

# Latin America tax guide

2019-20



## **FOREWORD**

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The Latin America Tax Guide 2019/20 provides an overview of the taxation and business regulation regime of Latin America's most significant trading countries. In compiling this publication, member firms of the PKF network have based their summaries on information current on 30 June 2019, while also noting imminent changes where necessary.

On a country-by-country basis, each summary addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the double tax treaty and non-treaty withholding tax rates relating to the payment of dividends, interest, royalties and other related payments.

While the Latin America Tax Guide should not to be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

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- Tax Advisory & Compliance;
- Financial Planning / Wealth Management;
- Corporate Finance;
- Management Consultancy;
- IT Consultancy;
- Insolvency - Corporate and Personal;
- Forensic Accounting; and,
- Hotel Consultancy.

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While utmost care has been taken in the compilation of this publication, no responsibility will be accepted for any inaccuracies, errors or omissions.

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## **STRUCTURE OF COUNTRY DESCRIPTIONS**

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### **I. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

**ARGENTINA****MEMBER FIRM**

City	Name	Contact Information
Buenos Aires	Gustavo Director	+5411 5235 6446 gdirector@pkfargentina.com.ar

**BASIC FACTS**

Full name:	Argentine Republic
Capital:	Buenos Aires
Main languages:	Spanish
Population:	45.01 million (2019 estimate)
Monetary unit:	Argentine Peso (ARS)
Internet domain:	.ar
Int. dialling code:	+54

**KEY TAX POINTS**

- Companies domiciled in Argentina are subject to income tax on their worldwide income. Non-resident companies are subject to tax on Argentina-sourced income.
- There is no separate capital gains tax levied on capital gains of companies as they fall under the scope of corporate income tax.
- VAT is applied at all stages of the production and selling processes (output tax). Tax suffered in the immediately preceding stage is deductible (input tax).
- Any foreign taxes paid on foreign-accrued income may be credited against Argentine income tax up to the limit of the Argentine tax on the same income.
- Transactions between Argentine companies and related parties are deemed to take place at arm's length rates for tax purposes. For income tax assessment purposes, Argentine Law provides for the traditional methods generally used for transfer pricing (comparable uncontrolled price, resale price, cost plus, profit split, transaction net margin) to demonstrate that an arm's length price has been used.
- Argentine-sourced income paid to foreign recipients not having a permanent establishment in Argentina is subject to 35% withholding tax. However, for each activity, the law establishes a percentage of presumptive net income on which 35% withholding tax is applicable, thereby reducing the effective tax rate.
- Income tax is levied on income earned by resident individuals in Argentina and abroad.
- Personal assets tax (wealth tax) is levied on all assets, wherever situated, of Argentine domiciled persons, on Argentine assets of non-domiciled persons and on shares issued by an Argentine company (the company pays the tax on behalf of the shareholders). In the case of trusts (excluding financial trusts), the trustee pays the tax on behalf of the beneficiaries.

**A. TAXES PAYABLE****COMPANY TAX**

Companies domiciled in Argentina are subject to income tax on all their income, whether sourced in Argentina or in a foreign country. Non-resident companies are subject to tax on Argentine-sourced income. Income from the export of goods situated in Argentina is deemed to be fully taxable and, for other specific international activities (e.g. news agencies, insurance, commercial use of films produced abroad, international transport etc.), the tax law sets a certain percentage as presumed income.

The tax rate for corporations (*Sociedades Anónimas, Sociedad de Responsabilidad Limitada - Limited Liability Corporation - en Comandita*) and branches of foreign companies (permanent establishments) domiciled in Argentina is:

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- 30% applicable for fiscal years beginning as of 1 January 2018;
- 25% applicable for fiscal years beginning as of 1 January 2020.

For partnerships, the tax is charged to each partner according to a progressive tax rate scale ranging from 5% to 35% depending on the amount of the taxable income.

Foreign recipients not qualifying as a permanent establishment in Argentina are subject to withholding tax at source. The rate is 35% on the applicable presumptive net income percentage, depending on the type of payment made (i.e. interest, fees, royalties, rentals, etc.). For companies organised or incorporated in Argentina, any income tax (or similar tax) paid abroad on a foreign source income is creditable against Argentine income tax, up to a certain limit.

Company income is taxed on an accrued basis during the company's business year. The tax is assessed annually within five months after the fiscal year end. Advanced payments must be made monthly on the basis of the tax amount paid the previous year. Moreover, the AFIP (Tax Authority) has enforced several withholding tax rulings that involve almost every type of activities. The income tax withheld during the fiscal year is creditable against the income tax assessed, as well as the advanced payments. The balance must be paid at due date. Taxpayers can submit an instalment plan (up to six instalments) accruing interest at a monthly 3% rate.

## **CAPITAL GAINS TAX**

There is no separate tax levied on capital gains for companies organised in the country or for branches as they fall under the scope of income tax. For foreign corporations, capital gains are also included under a withholding at source income tax regime at the time the payment is made.

For foreign resident companies and individuals, capital gains derived from the sale of shares, stocks, bonds and other securities (whether listed or unlisted on the Stock Exchange) are levied on income tax at a rate of 15%. Foreign resident taxpayers can elect to be taxed on the gross sales price. In this case, 90% on the gross sales price will be deemed to be the amount of capital gains that will be subject to a rate of 15%. Therefore, the effective tax rate on the gross sales price will be 13.50%.

## **VALUE ADDED TAX (VAT)**

This tax is applied to all stages of the production and sales processes (output tax) and the tax amount of the immediately preceding stage is deductible (input tax). The tax is imposed on the following transactions:

- Sale of personal property situated in Argentina;
- Leases and services, including financial and insurance services;
- Real estate leases;
- Work performed on third-party real property;
- Work performed on owned real property, in the case of constructors;
- Production of personal property commissioned by a third party;
- Procurement of natural goods commissioned by a third party;
- Permanent import of personal property;
- Services provided from abroad and used in Argentina (including interest). In this case, input tax must be paid by the local company and it automatically becomes 'input tax' for VAT purposes in the following month;
- Digital services provided from abroad whose use or exploitation takes place in Argentina. The definition of "digital services" includes, among others, the following: the supply and hosting of computer sites and web pages, maintenance, online technical support, the provision of digitised products in general (computer programs, digital books, designs, reports, etc.), memory services and online advertising, software, cloud-based downloads (images, text, information, video, music, games (including casinos), movies, or any digital content), online clubs, blogs, magazines, newspapers, learning, online market services and online auctions, etc.

VAT is assessed on a monthly basis. The inception of the taxable event is to issue the invoice, deliver the goods and render the service or the receipt, whichever is the earliest. The standard tax rate, currently 21%, is charged on the net price of the transaction. There are some leases and services levied at 27% (electricity, telecommunications, etc.). Some goods and services are levied at 10.50% (bovine meat, fresh vegetables, lodgings, interests on loans received from Argentine financial institutions, certain property plant and equipment, newspapers and magazines, transportation for individuals, etc.).

Exports are subject to a zero rate (destination country method). Exporters can apply input tax (incurred in making exports) against output tax arising from other taxable transactions. In case of a net input tax (internal charge), exporters are entitled to a refund (under a special procedure established by the tax authorities).

Input tax arising from the purchase of fixed assets is eligible for a refund if not used to offset output tax after 6 months. Foreign tourists are also entitled to a VAT refund (cash or in credit card account) included in personal property purchases and lodging services in some tourist areas. There are several withholding and 'collection at source' regimes in force. The VAT withheld or collected at source is creditable against the internal charge. In case of a reminding tax credit, it can be offset against any other federal tax liability.

## FRINGE BENEFITS

No tax is levied specifically on fringe benefits, since they are taxed along with income tax and social security contributions.

## MINIMUM PRESUMPTIVE INCOME TAX (MPIT)

This tax is levied on all assets located in Argentina or in foreign countries owned by companies domiciled in Argentina or branches of foreign companies located in Argentina. The Tax Act sets out how to value the assets to which, in general, the current market value must be attributed. Some assets are not liable for MPIT, e.g. shares of other companies domiciled in Argentina, dividends earned, investment in construction (for two years), and new personal property purchases (for two years). Companies having less than ARS 200,000 of assets are not liable for MPIT. Field Real Estate property is levied allowing a special deduction of up to ARS 200,000. The tax rate is 1%.

Financial institutions and insurance companies, subject to the control of state entities, are subject to MPIT on 20% of their assets value. Although this is an 'assets tax', the spirit of the law is to set a company's minimum income tax liability (for example, in the case of tax losses). Income tax assessed on the company may be creditable against MPIT for the same fiscal year.

If, in the same fiscal year, the income tax assessed is higher than the MPIT assessed, the net amount will not generate a tax credit. On the other hand, if in the same fiscal year the MPIT assessed is higher than the income tax assessed, the net amount of the MPIT may be carried forward and offset against income tax in the following ten fiscal years.

Despite this tax credit, the company must pay effectively at least the amount of MPIT assessed every fiscal year. Therefore, every year the company must assess both taxes, yet pay either income tax or MPIT, whichever is the highest.

This tax will be repealed as from 1 January 2019. For the fiscal years 2017 and 2018, this tax was repealed only for Small and Medium Size Business (SMSB) that qualify and are duly registered as SMSB.

## PERSONAL ASSETS TAX PAID ON BEHALF OF SHAREHOLDERS

Companies residing in Argentina are levied on Personal Assets Tax on behalf of their shareholders (see section "H. Personal Assets Tax (Wealth Tax)" below).

## SINGLE SIMPLIFIED TAX

Single simplified tax is a volunteer tax applicable to individuals and small partnerships that perform little activity and where the income does not exceed a threshold set by the Act. The taxpayer can choose whether to pay income tax and VAT or substitute both by paying a monthly single simplified tax. The tax is determined taking into account an income scale.

## LOCAL TAXES

The different provinces and jurisdictions within the territory of Argentina apply local taxes. A brief description is provided as follows:

## TURNOVER TAX

This is a provincial tax levied on the various stages of production and selling processes but no input tax is deductible from the tax amount of the immediately preceding stage (waterfall effect). In general, it applies to gross revenues accrued during each fiscal period (month). The tax rate is approximately 3% to 5% for commercial activities, 1.5% to 4% for industrial activities, and 1% to 3% for primary activities, according to the taxpayer's turnover and other regulations enforced by each provincial Tax Act.

Under an agreement signed between the National Administration and the Provincial Administrations, several

exemptions to some productive activities have been established and the tax scheme will be gradually reshaped until this tax becomes ineffective and replaced by a 'neutral' tax. In general, small industrial activities are not liable for this tax in the jurisdiction where the factory is located.

## STAMP DUTY

The duty is levied in each of the country's jurisdictions (Provinces) on juristic acts and instruments entailing a flow of wealth between the parties involved in the legal relationship. Thus, Stamp Duty is applicable *inter alia* to acts whereby for profit transactions on real estate, personal property, services rendered and civil, commercial or financial obligations are documented. Rates vary according to the jurisdiction and the type of instrument involved, the most common one being 1% of the contract value.

Under the aforesaid fiscal agreement, Stamp Duty is also to be phased out in the future but currently it is still in effect.

## LAND AND CAR TAXES

These taxes, typically 'ad valorem', are levied on land and automobiles located or registered within any of the country's 24 provinces. The fiscal assessment value of the assets and the applicable tax rate varies according to each jurisdiction.

## MUNICIPAL LEVIES

These are municipal levies applied on a range of taxable bases in the various jurisdictions, in consideration of services provided by each township. The taxable event is the performance of an activity for profit in a town. The tax rate, set by each Municipal Act, is applicable to turnover and depends on the activity performed.

## OTHER TAXES

### EXCISE TAX

This is a federal tax on specific goods and services, levied on a variety of items such as cigarettes, tobacco, alcoholic beverages (whisky, other spirits, liquor, etc.), soft drinks, beer, automobiles, ships and aircrafts, mobile phone services, insurance premiums, luxury items (jewellery, stones, pearls, furs, etc.), some electronic products (microwave oven, television set, radio, several home appliances, etc.). Excise tax is levied on the sales price. The tax rate varies depending on the item. This tax is generally levied at the production or importing stage (first stage). Furthermore, a fuel and gas tax is levied on the sale of some of these products.

## SOCIAL SECURITY CONTRIBUTIONS

These are federal taxes levied on both employers and employees. The taxable base is the salary. An employer files the tax return with the official authority under self-assessment and pays the tax withheld from the employee together with his/her liability. Employee contributions on salaries (withholding) are 17% of salary (including health care).

Employers' contributions are assessed deducting a non-taxable minimum, applying the following rates:

Employer	Until 31/12/2018	Until 31/12/2019	Until 31/12/2020	Until 31/12/2021	As from 1/1/2022
Non-taxable minimum	ARS 2,400	ARS 4,800	ARS 7,200	ARS 9,600	ARS 12,000
Small and medium sized employer (including health care)	26.70%	26.40%	26.10%	25.80%	25.50%
Large sized employer (including health care)	22.50%	24.00%	24.50%	25.00%	25.50%

Employers' social security contributions can be partially considered as input tax for VAT purposes in some provinces. The amount that can be offset depends on the employer's location, ranging from nil in Buenos Aires up to 10.75%. A schedule with a gradual reduction of this credit is in force. The coefficients of input tax credit applicable are to be reduced by 25% per year in 2019, 2020 and 2021 respectively, until its repeal as from 1 January 2022.

## TAX ON CHECKING ACCOUNT DEBITS AND CREDITS

This tax is levied on financial transactions. The taxable event is not only each debit and credit in a checking account but also a large variety of financial transactions (money remittances, money orders, cheque deposit on saving accounts, etc.). The law sets out several exceptions (i.e. saving accounts, stock exchange agents, non-profitable associations, etc.), and provides for reduced rates for certain transactions such as time deposits.

To prevent tax avoidance, any amount over ARS 1,000 must be paid by cheque as a binding procedure. The tax rate applicable is 0.60% on each debit and 0.60% on each credit on checking account. Thus the whole transaction is liable for tax at a 1.2% rate. For specific activities performed by some taxpayers (who might use checking accounts to make payments on behalf of a third party) a 0.075% rate is applicable.

17% of the tax amount paid each month is creditable against income tax or minimum presumptive income tax. The remaining 83% of the tax is a non-recoverable expense. The idea is that Financial Institutions act as withholding agents in order to ensure the revenue of the most important taxes.

Small and Medium Size Business (SMSB) that qualify and are duly registered as SMSB can consider 100% of this tax creditable against income tax subject to certain specific conditions.

## B. DETERMINATION OF TAXABLE INCOME

Deductions for income tax assessment purposes include expenses incurred necessarily to obtain, maintain and preserve such income. The Income Tax Act lists specific regulations for dealing with the cost of products, fixed assets, real estate, or securities sold, as well as deductible bad debts, and property plant and equipment depreciation.

### INVESTMENT ALLOWANCE

At present, for general business, there is no income tax incentive scheme in force allowing additional deductions, in whole or in part, for investment in facilities and equipment.

Small and Medium Size Business (SMSB) that qualify and are duly registered as SMSB can deduct 100% depreciation of some property plant and equipment in one year subject to certain specific conditions.

### DEPRECIATION OF FIXED ASSETS

For real estate, the law sets a depreciation rate of 2% annually on the portion attributable to the building. The Tax Act indicates that fixed assets may be depreciated over their estimated useful life on a straight-line basis. Assets subject to depletion (mines, quarries, etc.), may be depreciated, not under the straight-line method, but proportionally to the units extracted in each period.

### STOCK / INVENTORY

In the case of resale goods and raw materials, inventories should be valued for tax purposes at the end of each business year at their acquisition cost (last purchase value). For self-manufactured items, the inventory value is determined on the basis of the sales price at the end of the fiscal year after deducting any direct expenses associated with the sale and the net profit margin. In special cases, where cost accounting systems are maintained, own-production goods can be valued at their production cost.

### CAPITAL GAINS AND LOSSES

Capital losses are deductible, subject to the limitations noted in the paragraph under 'Losses' below.

### DIVIDENDS

- Earnings arising from fiscal years beginning as from 1 January 2018:
  - Dividends and profit distributions are subject to tax.
  - Dividends arising from fiscal years beginning between 1 January 2018 and 31 December 2019 are taxed at a 7% rate.
  - Dividends arising from fiscal years beginning as from 1 January 2020 are taxed at a 13% rate.
- Earnings arising from fiscal years ending up to 31 December 2017: Dividends and profit distributions are not subject to tax.

Equalisation tax applies to dividends paid to residents and non-residents when commercial profits (i.e. the profits before tax as reported in the company's financial statements) exceed taxable profits.

If the distributed dividend does not exceed the taxable profit, equalisation tax is not levied, whomever its recipients are, provided that the dividend is distributed on nominative (registered) shares. If the dividend exceeds taxable profit, a 35% withholding tax is due on the difference (equalisation tax). No tax credit is derived from the tax withheld because dividends are not levied as income for the recipient (the whole tax was withheld).

## **INTEREST DEDUCTION**

Interest is generally deductible provided that it is incurred on loans taken out for business purposes. Otherwise the deduction is denied. Notwithstanding this, there is a threshold set on deductible interest.

Interest on financial debts (excluding commercial debts) arising from indebtedness with related parties (domiciled in Argentina or abroad), will be deductible up to the limit of 30% of the net profit before deducting such interest and depreciations. The threshold not applied can be deferred for 3 years and the non-deductible interest can be deducted in the following 5 years up to the limit applicable to each year. This rule is not applicable in some situations (financial entities, among others).

Furthermore, interest on debts arising from indebtedness with related parties domiciled abroad or any party domiciled in "non-cooperative countries" will be deductible only when paid (not when accrued).

## **LOSSES**

Income tax losses made in a given fiscal year may be carried forward for five years but taxpayers may only offset losses against the same type of income. Thus, stocks and foreign-sourced losses may only be offset against income of the same type.

## **FOREIGN CAPITAL INFLOWS**

No special regulations exist to control incoming funds disclosed as capital contributions, as the current policy is designed to encourage inflows of foreign capital. However, foreign companies should pay personal assets tax (see below) because Argentine law deems that the stock belongs to a resident individual. On the other hand, there are specific regulations in force to control outgoing funds set by the Central Bank (general anti-money laundering procedures apply).

## **INCENTIVES**

Promotional tax schemes are available for new investments in agricultural transactions and tourism in certain areas of Argentina. Approval of new industrial investment projects has been suspended.

## **CORPORATE MERGERS**

Corporate reorganisations (de-mergers and mergers/consolidations) are to be considered 'tax-free' provided that certain legal requirements and proceedings are met. These relate, in particular, to maintenance of the shareholders' interest and continuance of the business activity carried out (two years before and after the reorganisation process). In such cases, any outstanding tax loss may be carried forward and other existing allowances and liabilities may be passed on to the successor companies.

## **SHARES AND BONDS**

For corporations domiciled in Argentina, the income produced by shareholding is liable for tax when share alienation takes place (not just because of holding shares). On the other hand, bonds must be valued at their current value. Therefore, the income produced by bond holding is liable for tax whether they are sold or not. For foreign residents domiciled abroad, the disposal of shares (issued by an Argentine Company) is liable to Income Tax (see paragraph A – Capital Gains Tax).

## **C. FOREIGN TAX RELIEF**

Any overseas income taxes paid on foreign-sourced income may be creditable against Argentine income tax up to the limit of the increase in the tax liability resulting from aggregating the foreign-sourced income.

## **D. CORPORATE GROUPS**

Companies belonging to the same group or holding, but having separate legal status, should pay their taxes separately and the transfer of losses from lossmaking to profit-making members of the same group of companies is not permitted. Nevertheless, payment is waived in the case of taxes arising from corporate reorganisations (de-mergers and mergers/consolidations) which comply with established legal requirements

(particularly, maintenance of the shareholders' interest and continuance of the business activity carried out) for two years before and after the reorganisation process.

## E. TRANSFER PRICING AND RELATED PARTY TRANSACTIONS

Under Argentine law, transactions between Argentine companies and related parties domiciled abroad are deemed to take place at arm's length rates for tax purposes. When the pricing used corresponds to normal market practices as between non-related entities, no adjustment is required for tax purposes.

For income tax assessment purposes, Argentine law provides for the traditional methods generally used for transfer pricing (comparable uncontrolled price, resale price, cost plus, profit split, transaction net margin) to demonstrate that an arm's length price has been used in transactions performed with related parties residing abroad, or any parties residing in 'non-cooperative countries'. Income tax rulings provide a positive list of 'cooperative countries' available at <http://www.afip.gob.ar/jurisdiccionesCooperantes/#ver>.

The related parties test is broad and not only includes transactions between a local subsidiary and its parent company but also other relationships, (e.g. local company and foreign subsidiary, local permanent establishment and foreign head office, local company and foreign permanent establishment, local company and related or non-related party residing in 'non-cooperative countries', among others).

## F. WITHHOLDING INCOME TAX FOR FOREIGN TRANSACTIONS

When Argentine-sourced income is paid to foreign recipients who do not have a permanent establishment - branch, office, etc. - in Argentina, such income is subject to a 35% withholding tax rate.

For each activity, the law sets a percentage of presumptive net income on which 35% withholding tax is applicable, thereby reducing the effective tax rate. The following chart shows the presumptive net income percentages:

Income	Presumptive net income % A	Effective withholding tax rate % 35% x A
Interest on loans granted by overseas financial institutions only on the condition that the lender:		
a) Is domiciled in a jurisdiction not considered a "jurisdiction of low or nil tax", and,	43%	15.05%
b) Has supervision on financial activity provided by the Central Bank (Federal Reserve). Offshore banks domiciled in any territory are not included in this category.		
Interest on debt arising from the import of property plant and equipment subject to depreciation (except cars) provided that the exporter is the creditor.	43%	15.05%
Interest on time deposits made by foreign residents (either companies or individuals) in financial institutions located in Argentina, provided the interest is not subject to income tax in the country of residence.	43%	15.05%
Other interest. This category includes (among others):		
a) Interest on loans granted by overseas corporations or individuals;		
b) Interest on loans granted by offshore banks domiciled in any territory considered a "jurisdiction of low or nil tax" or who's Central Bank (Federal Reserve) does not apply supervision on financial activity.	100%	35.00%
Royalties arising from technical assistance or consulting not available in Argentina under specific regulations (the contract must be duly registered with the official authority).	60% - 80%	21% - 28%
Copyright (must be registered with the National Copyright Bureau).	35%	12.25%

Other royalties.	90%	31.50%
Salaries of technicians, professionals, sportsmen, and artists for temporary work in Argentina (individuals only - not applicable when the provider is a corporation).	70%	24.50%
Personal property leases.	40%	14.00%
Real Estate property leases.	60%	21.00%
Disposal of assets situated in Argentina.	50%	17.50%
Dividends and profit distributions.	See paragraph B. Dividends	See paragraph B. Dividends
Sale of shares, stocks, bonds and other securities, applicable on the gross sales price. (In this case, the taxpayer can elect to be taxed on the capital gain at a 15% rate).	90% x 15% tax rate	13.50%
Other income.	90%	31.50%

## G. EXCHANGE CONTROL

Exchange controls are currently in effect, basically following anti-money laundering procedures. Foreign currency can be transferred into Argentina provided that the recipient files a disclosure with the official authority. To transfer outbound, the reason must be proved by filing forms with the Central Bank (i.e. dividends, loans, etc.).

## H. PERSONAL TAX

Two taxes are currently levied on individuals:

- Income tax; and,
- Personal assets tax (wealth tax).

### INCOME TAX

The tax is levied on income earned in Argentina and abroad by individuals residing in Argentina. It is payable on an annual basis with five advanced payments (every two months). Any expenses incurred in generating such income may be deducted from gross income. The law sets fixed deductions: non-taxable minimum, special tax-free amount, allowance for dependents, etc.

Resident individuals are liable to tax on the basis of a progressive tax rate scale ranging from 5% to 35% of annual taxable net income. Employees are subject to withholding tax at source, for which the employer is responsible (withholding agent).

Capital gains not related to an income-generating activity are generally not subject to tax.

Financial investment profits are subject to Income Tax:

- Income (interest and others) for the placement of capital, which generates Argentinean sourced income;
- Income arising from the alienation (purchase - sale) of shares, securities, stock, bonds and other securities, which generates Argentinean sourced income.

Taxable earnings include bank deposits, time deposit in financial entities, securities, mutual funds, among others. In both cases the income is taxed at a 5% rate when capital is in ARS; or 15% for investments made in foreign currency. Under the Income Tax Act, some exemptions are provided for the financial and capital markets, whereby income from shares that are quoted on the Local Stock Exchange is not subject to tax.

In the case of the disposal of real property not assigned to such an activity, the following tax is applicable:

- Real Estate purchased before 1 January 2018: a 1.50% real estate sales tax is charged on the sales value of the property, regardless of whether or not a loss or a profit is made.
- Real Estate purchased as from 1 January 2018: a 15% Income Tax is levied on the net income (sales price minus acquisition cost).

### PERSONAL ASSETS TAX (WEALTH TAX)

This tax is levied on:

- All assets located in Argentina or in foreign countries that belong to individuals resident in Argentina;
- All assets located in Argentina that belong to individuals resident in foreign countries;
- Shares issued by Argentine companies. In this case, the company pays the tax on behalf of the shareholders;
- Trusts (excluding financial trusts). In this case, the trustee pays the tax on behalf of the beneficiaries.

