black list" the same applies exclusively under worldwide income rules for foreign source income anti-deferral.

1.5.2. Tax Treaties.

Up to date Venezuela has in place and has negotiated closely to thirty income and capital tax treaties (i.e. other than treaties on maritime and/or air transport), and even-though little or no official information is easily available the following is a list as to the status of tax treaties:

a. Tax Treaties in place: Austria, Barbados, Belarus, Belgium, Brazil, Canada, China, Cuba, Czech Republic, Denmark, France, Germany, Indonesia, Iran, Italy, Korea, Kuwait, Malaysia, Nether-

lands, Norway, Portugal, Qatar, Russia, Saudi Arabia, Spain, Sweden, Switzerland, Trinidad and Tobago, United Arab Emirates, United Kingdom, United States of America and Vietnam.

b. Tax treaties ratified (pending exchange of diplomatic notes or beginning of following fiscal year): None.
c. Tax treaties finalized (initialed and pending from ratification): Netherlands Antilles.
d. Tax treaties under negotiation: Chile (negotiations have stalled), Mexico (adjustments to the treaty initially ratified have been under way during the last few years).

2.VALUE ADDED TAX (VAT)

2.1. General Aspects

2.1.1. Tax Rates.

VAT's general rate is **12%**. A surtax of **15%** applies to luxury consumption goods and services as defined under the VAT law, which last reform took place on November 2014. Under said amendment, and in line with an amendment to the Master tax Code ("*Código Orgánico Tributario*") of the same date, the law vests the National Executive with powers to amend said rates. In the case of the VAT rate, between 8% and 16.5%, and in the case of the luxury consumption goods and services between 15% and 20%.

There is a reduced 8% rate regime applicable to certain imports and local sales of cattle, meats and breeding fare, as well as professional services rendered to Government instrumentalities, as well as domestic air travel services.

In Venezuela there are exempted and exonerated goods. The VAT law provides for exemptions on most basic services and basic consumption goods (like unprocessed food and beverages), but the list has largely increased with exonerations on imports and local sales of goods and services (there are 28 Exoneration Decrees in place). Since the exempted and exonerated goods and services are extensive the same should be checked in detail on a case-by-case basis.

A zero rate regime applicable to domestic sales of crude oil was incorporated in the VAT law, and the Supreme Tribunal of Justice has ruled that sales and services to Free Trade Zones should receive zero rating treatment.

There are also some VAT exemptions for specific public entities of the national or local territorial level, which may or may not be relevant depending on which is the public entity that will act as contracting entity in any given project.

2.1.2. Taxable Transactions.

These are: sale and importation of movable tangible property; and services rendered in Venezuela.

In some cases, services rendered outside Venezuela are deemed as subject to VAT because of their nature and for being the beneficiary a party located in Venezuela, e.g., consulting, advising and auditing services. In these cases the VAT does not affect the foreign party as the Venezuelan party must cover and withhold 100% of the VAT and transfer to the tax authorities the withheld amounts.

The sale of movable tangible property that is a fixed asset for the seller is not subject to VAT.

Under the amendment of the law of November 2014, the luxury consumption surtax is expanded to cover certain services in addition to the sale or import of certain goods.

2.1.3. Taxable Base.

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

There are cases where certain items must be either included or excluded from the taxable base and/or cases with either mandatory or optional taxable bases, which should be analyzed on a case-by-case basis.

2.1.4. Creditable VAT.

As a general rule the VAT taxpayer has a right to credit against payable VAT all VAT paid to her providers for tangible movable property bought or imported and for services hired. i.e., in order to compute the VAT quota it is allowed to deduct from output VAT all input VAT, and any excess input VAT for a given month may be carried over to future months with no limitation.

The VAT paid in the acquisition of goods that will become fixed assets for the buyer is creditable against VAT regardless of whether the asset is capitalized for income tax purposes.

There are limitations in crediting input VAT paid on costs and expenses, when incurred in a VAT exempted or VAT zero-rated activity, the same need to be reviewed on a case-by-case basis.

Additional limitations in crediting input VAT were included in the VAT Law passed on November 2014 (Official Gazette of the Bolivarian Republic of Venezuela Number 6.152 (Extraordinary) of November 18, 2014), and effective from December 1st, 2014. Under the same: (i) there is an overall limitation which restrict crediting input VAT to 12 monthly periods from the moment the same was incurred; and (ii) there are other limitations, such as: (a) input VAT must correspond to habitual – customary- acquisitions from the taxpayer; (b) must be connected directly and exclusively with the activity of the taxpayer; (c) input VAT must not relate to consumables (beverages, food and shows).