## INDIVIDUALS RESIDING IN ARGENTINA

This tax is levied on all assets located in Argentina and in foreign countries. Similar tax paid overseas in respect of assets located in foreign countries is creditable against personal assets tax. The only deduction allowed is the amount of liabilities arising from the purchase or construction of the taxpayer's home. Investments in shares issued by an Argentine company are not to be included in the taxable base because the company pays this tax on behalf of the shareholders (a situation that does not mean shares are exempted).

The tax is assessed on the value of property that exceeds the tax free amount (ARS 2,000,000 from the year 2019 onwards and ARS 18,000,000 only for real estate that serves as the taxpayer's home). If the taxable base is higher than the tax free amount, the tax is assessed on the net amount. A progressive tax rate scale is applicable, ranging from 0.25% to 0.75% on the value of the property.

## INDIVIDUALS AND COMPANIES RESIDING IN A FOREIGN COUNTRY

The tax is also charged on assets located in Argentina and owned by individual non-residents at a 0.25% rate. Neither deductions nor a taxable minimum are allowed. In the case of certain assets (i.e. securities, non-exploited real estate property, etc.) located in Argentina and owned by foreign companies, these are deemed to belong to individuals and are subject to personal assets tax at a 0.50% rate.

Shareholders of an Argentine company who reside in foreign countries are liable for personal assets tax. The tax liability is not assessed directly but is paid by the company on behalf of its shareholders (see the next paragraph).

## SHARES ISSUED BY ARGENTINE COMPANIES OR TRUSTS

Shares whose holders are non-resident companies or individuals are deemed to belong to non-resident individuals and the tax is levied on those shares. The taxable base is the Argentine company's equity value assessed on the company's last financial statements. The tax rate is 0.25%.

In all such cases, the tax is assessed and paid by the Argentine company on behalf of the shareholders. The tax paid is not deductible for income tax purposes because the company is allowed to claim the tax paid to the shareholders. A foreign company's branch (a permanent establishment in Argentina) will be subject to personal assets tax in respect of the capital assigned to the branch. In the case of trusts (excluding financial trusts), the trustee pays the tax on behalf of the beneficiaries. The taxable base is the amount of the assets.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends <sup>11</sup> (%)	Interest (%)	Royalties (%)
<b>Non-Treaty Countries</b>	7 See paragraph B. Dividends	15.05/35 <sup>9</sup>	12.25/28/31.50 <sup>6</sup>
<b>Treaty Countries:</b>			
Australia	10/15 <sup>1</sup>	12	10/15 <sup>5</sup>
Austria <sup>10</sup>	--	--	--
Belgium	10/15 <sup>1</sup>	0/12 <sup>12</sup>	3/5/10/15 <sup>7</sup>
Bolivia	--8	--8	--8
Brazil	--8	--8	--8
Canada	10/15 <sup>1</sup>	0/12.50 <sup>13</sup>	3/5/10/15 <sup>7</sup>
Chile	10/15 <sup>1</sup>	4/12/15 <sup>14</sup>	3/10/15 <sup>7</sup>

	Dividends <sup>11</sup> (%)	Interest (%)	Royalties (%)
Denmark	10/15 <sup>1</sup>	0/12 <sup>15</sup>	3/5/10/15 <sup>7</sup>
Finland	10/15 <sup>1</sup>	15 <sup>3</sup>	3/5/10/15 <sup>7</sup>
France	15 <sup>1</sup>	20 <sup>3</sup>	18
Germany	15 <sup>1</sup>	10/15 <sup>2</sup>	15 <sup>3</sup>
Italy	15 <sup>1</sup>	0/20 <sup>13</sup>	10/18 <sup>5</sup>
Mexico	10/15 <sup>1</sup>	0/12	10/15 <sup>5</sup>
Netherlands	10/15 <sup>1</sup>	0/12 <sup>13</sup>	3/5/10/15 <sup>7</sup>
Norway	10/15 <sup>1</sup>	0/12/12.50 <sup>13, 16</sup>	3/5/10/15 <sup>7</sup>
Russia	10/15 <sup>1</sup>	15	15
Spain	10/15 <sup>1</sup>	0/12 <sup>13</sup>	3/5/10/15 <sup>7</sup>
Sweden	10/15 <sup>1</sup>	0/12/12.50 <sup>13, 17</sup>	3/5/10/15 <sup>7</sup>
Switzerland	10/15 <sup>1</sup>	12	3/5/10/15 <sup>7</sup>
United Arab Emirates <sup>18</sup>	5/10/15	12	10
United Kingdom	10/15 <sup>1</sup>	0/12 <sup>13</sup>	3/5/10/15 <sup>7</sup>
Uruguay	--4	--4	--4

## Notes:

1. This is the percentage ceiling set under the treaty. However, it is only applicable when the conditions set under paragraph B. 'Dividends' are met.
2. The lower 10% rate applies to sales on credit of industrial, commercial or scientific equipment, and loans granted by a bank or for the financing of public works.
3. This is the ceiling set by the treaty. However, when the effective rate for non-treaty countries is lower, the latter rate is applicable.
4. Under the treaty no ceilings were set but the jurisdiction where the tax should be levied was established. Therefore, applicable rates are those for non-treaty countries.
5. The 10% rate applies to copyright royalties.
6. The actual rate is 35%, but levied on 35%, 80% or 90% of the income, which results in an effective tax rate of 12.25%, 28% and 31.50%. See above under F.
7. A 3% rate applies to news-related royalties, a 5% rate applies to copyright royalties (other than royalties related to films or tapes), a 10% rate applies to trademarks, patents, certain lease-related royalties and technical assistance, and a 15% rate applies to other cases.
8. Under the treaty no ceilings were set but the jurisdiction where the tax should be levied was established. Therefore, applicable rates are those for non-treaty countries.
9. See withholding taxes description at (F) above.
10. The treaty with Austria was rendered ineffective as of 1 January 2009.
11. The lower rate generally applies to participations of at least 25% of capital or voting power.
12. The 0% rate applies to, inter alia, (i) interest on commercial debt claims (including debt-claims represented by commercial paper) resulting from deferred payments for machinery or equipment supplied by an enterprise, except where such interest is paid between associated enterprises and (ii) interest on loans of any nature (not represented by bearer instruments) granted on preferential terms for a period of at least three years by a banking enterprise.
13. The 0% rate applies to, inter alia, interest paid by public bodies.
14. The general treaty rate is 15% while the 4% rate applies to interest from a sale on credit paid by the purchaser of machinery and equipment to a beneficial owner that is the seller of the machinery and equipment and the 12% rate to interest derived from loans granted by banks and insurance companies and bonds or securities that are regularly and substantially traded on a recognised securities market.

15. The general treaty rate is 12% while a 0% rate applies to interest paid to (national) banks and financial institutions, subject to certain conditions.
16. The general treaty rate is 12.5%. However, under the application of a most favoured nation clause the rate is reduced to 12% (Argentina-Australia treaty).
17. The general treaty rate is 12.5%. However, under the application of a most favoured nation clause the rate is reduced to 12% (Argentina-Denmark treaty).
18. Effective from 1 January 2020.

## BOLIVIA

### CORRESPONDENT FIRMS

City	Name	Contact Information
Santa Cruz	Javier Garcia Veramendi	+591 3 341 4430 jgveramend@pkfbolivia.com
La Paz	Javier Garcia Veramendi	+591 2 242 3579 gvlpz@pkfbolivia.com
Cochabamba	Javier Garcia Veramendi	+591 4 448 6016 gvcbb@pkfbolivia.com

### BASIC FACTS

Full name:	Plurinational State of Bolivia
Capital:	Sucre
Main languages:	Spanish, indigenous
Population:	11.34 million (2019 estimate)
Monetary unit:	Bolivian Boliviano (BOB)
Internet domain:	.bo
Int. dialling code:	+591

### A. TAXES PAYABLE

#### FEDERAL TAXES AND LEVIES

##### COMPANY TAX

The tax base in Bolivia is territorial, i.e. tax is only due on business income derived from activities performed, property situated, or economic rights used in Bolivia, regardless of nationality, domicile or residence of those who take part in the operations. Therefore, business income realised through companies operating outside of Bolivia is not considered for Bolivian tax purposes.

The standard corporate income tax rate is 25% and the tax year-end is 31 December of each year. Annual tax returns and financial statements need to be submitted with the IRS and income tax paid within 120 days from tax year-end. Advance corporate tax payments need to be made.

##### CAPITAL GAINS TAX

Capital gains derived from the sale of fixed assets immovable property and securities are normally included in gross income and are subject to the standard corporate income tax rate of 25%. However, capital gains derived from transactions on the Bolivian Stock Exchange are tax-exempt.

##### BRANCH PROFITS TAX

Branches of non-resident companies are subject to the standard corporate income tax rate of 25%. However,

a branch remittance tax applies at the rate of 25%, which is levied on 50% of the Bolivian-sourced profits distributed to the foreign head office, i.e. the effective rate is 12.5%. Branch profits are deemed remitted when the corporate income tax return is due (120 days after the end of the tax year, see higher).

## **SALES TAX / VALUE ADDED TAX (VAT)**

VAT is levied on taxable supplies of goods and services as well as on imports of taxable goods and services into Bolivia. Exports are zero-rated. Some specified transactions are exempt without credit for previously paid VAT.

The standard VAT rate is 13% while certain goods and services are tax-exempt:

- bona fide imports made by travellers arriving to the country;
- all transactions of public offer securities registered with the Stock Exchange Register (RMV) performed in Bolivia and having effect in the national territory;
- cession of goods and assets subject to procedures for issuing securities;
- goods imported by diplomatic service members;
- transactions involving the transfer of financing intermediation, insurance, pensions and stock exchange portfolios, whether resulting from sale or cession;
- the importation of printed books, newspapers and magazines.

## **B. DETERMINATION OF TAXABLE INCOME**

Taxable income is the income reported in the company's financial statements prepared in accordance with Bolivian GAAP, subject to certain adjustments for tax purposes. Generally, all expenses necessary to obtain income and to maintain the existence of the company are deductible. Donations and other gratuitous transfers to non-profit organisations that are exempt from income tax may be deducted up to a maximum limit of 10% of taxable income derived in the year of the donation or gratuitous transfer. Non-deductible items include, among others, income tax itself, penalties and fines and related surcharges, losses incurred in illegal activities, goodwill and gifts, except for those to qualifying recipients.

## **DEPRECIATION**

Fixed assets are generally depreciated using the straight-line method at rates specified by law. The following are some of the annual depreciation rates:

Asset	Annual rate (%)
Industrial buildings and warehouses	2.5
Machinery, equipment and installations	12.5
Office furniture and equipment	10
Aircraft	20
Motor vehicles	20
Computer hardware	25
Intangibles	5

## **STOCK / INVENTORY**

Inventories are valued at the lower of market value or replacement cost.

## **CAPITAL GAINS AND LOSSES**

Capital gains derived from the sale of fixed assets immovable property and securities are normally included in gross income and are subject to the standard corporate income tax rate of 25%. However, capital gains derived from transactions on the Bolivian Stock Exchange are tax-exempt. Capital losses resulting from "force majeure" or civil and criminal liabilities by third parties are deductible only to the extent that they are not covered by insurance or indemnity awards, as long as the taxpayer informs the tax authorities within a 15-day period following the relevant incident.

## DIVIDENDS

Domestic dividends received by a resident company are not subject to income tax at the level of the recipient and neither are these dividends subject to withholding tax. Dividends received from non-resident companies, including those paid by a foreign subsidiary to its parent company in Bolivia, are not subject to tax. A Bolivian company remitting profits to foreign shareholders or partners has to withhold 12.5% tax on the gross payment.

## INTEREST DEDUCTIONS

There are no thin capitalisation rules as such in Bolivia. However, interest paid by a domestic company to its non-resident shareholders or partners that is considered excessive, i.e. higher than LIBOR + 3%, is treated as a non-deductible expense for the domestic company's income tax purposes. The excessive interest payment must be included in the domestic company's taxable income for tax purposes. Tax-deductible interest cannot exceed 30% of the total interest paid out by the enterprise to third parties in the reported period.

## LOSSES

Losses may be carried forward for 3 tax years, but may not be adjusted for inflationary effects. Losses may not be carried back.

## FOREIGN SOURCE INCOME

The corporate tax system is based on the territoriality principle, whereby tax is only due on income received or accrued from sources within or deemed to be within Bolivia.

## C. FOREIGN TAX RELIEF

As foreign-source income is not subject to corporate income tax (territoriality principle), no relief is granted for foreign taxes.

## D. CORPORATE GROUPS

There are no generally applicable group consolidation rules in Bolivia.

## E. RELATED PARTY TRANSACTIONS

A legal framework for transfer pricing was introduced in 2014, with effect from tax year 2015. The transfer pricing rules are based on the arm's length principle, established a new concept of related parties and introduced transfer pricing methods. In the case of income tax, the arm's length principle is applicable to commercial and/or financial operations performed between related parties.

Related parties are deemed to exist whenever one person takes part in the management, control, or administration, or possesses capital equity in another company, or whenever a third party directly or indirectly participates in the management, control, or administration, or possesses capital equity in two or more companies.

The tax administration is empowered to perform adjustments when the transaction values do not comply with the arm's length principle. For this purpose, the tax administration can use the following methods: comparable uncontrolled price, resale price, cost-plus, profit split, transactional net margin or notorious price in transparent markets (applicable to the import or export of commodities).

Furthermore, a formal transfer pricing obligation has been established. Taxpayers, within the scope of transfer pricing rules, are obliged to present transfer pricing documentation which includes a technical transfer pricing study.

## F. WITHHOLDING TAX

Bolivian-sourced dividends and other profit distributions by a domestic subsidiary to its non-resident parent company are subject to a 25% final withholding tax, which is levied on 50% of the Bolivian-sourced dividend, thus giving rise to an effective tax rate of 12.5%.

Bolivian-sourced interest, royalties and fees paid to non-resident recipients are subject to a 25% final withholding tax, which is levied on 50% of the Bolivian-sourced income, thus giving rise to an effective tax rate of 12.5%. Rental income derived by non-residents from the leasing, subleasing or other exploitation of any Bolivian-situs real property is subject to a 25% final withholding tax, which is levied on 50% of the Bolivian-sourced rental payment, thus giving rise to an effective tax rate of 12.5%).

Bolivian-sourced capital gains derived by non-residents are subject to a 25% final withholding tax, which is

levied on 50% of the Bolivian-sourced capital gain, thus giving rise to an effective tax rate of 12.5%.

## G. EXCHANGE CONTROL

No restrictions are imposed on foreign-exchange transactions, including the repatriation of capital and the remittance of dividends and royalties abroad. A system of free-floating exchange rates exists in Bolivia.

## H. PERSONAL TAX

Individuals are subject to tax on all items of income, unless expressly exempt. For income tax purposes, the term income means the total value or amount in cash or in kind derived from capital investments, dependent services or a combination of both.

The individual income tax liability is subject to tax at a rate of 25% on professional activities and at 13% on other activities.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Domestic rates</b>				
Companies	12.5/25 <sup>1</sup>	12.5/25 <sup>1</sup>	12.5/25 <sup>1</sup>	12.5/25 <sup>1</sup>
Individuals	12.5/25 <sup>1</sup>	--	12.5/25 <sup>1</sup>	12.5/25 <sup>1</sup>
<b>Treaty countries:</b>				
Argentina	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>
Colombia	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>
Ecuador	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>
France	15	10/15 <sup>3</sup>	0/15	15
Germany	15	15	15	15
Peru	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>
Spain	15	10 <sup>4</sup>	0/15	0/15
Sweden	15	0 <sup>5</sup>	0/15	15
United Kingdom	15	10/15 <sup>3</sup>	0/15	15

Notes:

1. Payments made to non-residents are subject to a 25% final withholding tax, which is levied on 50% of the Bolivian-sourced income, thus giving rise to a 12.5% effective tax rate.
2. Domestic rate applies, no reduction under the tax treaty. Source state has exclusive right to tax.
3. The standard rate under the treaty is 15%. However, the application of a most favoured nation clause (items 5 and 4 of the Treaty's Protocol for France and the UK respectively) reduces the rate to 10% if the recipient company owns at least 25% of the capital of the dividend-paying company. The rate for such dividends under the Bolivia-Spain double tax treaty is 10%.
4. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company.
5. The 0% rate applies if the beneficial owner is a company (other than a partnership) which holds at least 25% of the capital of the dividend-paying company.

## BRAZIL

### MEMBER FIRM

City	Name	Contact Information
São Paulo/Rio de Janeiro/ Teresina	Cleverson Lacerda	+55 11 3070 1000 +55 11 9 6746 5836 cleverson.lacerda@pkfbrazil.com.br

### BASIC FACTS

Full name:	Federative Republic of Brazil
Capital:	Brasilia
Main languages:	Portuguese
Population:	212.05 million (2019 estimate)
Monetary unit:	Brazilian Real (BRL)
Internet domain:	.br
Int. dialling code:	+55

### KEY TAX POINTS

- Corporate income tax (CIT) is charged at a set rate of 15% plus a surcharge of 10% on profits over a set level, and there is also a social contribution tax on profits charged at a rate of 9% for legal entities in general or at 15% in case of legal entities considered to be financial institutions, private insurance and capitalisation.
- Most companies with prior year revenue below a prescribed amount can, under certain circumstances, choose to pay income tax and social contributions calculated under the 'presumed profit method'.
- Other federal taxes include fringe benefits tax, social security contributions (COFINS), social integration program contribution (PIS), payroll tax including employer social security contributions (INSS), value added tax on sales and transfers of products manufactured in or imported into Brazil (IPI), financial operations tax (IOF), and rural real estate tax (ITR).
- Municipal taxes include Services Tax (ISS or ISSQN), and estate transfer tax (ITBI) payable at a rate of up to 4% on inheritances and donations of properties and rights, and a services tax is imposed by many cities, with rates varying substantially between municipalities.
- Profits and gains from foreign sources are taxable in Brazil. Tax credits are available to relieve double taxation subject to a maximum of the Brazilian tax payable on the income.
- Almost all remittances (except for dividends) to companies or persons domiciled abroad are subject to withholding tax.
- Taxes payable by individuals include personal income tax, social security tax and gift and inheritance tax.
- Brazilian resident individuals are taxable on their worldwide earnings, as well as gains on the disposal of worldwide assets and rights.
- Personal income tax is withheld at source (at progressive rates from 7.5% to 27.5%).
- Capital gains arising other than out of financial instruments are subject to income tax at 15%. As from 2017 tax rates applicable to capital gains are as follows:
  - 15% up to BRL 5 million;
  - 17.5% from BRL 5 million to BRL 10 million;
  - 20% from BRL 10 million to BRL 30 million;
  - 22.5% over BRL 30 million.

### A. TAXES PAYABLE

#### CORPORATE TAX

There are three different methods to calculate corporate income tax (CIT): the actual profit method

(*Lucro Real*), the presumed method (*Lucro Presumido*) and the arbitrated method (*Lucro Arbitrado*).

## ACTUAL PROFIT METHOD

The Actual Profit Method called "*Lucro Real*" is the method whereby the taxpayer pays CIT called "IRPJ" based on its actual taxable income, after computing all income, gains and tax deductible costs and expenses, including net operating losses of prior years. The taxpayer is required to maintain current and accurate accounting and tax books and records, and also corresponding supporting documentation. Failure to maintain accurate accounting and supporting documentation may lead to disallowance of an expense requiring it to be added back to taxable income.

In general, taxable income must be recognised monthly following the accrual basis criteria and subject to IRPJ. The tax return must be filed annually. Corporate taxable income is taxed under a unitary system whereby a single tax rate is applied. This rate is 25%, being 15% plus 10% on pre-tax profits over BRL 240,000 annually. Corporate income tax is generally computed on a calendar year basis. However, payments are made monthly on estimated advance taxes. Social Contribution on Net Profit called "CSL" is another federal tax and is calculated on pre-tax profits. The rate is 9% computed on an annual or quarterly basis. Calculations and payments are made monthly as estimated advance taxes. Both taxes on profits add up to 34% (25% plus 9%).

## PRESUMED PROFIT METHOD

The Presumed Profit Method called "*Lucro Presumido*" is a simpler IRPJ calculation method that allows the taxpayer to pay income tax and CSL based only on its quarterly gross revenues. That means that costs and expenses are irrelevant to determine IRPJ and CSL liability at the end of the quarter. Due to its simplicity, *Lucro Presumido* is more suitable for small and medium-sized businesses not to mention the method's limitations and restrictions of use by large companies. Companies with prior year revenue of up to BRL 78 million can choose, under certain circumstances, to pay income tax and social contributions under the Presumed Profit Method, which is calculated as a percentage of the quarterly gross revenue on a cash basis.

Under *Lucro Presumido* IRPJ is calculated quarterly and, for most activities the presumed profit margin is 8% of monthly gross income corresponding to sales operational activities and 32% to services revenues, and depending on the specific industry other rates apply. Based on the presumed net income resulting from the application of the profit margins on gross income a 15% IRPJ rate applies while net income in excess of BRL 60,000 per quarter is subject to an IRPJ surtax of 10%, similar to the "estimated" calculation for *Lucro Real*.

## ARBITRATED PROFIT METHOD

*Lucro Arbitrado* applies to only a few situations, most of them related to inaccuracy or unreliability of the taxpayer's accounting records (under *Lucro Real*). It is an extreme tool used by the tax administration to determine unilaterally and ex officio the taxpayer's taxable income and IRPJ due. *Lucro Arbitrado* has also consequences for other federal taxes, in particular CSL, PIS and COFINS because they are determined based on the taxpayer's accurate gross income.

## FRINGE BENEFITS TAXATION

Companies participate mandatorily in different forms of social security obligations to federal agencies. These either directly or indirectly benefit pension programs, working time compensation, social work assistance and health programs, among others. All contributions are deductible for corporate income tax purposes.

## PROGRAM FOR SOCIAL INTEGRATION CONTRIBUTION (PIS)

PIS is a federal social contribution levied on taxpayers' monthly gross income. PIS has been subject to several changes, many of them creating separate PIS regimes depending on the taxpayer's business or income tax calculation method. There are two basic PIS regimes dependent on the corporate income tax method elected by the taxpayer (*Lucro Presumido* or *Lucro Real*): the cumulative and the non-cumulative regime.

These contributions are payable each month as a fund to employees. This is calculated based on 1.65% of monthly gross revenue. The PIS rate is generally 1.65% of the monthly sale, in a non-cumulative way. It means, deductions are allowed in respect of services and material costs applied in companies' operating activities. For companies that choose to be taxed by the Presumed Profit Method, PIS will be 0.65% of the monthly sale in a cumulative way, without the aforementioned allowed deductions.

## CONTRIBUTION FOR THE FINANCING OF SOCIAL SECURITY (COFINS)

COFINS is also a federal social contribution levied on the corporate taxpayer's monthly gross income. COFINS also has three basic tax regimes: the cumulative, the non-cumulative (created in 2004) and the single-phase regime. The COFINS tax rate under the cumulative regime is 3%, while the rate is 7.6% under the non-cumulative regime. Rates under the single-phase regime vary from business to business.

Although regulated by different laws, PIS and COFINS regimes, whether cumulative or non-cumulative, are almost identical. For cumulative COFINS the difference is basically the rate (3% for cumulative COFINS and 0.65% for cumulative PIS). Companies under the *Lucro Presumido* pay COFINS according to the cumulative regime, i.e. at the rate of 3% with no COFINS tax credit available.

## PAYROLL TAX

This is a monthly obligation for social security and other funds levied on payroll.

Tax	Rate
Social Security (INSS)	20%
Accident Insurance (SAT)	1% to 3%
Employee Indemnity Guarantee Fund (FGTS)	8%
Education Fund (SE)	2.5%
Other	3.3%

Employees contribute monthly to the social security system at rates from 8% to 11% on a progressive-scale base salary taking into account a maximum base salary of BRL 5,531.31. Federal law obliges companies to distribute part of their annual net income to employees. Participation is negotiated by each company and disputes are settled by arbitration. Amounts distributed are deductible for corporate income tax purposes and not subject to social security.

The Brazilian Government changed the criteria for companies in some business sectors to calculate the collection of INSS. Basically, the law changed the basis for calculation of INSS from 20% under payroll salary to apply 4.5% or 2% under revenue generated monthly by the companies which are subject to the new rules. According to Law 12.546/2011 and 13.161/2015, companies that render IT services, technologies, and hotels will be subject to contribute 4.5% of their monthly gross revenue except for call centres that increase to 3%. Companies that manufacture fluids for hydraulic brakes, plastic, clothing and accessories, fur, leather, silk, wool, rugs and other coatings to floors, hats and artefacts of similar use, machinery and appliances, pressure reducing valves, among others will be subject to contribute 2.5% of their monthly gross revenue.

## LOCAL TAXES

### STATE VALUE ADDED TAX (ICMS)

ICMS is a near Value Added Tax on sales of most goods and certain services. It is payable to state governments upon imports of goods into Brazil and sales or transfers of goods within Brazil. It is also payable upon supply of electricity, the provision of interstate and inter-municipal transport services and communication services. ICMS is levied on the sale or physical movement of goods, freight, transportation, communications services and electric energy. Intrastate transactions are taxed at 18%, interstate transactions are taxed at 7% or 12%, and most imports are taxed at a rate between 18% and 25%. The lower rates are normally charged on transfers to less developed states. Some states offer rate reductions or later payment dates as a tax incentive for the installation of factories. Communication services are taxed at a rate between 13% and 25%. As of 1 January 2013, the ICMS rate for interstate transactions involving imported goods is at 4% (instead of the standard 7% or 12%) subject to certain conditions. The new tax rate, established by Senate Resolution no. 13/2012, aims to eliminate unfair competition among Brazilian states to encourage customs clearance (and, thus, ICMS revenues) of imported goods even when the goods are destined for another state.

### REAL ESTATE TRANSFER TAX (ITBI)

ITBI is the municipal real estate transfer tax that applies on most onerous transfers of real estate. The tax is payable upon each and every taxable transfer of real estate property. Rates vary according to the actual value of the relevant transaction, or the recipient party value of property (as determined by the municipal tax administration), whichever is higher. The Constitution allows ITBI rates to be progressive according to the

value of the property. It also allows the application of different rates according to the location and destination of the relevant property average. The ITBI rate is 2% in most municipalities.

## **SERVICES TAX (ISS OR ISSQN)**

ISS is the municipal tax levied on the provision of services of any kind by taxpayers located within the jurisdiction of a given municipality. ISS can also include services rendered within the boundaries of a given municipality even though the services provider is located in another municipality.

The ISS rates vary from municipality to municipality, but rates cannot be lower than 2% and not exceed 5%. The minimum 2% tax rate for ISS was established businesses to their jurisdictions. But some municipalities bypass this minimum 2% rate by granting other incentives that reduce the ISS overall tax burden, such as tax base reductions. The tax applies to the taxpayer's monthly services gross income and is payable on a monthly basis. The ISS also applies to imported services.

## **OTHER TAXES**

### **TAX ON MANUFACTURED PRODUCTS (IPI)**

IPI is a federal excise tax levied on manufactured products as they leave the plant where they have been manufactured. It also applies to imported products at the time of importation and the first resale of the imported product by the importer. IPI is not levied on exports. IPI tax rates vary depending on the products: the more essential the lower the rates. The rates are listed per tariff code in the IPI Table called "TIPI", which uses the Mercosur Common Tariff (NCM) as a basis.

The exports (export of manufactured products) are exempt from IPI. Imports of goods (raw material and products) are normally taxed at the same rate as Brazilian-made products. Rates change frequently. For imported goods or products, the IPI (and other taxes due) must be collected upon customs clearance of the goods or products.

### **IMPORT TAX**

The import tax is a federal tax due upon customs clearance of the imported products, usually pursuant to an ad valorem tax rate. The tax rate varies according to the tariff classification of the imported goods under the Mercosur Common Tariff (NCM), as described above in section IPI (Tax on Manufactured Products). The tax base is the sales price shown in the commercial invoice issued in the country of origin. However, during customs clearance procedures, the administration has discretionary powers to reject the transaction price if there is evidence that it is not the market value. A review of the sales price is usually based on international customs valuation rules.

### **FINANCIAL OPERATIONS TAX (IOF)**

IOF is a federal tax that generally applies to different types of transactions such as loans and credit operations, insurance policies and foreign exchange operations for certain services rendered. IOF regulations are extensive and change constantly. The tax is mainly used as an instrument of economic policy to regulate the credit, currency exchange, insurance, and securities markets rather than to generate tax revenues.

### **CONTRIBUTION FOR INTERVENTION IN THE ECONOMIC DOMAIN (CIDE)**

The government introduced a special contribution in the year 2000. Brazilian legal entities that license, purchase or otherwise acquire technological knowledge must pay a special contribution of 10% on activities such as: trademarks, technical services assistance, administrative services and any royalty payments. Based on the law in force, CIDE must even be paid on activities that do not involve the transfer of technology.

### **TAX ON FUEL (CIDE)**

The CIDE will be paid monthly on the import and export of petroleum, derived and natural gas, and fuel alcohol. The rate will be based on the value in Reals of the cubic meters or tons of fuel.

### **RURAL REAL ESTATE TAX (ITR)**

Property taxation of rural and urban land receives a different tax treatment. Urban land is subject to the municipal real estate ownership tax called IPTU and rural land is taxable by ITR. The definition of land as rural or urban is then relevant because it determines the competent authority to levy tax on property ownership. Classification stems from exclusion: when land is considered to be urban it will be subject to IPTU while if it is not considered to be urban it will be treated as rural for tax purposes and will consequently be subject to ITR.

The basic rate is calculated annually based on certain premises on assessed property values and depending on the stage of use and exploration of the property. Very small properties are exempt and the maximum rate applied corresponds to 20% of the land value without any improvements.

## B. DETERMINATION OF TAXABLE INCOME

### IFRS - INTERNATIONAL FINANCIAL REPORTING STANDARDS

Brazil adopted the IASB's International Accounting Standards in 2008 on a gradual basis and the full IFRS since 2010. As a consequence, there are several important changes to Brazilian accounting practices, the most important of which is that these new accounting practices are required not only in consolidated financial statements but also in the individual financial statements (Law 11638/07). These include the recognition of leasing transactions, depreciation treatment, the recognition of intangible assets, the impairment concept, etc.

Taxable income is generally computed in accordance with accounting rules and tax legislation (i.e. accounting profits adjusted for tax purposes), subject to certain exceptions. Brazilian GAAP were adjusted in 2007 in order to be aligned with IFRS. Law 12.973/2014 of 13 May 2014 dealt with the tax effects arising from the changes to the new accounting standards (previously, a transitory regime applied, in which legal entities could use old accounting rules for tax purposes). According to this Law, as from 2015 legal entities must observe the new accounting standards also for tax purposes (and no longer apply the transitory regime), unless regulated otherwise by the law. In view of this, Law 12.973/2014 brought into force relevant changes to tax legislation concerning the assessment of CIT, PIS and COFINS, the tax treatment of dividends, interest on net equity, the equity pick-up (*método de equivalência patrimonial*) and tax amortisation of goodwill, among other things.

### DEPRECIATION

Fixed assets shall be depreciated over their estimated useful lives for accounting purposes (IFRS). For tax purposes, the straight-line method is usually adopted, using the following annual rates: buildings 4%; machinery and equipment 10%; vehicles 20%; IT equipment 25% etc. Assets subject to depletion (mines, quarries, etc.) may be amortised proportionately to the units extracted in each period.

### STOCK / INVENTORY

The cost of goods sold for production is generally valued using the weighted average cost method, although the FIFO (first in, first out) basis may be elected. The method adopted determines the basis for the valuation of closing inventory.

### DIVIDENDS

Brazil follows a dividend exemption system. Amounts distributed to shareholders resident in Brazil or abroad (since the investment is registered at the Brazilian Central Bank (BCB)) are not subject to withholding tax.

### INTEREST DEDUCTIONS

There is a limitation on interest expenses to be deductible:

- Loan from non-resident companies (thin capitalisation); and,
- Loan from abroad must be registered at Central Bank of Brazil (transfer pricing).

Interest due must be at fair market value and necessary to business activities and will be subject to withholding tax on an accrual basis. The calculation of interest on a partner's or shareholder's capital (JCP) is allowed. The interest is deductible for income tax and social contribution purposes up to the limit of the official long-term interest rate (TJLP). Profits for the current period or previous periods must be at least double the value of the interest to be distributed. Interest is subject to a 15% withholding tax. Interest should be paid or possibly capitalised.

### Thin capitalisation

Brazil has thin capitalisation rules in force since 2010 that limit the ability for corporate taxpayers under "Lucro Real" to fully deduct interest expenses associated with loans contracted with foreign related parties or parties domiciled in low tax jurisdictions and/or under a favourable tax regime in a foreign location. Such law states a limitation for corporate income tax purposes related to deductible interest, accrued or paid, in favour of a foreigner not resident in a tax haven. Under the rules, interest paid to related parties that are not located in a tax haven jurisdiction or that do not benefit from a preferential tax regime may be deducted on an accrual basis for corporate income tax purpose only:

- If the expenses are necessary for the company's activities; and,
- Both of the following thresholds are met:
  - a) The related party debt-to-equity ratio does not exceed 2:1 (calculated on the proportion of related party debt to direct equity investment made by related parties); and,
  - b) The overall debt-to-equity ratio does not exceed 2:1 based on the proportion of total debt to total direct investment made by related parties.

If the debt payable to the non-resident investor exceeds the above ratios, then the excess portion of the interest expense payable by the Brazilian subsidiary is not deductible for the purposes of corporate income taxes.

In addition, interest payable by a Brazilian entity to a non-resident creditor (related or not) domiciled in a low-tax jurisdiction or benefiting from a privileged tax regime may be deducted for the purposes of corporate income taxes only if the interest expense is necessary for the company's activities and the amount of the Brazilian entity's indebtedness to all entities located in low-tax jurisdictions or benefiting from privileged tax regimes does not exceed 30% of the equity of the Brazilian borrower.

If the debt payable to the non-resident creditor exceeds the above ratios, then the excess portion of the interest expense recognised by the Brazilian subsidiary is non-deductible.

Finally, thin capitalisation rules also apply to transactions where a non-related financial institution is used as a mere intermediary between the Brazilian company and its related party domiciled abroad. However, loan transactions entered into between two Brazilian related residents are not subject to thin capitalisation rules, even if the guarantor, attorney-in-fact or any intervening party is a related party domiciled abroad or a resident of a low-tax jurisdiction or of a country with a privileged tax regime.

## **TAX LOSSES CARRIED FORWARD**

Tax losses can be carried forward to offset against future profits of up to 30% of the real profits arising in each period (year). Losses that are offset may be carried forward indefinitely. There are restrictions on losses transferred as a result of a company merger or where there is a change in the control and activity of the loss generating company. Loss carry-back is not allowed.

## **INCENTIVES**

Brazil offers incentives through the reduction of domestic taxes or exemption from withholding tax in the forwarding of royalties or commissions on international financing. In addition to incentives for exports, there are incentives for the implementation of industrial units in specific regional areas.

## **ROYALTIES AND TECHNICAL ASSISTANCE EXPENDITURES**

Royalties are deductible expenses but are restricted to between 1% and 5% of sales revenue for companies that make cross-border trademark and patent royalty payments. Expenditure incurred in the creation of patents and manufacturing formulas and processes are considered capital intangible assets and are amortised over the life of the asset. This is also true for trademarks, whereas copyright, software, and franchising are generally deductible from operational results if they are related to the activities of the company.

Technical, scientific and administrative expenditures and royalties paid to foreign companies which have direct or indirect control of the Brazilian company are deductible if the contracts are duly registered with the Brazilian Institute of Industrial Property (INPI) and with the Brazilian Central Bank (BCB). There are no restrictions for the remittance of these monies abroad. However, some remittances of funds abroad are subject to 15% withholding tax and 10% CIDE or only 25% withholding tax, depending on the case.

## **C. FOREIGN TAX RELIEF**

Unilateral relief is granted to corporate taxpayers by means of an ordinary foreign tax credit system.

Taxes paid abroad on income directly derived by the Brazilian resident taxpayer may be claimed as a credit against domestic tax liability. This foreign tax credit is limited to the amount of domestic tax that is imposed on the foreign-sourced income. For these purposes, the Brazilian tax liability includes both IRPJ and CSLL. The Brazilian tax administration holds the position that resident entities opting for the presumed profit regime of taxation (*Lucro Presumido*) and directly providing services abroad are not allowed to offset taxes paid abroad with taxes paid in Brazil. However, this exclusion does not apply if the service is provided within countries with which Brazil has signed a double tax treaty where the elimination of international double taxation is agreed upon through the use of the credit method, without restrictions connected to the taxation regimes opted by the taxpayer in Brazil.

An ordinary foreign tax credit is available in respect of the tax on profit distributions by foreign subsidiaries, if any, and the underlying tax paid by the distributing subsidiary in the jurisdiction where the foreign entity is located.

## D. CORPORATE GROUPS

For tax purposes, consolidation of affiliated companies is not allowed. Losses can only be offset against profits of the same company. However, Law 12.973/2014 introduced a special treatment applicable until 2022 where positive and negative results (excluding foreign exchange results) by foreign entities controlled by Brazilian legal entities may be consolidated for purposes of application of the Brazilian CFC rules, subject to certain conditions.

## E. RELATED PARTY TRANSACTIONS

Since 1997 Brazil has transfer pricing rules in place to prevent undue allocation of income in international transactions between related parties. The system adopted is one of determining the maximum amounts of deductible expenses, and the minimum amount of taxable income, for Brazilian companies engaged in transactions with related parties outside of Brazil or non-resident parties domiciled in a listed low-tax jurisdiction or under a listed favourable tax regime. Domestic transactions are not subject to transfer pricing regulations as they are governed by other anti-avoidance rules.

As opposed to other countries, where the arm's length principle and comparable prices are the rule, the Brazilian rules take another direction by basically establishing fixed formulas to determine the accepted transfer price. Although Brazil does not completely ignore comparable prices or the arm's length principle, it does limit its application by setting accepted standards for their application.

Brazil established a transfer pricing system for imports with affiliated companies of goods, services and rights acquired abroad. The prices are based on three methods: Comparative Independent Price (PIC), Resale Price Less Profit (PRL), or Production Cost Plus Profit (CPL) and Commodities Price Method (PCI). The same system applies to exports to non-resident related parties, with the following methods: Export Revenues Method - PVEx, Country Destiny Price of exports revenue Method - PVA and PW, Cost Acquisition or Manufacture plus Tax and Profit - CAP also known as Method of Price Under Quotation on Export ("PECEX"), which is briefly defined as the average amounts of the quotation of assets or rights subject to public prices in internationally recognised commodities and future exchanges.

Since the end of 2012, Brazil has been changing some of the methods applicable to Transfer Pricing on imports and also creating additional methods. Basically, PRL presumed profit margin was changed from 60% to 40%, 30% and 20% depending on the business sector in which companies operate. According to the Federal Law 12.715/2012, two new methods were established, one applicable to imports and other applicable to exports. In accordance with the method applied, the price is defined as the average daily amount of assets or rights subject to public prices in internationally recognised commodities and future exchanges.

The taxpayer must disclose transfer pricing methods in its annual tax return and eventually prove that the corresponding costs, expenses and charges that exceed the elected transfer pricing method must be added back as taxable income and be subjected to the IRPJ and CSL.

### Country-by-Country Reporting (CbCR)

Normative Instruction 1.681/2016 provides for the obligation of submitting CbCR by the ultimate holding of multinational groups which is a resident for tax purposes in Brazil and whose economic group has generated consolidated revenue exceeding BRL 2.26 billion or EUR 750 million in the tax year prior to the tax year of the report. Through the CbCR, the Brazilian tax authorities will have access to information aggregated by each jurisdiction in which the multinational group operates:

- consolidated revenues, segregating those obtained in transactions with related and unrelated parties;
- income or losses before income tax;
- income tax and, in the case of Brazil, also the amount of CSLL paid;
- retained earnings;
- capital stock;
- income tax due;
- number of employees, workers and other associates;
- tangible assets other than cash and cash equivalents.

In addition to this, the reporting entity shall identify each entity that is a member of the multinational group, its jurisdiction of residence for tax purposes, the place of incorporation (only when the tax residence does

not correspond to the place of incorporation) and the nature of its main economic activities. Multinational companies that are obliged to submit CbCR must provide information from the economic group to the Brazilian tax authorities, who will exchange this information with the other countries under the Multilateral Agreement of Competent Authority Agreement on the Exchange of Country-by-Country Reports, which was signed on 21 October 2016.

## B. WITHHOLDING TAX

Almost all remittances (except dividends) to companies or persons domiciled abroad are subject to withholding tax. Interest, royalties and services paid to non-residents are generally subject to a 15% withholding tax unless when the beneficiary is resident of a low-tax jurisdiction in which case the rate is 25%.

## G. EXCHANGE CONTROL

The Central Bank allows the official exchange rate to float freely within periodically established bands but participation is restricted to authorised dealers. The bank intervenes when there are signs of speculative operations. There is an official tourist rate that ranges normally close to the commercial rate.

## H. PERSONAL TAX

Brazilian resident individuals are taxable on their worldwide income, as well as gains on the disposal of worldwide assets and rights. An individual is resident in Brazil if he:

- Has an habitual residence in Brazil;
- Works for a Brazilian government department or agency outside Brazil;
- Enters Brazil under a permanent visa;
- Enters Brazil under a temporary visa to work and remains in Brazil for more than 184 days within a 12-month period.

All personal income in general is subject to tax at progressive rates from 0% (monthly taxable income not exceeding BRL 1,903.98) to 27.5% (monthly taxable income exceeding BRL 4,664.68). Payments are made monthly and a personal income tax return is filed annually. Capital gains that do not arise from financial investments are subject to income tax at 15%.

## I. TREATY AND NON-TREATY WITHHOLDING RATES

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Domestic rates</b>				
Companies	0	0	0/15/25	15/25
Individuals	0	0	0/15/25	15/25
<b>Treaty countries:</b>				
Argentina	-- <sup>1</sup>	-- <sup>1</sup>	-- <sup>1</sup>	-- <sup>1</sup>
Austria	15	15	15 <sup>11</sup>	10/15/25 <sup>18</sup>
Belgium	15	10 <sup>3</sup>	10/15 <sup>11, 12</sup>	10/15/2017
Canada	-- <sup>1</sup>	15 <sup>4</sup>	10/15 <sup>11, 12</sup>	15/25 <sup>16</sup>
Chile	15	10 <sup>5</sup>	15	15
China	15	15	15 <sup>11</sup>	15/25 <sup>16</sup>
Czech Republic	15	15	10/15 <sup>11, 14</sup>	15/25 <sup>16</sup>
Denmark	25	25	15 <sup>11</sup>	15/25 <sup>16</sup>
Ecuador	15	15	15 <sup>11</sup>	15/25 <sup>16</sup>
Finland	10	10	15 <sup>11</sup>	10/15/25 <sup>17</sup>

France	15	15	10/15 <sup>11, 12</sup>	10/15/25 <sup>17</sup>
Hungary	15	15	10/15 <sup>11, 15</sup>	15/25 <sup>16</sup>
India	15	15	15 <sup>11</sup>	15/25 <sup>16</sup>
Israel	15	10 <sup>5</sup>	15 <sup>11</sup>	10/15 <sup>16</sup>
Italy	15	15	15 <sup>11</sup>	15/25 <sup>16</sup>
Japan	12.5	12.5	12.5 <sup>11</sup>	12.5/15/25 <sup>19</sup>
Korea	15	10/15 <sup>6</sup>	10/15 <sup>11, 12</sup>	10/15/25 <sup>20</sup>
Luxembourg	25	15 <sup>4</sup>	10/15 <sup>11, 12</sup>	15/25 <sup>21</sup>
Mexico	15	10 <sup>7</sup>	15 <sup>11</sup>	10/15 <sup>22</sup>
Netherlands	15	15	10/15 <sup>11, 12</sup>	15/25 <sup>16</sup>
Norway	--1	--1	--1	15/25 <sup>16</sup>
Peru	15	10 <sup>8</sup>	15 <sup>11</sup>	15
Philippines	25	15 <sup>2</sup>	15 <sup>11</sup>	15/25 <sup>21</sup>
Portugal	15	10 <sup>9</sup>	15 <sup>11</sup>	15
Russia <sup>25</sup>	15	10 <sup>24</sup>	15	15
Slovak Republic	15	15	10/15	15/25 <sup>16</sup>
South Africa	15	10 <sup>5</sup>	15 <sup>11</sup>	10/15 <sup>16</sup>
Spain	15	10/15 <sup>6</sup>	10/15 <sup>11, 14</sup>	10/15 <sup>23</sup>
Sweden	25	25	15/25 <sup>11, 13</sup>	15/25 <sup>16</sup>
Turkey	15	10 <sup>10</sup>	15	10/15 <sup>16</sup>
Ukraine	15	10 <sup>5</sup>	15 <sup>11</sup>	15
Venezuela	15	10 <sup>5</sup>	15 <sup>11</sup>	15

## Notes:

1. There is no reduction under the treaty; the domestic rate applies.
2. The lower 15% rate applies to dividends distributed to companies, including partnerships.
3. The lower rate applies to a direct participation of at least 10% of the capital.
4. The 15% rate applies to an equity percentage of at least 10%.
5. The 10% rate applies to participations of at least 25% of capital or voting power.
6. The general treaty rate is 15%, which is reduced to 10% for participations of at least 25% of capital under the application of a most favoured nation clause (Brazil-Israel treaty).
7. The lower 10% rate applies to participations of at least 20% of voting power.
8. The lower 10% rate applies when the beneficial owner is a company controlling directly or indirectly at least 20% of voting power.
9. The 10% rate applies to participations of at least 25% of capital held for an uninterrupted period of 2 years prior to distributing the dividends.
10. The 10% rate applies to participations of at least 25% of capital.
11. Interest paid to the government of the other contracting state, a political subdivision thereof or an agency (including a financial institution) wholly owned by that government or political subdivision is exempt from tax.
12. The 10% rate applies to interest on certain bank loans with a minimum term of seven years.
13. The 25% rate applies if the recipient is an individual or a partnership; 15% in all other cases.
14. The 10% rate applies to interest on certain long-term (at least 10 years) bank loans.
15. The 10% rate applies to interest on certain long-term (at least 8 years) bank loans.
16. The higher rate applies to trademark royalties.

## Brazil-Chile

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17. The general rate under the treaty is 15%. The 10% rate applies to copyright royalties (including films, etc.). The 20% rate applies to trademark royalties (the rate was reduced from 25% to 20% by a protocol that entered into force on 1 January 2008).
18. The general rate under the treaty is 15%. The 10% rate applies to copyrights royalties (excluding films, etc.). The 25% rate applies to trademark royalties.
19. The general rate under the treaty is 12.5%. The 15% rate applies to copyright royalties of cinematograph films, etc., and the 25% rate applies to trademark royalties.
20. The rates under the treaty are 25% for trademark royalties and 15% for other royalties which are reduced under the application of a most favoured nation clause: the rates for royalties are reduced to 15% for trademark royalties and to 10% for other royalties (Brazil-Israel treaty).
21. The 25% rate applies to trademark royalties and royalties for the use, or right to use, films, tapes etc. while the 15% rate applies to general royalties.
22. The rate under the treaty is 15%, which is reduced under the application of a most favoured nation clause to 10% for any royalties other than those from trademarks (Brazil-South Africa treaty).
23. The rate under the treaty is 10% for copyrights royalties (including films, etc.) and 15% for all other royalties which are reduced under the application of a most favoured nation clause: the rates for all types of royalties with the exception of trademark royalties are reduced to 10% while the rate for trademark royalties remains at 15% (Brazil-Israel treaty).
24. The 10% rate applies if the beneficial owner holds directly at least 20% of the total capital of the dividend-paying company.
25. Entry into force: 16 June 2017. Effective date: 1 January 2018.

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## CHILE

### MEMBER FIRM

City	Name	Contact Information
Santiago	Antonio Melys	+56 22650 4332 amelys@pkfchile.cl

### BASIC FACTS

Full name:	Republic of Chile
Capital:	Santiago
Main languages:	Spanish
Population:	18.32 million (2019 estimate)
Monetary unit:	Chilean Peso (CLP)
Internet domain:	.cl
Int. dialling code:	+56

### KEY TAX POINTS

- The Chilean income tax system applies to all individuals and entities domiciled or resident in Chile in respect of their worldwide income. Non-residents are subject to tax on Chilean-sourced income.
- Two categories of income tax apply in relation to different types of income (activities). The rules for calculating tax under each category are different.
- In general, profits from commercial activities (including relevant capital gains) are taxed at 25% under 'First Category tax'.
- Notwithstanding the foregoing, since 1 January 2017 two tax systems co-exist affecting profits made by enterprises that determine the income tax taking into account the results of financial statements based on full accounting records. These systems have a maximum tax burden of 35% (Attributed income system)

and 44.45% (Partially integrated system), taking into account both the tax of the company (First Category tax) and the owners (Additional tax or Global Complementary tax). Under the Partially integrated system the higher burden results from the owners having to refund 35% of corporate tax (First Category Tax) on the same taxable profit distributed or withdrawn. There are exceptions that make the tax burden similar in both systems. In fact, the restriction in the use of corporate tax as a credit will not be applicable to investors domiciled or resident in countries that have a double tax treaty with Chile, in which the application of the Additional Tax on the income distributed or withdrawn has been agreed upon provided that the First Category Tax is deductible of said tax, or another clause is contemplated producing the same effect. This beneficial rule is also applicable when a double tax treaty with Chile has been signed before 1 January 2019 although it is not in force yet. This last rule will stay applicable up to 2021, the year when it is expected those conventions will be in force.