2.2. Payment and Filing

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. Taxation of Large Financial Transactions

At the close of 2015, the creation of a tax upon large financial transactions was passed. The administration, collection, assessment and control of this tax is vested in the Federal Tax Authority.

Taxable Event The same include:

i. Debits from bank accounts, correspondent accounts, escrow accounts or any other sort of sight deposits, liquid assets funds, trust funds and in any other funds on the financial market, or in any other financial instrument, made in banks and other financial institutions.
ii. The assignment of checks, securities, escrow accounts paid in cash and any other negotiable instrument, as of their second endorsement.
iii. The acquisition of cashier checks with cash.
iv. Lending operations by banks and other financial institutions among each other, and subject to terms of no less than two bank business days.
v. The transfer of securities held in custody among various owners, albeit no disbursement be made through an account.
vi. The payment of debts made without mediation from the financial system, by payment or other means of extinguishment.
vii. Debits in accounts forming part of organized private payment systems not run by the Venezuelan Central Bank and other than the National Payments System.
viii. Debits to accounts for cross-border payments.

Taxpayers The law defines several categories of taxpayers, described as follows:

i. Legal entities and unincorporated economic entities qualified as special taxpayers, on the payments made against their accounts in banks or financial institutions.
ii. Legal entities and unincorporated economic entities qualified as special taxpayers, on the payments that they make without mediation from the financial institutions. Payment is deemed to include offsetting, novation and debt remission.
iii. Legal entities and unincorporated economic entities legally bound to a legal entity or unincorporated qualified as special taxpayers, on the payments that they make from their accounts at banks or financial institutions, or without mediation from financial institutions.
iv. Individuals, legal entities and unincorporated economic entities, which without being legally bound to a legal entity or unincorporated economic entity qualified as special taxpayers, make payments on their behalf, charged to their accounts at banks or financial institutions, without mediation by financial institutions.

Withholding Agents Under this Law, the Tax Administration may appoint withholding or receiving agents for this tax. Any persons involved in acts or operations where they are in a position to directly withhold or receive the tax directly or through an intermediary may be so appointed.

Exemptions

i. The Republic and all other political-territorial entities.
ii. Public entities with business purposes or otherwise, qualified as special taxpayers.
iii. The Venezuelan Central Bank.
iv. The first endorsement made on checks, securities, escrow accounts paid in cash and any other negotiable instrument.
v. Debits derived from the purchase, sale and transfer of the custody of securities issued or backed by the Republic or the Venezuelan Central Bank, and the debits or withdrawals relating to the liquidation of the capital or interest thereof, and the securities negotiated on the agricultural products stock exchange and the stock market.
vi. Operations of transfers of funds made by the owners between accounts, at banks or financial institutions organized and existing in the Bolivarian Republic of Venezuela. Such exemption does not apply to accounts with more than one holder.
vii. Debits in checking accounts of diplomatic or consular missions and their foreign officers accredited in the Republic.
viii. Debits to account for transfers or issues of personal or cashier's checks for the payment of taxes where the beneficiary is the National Treasury.
ix. Debits or withdrawals made from the accounts of the Bank Clearing House, credit card clearing houses, national correspondent bank accounts and the clearing accounts for the operations of the banks.
x. Purchases of cash in the sole accounts kept at the Venezuelan Central Bank by the Banks and other financial institutions.

Tax Base The aggregate amount of each account debit or taxable transaction. In the case of cashier's checks, it is determined by the amount on the face of the check.

Tax Rate 0.75%. This rate may be reduced by the Executive by decree.

Taxation period Daily.

Deduction for Income Tax The Tax on Large Financial Transactions is not deductible for Income Tax.

Formal Duties

i. Keeping and delivering to the Tax Administration detailed reports on the bank or accounting accounts reflecting the amount of the tax paid or withheld.
ii. Meeting the formalities relating to the returns required to be filed to comply with the provisions of this Law.

The penalties applicable for breach of the obligations established in this Law shall be those contained in the Organic Tax Code.
Timing of application of this Law: This new Law shall be effective as of February 1, 2016.