- Gross taxable income arising from wages, salaries, overtime payments, bonuses, fees, gratuities, profit sharing and any other form of remuneration is taxed under the Second Category which is a progressive tax, the highest rate of which is 35%.
- Profits remitted or withdrawn from Chile (such as by way of payment of dividends to non-residents in enterprises subject to the Partially Integrated System) are subject to a 35% 'Additional Tax', although relief is given for any First Category tax paid on the relevant profits. Some of the taxpayers domiciled or resident abroad may have to refund the 35% of the tax credit, which means that in practice they could only use the 65% of the First Category tax as a tax credit. This restriction is applicable only to taxable income generated since 1 January 2017.
- Transfers and other operations regarded as sales, as well as services other than those rendered by employees and consultants, are subject to 19% Value Added Tax (VAT). Exports of all products and services qualified as exports by the Customs Service are exempt for VAT purposes. VAT paid on imports and on local sales and services may be deducted from VAT surcharged on sales or services rendered.
- There are various other types of payments to non-residents which are subject to withholding tax. Chile has signed double tax treaties with a number of countries under which the withholding tax rate may be reduced or the tax may not be applicable.
- Credits are available for overseas taxes paid on foreign-sourced income. Where the income consists of dividends or overseas profits, the credit is capped at a maximum of 32% of the gross dividends or profits. The credit will be up to a 35% rate on any kind of income subject to First Category tax from countries that have a double tax treaty with Chile in which a credit has been foreseen. Any other unrelieved foreign taxes are generally relivable as a deduction against taxable income.
- Although individuals resident in Chile generally pay income tax on their worldwide income, foreigners who establish their domicile or residence in Chile pay income tax only on their Chilean-sourced income for the first three years of residence.

## A. TAXES PAYABLE

### COMPANY TAX

The income tax legislation provides for a scheduler system divided as follows:

#### FIRST CATEGORY TAX

First Category tax is due on income derived from commercial, industrial and agricultural activities, mining, fishing and other extractive activities, investment, and real estate. All income not specifically taxed under another category and not tax exempt is included. Capital gains are included in gross income subject to First Category tax with certain exceptions which include:

- (a) Gains from the sale of publicly traded Chilean corporations' stock acquired and sold under certain conditions such as to be carried out on the Stock Exchange, which are tax exempt.
- (b) Sale of mining rights up to the amount represented by the variation in the cost of living index between the date of purchase and that of sale, carried out by taxpayers not subject to the First Category tax on effective income.
- (c) Sale of real estate other than that included in the assets of a taxpayer subject to the First Category tax on effective income. The maximum cumulative income not taxable under this rule amounts to 8,000 UF (USD 328,000), regardless of the number of operations made by the taxpayer.

## FIRST CATEGORY INCOME TAX SYSTEMS

The structure of income taxes is the same for taxpayers that obtain income other than those generated by employees and professionals. However, enterprises determining the First Category income tax taking into account the results of financial statements based on full accounting records could be subject to one of the two following income tax systems in force since 2017:

- a) **Attributed** income system. The corporate First Category income tax rate is 25% and it is fully credited against the income tax affecting stockholders, partners and individual entrepreneurs subject to personal income tax on such profits (Global Complementary Tax or Additional Tax, as the case may be). All of them must include such profits in their own income tax return, regardless of whether they have been distributed by the company. The tax burden on profits affecting investors without a domicile or residence in Chile under this system is 35% (Additional Tax). Income tax rates applicable to national investors range from 0% to 35% (Global Complementary Tax).
- b) **Partially integrated system.** The corporate First Category income tax rate is 27% from 2018 onwards. Stockholders, partners and individual entrepreneurs must include in their own income tax return only the profits distributed by or withdrawn from the company but in practice they can only use 65% of the corporate tax as a tax credit, since they have to refund 35% of the First Category corporate tax. Consequently, the maximum tax burden on profits affecting investors under this system is 44.45%. That restriction in the use of corporate tax as a credit is not applicable to investors domiciled or resident in those countries that have a double tax treaty with Chile, in which the application of the Additional Tax on the income distributed or withdrawn has been agreed upon provided that the First Category Tax is deductible of said tax, or another clause producing the same effect is contemplated. The same tax benefit is also granted when the double tax treaties have not yet entered into force yet but have been signed by Chile before 1 January 2017, but that rule will only stay applicable until 31 December 2021. Corporations and limited partnerships with share capital must be taxed under this system.

Some of the enterprises (except for corporations and limited partnerships with share capital) have the chance to opt for one of the tax systems, depending on their juridical structure. The tax system opted for cannot be changed by the taxpayer during a period of five years. However, in some cases a change in the juridical structure of the taxpayer can force it to switch the tax system.

## SECOND CATEGORY TAX

Second Category gross taxable income refers to the one arising from wages, salaries, overtime payments, bonuses, fees, gratuities, profit sharing and any other form of remuneration. It is a progressive tax, the highest of which is 35%, applicable on a monthly basis to the excess of 120 monthly tax units (USD 8,640).

## COMPLEMENTARY TAX (IMPUESTO GLOBAL COMPLEMENTARIO)

This is a progressive tax assessed on a resident individual or domiciled in Chile with respect to income received or withdrawn in the preceding year. Its highest rate is 35%, applicable to the excess of 120 yearly tax units (USD 104,400).

## ADDITIONAL TAX (IMPUESTO ADICIONAL)

This tax affects, among others, the Chilean-sourced income withdrawn or remitted abroad to non-residents or non-domiciled individuals and of companies or juridical entities organised abroad with or without a permanent establishment in Chile in the form of branches, offices, agents or representatives. This tax also affects foreign payments such as royalties, technical assistance and others at varying rates.

## SPECIAL TAX OF ARTICLE 21° OF THE INCOME TAX LAW

This tax affects almost all entities regardless of the legal structure they have (individuals, corporations, permanent establishments of non-resident entities, etc.). It is applied at a 40% rate on all amounts that are disallowed as an expense, when they represent disallowed actual disbursements or withdrawals of assets, regardless of the way in which they may have been accounted for. Under certain circumstances this kind of disallowed expense must be included in the income tax return of the correspondent shareholder, partner or individual owner which has to pay a 10% additional surcharge on such amounts.

## SPECIFIC TAX IN OPERATIONAL MINING INCOME

Since 2006, there is a specific tax on the operational income of the mining activity obtained by a mining operator. This progressive tax rate currently ranges from 0.5%, if annual turnover is equal to or exceeds 12,000 metric tons of fine copper, to 4.5% if annual turnover is between 40,000 metric tons and 50,000 metric

tons. If turnover exceeds 50,000 metric tons, the tax is applied on the mining operational margin and the progressive tax rate ranges from 5% on the operational margin not exceeding 35,000 metric tons to 14% if the operational margin exceeds 85,000 metric tons. The operational taxable income on which this tax is applied is determined in a specific way. Certain expenses such as losses from past periods, accelerated depreciation of fixed assets, etc. are not allowed for this purpose. The mining operational margin is determined as a ratio of the operational taxable income to the mining operational turnover.

## CLASSES OF TAXPAYERS

Any person or entity domiciled or resident in Chile must pay tax on income, whatever its origin, whether its source is located in Chile or abroad. Non-residents are subject to tax on income, the source of which is located within Chile. An individual is considered resident for tax purposes when remaining in Chile for more than six consecutive months in the calendar year or for more than a total of six months within two consecutive calendar years. Foreigners working in Chile are subject to tax only on their Chilean-sourced income during the first three years of domicile or residence period which may be extended. After this period, they become subject to tax on their worldwide income.

Thus, the income tax system covers individuals and juridical persons, resident or non-resident, foreign or national, whose income source is located in Chile and also, in the case of a resident's income, from abroad. For example, partnerships are subject to a 25% First Category tax on an accrued basis. The amounts attributed to non-resident or non-domiciled partners (Attributed income system) are subject to a 35% Additional Tax payable regardless of its distribution or remittance with a 25% First Category tax credit. If partners are domiciled or resident in Chile, the amounts distributed by the entity are subject to Complementary Tax, which is a progressive tax. These shareholders also have a 25% tax credit. Under the Partially integrated system the income tax of partners is payable or included in the personal income tax return when distributed or remitted abroad. The credit is 27% First Category tax but 35% of it must be refunded, except in some cases such as that of taxpayers of countries that have a double tax treaty with Chile (see paragraph First Category Income Tax Systems). Corporations and their stockholders can only be subject to the latter system.

## VALUE ADDED TAX (VAT)

Transfers and other operations regarded as sales, as well as services other than those rendered by employees and consultants, are subject to 19% VAT. In addition, certain items are subject to sales tax. For imports, the taxable basis is the customs value or CIF value, including customs duties. Certain capital goods forming part of foreign investments of at least USD 5,000,000 may be exempt from VAT, for which the investor must submit an application to the Ministry of Finance.

The tax applies to the sale of all movable and immovable physical assets (except land) sold by a person who is a customary seller. The tax basis is the sales price, including monetary correction, interests, finance charges and penalty interests. The tax itself is excluded from the basis. Exports of all products are exempt for VAT purposes. VAT paid on imports and on local sales and services may be deducted from VAT surcharged on sales or services rendered. VAT paid on importation and on acquisition or services received, when accessory to operations exempt from VAT (unless they are exports) or not related directly to the activities of the seller, is not recoverable.

Some products like alcoholic and non-alcoholic beverages, jewels, furs, articles made of gold, silver or ivory are subject to a sale surtax at different rates.

## LOCAL TAXES

No local income taxes are payable in addition to central government taxes. However, Chile imposes taxes on real estate and a stamp tax on documents that contain loans and credit operations (bill of exchange, promissory notes, etc.). Enterprises have to pay an annual municipal licence, calculated on the taxpayer's equity at a minimum rate of 0.25% and a maximum of 0.5%, set by each municipality. The total amount cannot exceed 8,000 monthly tax units (about USD 576,000), which is allocated among the municipalities in which the taxpayer has an office, factory or other establishment.

## B. DETERMINATION OF TAXABLE INCOME

Gross income is arrived at by deducting from gross receipts the direct cost of goods and services required to produce such receipts. The direct cost of locally acquired goods will be the purchase price, to which the cost of freight and insurance to deliver to the taxpayers' premises may be added. For imported goods, it will include CIF value, duties and customs charges as well as local freight and insurance costs as above. For manufactured or processed goods, direct cost will include raw material, costs in the manner described, and labour charges. Business income is determined on the accrual basis, whereas the dividend income on corporate shares is assessed on a cash basis. In the case of long-term projects, the tax authorities are empowered to issue rulings regarding the determination of income for tax purposes.

## Chile

Business expenses are deductible from gross income provided that they have not already been deducted in arriving at such gross income and that the expenses are required for the income to be obtained. Expenses incurred in the acquisition, maintenance or exploitation of assets not used in the regular course of business are not deductible. The accounting period in Chile coincides with the calendar year.

### **CFC (Controlled Foreign Company) Rules**

Certain foreign income is taxable in Chile not only when it is received but also accrued. In fact, profit consisting of passive income (interests, dividends, etc.) received or accrued by foreign entities controlled by Chilean taxpayers or patrimonies, must be considered as received or accrued by these Chilean taxpayers. The taxable profit of the foreign entity is determined by applying the Chilean tax regulations.

## **DEPRECIATION**

Depreciation on fixed assets, except for land, is tax deductible under the straight-line method based on their useful lives in accordance with the guidelines of the Chilean Internal Revenue Service (IRS), computed on the restated value of the assets. A shorter lifespan is stated in the Income Tax Law as an option for depreciation, applicable to fixed assets purchased since 2003. The option means an accelerated depreciation for new assets when acquired locally, or new or used assets when imported, with useful lives of over five years. For this purpose, the assets will be assigned useful lives equivalent to one-third of the normal, eliminating fractions of months.

There is an alternative according to the amount of turnover of the taxpayers, which allows them to accelerate the depreciation to 1/10th of the normal lifespan of the fixed assets. The lifetime thus obtained cannot be less than one year. Taxpayers may discontinue the use of the accelerated method at any time but may not return again to the accelerated method. The difference between accelerated and straight-line method will not reduce the taxable profit that can be withdrawn by partners or distributed to shareholders.

No allowance is made for amortisation of intangible assets such as, patents, trademarks, etc. Goodwill in mergers and acquisitions that cannot be allocated to non-monetary assets, is considered as an expense only at the winding up of the enterprise. Depletion of ore in mining properties is not tax deductible.

## **STOCK / INVENTORY**

The cost of goods sold or production materials and supplies consumed is based on the first-in, first-out (FIFO) basis, although the 'average' method may be elected. The method adopted determines the basis for the valuation of the closing inventory. The valuation so determined is, however, adjusted in the manner stipulated for the annual monetary correction procedures.

## **DIVIDENDS**

Dividends received from Chilean corporations are exempt from First Category tax. Taxpayers subject to the Attributed Income system must add the taxable dividends received from a corporation to their taxable income, but they can use the First Category Tax which affected such dividends as a tax credit. The tax credit is 65% of the First Category Tax when the dividends are received from a company subject to the Partially Integrated income system. There is no distinction in Chile between dividends and inter-company dividends. A dividend in kind as such does not exist. Dividends are necessarily expressed in cash, notwithstanding the fact that the company may distribute certain assets corresponding in value to the dividend amount. Stock dividends in the form of bonus shares or increases in the par value of existing shares are not considered as income for tax purposes.

## **INTEREST DEDUCTIONS**

Generally, interest accrued or paid in the financial year is a deductible expense, provided that it has been incurred in connection with loans related to the business. Regarding the interest and other amounts, when originating in acts or contracts concluded with related parties abroad, the expense will only be deductible in the year such amounts are paid, credited to account or placed at the disposal of the beneficiary. It is also required that the correspondent Additional tax is paid unless such amounts are tax exempt.

## **LOSSES**

Losses incurred in the fiscal year are deductible. Furthermore, there is no limit on carry forward of losses. There are no loss carry-back provisions, nor is it available to group profitable and unprofitable affiliates for tax purposes. However, dividends received or income withdrawn from third companies can be offset against losses for tax purposes. This leads to a refund of the First Category tax that affected the dividends or the income withdrawn.

## FOREIGN SOURCE INCOME

Non-domiciled or non-resident corporations are only subject to income taxes on their Chilean-sourced income. If the domestic corporation receives amounts in excess of the book value of an investment when a foreign subsidiary is liquidated, these are considered as income subject to regular taxes. From 2012 onwards, the income received or accrued from derivatives such as forwards, futures, swaps and options, by persons or entities without domicile or residence in the country, will not be subject to income tax, except for those arising from derivatives that are settled by physical delivery of shares or rights in companies incorporated in Chile.

## INCENTIVES

Foreigners may remit their earnings or be paid abroad. Remittances have to be reported to the Central Bank of Chile. Non-domiciled or non-resident individuals in Chile are subject to an Additional income tax, at a rate of 35%. However, if the foreign activities' nature is scientific, cultural or sports, the tax rate is only 20% as a sole tax provided the period of service is less than six months. This tax is also applicable to engineering or technical jobs and professional or technical services rendered, in Chile or abroad, by individuals or juridical entities at a 15% rate. This rate will be 20% in the cases pointed out in the summary showed below.

## ROYALTIES

Royalties are deductible expenses:

- (a) Provided they are necessary to produce income;
- (b) Provided the rate is that normally paid in similar circumstances with respect to their nature;
- (c) As a result of the relationship existing between the parties. In this case, the royalty is deductible when it is paid, credited to account or placed at the disposal of the beneficiary, and Additional income tax is paid unless the royalty is tax exempt.

Deduction of outbound royalties is limited to 4% of receipts from sales and services effected in the tax year. The 4% limit is not applied if in the tax year there is no capital, control or administration relationship, whether direct or indirect, between the taxpayer and the recipient of the royalties. Likewise, the 4% limit is not applied if the royalties are taxed in the recipient's country at a rate of at least 30%. In calculating the 4% limit, it is necessary to first compute the royalties not subject to the limit and then the royalties subject to the limit. Also the effect of double tax treaties entered into by Chile need to be considered.

## C. FOREIGN TAX RELIEF

- Foreign tax credits are allowed in Chile. A resident taxpayer who is taxed in Chile on dividends or profits received from enterprises set up abroad which have already been taxed in the source country may be entitled to have the foreign tax levied on that income credited against his tax liability, with a cap equivalent to 32% of the gross dividends or profits. This credit must be computed into the tax basis. Foreign taxes paid in excess of the cap, which cannot be used as a tax credit, are allowed as a deduction from taxable income. The foreign tax is credited against First Category tax at the corresponding tax rate and the balance against the Additional or Complementary taxes.

Foreign tax on income from agencies or permanent establishments that Chilean enterprises have set up abroad, or other income such as the one derived from trademarks, patents and technical assistance, will only be able to be credited against First Category tax up to the corresponding tax rate on the foreign income. In these last cases, the excess credit can be used in subsequent tax years.

The credit will be up to a 35% rate on any kind of income subject to First Category tax from countries that have a double tax treaty with Chile in which a credit has been foreseen. This means that part of the tax credit is creditable against the corresponding First Category tax and the balance against the Additional or Complementary taxes. The part of the foreign income taxes that cannot be used as a tax credit is allowed as a deduction from taxable income.

- Law 19.840, published in the Official Gazette on 23 November 2002, allows foreign investors to establish Chile as a base for their investments into third countries. That law states special regulations (Article 41 D) to publicly traded corporations and closely held corporations ruled by the regulations of the former, constituted in Chile and in accordance with Chilean laws, incorporated with foreign capital permanently owned by partners or shareholders not domiciled nor resident in Chile, nor in countries or territories that are considered tax haven jurisdictions, or harmful preferential tax regimes. The same tax treatment will be applicable to non-domiciled or non-resident shareholders of said companies for remittances and

distribution of profits or dividends obtained from them and from partial or total repatriations of capital, as well as for the capital gains obtained from the disposal of shares in companies governed by the abovementioned Article 41 D.

According to that article, such companies are not considered as domiciled in Chile for the purposes of the Chilean Income Tax Law and, therefore, they will only pay taxes in the country on their Chilean-sourced income. The line of business of the aforementioned companies must be the investment in Chile and abroad and the capital contributed by the foreign investor must have a foreign source. The regulations related to the bank secrecy will not be applied to them. This rule has been cancelled with effect from 1 January 2022. However, as of 23 November 2017 new companies cannot join this regime.

- Expenses incurred in approved training plans for personnel, up to 1% of the yearly payroll, are allowed as a credit against the First Category income tax.
- Immovable property tax will be creditable against the First Category tax only if paid by the owner or usufructuary of agricultural land or they have given the property on lease, usufruct or other forms of temporary assignment. Construction companies and real estate companies may credit property tax paid on immovable property built to be sold.

## D. CORPORATE GROUPS

For tax purposes, consolidation of affiliated companies is not allowed. Losses can only be offset against profits of the same company or against dividends or taxable profits withdrawn from third companies.

## E. RELATED PARTY TRANSACTIONS

Charges from foreign affiliates or head offices are only allowable for specific items related to the local company or branch. A pro-rata allocation of the foreign entity's expenses is not generally acceptable for tax purposes (see under 'Royalties' above).

## F. PROFIT REMITTANCES, WITHDRAWALS OR DISTRIBUTIONS

Broadly speaking, profit remitted, withdrawn or distributed to investors not domiciled or resident in Chile that is taxed with the Additional Tax, is subject to a withholding tax. Regarding taxpayers subject to the Partially Integrated System, profit remittances and dividends paid to the shareholders not domiciled or resident in Chile are subject to Additional Tax on distribution at a rate of 35%, which has to be withheld. However, if the taxpayer has an accumulated credit originated in amounts subject to the First Category tax, a credit is given against the withholding tax, considering the First Category tax rate at the beginning of the year. It must be kept in mind that in such case 35% of the credit has to be returned by increasing the amount of the withholding, unless the taxable profit remitted has been generated before 2017, subject to the old tax regime. Anyway, such restriction is not applicable to investors domiciled or resident in those countries that have a double tax treaty with Chile (see paragraph "First Category Income Tax Systems" letter b). The same tax procedure is applicable to remittances of profit to partners or profit withdrawn by individuals not domiciled or resident in Chile. The withholdings applicable either on withdrawals of taxable profits or the yearly attributed income, are made by taxpayers subject to Attributed Income System at the end of the year, when the taxable income is determined.

## G. THE 42% ALTERNATIVE

Foreign investors that have a Decree Law 600 contract entered into with the State of Chile and have opted for the 42% rate are subject to the First Category tax (payable by the branch or subsidiary) at the corresponding rate and an Additional tax at a rate that completes the 42%, on the same tax base. Thus, the total theoretical tax burden is 42% on pre-tax income instead of the 35% currently paid under normal taxation. The investor who has opted for the 42% invariable rate can elect at any time to be taxed at the normal rates. This election is irrevocable. Decree Law 600 has been abrogated with effect from the beginning of 2016, and has been replaced with a new regulation that does not consider any income tax rules. However, foreign investors are allowed in the next four years following the date the law is in force, to apply for investment contracts with the State of Chile subject to Decree Law 600. Anyhow, the invariable income tax rate will be 44.45%.

## H. PAYMENTS ABROAD

Other payments to a non-resident not domiciled in Chile are subject to an Additional withholding tax as follows:

Type of Payment	Rate
Royalties	30%

Royalties paid abroad for patents of invention, industrial designs, new vegetal varieties, software and other specific cases	15% <sup>1</sup>
Engineering and technical jobs	15% <sup>2</sup>
Professional and technical services	15% <sup>2</sup>
Other services paid abroad	35%
Interest to foreign entities	35%
Interest to foreign banks	4%
Interest to foreign related banks, on the part of the loans that exceeds three times the equity (sole tax on excess indebtedness)	35%
Marine freight (exemptions on the basis of reciprocity)	5%
Insurance premiums to foreign insurers	22%
Reinsurance premiums to foreign insurers	2%
Individuals who carry out scientific, cultural or sports activities in Chile	20%

Notes:

1. The rate is 30% when the creditor or beneficiary of the remuneration is incorporated, domiciled or a resident in a country considered as a preferential tax regime according to the rules stated in article 41 H of the Income Tax Law.
2. The rate is 20% in the same situation as described in note 1 above.

## I. PERSONAL TAX

All individuals, domiciled or resident in Chile are subject to income tax whatever the source of the income. Non-domiciled or non-resident individuals in Chile are subject to tax on their Chilean-sourced income. For tax purposes, a person is deemed to be non-resident when staying in Chile less than six months in two consecutive tax years. During the first three years of residence in the country, foreigners who establish domicile or residence in Chile pay income taxes only on their Chilean-sourced income. This term may be extended by the tax authorities for an additional three years after which they are taxed on their worldwide income. All remuneration for personal services as well as income derived from other services is included in gross income. All forms of remuneration are included in taxable salary. The only deduction is for social security contributions.

Items like reimbursement of travel expenses, housing provided for the sole interest of the employer, moving expenses, and reasonable relocation allowances are considered non-taxable income and are excluded from the tax calculation. Items like cost of living allowance, area allowance, car allowance, vacation travel, and utilities are taxable.

Capital gains of individuals are treated mostly as any normal income, subject to First Category tax and Complementary Tax. However, certain capital gains have special treatments as in the case of shares and immovables.

Necessary business expenses incurred on behalf of others are reimbursable and exempt from taxes, provided that they are duly proved. Professionals can deduct their effective expenses or standard deduction. The only deductible non-business expenses are social security contributions, on a voluntary basis where maximum amounts are determined in the same way as it is applicable to employees. (Employees must pay a variable percentage for pension plans of around 12% and 7% for health insurance, applicable on a maximum of up to 79.3 UF (USD 3,250), adjustable yearly. On a voluntary basis, employees are allowed to make additional contributions to the pension fund of up to 50 UF (USD 2,050), also deductible from salaries for tax purposes. Tax computation for individuals varies depending on the type of income.

Basically, the following categories exist:

- (1) Professionals - working as independent consultants must compute all their yearly income less the expenses necessary to produce such income or presumed expenses of up to 30% of the annual gross income with a top limit equivalent to 15 yearly tax units (USD 13,050). They can also deduct the social security contributions with equal caps applicable to employees.
- (2) Employees - taxable income is the salary minus social security contributions either mandatory or voluntary

(see paragraph above). No other deductions from taxable income are allowed. The tax applicable is the Sole Second Category income tax, mandatorily withheld by the employer on a monthly basis.

- (3) Combined income - income received by individuals such as dividends, profits in partnerships or derived from personal business is subject to complementary tax. In the case of dividends and profits distributed by a First Category taxpayer, the individual has a credit originated in the payment of the First Category tax, whether the 35% tax credit should be returned or not. In the case of employment income, the individual has a credit for the payment of the Sole Second Category income tax.
- (4) Professionals and employees domiciled or resident in Chile subject to Sole Second Category tax or Complementary Tax have a credit equivalent to foreign tax levied on their income they have made from countries that have a double tax treaty with Chile as professionals or employees. There is a cap of 35% on the gross foreign income.

## EMPLOYEE REMUNERATION

A deduction is allowed for wages, salaries and remuneration paid for personal services, including bonuses paid in accordance with the law or a contract. Voluntary participations and profit sharing granted to employees and workers are deductible, provided they are distributed in proportion to wages, salaries, seniority, number of dependants, or other general rules applicable to all employees or workers of the enterprise.

A deduction is also allowed for that part of remuneration on which social security contributions have been paid for actual and permanent work to owners of sole proprietorships, partners of companies or persons and managing partners of partnerships limited by shares. Such remuneration is subject to withholding. With respect to other remuneration paid to persons who, due to their controlling position in the enterprise, are able to influence the fixing of their remuneration, the deduction is limited to that part which, in the opinion of the tax administration, is proportionate to the importance of the enterprise, its reported income, services rendered by the recipient and capital profitability.

A deduction is allowed for remuneration paid for services rendered abroad, provided that it is substantiated by reliable documents and provided that, in the opinion of the tax administration, the remuneration is necessary or convenient for the production of income in Chile. In practice, taxpayers tend to limit these expenses because of the tax cost involved.

## J. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Chile has signed a number of double tax treaties referenced to in the table below. Chile has also signed treaties with the United States of America and Uruguay although they are not yet effective at the time of publication.

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Non-treaty countries</b>	35% (Chilean sourced income)		0/4/35	0/15/30
<b>Treaty countries:</b>				
Argentina	15	10	4/12/15 <sup>28</sup>	3/10/15 <sup>19</sup>
Australia	15	5 <sup>2</sup>	5/10 <sup>7</sup>	5/10 <sup>33</sup>
Austria	15	15	5 <sup>8</sup> /15 <sup>31</sup>	5 <sup>18</sup> /10
Belgium	15	0 <sup>3</sup>	5/15 <sup>35</sup>	5/10 <sup>33</sup>
Brazil	15	10	15	15 <sup>30</sup>
Canada	15	5 <sup>4</sup>	10/15 <sup>9</sup>	10/15 <sup>20</sup>
China	10	10	4 <sup>32</sup> /10	2/10 <sup>33</sup>
Colombia	7	0	5/15 <sup>10</sup>	10 <sup>29</sup>
Croatia	15	5 <sup>5</sup>	5/15 <sup>10</sup>	5/10 <sup>33</sup>
Czech Republic	15	15	5 <sup>11</sup> /15 <sup>31</sup>	5 <sup>18</sup> /10
Denmark	15	5	5 <sup>11</sup> /15 <sup>31</sup>	5 <sup>18</sup> /10

Ecuador	15	5	5 <sup>8/15<sup>31</sup></sup>	10 <sup>22</sup>
France	15	15	5/10/15 <sup>35, 12</sup>	5/10 <sup>33</sup>
Ireland	15	5 <sup>5</sup>	5 <sup>8/15<sup>31</sup></sup>	5 <sup>18/10</sup>
Italy	10	5	4/5 <sup>35</sup> /10/15 <sup>13</sup>	2/5/10 <sup>23</sup>
Japan	0/15	0/5 <sup>6</sup>	4/10/15 <sup>14</sup>	2/10 <sup>33</sup>
Korea (Rep.)	10	5	5 <sup>11/15<sup>31</sup></sup>	5 <sup>21/15<sup>21</sup></sup>
Malaysia	15	5 <sup>5</sup>	15	10
Mexico	10	5 <sup>5</sup>	5/10/15 <sup>15</sup>	10 <sup>24</sup>
New Zealand	15	15	10/15 <sup>10</sup>	5/10 <sup>25</sup>
Norway	15	5	5/15 <sup>36</sup>	5/10/15 <sup>34</sup>
Paraguay	10	10	10/15 <sup>10</sup>	15
Peru	15	10	15	10/15 <sup>26</sup>
Poland	15	5 <sup>5</sup>	516/15 <sup>31</sup>	5 <sup>18/10</sup>
Portugal	15	10	5/10/15 <sup>17</sup>	5/10 <sup>33</sup>
Russia	10	5	15	5/10 <sup>33</sup>
South Africa	15	5	5/15 <sup>35</sup>	10/15 <sup>33</sup>
Spain	10	5 <sup>5</sup>	5 <sup>8/15<sup>31</sup></sup>	5 <sup>18/10</sup>
Sweden	10	5 <sup>5</sup>	5/15 <sup>10</sup>	5/10 <sup>33</sup>
Switzerland	15	15	5/15 <sup>35</sup>	5/10 <sup>33</sup>
Thailand	10	10	10/15 <sup>10</sup>	10/15 <sup>27</sup>
United Kingdom	15	5 <sup>5</sup>	5 <sup>8/15<sup>31</sup></sup>	5 <sup>18/10</sup>

## Notes:

1. The rate applies to a participation of at least 25% of capital or voting power, unless stated otherwise.
2. Applies to a participation of at least 10% of voting power.
3. Applies to a participation of at least 10% of capital.
4. Treaty rate is 10%, which is reduced to 5% with respect to a participation of at least 25% of voting power (most favoured nation clause under the Chile-Mexico treaty. Circular 62 2005 Chilean IRS).
5. Applies to a participation of at least 20% of capital or voting power.
6. 5% if the beneficial owner is a company that has owned directly, for the period of six months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting power in the company paying the dividends and 0% if the beneficial owner of the dividends is a pension fund, provided that such dividends are not derived from the carrying on of a business by such pension fund or through an associated enterprise.
7. The lower rate applies to interest derived by financial institutions.
8. 5% rate applies to interest derived from bonds or securities that are regularly and substantially traded on a regulated securities market. 4% rate applies to interest derived from loans granted by banks and insurance companies and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment. However if the interests derived from an agreement that implies a back to back credit or similar, the rates will be 5% or 10% as the case may be (application of most favoured nation clauses Chile-Japan treaty. Circulars 22 and 50, 2018 Chilean IRS).
9. Treaty rate is 15%, which is reduced to 10% with respect to interest derived from loans granted by banks and insurance companies, bonds or securities that are regularly and substantially traded on a regulated securities market and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment (most favoured nation clause under the Chile-Spain treaty. Circular 8 2005 Chilean IRS).
10. The lower rate applies to interest derived by banks and insurance companies from certain transactions.

11. 5% rate applies to interest derived from bonds or securities that are regularly and substantially traded on a regulated securities market. 4% rate applies to interest derived from loans granted by banks and insurance companies and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment. However if the interests derived from an agreement that implies a back to back credit or similar, the rates will be 5% or 10% as the case may be (application of most favoured nation clauses Chile-Japan treaty. Circular 22 2018 Chilean IRS).
12. Treaty rate is 15%, which is reduced to 10% (most favoured nation clause under the Chile-Australia treaty. However this reduction has not yet been confirmed by the Chilean IRS).
13. General rates under the treaty are 5% and 15%, which are reduced to (i) 4% if the beneficial owner of the interest is a bank, an insurance company, a lending or finance business, an enterprise selling machinery or equipment on credit, or any other enterprise, provided that in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50 per cent of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50 per cent of the assets of the enterprise consist of debt-claims against unrelated persons and to (ii) 10% for interest paid as part of an arrangement involving back-to-back loans or other arrangement that is economically equivalent and intended to have a similar effect to an arrangement involving back-to-back loans (most favoured nation clause under the Chile-Japan treaty). Moreover, under the MFN clause of the Chile-Japan treaty, the aforementioned 15% general rate will be reduced to 10% as from 1 January 2019 onwards.
14. The 15% general rate applies up to 31 December 2018 and 10% applies as from 1 January 2019 onwards. Regarding the application of the 4% and 10%, see footnote 13, (i) and (ii).
15. General treaty rate is 15%, which is reduced to 5% for interest from loans granted by banks and to 10% for interest from loans granted by insurance companies, from bonds or securities regularly and substantially traded on a recognised securities market and for interest related to sales of machinery and equipment on credit (application of most favoured nation clauses Circular 62 and 8 2005 Chilean IRS).
16. 5% rate applies to interest derived from bonds or securities that are regularly and substantially traded on a regulated securities market. 4% rate applies to interest derived from loans granted by banks and insurance companies and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment. However if the interests derived from an agreement that implies a back to back credit or similar, the rates will be 5% or 10% as the case may be (application of most favoured nation clauses Chile-Japan treaty. Circular 22 2018 Chilean IRS).
17. General treaty rate is 15%, which is reduced to 10% for interest from loans granted by banks and insurance companies and sales on credit of machinery and equipment where the beneficial owner is the seller and to 5% for interest from bonds or securities regularly and substantially traded on a recognised securities market
18. The 5% rate applicable to royalties from the use of, or right to use, any industrial, commercial or scientific equipment, was reduced to 2% by virtue of a most favoured nation clause (Chile-Japan treaty. Circulars 22 and 50, 2018 Chilean IRS).
19. General treaty rate is 15%, which is reduced 3% for news-related royalties and to 10% for copyright royalties (other than royalties related to films or tapes), patents, trademarks, know-how, certain lease-related royalties and technical assistance.
20. General treaty rate is 15%, which is reduced to 10% (most favoured nation clause under the Chile-Spain treaty. Circular 8, 2005 Chilean IRS).
21. General treaty rate is 15%, but reduced to general rate of 10% by virtue of a most favoured nation clause (Chile-Spain treaty. Circular 62 and 8 2005 Chilean IRS). Treaty rate of 5% applicable to royalties from the use of, or right to use, any industrial, commercial or scientific equipment was reduced to 2% by virtue of a most favoured nation clause (Chile-Japan treaty. Circular 22 2018 Chilean IRS).
22. General treaty rate is 15%, but reduced to general rate of 10% by virtue of a most favoured nation clause (Chile-Spain treaty. Circular 8 2005 Chilean IRS). 10% also applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment.
23. General treaty rate is 10% while 5% applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. However, the 5% for such royalties is reduced to 2% under the application of a most favoured nation clause (Chile-Japan treaty).
24. General treaty rate is 15%, but reduced to general rate of 10% by virtue of a most favoured nation clause (Chile-Spain treaty Circular 62 and 8 2005 Chilean IRS).
25. General treaty rate is 10%, which is reduced to 5% under the application of a most favoured nation clause with respect to royalties paid for the use of, or the right to use, any industrial, commercial or scientific equipment. However this reduction has not yet been confirmed by the Chilean IRS.
26. General treaty rate is 15%, but reduced to general rate of 10% by virtue of a most favoured nation clause (Chile-New Zealand treaty. However this reduction has not yet been confirmed by the Chilean IRS.

27. General treaty rate is 15% while 10% rate applies to royalties from the use of, or the right to use, any copyright of literary, artistic or scientific work, or for the use of, or the right to use, industrial, commercial or scientific equipment.
28. Treaty rate is 15%, which is reduced to 12% with respect to interest derived from loans granted by banks and insurance companies, bonds or securities that are regularly and substantially traded on a regulated securities market and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment.
29. Technical and consulting services are included in the concept of royalty.
30. The provision of technical services and technical assistance are included in the concept of royalty.
31. General treaty rate is 15%, which was reduced to 10% from January 1, 2019 (most favoured nation clause under the Chile-Japan treaty. Circulars 22 and 50, 2018 Chilean IRS).
32. 4% rate applies to interest derived from loans granted by banks and insurance companies and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment. However if the interests derived from an agreement that implies a back to back credit or similar, the rates will be 10%. 5% rate applies to interest derived from bonds or securities that are regularly and substantially traded on a regulated securities market. Application of most favoured nation clauses Chile-Japan treaty. Circular 22 2018 Chilean IRS.
33. The lower rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment.
34. General treaty rate is 15%, but reduced to general rate of 10% by virtue of a most favoured nation clause (Chile-Spain treaty. Circular 62 and 8 2005 Chilean IRS). 5% applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment.
35. 5% applies to interest derived from loans granted by banks and insurance companies, bonds or securities that are regularly and substantially traded on a regulated securities market and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment.
36. General treaty rate is 15%. The 5% tax rate applies to interest derived from loans granted by banks and insurance companies, bonds or securities that are regularly and substantially traded on a regulated securities market and a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment (application of most favoured nation clauses, Circular 8 2005 Chilean IRS).

Chile has also signed several agreements for the avoidance of double taxation of income from international shipping and/or air transport. Some of the agreements were concluded by means of an exchange of diplomatic notes. The agreements have been concluded with the following countries: Costa Rica (air transport), France (air transport), Germany (air transport and shipping), Panama (air transport), Singapore (shipping), Switzerland (air transport), the United States (air transport), Uruguay (air transport), United Arab Emirates (air transport and shipping) and Venezuela (air transport and shipping).

## COLOMBIA

### MEMBER FIRM

City	Name	Contact Information
Bogotá	Vivian Amézquita	+57 1 208 7500 avivian@amezquita.com.co
Bogotá	Jimmy Galarza	+57 1 208 7500 gjimmy@amezquita.com.co

### BASIC FACTS

Full name:	Republic of Colombia
Capital:	Bogotá
Main languages:	Spanish, indigenous
Population:	49.79 million (2019 estimate)
Monetary unit:	Colombian Peso (COP)

Internet domain:	.co
Int. dialling code:	+57

## KEY TAX POINTS

- Companies resident in Colombia and foreign entities are subject to corporate income tax at a single rate of 33% on their worldwide income (a reduced 20% rate applies in the 'free-trade zone' areas).
- Capital gains are taxed at 33% as ordinary income if the asset sold has remained for less than two years in the hands of the taxpayer. Capital gains on sale of assets owned for more than 2 years are taxed as an occasional profit at a rate of 10% (there are some exemptions however, such as gains from lotteries and similar sources that may be subject to special taxation).
- Value Added Tax (VAT) is levied at a standard rate of 19% on taxable supplies of goods and services by a taxable person within Colombia and on the importation of goods into Colombia by any person. VAT at a rate of 5% applies to staples products and 0% is applied to certain specific services and goods.
- Special tax incentives are provided to investors in certain specified industries such as hotels (new or remodelled constructed in municipalities of up to two hundred thousand inhabitants).
- There are a number of 'free-trade zones' and 'special import-export systems' which provide duty-free entry of capital goods and materials to be used in the production goods for exportation.
- Financial entities are subject to a surcharge for the additional income tax as follows: in the year 2019 four percentage points are added, totalling to 37%, in 2020 three percentage points are added, totalling to 35%, in the year 2021, three percentage points are added totalling to 34%. This surtax is applied to financial entities that have a taxable income equal to or exceeding COP 4,112 million in a fiscal year.

### A. TAXES PAYABLE

The following are the most important taxes that apply in Colombia.

#### COMPANY INCOME TAX

Companies resident in Colombia and foreign entities are subject to corporate income tax at a single rate of 33% on their worldwide income. Resident corporations are those organised under Colombian law and those foreign companies that have a branch in Colombia. Permanent establishments are also submitted to income tax. A reduced 20% rate applies in the 'free-trade zone' areas. A presumptive income tax system applies when 1.5% of the net equity of the previous year is higher than the net taxable income.

#### CAPITAL GAINS TAX

Capital gains are taxed at 33% as ordinary income if the asset sold has remained for less than two years in the hands of the taxpayer. Capital gains derived from a sale of assets owned for more than two years is taxed as an occasional profit at a rate of 10% (there are some exemptions however, such as gains from lotteries and similar sources that may be subject to special taxation).

#### VALUE ADDED TAX (VAT)

VAT is applicable on taxable supplies of goods and services by a taxable person within Colombia and on the importation of goods into Colombia by any person. There are currently three VAT rates as follows: 19% standard rate, 5% for staples products and 0% for certain specific services and goods.

#### PROPERTY TAX

Real estate property is subject to municipal taxation. The tax is usually levied at rates within a band of 1 to 16 per thousand, with reference to the cadastral value of each property. Undeveloped plots of land may be subject to increased tax rates.

#### VEHICLE TAX

Vehicle possession is subject to municipal taxation. The tax base is the commercial value.

#### FINANCIAL TRANSACTIONS CONTRIBUTION

A 0.4% tax is imposed on all financial transactions, including money withdrawals from an ATM, wire transfers, internet banking, bank drafts and bank checks, money on term deposit, overdrafts, instalment loans and

securities underwriting commitments. As of 1 January 2013, income taxpayers are allowed to deduct 50% of bank debit tax from taxable income.

## NATIONAL CONSUMPTION TAX

This tax is applied to restaurants and bars for consumption at a rate of 8%. It is also applied to mobile telephone services at a 4% rate.

## INDUSTRY AND COMMERCE TAX

This is a municipal tax applied to developing commercial, industrial and service activities in a municipality. The tax rate goes from 0.2% and 1.38% and is adjusted according to the activity of the company and is fully deductible for income tax purposes. As of 2019, income taxpayers are allowed to deduct 50% of the tax on industry and commerce from taxable income.

## B. DETERMINATION OF TAXABLE INCOME

### DEPRECIATION

Tax deductions are available for reasonable depreciation rates which reflect the normal wear and tear or obsolescence of the property concerned. The straight-line and the declining-balance methods may be used, along with any other method of recognised technical value.

### TAX ON DIVIDENDS

Law 1943 of 2018 introduced a dividend tax on profits derived as from 1 January 2019 by non-resident companies:

- 7.5% final withholding on non-taxable dividends; and
- 33% final withholding on taxable dividends.

Dividends paid to resident natural persons, from the distribution of non-taxable profits, are subject to the following income tax rates:

Type of dividend	Dividend amount	Rate (%)
Non-taxable dividends	Up to COP 10 million	0
	COP 10 million onwards	15
Taxable dividends received by a resident company	Any amount	33
Dividends received by a non-resident company	Any amount	33

- Dividends received by foreign companies and non-resident natural persons are subject to a 7.5% withholding tax.

### INTEREST DEDUCTIONS

Taxpayers are allowed to deduct interest derived from debts only up to an amount that does not exceed a 2:1 debt-to-equity ratio, taking into account the taxpayer's net equity as of 31 December of the previous year. Any interest payment derived from debts exceeding the said ratio is not deductible. This limitation applies where interest-generating debts are directly or indirectly contracted with related parties.

### DEDUCTION OF TAXES

Are deductible from taxable income at 100%, fees and contributions, which have been effectively paid during the taxable year or period and are causally related to economic activity. Regarding the financial transactions contribution, income taxpayers are allowed to deduct 50% of bank debit tax from taxable income. As of 2019, income taxpayers are allowed to deduct 50% of the tax on industry and commerce from taxable income.

### LOSSES

Losses sustained by a company in a tax year can be carried forward and deducted during the following twelve tax years. Loss carry-back is not allowed.

## FOREIGN SOURCE INCOME

Foreign source income for non-residents is not subject to income tax.

## EXPENSES ABROAD

Expenses abroad that are necessary and related to the activity of the company and that generate fiscal income that is not submitted to withholdings are deductible with a limitation of 15% of the taxable base.

## INCENTIVES

1. **Megainversiones regime:** seeks to promote investment and employment generation through granting of tax incentives, in favour of taxpayers making investments and complying with the requirements stated in the law.

### Benefits:

- Rate of 27% for income tax purposes;
- Depreciation of fixed assets over a minimum two-year period, regardless of the useful life of the asset;
- Not subject to presumptive rent.

*Requirements:* (i) Generate minimum 250 jobs; (ii) Investments made at a minimum value of COP 1 billion (2019); Investment must be made in property, plant and equipment; and (iv) the investment must be made within a maximum period of 5 years.

2. **Works by taxes:** validating a prior regime created by the 2016 tax reform, which will continue to stay in force until 30 June 2019.

*Nature of the new regime:* the regime transitions from being a mere mechanism of payment of taxes along with the realisation of works to a convention concluded with public entities of national order for the accomplishment of works in the areas most affected by the armed conflict (ZOMAC), for which will be received as a consideration negotiable securities for the payment of taxes. This scheme will apply from 1 July 2019.

*Benefits:* 50% payment of income tax and not subject to withholding or self-withholding for income tax purposes.

*Requirements:* applies to taxpayers with gross income equal to or greater than COP 1,152 million.

3. **Orange economy:** considered to be exempt for a period of 7 years; income derived from the development of industries of technological added value and creative activities listed in the standard.

*Requirements:* i) main domicile in the national territory and exclusive social object focused on the industries concerned, ii) incorporated companies and initiating economic activities before 31 December 2021, iii) the activities must correspond to the list established in the standard, iv) minimum amount of employment (may not be less than 3 employees and must relate to the industries concerned), v) project must be submitted for confirmation to the Ministry of Culture, vi) must meet minimum investment amounts (COP 150 million) within a maximum period of 3 years.

4. **Development of the Colombian countryside:** considered to be exempt for a period of ten years; revenue from investments that increase productivity in the agricultural sector.

*Requirements:* (i) main domicile and seat of administration and operation in the municipality in which the investment is made, (ii) exclusive social object, (iii) establish and initiate economic activities by 31 December 2021, iv) meet the minimum employment threshold (10 employees) and investment of COP 856 million, v) present the project to the Ministry of Agriculture.

## C. FOREIGN TAX RELIEF

Colombia relieves international double taxation unilaterally by granting an ordinary foreign tax credit, i.e. taxpayers may credit the amount of foreign tax paid on foreign-source income up to the amount of domestic Colombian tax that would be due on the income, subject to certain conditions.

## D. CORPORATE GROUPS

There is no concept of group relief for Colombian tax purposes.

## E. RELATED PARTY TRANSACTIONS

As a general rule, transactions between related parties must be carried out on arm's length basis, i.e. the prices should be the same as those that would be arrived at in comparable transactions with independent

parties. The tax authorities may adjust the prices at which the taxpayer acquires or sells goods, as well as the consideration of other transactions, and modify the taxable base or the relevant loss of a taxpayer for income tax purposes. None of the double taxation treaties between Colombia and other countries reduce the withholding tax rates below the domestic rates.

Additionally, taxpayers who carry out operations with related parties with offices or residence abroad, with gross assets of more than USD 3,315,600 and with gross revenue in excess of USD 2,022,516 are required to file an annual informative report of all of the operations carried out with their related parties and to prepare for those transaction that exceed the sum of USD 1,492,020 and file previous request of the tax authority probative documentation in order to prove the correct application of the current transfer pricing regulations. This probative documentation must be kept for a period of five years beginning on 1 January of the year following its preparation.

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## F. WITHHOLDING TAX

A 20% income tax withholding applies to foreign payments of interest, commission, fees, royalties, technical services and advisory services and a 33% income tax withholding applies to administration or management fee payments made to headquarters, whether Colombian source income or foreign income.

## G. EXCHANGE CONTROL

Certain foreign currency transactions must be channelled through authorised exchange intermediaries:

- Import of property;
- Export of property;
- External indebtedness;
- Foreign investment in Colombia;
- Colombian investment in foreign countries;
- Financial investments and fixed assets based in foreign countries;
- Endorsements and guarantees;
- Derivative transactions.

## H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Domestic rates</b>				
Companies	0/40 <sup>1</sup>	0	33	15/33
Individuals	0/40 <sup>1</sup>	--	0/15/33	15/33
<b>Treaty countries:</b>				
Bolivia	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>
Canada	15	5/15 <sup>3</sup>	10	10
Chile	7	0/7 <sup>4</sup>	5/15 <sup>5</sup>	10
Czech Republic	15	5/15 <sup>4</sup>	0/10	10
Ecuador	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>	-- <sup>2</sup>
India	5/15	5/15	10	10
Mexico	0/33 <sup>7</sup>	0/33 <sup>7</sup>	5/10 <sup>5</sup>	10
Peru	--	--	--	--
Portugal	10/33	10/33	10	10

South Korea	10	5/10 <sup>8</sup>	0/10 <sup>6</sup>	10
Spain	5	0/5 <sup>8</sup>	10	10
Switzerland	15	0/15 <sup>8</sup>	10	10

Notes:

- As from 1 January 2019, dividends are subject to a 7.5% income tax. Furthermore, dividends paid out of profits not taxed in the hands of the Colombian company are subject to 33% income tax, giving rise to an effective tax rate of 38.025% (the 7.5% income tax is applied after assessment of the 33% tax:  $100-33=67$ \*7.5% = 5.025% + 33%) if the dividends are paid from profits that were taxed at the corporate level, they will only be subject to the 5.025 rate.
- Domestic rate applies, no reduction under the tax treaty. Source state has exclusive right to tax.
- The lower rate applies in case of a shareholding of at least 10% in the distributing company's capital.
- The lower rate applies in case of a shareholding of at least 25% in the distributing company's capital
- The lower rate applies to interest derived by banks or insurance companies.
- The lower rate applies to interests derived by the government, central bank or any financial institution performing functions of a governmental nature.
- Exclusive taxation by the resident country.
- The lower rate applies in case of a shareholding of at least 20% in the distributing company's capital.

## I. TAX FOR FISCAL NORMALISATION

A tax amnesty was introduced to normalise unreported assets or non-existent liabilities that were included in a tax return. The amnesty will apply only for 2019 (25 September 2019 is the due date for filing the normalisation tax) and the applicable tax rate is 13% of the value of the unreported assets or non-existent liabilities. Money that is repatriated to Colombia before 31 December 2019 and kept in the country for two years will be subject to a reduced 6.5% tax rate. The normalisation tax applies to assets in private foundations, assets in trusts, insurance with savings components, investment funds and other fiduciary business activities.

## J. REGIME OF COLOMBIAN HOLDING COMPANIES (CHC)

Applies to national societies which have as one of their principal activities the holding of securities, the investment or holding of shares or shareholdings in Colombian companies or entities and/or the outside, and/or the administration of such investments.

### Requirements:

- Direct or indirect participation of at least 10% of the capital of two or more Colombian and/or foreign companies or entities for a minimum period of 12 months;
- Have at least three employees, a self-management in Colombia and demonstrate that strategic decision making regarding the investments and assets of the CHC is carried out in Colombia. The simple formality of the annual assembly of Shareholders will therefore not suffice.