3.2. Real Property Taxes

There are municipal (local territorial level) taxes on urban real estate. The rate for these taxes is set in municipal ordinances adopted by each locality, therefore they vary. Real estate tax usually ranges from **1 per thousand to 0.5 per cent**.

The taxable base in the case of real estate is the cadastral value of the property. These taxes are usually paid and a return filed yearly.

Incentives in these taxes are ruled by the ordinance of the municipality in which the property is located. Therefore, the availability of incentives must be checked on a case-by-case basis.

3.3. Local Activities Tax

This is also a municipal tax applicable to all industrial, commercial and services activities (but for professional services) performed in the territory of said municipality. The taxable base is the turn over (gross proceeds) received by the taxpayer and arising from the activity performed in said locality. The tax rates vary from locality to locality and range **from 0.5 to 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.

3.6. Registration Tax

The registration of acts and documents with the civil law registry office or the commercial registry office, is subject to this registration tax. The tax rate ranges **between 0.5% and 1%** depending on the type of act or document. The taxable base is the amount of the price or consideration shown in the document. Very few documents that are subject to registration are exempted from this tax, but if the document is subject to registration tax it is automatically exempted from the above-commented stamp tax.

3.7. Science & Technology Contribution

The contribution on science and technology provided by the "*Ley Orgánica de Ciencia y Tecnología*" (2010), is confirmed in the last amendment of the aforementioned law published in the Official Ga-

zette of the Bolivarian Republic of Venezuela Number 6.151 (Extraordinary) of November 18, 2014, which applies to entities defined in the law as Large Ventures "*Grandes Empresas*" (those companies with a turnover of T.U. 100,000 or more).

The contribution is a **2% on turnover** (gross proceeds) for entities engaged in the manufacturing or commercialization of alcohol and spirits, as well as that of tobacco and tobacco products; gambling activities are subjected to a similar rate. Hydrocarbon activities as well as mining activities, when carried out by private parties are taxed at **1% on turnover,** while when said activities are carried out by entities which capital is considered public capital (i.e. wholly or partially State owned, but controlled by the State) then the same are taxed at **0.5% on turnover;** any other industrial or commercial activities, i.e. activities in general are subject to the latter **0.5% rate on turnover**.

3.8. Anti-Drug Enforcement Contributions

A contribution for purposes of illegal drug enforcement and education is provided for, which contribution is computed as a **1% on net earnings** of the relevant taxpayer engaged in commercial, industrial or services activities, but for those taxpayers engaged in manufacturing spirits and liquor and those manufacturing cigarettes and tobacco a contribution is **2% on their net earnings** 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*).

3.9. Sports Law Contribution

A contribution for purposes of funding a special Fund ("*Fondo Nacional para el Desarrollo del Deporte, la Actividad Física y la Educación Física*") was established in the Sports Law passed on August 2011.

The contribution under the Sports Law ("*Ley Orgánica de Deporte, Actividad Física y Educación Física*") arises upon the exercise in Venezuela of any commercial, industrial or service activity by any person (individual, companies, partnerships, *inter alia*) resulting in net earnings in a given year in excess of 20,000 T.U. and the same is computed as a **1% on net earnings** of the relevant taxpayer.

The tax basis are net earnings (accounting income before taxes) as per Venezuelan GAAP, as identified in Regulation #1 to the law, and the contribution may be paid in cash in full or part of the same, may be used in projects identified in the law and approved by the *Instituto Nacional del Deporte*, which may include reinvestment (up to 50%) in approved activities or projects within payor.

3.10.Special Petroleum Windfalls Contributions

On February 20, 2013(G.O. dated February 20, 2013, No. 40.114) the Asamblea Nacional passed an amendment windfall profits tax –dubbed contribution-. Such tax is divided into two different contributions, a so called contribution for extraordinary prices and a contribution for exorbitant prices, and the same apply to exporters and transporters of crude oil (including upgraded crude oil) and products (it does not apply to gas hydrocarbons or its byproducts), as well as on internal transfers of

oil and products by *Empresas Mixtas* to PDVSA and its affiliates.

The contribution on extraordinary prices is triggered when the average monthly price of the Venezuelan basket of crude oil exceeds the price estimate provided for in Venezuela's annual budget law (e.g. for 2011 the same sits at USD 50/bbl) but is still below USD 80/bbl. The rate is **20%** and when triggered the contribution is computed as 20% over the monthly average price in excess of the price estimate provided for in Venezuela's annual budget law. The contribution is assessed by the Ministry of Petroleum and Mines to be paid on a monthly basis, in foreign currency.