### Benefits:

- Dividends or shares distributed by non-resident entities in Colombia to a CHC would be exempt from income tax and will be declared as capital-exempt income;
- Dividends distributed by a CHC to an income taxpayer (resident natural person or resident legal person) would be taxed at the dividend income rate;

## COSTA RICA

### MEMBER FIRM

City	Name	Contact Information
San José	Fernando Murillo Marchini	+506 2253 0304 fermur@pkf.cr

San José

Laura Ulate Pascua

+506 2253 0304

legal@pkf.cr

## BASIC FACTS

Full name:	Republic of Costa Rica
Capital:	San José
Main languages:	Spanish, Mekatelyu, Bri bri, Patois
Population:	4.99 million (2019 estimate)
Monetary unit:	Costa Rican Colón (CRC)
Internet domain:	.cr
Int. dialling code:	+506

## A. TAXES PAYABLE

### COMPANY TAX

Costa Rica has a classical corporate tax system, where a general income tax (*impuesto sobre las utilidades*, GIT) is taxed both at the corporate level and at the shareholder level.

Under the territoriality principle, both residents and non-residents are only taxed on Costa Rican-source income. The GIT is levied on net income derived by resident corporations. Non-resident corporations are subject to a final withholding tax.

The corporate tax year runs from 1 October to 30 September. However, as from 2020, the fiscal year will run from 1 January until 31 December 31. It is therefore possible that the fiscal year of 2020 contains 15 months: from 1 January until 31 December 2020, and including October, November and December 2019.

Companies need to make 3 installments of income tax during the year: 6 months after the start of the fiscal year, 3 months after the first installment and 3 months after the second installment.

Corporate income is taxed at a rate of 30%. However, special regulations for small companies are in place.

Corporate income tax (CIT) brackets are adjusted yearly, effective 1 October to 30 September of the following year. In the new Law that will come into play as of 1 July 2019, a new tariff scale is established for legal persons whose gross income does not exceed CRC 106,000,000 (approximately USD 188,000) during the fiscal period:

- 5% on the first CRC 5,000,000 of annual net income;
- 10% between CRC 5,000,000 and CRC 7,500,000 of annual net income;
- 15% between CRC 7,500,000 and CRC 10,000,000 of annual net income;
- 20% on the excess of CRC 10,000,000 of annual net income.

In addition, the following exemptions are established for micro and small businesses registered with the Ministry of Economy, Industry, and Commerce or with the Ministry of Agriculture and Livestock:

- 0% of tax on profits in the first year of commercial activities.
- 25% of tax on profits in the second year of commercial activities.
- 50% of tax on profits in the third year of commercial activities.

Dividends distributed by a CHC to a non-resident natural or legal person in Colombia would be qualified as foreign source income.

### BRANCH PROFITS TAX

In Costa Rica branches of foreign companies are subject to corporate income tax according to the rates set out in the table under 'Company Tax'.

### CAPITAL GAINS TAX

As from 1 July 2019, the Tax Reform law will create a capital gains tax of 15% which will apply to investment income and real estate. For real estate the law provides a one-time exemption for those property owners that

## Costa Rica

own property before the law comes into effect. Those will pay 2.25%. Also the primary residence is exempt from capital gains.

### SALES TAX / VALUE ADDED TAX

From 1 July 2019, Costa Rica will move from a sales tax system to a VAT system. The current sales tax rate in Costa Rica is 13% and it only applies to a limited number of products. Changing to a Value Added Tax system will cover products and services. The general tax rate will remain at 13% while there will be a 4% tax on airline tickets and healthcare services. A 2% tax will be levied on medical products, raw materials and machinery used for production, insurance premiums, purchase and sale of university issued products. Basic food necessities from a specific list will be charged a 1% tax.

### LOCAL TAXES

Costa Rica's income taxes affect the whole national territory equally.

### OTHER TAXES

- Municipal Office Taxes: taxes are paid according to set rates and total assets of the company but the local municipality imposes the payment depending on several factors.
- Corporation Tax: all commercial companies have to pay this tax in January. The rates are as follows:

	Tax due (CRC)
Companies without commercial activities	66,930
Companies with gross income not exceeding CRC 53,544,000	111,550
Companies with gross income between CRC 53,544,000 and CRC 124,960,000	133,860
Companies with gross income exceeding CRC 124,960,000	223,100

- Social Security Tax: payments made monthly by employees and employees on the payroll of companies for the purpose of guaranteeing the functioning of the worker social security system and retirement benefits at the national level.
- Consumption tax: imposed on the import or domestic manufacture of goods. The rates are variable and selective, affecting only certain types of goods.

## B. DETERMINATION OF TAXABLE INCOME

### CAPITAL ALLOWANCES

There are currently no capital allowances in Costa Rica.

### DEPRECIATION

Depreciation methods allowed are the straight-line method and the sum-of-the-year's digits method although the tax authorities may authorize the use of other methods.

Annual rates of depreciation based on the straight-line method are the following:

- Buildings in general: 2%;
- Wooden buildings: 4%-6%;
- Construction machinery and equipment: 15%;
- Motor vehicles: 10%;
- Machinery and equipment: 10%;
- All types of boats: 10%;
- Farming machinery: 10%.

### STOCK / INVENTORY

Stock / inventory is not taxable in Costa Rica.

## CAPITAL GAINS AND LOSSES

Capital gains are not taxable in Costa Rica subject to certain exceptions (see above under 'Capital Gains Tax').

## DIVIDENDS

Dividends are not taxable at the level of corporations in Costa Rica, i.e. dividends received by a resident company from another resident company are exempt from corporate income tax. However, this income is subject to a 15% final withholding tax when paid to individuals or foreign entities.

## INTEREST DEDUCTIONS

Thin capitalisation rules are introduced further to the 2019 Tax Reform and will be applicable to financing from shareholders or related parties. In such cases, interest will be deductible up to 20% of the earnings before tax, depreciation, and amortisation (EBDTA). The difference may be deducted in the following years until the expense is amortised. Thin capitalisation rules will not apply to loans granted by local banks or non-domiciled financial entities supervised in their country of origin.

## LOSSES

- Business losses from industrial enterprises may be carried forward for 3 years and deducted in equal or different percentages, provided the aggregate does not exceed 100%.
- Agricultural enterprises may carry forward losses for up to 5 years.
- Losses incurred by commercial enterprises may not be carried forward.
- There is no carry-back of losses.

## FOREIGN SOURCED INCOME

The corporate tax system is based on the territoriality principle. Tax is only due on business income generated in Costa Rica, i.e. income from services rendered, capital invested and goods located in the country.

## INCENTIVES

Companies operating in a Free Zone enjoy a number of exemptions which are valued according to the conditions of each company that wants to be established in these zones.

### C. FOREIGN TAX RELIEF

There is no double taxation relief for foreign taxes as the Costa Rica tax system is based on the territoriality principle. Foreign taxes paid are not deductible for income tax purposes.

### D. CORPORATE GROUPS

Costa Rican law does not allow group consolidation.

### E. RELATED PARTY TRANSACTIONS

Since 2013 there are first-time transfer pricing rules applicable to business entities or individuals conducting transactions with related parties. These rules follow the OECD Transfer Pricing Guidelines and are based on the at arm's length principle. They provide for advance pricing agreements (APAs), documentation requirements, an annual information return and a transfer pricing methodology.

On 2 February 2018, Costa Rica gazetted Resolution No. DGT-R-001-2018, setting out the rules for filing a Country-by-Country ('CbC') report.

The parent company of a multinational group resident in Costa Rica with consolidated group revenue of the equivalent of EUR 750 million in the Costa Rican currency – presently CRC 529.3 million (USD 924.7 million) – must comply with the obligation to file a CbC report, in line with the rules set out in the Resolution, which is intended to align Costa Rica's transfer pricing documentation regime with the recommendations put forward by the OECD in its Action 13 report on tackling base erosion and profit shifting.

The Resolution provides that groups covered by the regime must identify the entity that will file a CbC report by the last working day of the month of March each year, beginning in March 2018, through an official letter that must be sent digitally and signed by the local representative of the entity, addressed to the Director General of Taxation. The same deadline and rules apply to groups whose ultimate parent entity is in Costa Rica that have elected to file a CbC report in a different territory.

## Costa Rica

The Resolution provides that regardless of the month in which a reporting entity's fiscal period ends, the first CbC report must be furnished by 31 December 2018, at the latest, relating to the 2017 fiscal year. The same schedule applies to future years: the CbC report is required by 31 December 31 of each year following the relevant fiscal period.

### F. WITHHOLDING TAX

Dividends paid to individuals or foreign entities are subject to a 15% final withholding tax. A lower rate of 5% applies if the stock of the company distributing dividends is traded on the Stock Exchange and if such stock was acquired on that market.

Interest, commission, fees and other financial expenses paid or credited to non-residents are subject to a 15% final withholding tax applied to the gross amounts.

However, interest is exempt from tax when paid to:

- multilateral or bilateral development institutions;
- development banks; or
- non-profit entities that are exempt from income tax.

Royalties from a Costa Rican-source paid or credited to non-residents are subject to a 25% final withholding tax on the gross amount.

Technical and financial advice fees are subject to a 25% final withholding tax on the gross amount.

### G. EXCHANGE CONTROL

There is no foreign exchange control. Repatriation payments may be done in any currency. Both residents and non-residents may hold bank accounts in any currency.

### H. PERSONAL TAX

An executive decree gazetted on 1 October 2018 updated the salary and income tax brackets and tax credit amounts for individuals for the 2019 tax year (i.e. 1 October 2018 to 30 September 2019). The changes are effective as from 1 October 2018.

#### Self-employed individuals

Annual income (CRC)	Rate
Up to 3,628,000	0%
3,628,001 to 5,418,000	10%
5,418,001 to 9,038,000	15%
9,038,001 to 18,113,000	20%
Over 18,113,000	25%

#### Salaried individuals

Monthly income (CRC)	Rate
Up to 817,000	0%
817,001 to 1,226,000	10%
Over 1,226,000	15%

### I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Costa Rica has a Free Commerce Treaty with the USA, Central America and the Dominican Republic and double tax treaties with Germany and Spain.

	Dividends (%)	Interest <sup>1</sup> (%)	Royalties (%)
Non-treaty countries:			

Companies	5 <sup>4</sup> /15	0 <sup>3</sup> /15	25
Individuals	5/15	8/15	25
<b>Treaty countries:</b>			
Germany <sup>2</sup>	5 <sup>1</sup> /15	0/5	10
Mexico <sup>5</sup>	5 <sup>1</sup> /12	10	10
Spain	5 <sup>1</sup> /12	0/5/10	10

Notes:

1. The 5% reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 20% of the capital of the dividend-paying company.
2. Effective date: 1 January 2017.
3. Interest is exempt from withholding tax if paid to: (i) multilateral or bilateral development institutions (ii) development banks or (iii) non-profit entities that are exempt from income tax.
4. The 5% reduced rate applies if the stock of the dividend-distributing company is traded on a recognised Stock Exchange and if such stock was acquired in that market.
5. Effective date: 1 January 2020.

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## DOMINICAN REPUBLIC

### MEMBER FIRM

City	Name	Contact Information
Santo Domingo	Hector Guzman Desangles	+1809 540 6668 hguzman@guzmantapiapkf.com.do

### BASIC FACTS

Full name:	Dominican Republic
Capital:	Santo Domingo
Main languages:	Spanish
Population:	10.98 million (2019 estimate)
Monetary unit:	Dominican Pesos (DOP)
Internet domain:	.do
Int. dialling code:	+1809

### KEY TAX POINTS

- The corporate tax system is based on the territoriality principle. Corporate income tax is only due on business income generated by enterprises operating in the Dominican Republic. Certain types of investment income derived by Dominican residents from sources outside the Dominican Republic are also subject to Dominican taxation.
- Non-resident companies operating through a permanent establishment in the Dominican Republic are taxed on income attributable to the permanent establishment as well as on Dominican-sourced income. Non-residents without a permanent establishment in the Dominican Republic are taxed on Dominican-sourced income only.
- Companies are subject to the higher of corporate income tax (at 27%) or alternative minimum tax (1% of the total asset value after deducting depreciation).
- The standard rate of VAT is 18%.

## A. TAXES PAYABLE

### COMPANY TAX – GENERAL REGIME

The corporate tax system is based on the territoriality principle, whereby tax is only levied on business income derived from Dominican sources. Companies are subject to the higher of corporate income tax (27%) or alternative minimum tax. Dividends paid to residents or non-residents out of Dominican-source income are subject to withholding tax at the rate of 10% on the gross amount. This is a final tax on dividends.

Corporate income tax is levied on residents and non-residents deriving Dominican-source income. Resident entities are subject to corporate income tax on certain items of investment income derived from foreign sources. Non-residents without a permanent establishment in the Dominican Republic are only taxed on Dominican-sourced income.

Corporate income tax on resident companies and branches of foreign companies is levied at a rate of 27% or alternative minimum tax is applied, whichever is higher. The latter is assessed at a rate of 1% on the assets registered in the taxpayer's accounting books.

Companies will make monthly advance tax payments, which are 1/12 of the equivalent of the tax amount paid in the prior year and at year-end they should correspond to the abovementioned 27% or 1% calculated taxes. When current year taxes are calculated, the monthly payment is compensated in the following period. If the monthly payment was insufficient then the corporation needs to make up for the payment. Tax is payable as follows:

- Payments on account are estimated on the basis of the previous tax year's corporate tax liability, less any tax withheld at source, and are subject to the following limits:
  - Twelve instalments of (total 100%) – taxpayers with turnover or 1% of their total assets (whichever is higher when computed).

### CAPITAL GAINS TAX

Capital gains derived from the sale of assets, immovable property or shares included in gross income and are subject to the 27% standard corporate income tax rate. The capital gain is calculated by deducting the acquisition cost – adjusted for inflation – from the sales price and adding the accumulated earnings/losses.

### BRANCH PROFITS TAX

Only the income attributable to the Dominican branch (permanent establishment) is subject to corporation tax. Remittances by permanent establishments of non-residents are subject to a final withholding tax at the rate of 27%.

### VALUE ADDED TAX

VAT (ITBIS) is levied on taxable supplies of goods and services as well as on imports of taxable goods and services into the Dominican Republic. Exports are zero-rated. The standard rate is 18%.

Professional services, rental of movable goods and professional security services are subject to a withholding of the invoiced ITBIS at the rate of 30%.

### LOCAL TAXES

No local tax applies.

### OTHER TAXES

Municipal tax: owners of real estate property are subject to a 1% tax rate. For rural properties, no tax applies.

### FRINGE BENEFITS TAX

There is no fringe benefits tax in the Dominican Republic.

## B. DETERMINATION OF TAXABLE INCOME (ISR)

### GENERAL REGIME

Net income or taxable income is arrived at by adjusting the accounting profits for non-taxable income and non-deductible expenses. As a general principle, costs are only deductible when necessarily incurred for the purpose of producing income.

## SIMPLIFIED SCHEME

Companies who a) during the previous year had a total turnover under DOP 6 million and b) have not elected to be assessed under the General Regime referred to above, are subject to the simplified taxation scheme. Under this scheme, taxable income is computed as 27% of the turnover from sale of goods and merchandise.

## DEPRECIATION

All the items of fixed assets, except land, can be depreciated or amortised for tax purposes. The depreciation rates are set by specific legislation and include 5% for office buildings, 25% for cars and furniture and 15% for other assets.

## STOCK / INVENTORY

Inventory must normally be valued at the effective cost of acquisition or production (historic cost). Other methods which may be adopted include:

- The standard cost method, which must be calculated in accordance with the appropriate technical and accounting principles;
- The sale price method, based on the market value less a normal profit margin.

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## CAPITAL GAINS AND LOSSES

Gains realised by resident entities from the disposal of shares are exempt from tax.

## DIVIDENDS

Dividends are normally subject to withholding tax at 10% (when it is paid in cash).

## INTEREST DEDUCTIONS

Interest is deductible on an accrual basis. The Fiscal Administration is entitled to disregard expenses related to interest where related parties are involved.

### Thin capitalisation

Deductible interest may not exceed the result from multiplying the total amount of interest accrued in the tax period by three times the annual average net equity divided by the annual average balance of all of the taxpayer's interest-bearing debt. Non-deductible interest may be carried forward for 3 years as from the year in which the interest was accrued. The limitation in the interest deduction is not applicable to interest paid to resident individuals and entities and also not to regulated financial entities.

## LOSSES

Operating losses incurred by ordinary corporate taxpayers may be carried forward for 5 years to set off against taxable profits, but only 20% of the amount each year. No carry-back is allowed.

## FOREIGN SOURCE INCOME

Regarding active income, taxation of resident companies takes into account only their Dominican-sourced income. However, Dominican-resident companies, branches, and permanent establishments are subject to taxation on income from Dominican sources and on income from foreign sources arising from investments and financial gains, i.e. certain items of passive income.

## TAX INCENTIVES

Incentives under Dominican tax legislation include the free-trade zones, investment in tourism, and companies established in the border between Dominican Republic and Haiti.

## C. FOREIGN TAX RELIEF

Resident companies can obtain a credit for any foreign tax paid abroad on income that is also subject to Dominican corporate income tax. The foreign tax credit is limited to the amount of Dominican tax to which the foreign-source income would be subject in the Dominican Republic.

## D. CORPORATE GROUPS

None. There are no special measures for controlled foreign companies.

## E. RELATED PARTY TRANSACTIONS

Transfer pricing rules are based on the OECD guidelines. The following methodologies are accepted: (i) comparable uncontrolled price method (ii) resale price method (iii) cost plus method (iv) profit split method and (v) transactional net margin method. APAs (advance pricing agreements) are available for all taxpayers and sectors.

On 1 September 2017, the tax authorities published a new (the sixth) version of the transfer pricing information return. All taxpayers within the scope of the transfer pricing regulations must file the return on an annual basis within the first 180 days after the end of the fiscal year. The new version of the return requires taxpayers to:

- Summarise transactions by type;
- Report the profit level indicator of the tested party of each transaction;
- Use the same format as the previous version to allow the information to be validated;
- Complete the information regarding related parties and transactions on the tax administration's virtual platform.

This new version of the return applies for fiscal year 2017 and onwards and as of 1 September 2017 all taxpayers must adopt this new version.

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## F. WITHHOLDING TAX

Income paid to non-residents is subject to withholding tax at the following rates:

- Dividends: 10% (final tax);
- Interest: 10%, subject to exceptions;
- Royalties: 27% (final tax);
- Management/technical service fees: 27% (final tax).

## G. EXCHANGE CONTROL

Capital movements are freely transferable.

## H. PERSONAL TAX

Income tax is payable by individuals on income obtained from employment, from a business, from an independent profession, from investment income, from immovable property, capital gains, pensions, and betting and gambling profits. Resident and non-resident individuals are subject to income tax on Dominican-sourced income only. When determining the taxable income, besides some specific deductions concerning each category of income, other deductions may be allowed, such as expenses on health and education.

Tax returns are due on 15 March of the subsequent tax year for taxpayers with income derived solely from employment or pension. The following rate table applies in tax year 2018 to the aggregate net result of employment income, business income, investment income (except interest on bonds and deposits), income from land, capital gains and income from pensions.

Taxable Income (DOP)	Rate on Excess (%)
Under 416,220	0
416,220 – 624,329	15% over DOP 416,220
624,329.01 – 867,123	20% over DOP 624,329
In excess of 867,123	25% over DOP 867,123

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends (%)	Interest (%)	Royalties (%)
<b>Non-treaty countries</b>	10	10	27
<b>Treaty countries:</b>			
Canada	0/10/18 <sup>3</sup>	18	18
Spain	0 <sup>1</sup> /10	0/10 <sup>2</sup>	10

## Notes:

1. The 0% rate applies in case of a 75% holding in the paying company.
2. The lower rate applies to interest paid by public bodies.
3. The rate for dividends under the treaty is 18%. However, by virtue of a most favoured nation clause the rate is reduced to 0% if the beneficial owner is a company (other than a partnership) which holds directly at least 75% of the capital of the dividend-paying company and 10% in all other cases.

**ECUADOR****MEMBER FIRM**

City	Name	Contact Information
Guayaquil	Edgar Naranjo	+593 4 236 7833 enaranjo@pkfecuador.com pkf@pkfecuador.com

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**BASIC FACTS**

Full name:	Republic of Ecuador
Capital:	Quito
Main languages:	Spanish, indigenous languages
Population:	17.05 million (2019 estimate)
Monetary unit:	US Dollar (USD)
Internet domain:	.ec
Int. dialling code:	+593

**KEY TAX POINTS**

- Corporate tax is payable by Ecuadorian resident companies on non-exempt income derived from all sources. Non-resident companies are required to pay tax on income sourced in Ecuador.
- The corporate tax rate for year 2018 is 25%. Capitalised profits are subject to a 15% tax rate.
- Value Added Tax (VAT) is applied at a standard rate of 12% to all transactions including imports. There is a 0% rate on food items, agricultural inputs, medical goods, books and government purchases, and some professional services.
- No provisions exist for filing consolidated returns or relieving losses within a group.
- Dividends paid to non-residents domiciled in tax havens or low-tax jurisdictions are subject to 10% withholding tax. Dividends paid to non-residents in general are exempt from withholding tax. Royalties, service and rental fees attract the same 25% withholding tax (for year 2019). Interest payments are exempt from withholding tax.
- Income tax is payable by Ecuadorian resident individuals on non-exempt income derived from all sources. Non-resident individuals are required only to pay tax on Ecuadorian-sourced income.

**A. TAXES PAYABLE****CORPORATE TAX**

Corporate tax is payable by Ecuadorian resident companies on non-exempt income derived from all sources. Non-resident companies are required to pay tax on income sourced in Ecuador. Resident companies are those that are incorporated in Ecuador or carry on business in Ecuador and have either central management and control in Ecuador or voting power controlled by shareholders who are Ecuadorian residents.

The corporate tax rate for year 2019 is 25% and 28% in case the shareholders reside in tax havens or low-tax

jurisdictions, if together or individually they own at least 50% of the company's capital. When that participation is less than 50%, the corporate tax rate of 25% and 28% will be applied proportionally to the income tax base for each shareholder.

Resident companies that fail to fully disclose the required information about their ultimate beneficiaries, will also be subject to the 28% corporate tax rate.

Capitalised profits are subject to a 15% tax rate. The tax year runs from 1 January to 31 December.

Tax is payable from 2–28 April, depending on the 9th digit of tax identification number. Individuals and other companies not required to keep accounting records are subject to make an advance tax payment equal to 50% of the previous year's income tax, less withholdings for that period. Individuals and entities required to keep accounting records are required to make an advance tax payment equal to the sum of the following items:

- 0.2% of total equity.
- 0.2% of total deductible costs and expenses.
- 0.4% of total assets.
- 0.4% of total taxable income.

The effect of revaluations on equity and assets, salaries and social benefits (such as thirteenth and fourteenth month salaries, and the mandatory contribution to social security) are excluded from the calculation.

The advance tax payment is done in two instalments, according to the following chart:

9 <sup>th</sup> RUC digit	Expiry date (1 <sup>st</sup> portion)	Expiry date (2 <sup>nd</sup> portion)
1	July 10 <sup>th</sup>	September 10 <sup>th</sup>
2	July 12 <sup>th</sup>	September 12 <sup>th</sup>
3	July 14 <sup>th</sup>	September 14 <sup>th</sup>
4	July 16 <sup>th</sup>	September 16 <sup>th</sup>
5	July 18 <sup>th</sup>	September 18 <sup>th</sup>
6	July 20 <sup>th</sup>	September 20 <sup>th</sup>
7	July 22 <sup>nd</sup>	September 22 <sup>nd</sup>
8	July 24 <sup>th</sup>	September 24 <sup>th</sup>
9	July 26 <sup>th</sup>	September 26 <sup>th</sup>
0	July 28 <sup>th</sup>	September 28 <sup>th</sup>

The advance tax payment can be claimed for refund with a proportionate share that exceeds the effective tax rate determined by the tax authority for each industry/economic sector.

These advance tax payments constitute a tax credit for income tax purposes. Exonerations and reductions for advance tax payments apply when there is evidence of (1) losses, (2) a decrease in the current year operating activities in relation with prior years, or (3) withholdings exceed the income tax liability for the current year. All payments or registration of purchase of merchandise and service are subject to withholding tax at the following rates:

- 1% - electricity, private/public transport of passengers and private freight;
- 1% - purchase of all type of goods (except oil products);
- 1% - all construction activities;
- 1% - on 10% of the premium billed;
- 1% - on quotes and option purchasing in leasing;
- 1% - those carried out by media services and advertising agency;
- 1% - interest and commissions derived from credit operations between institutions of the financial system. The financial institution that paid or charged financial returns will act as a withholding agent;
- 2% - those realised by individuals for services in which workforce is involved in intellectual work;
- 2% - payments by credit card issuers to their merchants;
- 2% - income generated from loans and investments;

- 2% - those interests that any public entity recognised on behalf of taxpayers;
- 2% - any other payments;
- 8% - fees, commissions and other payments to professionals or other persons who are present in Ecuador for more than six months for services that are predominantly intellectual or for sport or artistic services, always when such service is not related to the professional title of the person who provides the service; royalties paid to resident individuals or Ecuadorian branches of non-residents; payments for letting of immovable property;
- 10% - fees, commissions and other payments to professionals or other persons who are present in Ecuador for more than six months for services that are predominantly intellectual, always when those services are related to their professional title. Payments and credits not included in withholding rates. Amounts paid to non-resident individuals for services rendered from time to time in Ecuador and that constitute taxable income, and other payments different to earnings or dividends that are sent, paid or credited abroad. (Fees for professional activities);
- 25% for year 2019 - payments to non-resident foreign individuals for subject-to-tax services occasionally performed in Ecuador and other payments other than dividends or profit distributions.

The amounts paid become credits available for income tax purposes at the end of the period. Interests paid to financial institutions are not subject to withholding tax. Employment income is subject to a specific withholding regime.

## CAPITAL GAINS TAX

Capital gains are taxed according to the following rates:

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Excess of	Up to	% tax rate
0	10,000	0%
10,000	20,000	2%
20,000	40,000	4%
40,000	80,000	6%
160,000	320,000	8%
320,000		10%

## BRANCH PROFITS TAX

There is no specific income tax for branches. Income generated by branches is taxed according to general income tax rules. A very important exception is the treatment of foreign oil companies involved in state contracts. There is no branch remittance tax in Ecuador.

## VALUE ADDED TAX (VAT)

There is a 12% value added tax applied to all transactions including imports. There is a 0% rate on food items, agricultural inputs, medical goods, books and government purchases, and some professional services. This tax is payable one month following the transaction from the 6th to the 28th depending on the taxpayers' tax identification number.

## FOREIGN MONEY TRANSFER TAX (ISD)

This tax is charged on the foreign currency value of all monetary transactions and operations carried out abroad with or without the intervention of the institutions of the financial system or on the value of payments made from accounts abroad for any reason. The rate of ISD tax is 5%. The ISD should be paid by all individuals, foreign banks and private companies, local and foreign.

Financial Institutions (IFIs) act as withholding agents when transferring foreign currency abroad by their clients. Withholding agents and collecting officers must collect from their customers, at the time they request the transfer abroad of foreign currency subject to this tax, a Form of "Information Statement of Foreign Money Transfer Tax" through financial institutions or couriers.

Payments for imports of capital assets and raw materials and dividends distributed to effective beneficiaries (residents or not) are exempt from ISD for new productive investments, subject to certain requirements.

Regular exporters can be refunded by the ISD paid in the import of inputs, capital assets and raw materials incorporated into productive processes.

### FRINGE BENEFITS TAX

No fringe benefits are deductible as expenses in income tax liquidation. The only exception is that the company is allowed to pay and expense its employee income tax and social security contribution if the company has contracted to do so.

### LOCAL TAXES

There are many and diverse taxes which are applied at local or regional level including: urban property, rain water drainage, fire insurance, individual and corporate net worth, state university funds, fire department, transfer of property, etc. Nominally, there are no stamp duties.

### OTHER TAXES

Other taxes imposed by the Ecuadorian Government include excise duties and oil and gas resources revenue taxes. Likewise, the Superintendence of Companies, Securities and Insurance, the Superintendence of Banks and the Superintendence of Popular and Solidarity Economy charge annual fees to the companies they supervise.

## B. DETERMINATION OF TAXABLE INCOME

### DEPRECIATION

Business assets are subject to depreciation. Costs are recovered in accordance with the goods involved based on their useful life and accounting techniques. In general, it is booked over 5 to 20 years.

### STOCK / INVENTORY

Inventories are valued at cost in accordance with general accounting principles and standards established in regulations to the law.

### CAPITAL GAINS AND LOSSES

Net capital gains and losses are generally included in the determination of assessable income.

### DIVIDEND INCOME

Dividends received by resident companies from other resident companies are tax free. Dividends received from non-resident companies are tax free.

### INTEREST DEDUCTIONS

Interest is deductible. The deduction of both interest and the cost of foreign financing are allowed only if the loan has been registered within the Central Bank of Ecuador (BCE) and the interest rate is lower than established by the BCE. If not, to be deductible, a withholding of 25% is required (for year 2019) on the excess.

### LOSSES

Companies that have sustained operating losses in a tax year may carry forward such losses to subsequent tax years and offset them over 5 years at the rate of 20% per annum, provided that no more than 25% of the profits obtained in each year are allotted for such purposes. Loss carry back is not allowed.

### FOREIGN SOURCE INCOME

Domestic corporations are subject to tax on their worldwide income with tax credits allowed for income taxes paid abroad.

### INCENTIVES

Specific write-offs are provided for the mining and primary oil production industries. Expenditure on research and development also qualifies for special treatment. Recently approved incentives include the following:

- New investments in priority sectors are exempt from income tax and advance tax for 12 or 8 years, depending on the location where the investment takes place.

- New investments in basic industries (copper and aluminum treatment, steel foundry, oil refining, petrochemical industry, cellulose industry, construction and repair of naval vessels) are exempt from income tax for 15 years. In case the new investment takes place in border areas, the exemption is increased by 5 additional years.
- Productive investments that subscribe to investment contracts with the Ecuadorian government are exempt from ISD payment with regards to the import of goods and raw materials and for dividends paid to effective beneficiaries domiciled or not in Ecuador.
- The advance tax payment is cancelled as a “minimum payment of income tax”. The excess incurred income tax can be claimed for refund with a proportionate share that exceeds the average effective tax rate.
- Tax credit on VAT can be used for up to 5 years.

Other incentives for public-private partnerships include the following:

1. 10-year exemption of income tax payment; this exemption also applies to dividends and income paid to partners or beneficiaries of the partnership;
2. Payments (capital and interests) for external financing to foreign financial institutions or specialised non-financial institutions approved by regulatory bodies in Ecuador are exempt from tax on payments abroad; these financing operations should be related to housing, microcredit or productive investments and registered with the Central Bank of Ecuador;
3. Money transfers are exempt from the tax on payments abroad;
4. Import of goods and acquisition of services made by public-private partnerships in the execution of a public project, as well as capital, interest and commissions paid to the financiers of a public project, dividends and income paid to beneficiaries, and the acquisition of shares, rights or participations of the entity created for the execution of a public project, are all exempt from the tax on payments abroad;
5. Income tax exemption for organisations from the popular financial sector with assets of more than USD 5 million which entered into merger transactions;
6. Three-year income tax exemption for new micro enterprises, given that they promote employment and add value to their productive processes;
7. Threshold increase to carry accounting records for individuals and undivided estates (now at USD 300,000).

## C. FOREIGN TAX RELIEF

Ecuador has double tax treaties with countries listed under Chapter I (see further).

## D. CORPORATE GROUPS

No provisions exist for filing consolidated returns or relieving losses within a group.

## E. RELATED PARTY TRANSACTIONS

Prior to administrative service fees being deductible when paid to foreign affiliates, the appropriate government authority must grant approval. Such payments are exempt from withholding tax. Other payments to foreign affiliates will only be deductible where income tax at 25% has been withheld.

## F. WITHHOLDING TAX

Dividends paid to a non-resident are generally not subject to withholding tax. As from tax year 2018, the effective withholding tax rate on dividends paid to shareholders resident in a tax haven is 10%, which is the difference between the standard income tax rate of 25% and the maximum rate applied to individuals of 35%. Interest paid on foreign loans, including interest paid to non-resident suppliers financing export, is subject to a 25% final withholding tax. Interest paid to foreign governments, private international financial institutions and non-financial specialised companies is exempt from tax, even if the institutions are located in tax havens, provided that the transaction is registered with controlling agencies in Ecuador and the interest rate does not exceed the one from the central bank.

Royalties paid to non-residents are subject to a 25% final withholding tax. The rate increases to 35% when royalties are paid to a recipient in a tax haven or a low-tax jurisdiction.

## G. EXCHANGE CONTROL

Limited control is exercised. Direct foreign loans generally must be registered with Ecuador's Central Bank.

## H. PERSONAL TAX

Income tax is payable by Ecuadorian resident individuals on non-exempt income derived from all sources. Non-resident individuals are required only to pay tax on Ecuadorian-sourced income. Residence is determined by reference to common law or to domicile or where the individual has spent more than one-half of the relevant income year in Ecuador, unless he or she has a usual place of abode outside Ecuador and does not intend to take up residence in Ecuador.

Income tax is payable on assessable income less allowable deductions. Assessable income includes business income, employment income, certain capital gains, rent and interest. Allowable deductions include interest and certain other expenses paid in gaining the assessable income and gifts to specified bodies. Most individual taxpayers have tax installments deducted from each salary and wage payment made by their employers. Self-employed individuals and those with non-salary and wage income ordinarily pay a provisional tax which is an interim payment during the year in anticipation of the assessment of tax after the end of the income year. Personal income tax rates for the year 2019 are the following:

Year 2019 - In USD			
Minimum allowance	Maximum allowance	Minimum tax payable (accumulation of prior tax bands)	Personal income tax rate
Up to	11,310	0	0%
11,310	14,410	0	5%
14,410	18,010	155	10%
18,010	21,630	515	12%
21,630	43,250	949	15%
43,250	64,860	4,193	20%
64,860	86,480	8,513	25%
86,480	115,290	13,920	30%
115,290	Over	22,563	35%

Income generated from inheritance, legacies, donations, other income and any benefit obtained through an act or contractual agreement received for no consideration, of goods and rights is to pay tax rates based on the following bands:

Year 2019 - In USD			
Minimum allowance	Maximum allowance	Minimum tax payable (accumulation of prior tax bands)	Tax rate
Up to	72,060	0	0%
72,060	144,120	0	5%
144,120	288,240	3,603	10%
288,240	432,390	18,015	15%
432,390	576,530	39,637	20%
576,530	720,650	68,465	25%
720,650	864,750	104,495	30%
864,750	Over	147,727	35%

### Individual Income tax (IIT)

Progressive from 5% to 35%.

**Real Estate Tax**

From 0.025% to 0.3% for rural property and from 0.025% to 0.5% for urban property; surtaxes and surcharges apply.

**Inheritance/ Gift Tax**

Progressive rates from 5% to 35%.

**I. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

Decision 578 of the Cartagena Agreement has been adopted by Ecuador. This broadly means that relief from double taxation is provided for natural and juridical persons located in any of the Andean Pact countries (Bolivia, Colombia, Ecuador, Peru and Venezuela).

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Domestic rates</b>				
Companies	0/10	0/10	0/25	25/35
<b>Treaty countries:</b>				
Belarus <sup>7</sup>	10	5 <sup>6</sup>	10	10
Belgium	15	5/15 <sup>2</sup>	0/10	10
Bolivia	-1	-1	-1	-1
Brazil	15	15	0/15	15/25
Canada	15	5 <sup>3</sup>	0/15	10/12/15
Chile	15	5 <sup>3</sup>	5/15	10/15
China	5	5	0/10	10
Colombia	-1	-1	-1	-1
France	15	15	0/10/15	15
Germany	15	15	0/10/15	15
Italy	15	15	0/10	5
Korea	10	5 <sup>4</sup>	0/12	5/12
Mexico	5	5	0/10/15	10
Peru	-1	-1	-1	-1
Qatar	10	0/5 <sup>4</sup>	10	10
Romania	15	15	10	10
Russia	10	5 <sup>6</sup>	10	10/15
Singapore	5	0 <sup>5</sup>	0/10	10
Spain	15	15	0/5/10	5/10
Switzerland	15	15	0/10	10
Uruguay	15	10 <sup>8</sup>	15	10/15
Venezuela	-1	-1	-1	-1

Notes:

1. There is no reduction under the tax treaty, the domestic rates apply. The source state has the exclusive right to tax.
2. The treaty rate is 15% which is reduced to 5% under the application of a most favoured nation clause (China-Ecuador treaty).

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3. The 5% reduced rate applies if the beneficial owner is a company that controls directly or indirectly at least 25% of the voting power in the dividend-paying company.
4. The 5% reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the dividend-paying company.
5. The 0% rate applies where the beneficial owner of the dividend is the government of any of the contracting states, their central banks or any institution wholly owned by any of the states.
6. The 5% reduced rate applies if the beneficial owner is a company (other than partnerships) which holds directly at least 25% of the capital of the dividend-paying company.
7. Entry into force: 16 August 2017. Effective date: 1 January 2018.
8. The 10% reduced rate applies if the beneficial owner is a company which holds directly at least 25% of the voting shares of the dividend-paying company.

## EL SALVADOR

### MEMBER FIRM

City	Name	Contact Information
San Salvador	Horacio A. Castellanos Chacón	+503 2273 2555 ha.castellanos@pkfelsalvador.com

### BASIC FACTS

Full name:	Republic of El Salvador
Capital:	San Salvador
Main languages:	Spanish
Population:	6.44 million (2019 estimate)
Monetary unit:	US Dollar (USD)
Internet domain:	.sv
Int. dialling code:	+503

### A. TAXES PAYABLE

#### COMPANY INCOME TAX

El Salvador's income tax law affects annual revenue from business activities conducted in El Salvador when any of the causes of such revenue occur within the national territory. Income Tax - A tax rate of 25% is applied to the net profit of companies whose taxable income does not exceed USD 150,000.00. For all others it is 30%. A corporation is required to prepay its estimated tax liability on a monthly basis of 1.75% of gross revenue. This is deducted as a credit in the annual income tax return. Corporate tax returns are due by the end of the fourth month following the end of the fiscal year. An extension of six months may be granted if requested for the payment only. The tax year of companies corresponds to the calendar year.

#### CAPITAL GAINS TAX

The tax involved is a 10% income tax on the net profit of the transaction. Net profit is calculated by deducting the cost of the property plus any related expenses from the sales price. Income from the sale of securities is taxable as follows: the buyer will withhold 10% of the profit and remit it to the Tax Department.

#### BRANCH PROFITS TAX

Branches of foreign companies are subject to the same tax rates as Salvadoran companies. There is no branch remittance tax in El Salvador.

## SALES TAX / VALUE ADDED TAX (VAT)

Services and goods are subject to 13% VAT. The following items are exempt from VAT: public health, home rentals, education, state titles, public water, public transportation, pension funds and public lottery.

## AD VALOREM / SPECIFIC TAXES

Two taxes are paid for alcoholic beverages:

- Ad Valorem taxes at a 5% tax rate;
- A specific tax on the alcoholic grade per litre ranging from 0.04 to 0.16 cents.

For cigarettes a specific tax of USD 0.0225 is levied per cigarette.

## TAX ON FINANCIAL TRANSFERS

### 1) TAX ON CHECKS

Check payments over USD 1,000 are subject to 0.25% on the operation base. This tax is non-refundable and the bank will charge it to the company bank account.

### 2) TAX ON LIQUIDITY CONTROL

A tax of 0.25% will be paid on cash payments and deposits, if the accumulated sum is more than USD 5,000 per month. This tax is a credit against any future payment of VAT, Income Tax, or Ad Valorem Tax. The bank will charge it to the company bank account.

## LOCAL TAXES

El Salvador's income tax law affects the whole national territory equally.

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## OTHER TAXES

Other taxes that are applicable in their various manifestations include:

## MUNICIPAL OFFICE TAXES

Taxes are paid according to a table and total assets. There are different tables for every city in El Salvador. In San Salvador, the table varies depending on whether the company is industrial, commercial or other.

## NATIONAL REGISTRATION TAX

All industrial or commercial businesses are required to have an annual license to operate. This tax is paid according to the total assets and according to the following rates:

- From USD 2,000.00 to USD 57,150.00 a tax of USD 91.43 is levied;
- From USD 57,151.00 to USD 114,286.00 a tax of USD 137.14 is levied;
- From USD 114,287.00 to USD 228,572.00 a tax of USD 228.57 is levied.

If the asset is worth more than USD 228,572.00 then USD 11.43 will be added to every USD 100,000 in assets or fraction thereof, up to a limit of USD 11,428.57.

## SOCIAL SECURITY TAX

These are payments that are made monthly by employers and employees on the payroll of companies for the purpose of guaranteeing the functioning of the employee's social security system benefits at the national level. The table is as follows:

- Company 7.50% of salary;
- Employee 3.00% of salary.

Maximum salary of USD 1,000 per employee. Social Security has a special education tax called INSAFORP which is 1% of the total amount that the company pays (this applies to companies with more than 10 employees).

## PENSION TAX

These are payments that are made monthly by employers and employees on the payroll of companies for the purpose of guaranteeing the functioning of the employee's pension system and retirement benefits at the national level. The table is as follows:

## El Salvador

- Company 7.75% of salary;
- Employee 7.25% of salary.

Maximum salary of USD 6,500.00 per employee.

## B. DETERMINATION OF TAXABLE INCOME

The net taxable income of a corporation or partnership is determined by subtracting all allowable deductions from gross taxable income. Generally, expenditures and/or losses are deductible provided they are incurred in gaining or producing taxable income, or preserving the source of income. Special rules apply in respect of certain expenditures.

### DEPRECIATION

Depreciation is normally calculated by the straight-line method over the estimated useful life of the asset.

### STOCKS / INVENTORY

The Income Tax regulations only allow the use average-cost method according to the normal course of operations. No other method is allowed.

### DIVIDENDS

Dividends are subject to 5% income tax. If the stockholder is located in a country with low or zero taxation (tax havens), the dividends will be subject to 25% income tax. Dividends for profits earned before 2011 are exempt. A decrease in stockholder's equity is subject to 5% income tax, if the equity originated from capitalisation of profits.

### INTEREST INCOME

Banks will withhold 10% income tax on interest income. Loans given by local companies to its stockholders, related parties, headquarters, or residents/companies located in tax havens are subject to a 5% withholding tax.

### INTEREST EXPENSE

If a loan is made to a Salvadoran company by a foreign bank that was registered by the Central Bank of El Salvador before 2009, the interest expense is exempt from withholding tax. If the foreign bank is registered by the Central Bank from 2010 onwards, a 10% withholding tax will apply. If the loan is made by a foreign company or a bank that is not registered by the Central Bank, withholding tax will be applied at a rate of 20%.

### LOSSES

Losses incurred in any given year can be taken as a valid deduction only for the current year. There is no carry forward or carry back of losses.

### SOURCE OF THE INCOME

Foreign-sourced income is not subject to income tax. Only income earned on the territory of El Salvador is subject to El Salvador income tax. Interest income and gains on market values are the exception. Foreign-sourced income is not subject to VAT. Income received by persons or companies domiciled outside El Salvador will be considered as being from an El Salvadoran source if it arises from services or actions that benefit persons or companies located in El Salvador, including fees, interests and royalties.

### INCENTIVES

The following incentives are available to certain qualifying industries and corporations:

- Companies operating in Free Zones or under the Law of International Services are tax-exempt on profit derived from sales to foreign countries, for a period of 15 years after the companies have been approved by the Ministry of Economy.
- 15 year tax holiday; from 15 to 25 years, 12% income tax; from 25 years onwards, 18% income tax.
- The 5% payment on dividends will become effective after 12 years.
- Dividends paid to stockholders of companies located in Free Zones will be subject to 5% after 12 years.

## C. RELATED PARTY TRANSACTIONS

Transfer Pricing (TP) policies are applicable in El Salvador. If the Company does not have a TP Study, the

government is entitled to determine differences between related party transactions and a transaction done by independent parties. If a difference is detected, this would not be deductible for income tax purposes and a 25% or 30% tax would be levied on the difference.

#### D. WITHHOLDING TAX

Services (not in payroll) and fees paid to local individuals are subject to a 10% withholding tax. Services and fees paid to foreign corporations or non-resident individuals for work done in El Salvador are subject to a 20% withholding tax rate. Interest, commissions, royalties or technical assistance fees paid to foreign recipients are subject to a 20% withholding tax. International transportation services are subject to 5% withholding tax. Purchases of intangible assets are subject to 20% withholding tax.

Any payment done to non-resident individuals or non-resident companies located in tax havens is subject to a 25% withholding tax. A list of tax havens may be consulted on the Ministry of Finance web page: [www.mh.gob.sv](http://www.mh.gob.sv)

#### E. PERSONAL TAX

a) The monthly withholding tax rates set out below are applicable to any individual included in payroll for permanent service:

##### Taxable Monthly Income (in USD)

From:	To:	Withholding tax
0.01	472.00	No withholding tax/exempt
472.01	895.24	USD 17.67 plus 10% in excess of USD 472
895.25	2038.10	USD 60 plus 20% in excess of USD 895.24
2,038.11	In excess of	USD 288.57 plus 30% in excess of USD 2,038.10

b) The annual income tax rates set out below are applicable to any individual included in payroll for permanent service (in USD):

From:	To:	Withholding tax
0.00	4,064.00	Exempt
4,064.01	9,142.86	USD 212.12 plus 10% in excess of USD 4,064.00
9,142.87	22,857.14	USD 720.00 plus 20% in excess of USD 9,142.86
22,857.15	In excess of	USD 3,462.86 plus 30% in excess of USD 22,857.14

#### F. TREATY AND NON-TREATY WITHHOLDING TAX RATES

El Salvador has a Free Commerce Treaty with the USA, Chile, Mexico and the Dominican Republic. There is a double tax treaty with Spain.

	Dividends (%)		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Non-treaty countries</b>				
Companies	0/5/25 <sup>1</sup>	0/3/25 <sup>1</sup>	0/10/20/25 <sup>1</sup>	5/20/25 <sup>1</sup>
Individuals	0/5/25 <sup>1</sup>	--	20/25 <sup>1</sup>	5/20/25 <sup>1</sup>
<b>Treaty countries</b>				
Spain	12	0 <sup>2</sup>	0/10	10

### Notes:

1. The 25% rate applies to payments made to residents of countries considered to be tax havens or territories with a preferential tax regime.
2. With respect to a minimum 50% participation in capital.

## GUATEMALA

### MEMBER FIRM

City	Name	Contact Information
Guatemala City	Hugo Arevalo Perez	+502 5516 2106 harevaloperez@pkfguatemala.com
Guatemala City	Siomara Arevalo Iralda	+502 3227 5152 sarevalo@pkfguatemala.com

### BASIC FACTS

Full name:	Republic of Guatemala
Capital:	Guatemala City
Main languages:	Spanish, more than 20 indigenous languages
Population:	17.54 million (2019 estimate)
Monetary unit:	Guatemalan Quetzal (GTQ)
Internet domain:	.gt
Int. dialling code:	+502

### KEY TAX POINTS

- Companies are subject to income taxes, known as the income on lucrative activities regime, at a rate of 25% on net taxable income.
- Solidarity tax is a way to anticipate income taxes so that the amount paid may be credited to income taxes over the following three years.
- VAT is payable on the domestic supply of goods and services and the import of goods. A standard rate of 12% applies although some supplies are exempted.
- For income from entities not residing in the country and acting with or without a permanent establishment, tax regimes do exist for the specific computation of withholding tax at rates ranging from 5% up to 15%.

### A. TAXES PAYABLE

#### TAXES AND LEVIES

Tax laws in Guatemala are based on the territoriality principle. There are a few exceptions, mainly those related to withholdings in origin, and all taxes are applicable to activities conducted within the Guatemalan territory. The Political Constitution of Guatemala provides legislative power to the Congress of the Republic. This provides certainty that no other entity, either local or foreign, shall create indirect or direct taxes.

Guatemala is part of the Multilateral Investment Guarantee Agency (MIGA), which is responsible for facilitating a private capital investment flow to developing countries, while providing guarantees against risks such as expropriation, lack of currency convertibility, civil war or riots, etc. In addition, the country has benefited from the Overseas Private Investment Corporation (OPIC) with the promotion and fostering of private investments from the United States of America.

## COMPANY TAX

Companies are subject to income taxes, known as the income on lucrative activities regime, at a rate of 25% on net taxable income. There is also an optional simplified regime on income from lucrative activities with rates ranging from 5% to 7%. In addition, a 5% income tax payment exists on distribution of dividends, earnings and profits.

## SOLIDARITY TAX

This tax is a way to anticipate income taxes so that the amount paid may be credited against income taxes over the following three years. The tax rate is 1% on gross income or the net asset amount and is applicable only to taxpayers opting for taxes on income from lucrative activities (25% income tax regime). Taxpayers that pay taxes under the optional simplified tax regime on income from lucrative activities (5% tax regime) are exempt from this tax.

## CAPITAL GAINS TAX

Current laws provide for an applicable tax rate on capital from furniture and real estate gains at 10%. A 5% income tax rate is applicable to payments made to stockholders upon the distribution of dividends, earnings or profits.

## BRANCH PROFITS TAX

There is no separate branch profits tax. Overseas companies with a permanent establishment in Guatemala pay tax on the profits of the permanent establishment under the same rules as applied to Guatemala resident companies. There is a 5% branch remittance in Guatemala.

## VALUE ADDED TAX (VAT)

VAT is collected during the exchange of goods or services at the local level as well as during the provision of services and importation of goods. Exportation of goods and services are tax exempt. The tax rate is 12%, although some exemptions do exist including:

- Services provided by entities controlled by the Superintendent of Banks, stock exchange brokers, insurance and reinsurance operations;
- Issuance and transfer of some securities;
- Grants and donations to not-for-profit entities;
- Transactions among co-operative entities and their participants;
- Importation of furniture by cooperative entities exclusively for their operations;
- Imports under the temporary importation system: VAT tax returns shall be filed on a monthly basis within a month following that month reported in the tax return. The tax amount in debt shall be payable on the due date.

## FRINGE BENEFITS TAX

All benefits in kind are taxable in the hands of individuals receiving those benefits from their employers.