The contribution on exorbitant prices is triggered when the average monthly price of the Venezuelan basket of crude oil exceeds or is equivalent to USD 80/bbl. The contribution is applied in three different brackets with rates being **80%**, **90%** and **95%**. This contribution is also assessed by the Ministry of Petroleum and Mines on a monthly basis, and payable in foreign currency.

The 80% rate applies over the monthly average price in excess of USD 80/bbl but under USD 100/bbl; the 90% rate applies over the monthly average price in excess of USD 100/bbl but under USD 110/bbl; and, the 95% rate applies over the monthly average price equivalent to or in excess of USD 110/bbl.

The law provides for certain tax holidays and it also establishes as a cap for the payment of royalties, severance tax and export registrar tax (all of them contributions and royalties under the *Ley Organica de Hidrocarburos*) the amount of USD 70/bbl.

4.CUSTOMS REGIME –GENERAL ASPECTS

4.1. Custom Duties

As pointed out above, importation of goods is subject to import VAT at a general rate of **9%**, unless otherwise exempted or exonerated. In addition to import VAT, imports are also subject to custom duties that range between **5%** and **35%**, also depending on the type goods being imported.

It is important to point out that Venezuela has entered into multilateral or bilateral Preferential Custom Tariffs Agreements (PCTA) with many countries, reducing or fully removing the applicable custom duties for certain merchandises from a certified origin.

Among the same it is worth mentioning that Venezuela has been suspended from its status as member to MERCOSUR, and hence, Venezuela may not avail preferential customs treatments corresponding to MERCOSUR.

At the same time Venezuela has been entering into transition agreements to extend and be extended preferential customs treatments corresponding to the Andean Community, until a more definitive agreement is finalized and executed. An interim agreement was finalized with Colombia back in 2011 and the same remains in place.

4.2. Taxable Base

Custom duties are computed on the CIF value of the goods, while import VAT is computed on the CIF value plus the corresponding custom duties.

4.3. Transfer Pricing

Custom valuation rules in place in Venezuela are those of the GATT (1994) valuation code, which are similar to the current WTO valuation rules. For valuation purposes, the Andean Pact valuation rules in Decisions 378 and 379 are still applied even-though Venezuela is not a party to the Andean Community. These rules are substantially similar to the first mentioned rules.

4.4. Filing and Payment

An import return must be filed to begin the process of nationalization of the goods. As a general rule in the ordinary importation regime, custom duties and import VAT must be paid within the 5 days following the assessment and liquidation of custom tariffs and duties, when the payment slip is issued by the relevant Customs Office.

4.5. Selected Custom Duties Regimes Available

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

For goods and equipment sold, the custom regime applicable will be ordinary importation. For leased equipment (or equipment and goods contributed as equity to a corporation or branch) the custom regimes applicable are either the ordinary or temporary regimes but with a non-reimbursable import license. Here are some of the most relevant importation regimes available.

4.5.1. Ordinary Import Regime.

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

According the Customs Organic Law, which last amendment took place on November, 2014 (published in the Official Gazette of the Bolivarian Republic of Venezuela Number 6.155 (Extraordinary) on November 19th, 2014) the value of goods that will be imported shall be determined according the appreciation methods of the World Trade Organization ("Organización Mundial del Comercio"), its general rulings, and the International Treaties on the matter.

4.5.2. Short-term Temporary Importation.

This regime applies to specific goods that will be used for a specific activity that will take no longer than 12 months, although a further year extension can be authorized. Therefore, the permanence in the country of the goods is limited to that 24-month maximum period. At the end of the temporary importation the goods must be exported or the importer must apply for a long-term importation regime, otherwise the goods will be forfeited or a fine will be imposed.

4.5.3. Short-term Temporary Importation for Active Transformation.

This regime applies to specific goods that will be used as supply or raw materials for their processing, manufacturing or transformation in a product to be exported, within a given term, commonly not extending beyond 12 months, although a further year extension can be authorized. At the end of the temporary importation the goods –as transformed or incorporated in new goods manufactured- must

be exported or the importer must apply for a long-term importation regime, otherwise the goods will be forfeited or a fine will be imposed.

4.5.4. Draw-Back Regime.

The draw-back regime consists of the reimbursement of customs duties levied on goods used in the production process of goods to be exported. The beneficiaries are: i) Exporters who have paid the import tax directly; and ii) Exporters who have purchased finished goods for export, incorporating into them inputs, raw materials, parts or spare parts that have been cleared through customs through the ordinary import regime.

4.5.5. Free Trade Zone Regimes.

Venezuela has some convenient Free Trade Zone regimes that should be carefully explored by importers and other parties with business interest or permanent operations in Venezuela, such as the *Paraguaná*, *Mérida*, as well as *Nueva Esparta* and *Santa Elena de Guairén*. This regimes have proven to be useful in not few specific situations and in addition there are some VAT and income tax benefits attached to them that should be reviewed on a case-by-case basis.

4.6. Custom Returns.

According to Article 41 of the Customs Master Law, in order to determine the customs regime applicable for goods, they necessarily shall be object of a "Custom Return" through the Automatized Custom System ("*Sistema Aduanero Automatizado*").

In addition, under the aforementioned amendment there is an "advanced Customs Return" which must be submitted by the importer prior to the entrance of the goods in Venezuela, also through the Automatized Customs System ("Sistema Aduanero Automatizado") and assisted by the particular Customs Agency.

This "Advanced Customs Return" shall be submitted prior to the entrance of the goods into Venezuela, and according to the following schedule:

a. For goods which arrive into Venezuela by aerial or ground transportation, the "Advanced Customs Return" shall be submitted within a term of no more than 15 calendar days and no less than 1 calendar day, prior to the entrance of goods into Venezuela.
b. For goods which arrive into Venezuela by maritime transportation, the "Anticipate Custom Return" shall be submitted not exceeding the 15 calendar days and not less than 2 calendar days, prior the entrance of the goods to Venezuela.

There are some exceptions applicable to the submission of this "Advanced Customs Return" (e.g. imports by diplomatic missions and international organizations)

5.PAYROLL TAXES / WELFARE CONTRIBUTIONS

5.1. Social Security Contributions (IVSS)

This contribution is paid by both employer and employees. Employers must contribute to the Social Security Agency (*Instituto Venezolano del Seguro Social* or IVSS). These contributions vary depending on the risk of the companies' activities and are calculated based on the normal salary of each worker or employee, up to a limit of 5 minimum monthly salaries. The employer contributes between 9% and 11% of the portion of the worker's salary that does not exceed the cited minimum salary limit, depending on the risk of the company, and the worker contributes 4% of the same portion of salary. Filing and payment is done on a monthly basis.

5.2. Education & Apprenticeship Contributions (INCES)

Commercial or industrial employers with five or more workers must contribute **2%** of the total wages and remunerations of any kind (excluding mandatory profit sharing "utilidades" under Labor law and labor contracts) to the National Institute of Cooperative Education (INCE). Workers contribute **0.5%** of their annual profit sharing, which employers must withhold.

5.3. Labor Risks Indemnity Contribution

This contribution is established in the *Ley Organica de Prevencion Condiciones y Medio Ambiente del Trabajo* or LOPCYMAT, and is payable exclusively by the employer. The same varies **between 0.75% and 10%** (depending on the risks associated with the activity) of the worker or employee salary (with a minimum of a single minimum monthly salary -as provided in Regulations issued by the Government- and a maximum of 10 minimum monthly salaries.) and is computed and paid on a monthly basis.

5.4. Unemployment Contribution

This contribution is paid by both employer and employees as provided in the *Ley Organica del Sistema de Seguridad Social*. The contribution to the *Regimen Prestacional de Empleo* is a 2.5% of the normal salary of each worker or employee, with a minimum of a single minimum monthly salary (as provided in Regulations issued by the Government) and a maximum of 10 minimum monthly salaries. The employer contributes 2% of the same while the worker contributes the remaining **0.5%**. Filing and payment is done on a monthly basis.

5.6. Housing and Habitat Contribution

This contribution is also provided in the *Ley Organica del Sistema de Seguridad Social* and to be paid by both employer and employees. The contribution to the *Regimen Prestacional de Vivienda y Habitat* is a **3%** of the normal salary of each worker or employee, with a minimum of a single minimum monthly salary and a maximum of 10 minimum monthly salaries. The employer contributes **2%** of the same while the worker contributes the remaining **1%** via WHT. Filing and payment is done on a monthly basis.


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