## OTHER TAXES - REAL ESTATE TAX

An annual tax is payable on the owners of real estate and levied at the following rates:

Taxable amount (GTQ'000)	Rate
Up to 2,000	0.0%
2,000.01 to 20,000	0.2%
20,000.01 to 70,000	0.6%
Over 70,000	0.9%

Tax is also charged on rural land declared to be uncultivated (i.e. not used for agricultural purposes).

## SOCIAL SECURITY CONTRIBUTIONS

Employer's social security is payable at a rate of 10.67% on the total salary of employees.

## SOCIAL SECURITY CONTRIBUTIONS, IRTRA AND INTECAP

Contributions made by employers to the social security and other recreational or training institutions shall be payable at 12.67% on the overall employees' salaries.

A contribution made by employees to the social security scheme is 4.83% on their salaries.

## B. DETERMINATION OF TAXABLE INCOME

The information provided in the following section is applicable to taxpayers opting for the income on lucrative activities regime.

## CAPITAL ALLOWANCES (DEPRECIATION)

A tax deduction is available in respect of fixed assets used in the business. Generally speaking, only the straight-line method is allowed, although other methods may be used if agreed by the tax authorities. Maximum depreciation rates are set and include the following:

Assets	Rate
Buildings and construction	5%
Furniture and equipment	20%
Vehicles	20%
Computers (including software)	33.33%
Tools	25%

## STOCK / INVENTORY

In general, the following four methods may be used for valuation of inventories:

- (1) Production cost;
- (2) First-in, first-out system (FIFO);
- (3) Weighted average; and,
- (4) Historic cost of goods.

Other methods are allowed upon prior authorisation from the Tax Office.

## INTEREST DEDUCTIONS

Interest payments are deductible, but the deductible amount is limited to the amount resulting from multiplying the interest rate authorised by the Monetary Board by an amount equal to three times the average total net assets reported by the company on its annual tax return (thin capitalisation rule). This limitation is not applicable to banks and financial institutions subject to the surveillance of the Guatemalan Superintendence of Banks, or to co-operatives legally authorised.

## LOSSES

Losses other than capital losses may not be carried back or forward. Capital losses may only be offset for two years against capital gains.

## FOREIGN SOURCE INCOME

Tax is only chargeable on Guatemala-sourced income.

## TAX INCENTIVES

### EXPORT AND DRAW-BACK ACTIVITIES

Some incentives exist, such as exemption of import tax, income tax and VAT for industrial and commercial outfits established under the incentive to exportation and draw-back incentive law.

## FREE-TRADE ZONE

Incentives including exemption of import tax, income tax and VAT exist for industrial and commercial entities established within the country's free-trade zone.

## INVESTMENT IN RENEWABLE ENERGY SOURCES

Exemption of import tax, income tax and VAT exists by way of the "Incentives for development of renewable energy projects' law".

## C. FOREIGN TAX RELIEF

Only Guatemala-sourced income is subject to tax and therefore Guatemalan law does not provide relief for foreign income taxes paid.

Foreign investment is governed by the Foreign Investment Act, which among others, provides for equal conditions for either domestic or foreign investors. Likewise, this law establishes that the Government may not directly or indirectly expropriate investments made by foreign investors.

## D. CORPORATE GROUPS

There are no special tax provisions relating to groups of companies.

## E. RELATED PARTY TRANSACTIONS/TRANSFER PRICING TAX

In January 2015, transfer pricing rules entered into force. Consequently, taxpayers with non-resident related parties that carry on transactions with such related parties must submit a transfer pricing report attached to their annual tax return (i.e. within the first 3 months of each calendar year). The arm's length principle should be adhered to and must be determined by means of the following methods:

- The comparable uncontrolled price method;
- The resale price method;
- The cost-plus method;
- The profit split method; or
- The transactional net margin method.

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Taxpayers may seek to obtain an advance pricing agreement (APA) from the tax authorities under certain conditions.

There is no CFC (Controlled Foreign Companies) legislation in Guatemala.

## F. WITHHOLDING TAX

For income from non-resident entities and acting with or without a permanent establishment, tax regimes exist for the specific computation of withholding taxes at rates ranging from 5% up to 15%:

- Dividends and other profit distributions derived by non-residents are subject to a 5% final withholding tax on the gross amount of the payment;
- Interest derived by non-residents is generally subject to a 10% final withholding tax on the gross amount. However, interest paid by the state to non-resident entities is exempt from tax. Furthermore, interest paid to non-resident banks and financial institutions, duly organised and supervised by their corresponding banking authorities, is also exempt from tax;
- Royalties paid to non-residents are subject to a 15% final withholding;
- Income derived by non-residents from the rendering of services, including scientific, economic, technical or financial assistance, is subject to a 15% final withholding;
- Income derived by non-resident insurance companies from insurance, reinsurance, secondary bail and cancellations is subject to a 5% final withholding tax;
- Capital gains derived by non-resident enterprises are subject to a 10% final withholding tax on the amount of the gains.

## G. EXCHANGE CONTROL

There are no exchange controls in Guatemala (Decree Number 94-2000 Law of Free Negotiation of Foreign Currency).

## H. PERSONAL TAX

Individuals residing in the country and receiving income from labour under a dependency relationship are subject to a progressive tax rate as shown below:

Taxable Base (GTQ)	Fixed Tax Amount (GTQ)	Marginal Rate On Excess
0.01 to 300,000	0	5%
Over 300,000	15,000	7%

Social security contributions and total personal expenses for up to GTQ 60,000 are deductible.

## I. TREATY WITHHOLDING TAX RATES

Guatemala does not have any double tax treaties in force. It has signed a tax treaty with Mexico in March 2015 which is not yet in effect. Guatemala entered into an agreement before the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, regarding tax information exchange with 42 countries, which includes among others, taxes on transfer pricing as explained in the preceding paragraphs.

## HONDURAS

### MEMBER FIRM

City	Name	Contact Information
Tegucigalpa	Eddy A.Tovar	+504 2270-7365 eat@pkfhonduras.com
Tegucigalpa	Jorge Tovar	+504 2270-7366 jat@pkfhonduras.com

### BASIC FACTS

Full name:	Republic of Honduras
Capital:	Tegucigalpa
Main languages:	Spanish
Population:	9.54 million (2019 estimate)
Monetary unit:	Honduran Lempira (HNL)
Internet domain:	.hn
Int. dialling code:	+504

### KEY TAX POINTS

- Legal companies are subject to 25% income tax, known as the income on lucrative activities regime.
- Legal companies and individuals resident in Honduras are subject to Alternative Minimum Tax. In tax year 2018, companies that obtain gross income of less than HNL 300 million will not be subject to 1.5% or 0.75% of gross income, favouring micro, small and part of medium-sized companies.
- In tax year 2019, for companies that obtain gross income between HNL 300 million and HNL 600 million, the aforementioned percentage will be reduced to 0.75% and 0.5% respectively. The rate will be 1% for companies with an income exceeding HNL 600 million.
- In tax year 2020, only companies that earn more than HNL 1 billion will be subject to the application of the measure, the rate being 1%.
- Solidarity Tax is payable at a rate of 5% calculated on gross income exceeding USD 43,956 and is applicable only to taxpayers opting for taxes on income from lucrative activities (25% income tax regime).

- VAT is payable on the domestic supply of goods and services and the import of goods. A standard rate of 15% applies although some supplies are exempted.
- Transfer Pricing (TP) policies are applicable in Honduras. If the company does not conduct a TP study, the government is entitled to determine differences between related party transactions and a transaction done by independent parties. If a difference is detected, this would not be deductible for income tax purposes and a 15% or 30% tax would be paid on the difference.
- No restrictions are imposed on foreign-trade operations or foreign currency transactions.

## A. TAXES PAYABLE

### COMPANY INCOME TAX

Company profits are taxed at a rate of 25%.

#### Solidarity Tax

The tax rate is 5% calculated on gross income exceeding USD 43,956 and is applicable only to taxpayers opting for taxes on income from lucrative activities (25% income tax regime), with the exception of Special Regimes of Export and Tourism.

#### Alternative minimum tax

- Legal companies and individuals resident in Honduras are subject to Alternative Minimum Tax. In tax year 2018, companies that obtain gross income of less than HNL 300 million will not be subject to 1.5% or 0.75% of gross income, favouring micro, small and part of medium-sized companies.
- In tax year 2019, for companies that obtain gross income between HNL 300 million and HNL 600 million, the aforementioned percentage will be reduced to 0.75% and 0.5% respectively. The rate will be 1% for companies with an income exceeding HNL 600 million.
- In tax year 2020, only companies that earn more than HNL 1 billion will be subject to the application of the measure, the rate being 1%.

The rate is reduced to 0.75% and 0.5% for individuals or legal entities that produce or market the following products or services: production and distribution of cement, public services provided by state-owned entities, pharmaceutical products marketed for human use, at the level of producer or importer, and the bakery industry.

A 1% instalment of gross income tax applies to taxpayers that meet the following conditions:

- During open tax periods, they have reported operating losses in two consecutive or alternate tax periods.
- In the prior tax period, they derived gross income equal to or greater than HNL 100 million (approximately USD 4,395,604). The income tax instalment is a tax credit that may be applied against income tax, asset tax or the temporary Solidarity Contribution Tax on the filing of the year-end tax return. Companies operating under the following special regimes are exempt from income tax, sales tax, customs duties and certain municipal taxes:
  - a. Free Trade Zone;
  - b. Industrial Processing Zone (Zona Industrial de Procesamiento, or ZIP);
  - c. Temporary Import Regime (Régimen de Importación Temporal, or RIT);
  - d. Agroindustrial Export Zone (Zona Agro-Industrial de Exportación, or ZADE);
  - e. Free Tourist Zone (Zona Libre Turística, or ZOLT).

### ASSET TAX

The taxable base will be the resulting difference of the assets reflected in the taxpayer's Statement of Financial Position minus a deduction of HNL 3,000,000 (USD 131,868), minus the doubtful accounts provisions, loans payables, the accumulated depreciations permitted by the Income Tax Law, revaluation of fixed assets, as long as such are not disposed of and the values from registered investment expansions, such as projects or fixed assets in progress that are not in operation. Income tax may be credited against asset tax. If the income tax equals or exceeds the asset tax for the tax year, no asset tax is due. If the income tax is less than the asset tax, the difference is payable as asset tax. In such circumstances, the asset tax represents a minimum tax for the year.

## CAPITAL GAINS TAX

Capital gains tax is calculated on the net profit of the transaction at a rate of 10%. Net profit is calculated by deducting the cost of the property plus any related expenses from the sales price.

## BRANCH PROFITS TAX

Branches of foreign companies are subject to the same tax rates as Honduran companies. Branch remittance tax is levied at a rate of 10%.

## VALUE ADDED TAX (VAT)

Services and goods are subject to a 15% value added tax and 18% on alcoholic beverages, tobacco and first-class air tickets.

## TAX ON FINANCIAL TRANSFERS

- 1) Checks, debit or credit card payments and transfers are subject to a 0.30% tax on the operation base. This tax is non-refundable and the bank will charge it to the company bank account.
- 2) It also applies to mobile communications that are subject to a 1% rate while the minerals extraction industry is subject to a 5% rate on the exports FOB (Free on Board) for the protection of the environment. The contribution of the fast food sector under any franchise is subject to 0.5% on monthly sales.

## MUNICIPAL OFFICE TAXES

Taxes are paid according to a table and total assets. There are different tables for every city in Tegucigalpa, San Pedro Sula and La Ceiba. In Tegucigalpa, the table varies depending on whether the company is industrial, commercial or other. Real estate is subject to a rate of up to HNL 3.50 per every thousand for Urban Real State and up to HNL 2.50 per thousand for Rural Real State.

## MUNICIPAL REGISTRATION TAX

All industrial or commercial businesses are required to have an annual licence to operate. This tax is paid on the total assets of a company or individual which exceed HNL 500,000. The amount is HNL 0.40 per thousand up to an amount of HNL 30,000,000 and HNL 0.40 per thousand over this amount.

## SOCIAL SECURITY TAX:

These are payments that are made monthly by employers and employees on the payroll of companies for the purpose of guaranteeing the functioning of the worker social security benefits system (IHSS) at national level. The table is as follows:

- Company: 5.2% of salary (USD 365);
- Employee: 2.5% of salary (USD 365).

As from 2016 the law of Social Protection also establishes a new pension plan whereby 1.5% of the current contributions go to RAP Social Fund for Housing.

## PENSION TAX

These are payments that are made monthly by employers and employees on the payroll of companies for the purpose of guaranteeing the functioning of the employee contribution from the State which will complete the regime for the disabled, old aged and deceased (IVM). The table is as follows:

- Company: 3.5% of salary;
- Employee: 2.5% of salary.

Maximum salary of USD 381 per employee. Professional Training Institute (INFOP) which is 1.0% of the total amount that the company pays (this applies to companies with more than 10 employees).

## TAXES FOR THE DISPOSAL OF PROPERTY

For property sales, which will be valued at the market price, the previous owner pays 1.5% on the value of the transaction. For the transfer of immovable property or rights and values carried out with a non-resident, the buyer must withhold 4% of the transfer value.

## RATE OF TOURIST SERVICES

Individuals pay a tax of 4% for daily accommodation in hotels, car rentals and tour operators.

## INCENTIVES

The following incentives are available to certain qualifying industries and corporations:

### Free zones

Companies operating in Free Zones or under the Law of International Services are tax-exempt on profit derived from sales to foreign countries, for the next 10 years after the companies have been approved by the Ministry of Economy and Commerce. Income tax will be exempt for 10 to 20 years, municipal income tax for 10 years.

### Export and draw-back activities

Some incentives such as exemption from importation taxes, income tax and VAT for industrial and commercial outfits established under the incentive to exportation and draw-back incentive law exist.

### Free-trade zone and tourist zone

Incentives including exemption from importation, income tax and VAT exist for industrial and commercial entities established within the country's free-trade zone. Likewise, companies established in the Bay Islands under the Free Trade Tourist Zone of the Bay Islands.

### Investment in renewable energy sources

Ten years of exemption of importation, twelve year in income tax, Ten years income and value-added taxes exist by way of the Incentives for development of renewable energy projects, law.

## B. DETERMINATION OF TAXABLE INCOME

The net taxable income of a corporation or partnership is determined by subtracting all allowable deductions from gross taxable income. Generally, expenditures and/or losses are deductible provided they are incurred in gaining or producing taxable income, or preserving the source of income. Special rules apply in respect of certain expenditures.

## ACCOUNTING STANDARDS

In general, the Professional Accounting Standards approved by Technical Rulings aim at converging local accounting standards with International Financial Reporting Standards (IFRS) issued by the IASB (International Accounting Standards Board).

## DEPRECIATION

A tax deduction is available in respect of fixed assets used in the business. Generally, only the straight-line method is allowed, although other methods may be used if agreed by the tax authorities. Maximum depreciation rates are set and include the following:

Assets	Rate
Buildings and construction	2.5% to 3.33%
Furniture and equipment	10% to 20%
Vehicles	20% to 33.33%
Computers (including software)	10% to 20%
Tools	33%

## STOCKS / INVENTORY

In general, the following four methods may be used for valuation of inventories:

- 1) Production cost;
- 2) First-in, first-out system (FIFO);

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## Honduras

- 3) Weighted average; and,
- 4) Historic cost of goods.

Other methods are allowed upon prior authorisation from the Tax Office.

### DIVIDENDS

Dividends paid to domiciled or resident legal entities are subject to tax at the rate of 10%. Dividends paid from Honduran sources to persons or companies not domiciled in Honduras are also subject to tax at the rate of 10%. Dividend distributions that were already subject to the 10% withholding tax are not subject to such withholding tax when the dividends received by companies are redistributed. Dividends received by holding companies that have already been subject to the 10% withholding tax are not subject to such withholding tax when the dividends are redistributed.

### INTEREST INCOME

Banks will withhold 10% income tax on interest income. Loans given by local companies to its stockholders, related parties, headquarters, or residents/companies located in tax havens are subject to a 10% withholding tax.

### INTEREST EXPENSE

Constitutes a non-deductible expense, interest paid on shareholder loans and loans made to a company by the owners, spouses, relatives, associates, partners or parent company. This rule does not apply where the interest is paid to a financial institution. There are no thin capitalisation rules in Honduras.

### PROVISIONS

Provisions for contingent liabilities, such as severance pay, are not deductible for tax purposes. However, payments of such liabilities are deductible expenses.

### LOSSES

Losses incurred in any given year can be taken as a valid deduction only for the current year. There is no carry forward of losses. Companies engaged in agriculture, manufacturing, mining and tourism may carry forward net operating losses for three years. However, certain restrictions apply. Net operating losses may not be carried back.

### FOREIGN SOURCE INCOME

As from 1 January 2017 the Honduran corporate tax system is based on the territoriality principle. Companies, whether or not resident in Honduras are subject to tax only on Honduran-source income. Companies domiciled abroad that have agents or representatives in Honduras are taxed in the same manner as residents on their income derived from activities undertaken in Honduras.

### C. FOREIGN TAX RELIEF

Because of the territoriality principle of the Honduran tax system (see above, under 'Foreign Source Income'), Honduras does not provide double taxation relief measures for taxes paid abroad.

### D. CORPORATE GROUPS

Honduran law does not allow the filing of consolidated income tax returns or provide any other tax relief to consolidated groups of companies.

### E. RELATED PARTY TRANSACTIONS

The Law on the Regulation of Transfer Pricing (*Ley de regulación de precios de transferencia*, LRPT), entered into force on 1 January 2014, provides guidelines for the valuation of transactions between related parties at arm's length. According to the LRPT, the transfer pricing rules apply to any transaction carried out between a Honduran resident (individual or legal person) and its non-resident related parties or entities operating under a special tax regime.

According to the RLRPT, the transfer pricing rules apply to any transaction carried out between a Honduran resident (individual or legal person) and its related parties or entities operating under a special tax regime. Thus, the RLRPT do not limit the application of the transfer pricing rules to cross-border transactions between related parties.

Companies and individuals with related or associated parties within the country, are not obliged to submit a transfer pricing study. However, individuals and companies related or associated with individuals or companies, subject to a special tax regime, must submit such study. If a difference is detected, this would not be deductible for income tax purposes and a 15% or 30% tax would be paid on the difference.

## F. WITHHOLDING TAX

Royalties, Leasing of Movable and Immovable Property, Public Entertainment Shows, Mining Royalties, Fees and Commissions, Videos and Films, Salaries, Services and fees paid to foreign corporations for work done in Honduras are subject to a 25% income tax withholding rate. Dividends, interest, commissions, air, sea and land transport, reinsurance, branch remittance tax, other fees paid to foreign recipients are subject to a 10% withholding tax.

## G. EXCHANGE CONTROL

No restrictions are imposed on foreign-trade operations or foreign currency transactions.

## H. PERSONAL TAX

Individuals residing in the country and receiving income from labour under a dependency relationship are subject to a progressive tax rate as shown below:

### Taxable Annual Income (HNL)

From	To	Marginal Rate On Excess
0.01	158,995.06	0%
158,995.07	242,439.28	15%
242,439.29	563,812.30	20%
563,812.31	Over	25%

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Honduras has a Central American Free Trade Agreement (CAFTA-DR) with the USA, Central American and the Dominican Republic. Honduras does not have double tax treaties in force.

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## MEXICO

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### MEMBER FIRMS

City	Name	Contact Information
Cancun	Eric Palma	+52 998 884 9433 epalma@pkfmex.com
Guadalajara	Jimy Cruz Camacho	+52 155 4350 4131 jimy.cruz@pkf.com.mx
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Monterrey	José Trillo	+52 81 8363 8211 jtrillo@pkfmexico.com
Queretaro	Rodolfo Muñoz Vega	+52 442 214 4712 rmunoz@pkf.com.mx

## BASIC FACTS

Full name:	United States of Mexico
Capital:	Mexico City
Main languages:	Spanish
Population:	132.17 million (2019 estimate)
Monetary unit:	Mexican Peso (MXN)
Internet domain:	.mx
Int. dialling code:	+52

## KEY TAX POINTS

- All income obtained by companies resident in Mexico is taxed, regardless of the source.
- Every state in Mexico requires specific contributions from its inhabitants, the largest being income tax. In some states employers are charged tax on wages paid to employees.
- The Tax Authority may alter the tax loss or profit where transactions between related parties are not made at market prices. Taxpayers are obliged to carry out an annual transfer pricing study.
- A Controlled Foreign Companies' regime (CFC) applies to transactions realised in specific countries or regions.
- Individuals will be subject to an additional tax of 10% on dividends or profits distributed by corporations resident in Mexico. Additionally, individuals who receive dividends from foreign companies shall be required to make payment of an additional 10% tax.
- Resident individuals are taxed on their worldwide income. In the case of foreign income, taxes paid abroad are generally credited against taxes to be paid in Mexico.
- The Value Added Tax (VAT) rate is 16%, which is levied on purchases of goods and services received and can be offset against VAT collected and payable (output VAT). A tax rate of 8% is applicable for the North Border Region.

### A. TAXES PAYABLE

#### INCOME TAX

Tax is calculated for each fiscal year which in Mexico starts on 1st January and ends on 31st December, except when companies are created at any time during the calendar year. In this case, Mexican law stipulates that the fiscal year for that company starts in the month of incorporation. The yearly applicable income tax is calculated through a simple operation of adding all sources of income and deducting all allowable deductions. Currently, the corporate tax is 30% of all taxable profits and a 20% applicable for the North Border Region (some restriction may apply). The result can be further reduced by deduction of certain items laid down in Mexican tax law.

Mexican and foreign companies are subject to income tax in Mexico on income that originates within the country, but the way that they should pay their applicable taxes depends on certain factors: if they are residents or non-residents and the specific source from which the income originates, as follows:

- Mexican residents and foreign companies with a permanent establishment in Mexico can offset the income tax paid abroad against the Mexican income tax up to the total local tax applicable in each case.
- Dividends distributed by foreign companies to Mexican residents may be offset against local tax due by the Mexican resident to the extent of income tax paid abroad that corresponds to the dividend or utility received by the resident in Mexico.
- Branches are taxed based on the income generated by them.
- Interest that is generated from operations between Mexican residents and foreigners that are considered to be related parties are treated as dividends.
- Equity share sales are subject to tax as per specific regulations depending on the source and type of income and the income is considered to be Mexican-sourced when the corporation that issued the shares is a Mexican resident or when the book value of said shares or securities accounts directly or indirectly for more than 50% of real estate located in the country, in which case the general applicable tax rate is 25%.

Failure to comply with the above requirements means that a tax credit will not be available. In the case of a Permanent Establishment (PE) in Mexico, a credit will only be available for those revenues attributable to the PE which may have been subject to withholding tax. New provisions provide that a foreign tax paid abroad is considered an income tax when complying with Mexican tax authority (SAT) rules and when covered by a double tax treaty that Mexico has entered into.

## CAPITAL GAINS TAX

Taxable profits on the sale of land, securities and other assets are calculated by deducting the original investment cost (MOI) from the selling price. The MOI can be adjusted to its current value for inflation from the period in which the asset was acquired to the month before the sales operation took place.

The procedure for determining the gain on a disposal of shares is calculated by deducting from the income obtained for the sale of the said shares, the average share cost which is determined by the rules laid down in Mexican Income Tax law. When the shareholder only retains shares for a period of up to maximum 12 months, the taxpayer has the option to calculate the capital gains tax by considering the original adjusted cost as the proven acquisition cost and this can be deducted from paid reimbursements and dividends. A loss from the sale of shares and other securities is deductible only if certain requirements are met and may be offset against profits obtained in the same year or in the following five years.

## BRANCH PROFITS TAX

Branches compute income tax in the same manner as companies established in Mexico and apply the 30% corporate tax rate on taxable income. Branches are entitled to deduct expenses incurred both abroad and in Mexico provided that certain conditions are met. In respect of the prorate expenditures, payments made by taxpayers will not be deductible when such payments are also deductible for a related party resident in Mexico or abroad, except if the related party accumulates earned income in the same fiscal year or the subsequent one.

Remittances sent abroad in the form of payments of invoices, interests, royalties, reimbursement of expenses or for any other reason are subject to withholding tax of between 25% and 35% and are deductible for income tax purposes if adequately supported.

## VALUE ADDED TAX (VAT)

Companies and persons who engage in the business of selling, rendering services, leasing, importing or exporting of goods are subject to VAT.

The VAT paid on purchases of goods and services received can be offset against the VAT collected and payable. In case the VAT paid exceeds the VAT collected in a given period, companies and persons are entitled to be refunded for the difference by the tax authorities or, subject to certain conditions, to offset the VAT receivable against other taxes payable.

The following tax rates apply in general, depending on the type of activity:

- 0% in the case of priority activities such as basic foods, medicines, agricultural, exports, etc.;
- 16% and 8% for all other activities.

The law provides for specific exemptions on certain other activities. From 1 July 2006, tourists are reimbursed for VAT charged upon the sale of Mexican merchandise when departing from their home country by air or sea.

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## FRINGE BENEFITS TAX (FBT)

Specified employee benefits provided to employees over and above those required by law are exempt from income tax up to certain limits and are deductible for companies insofar as they are granted to all employees.

## LOCAL TAXES

Every Mexican state requires specific contributions from its inhabitants, the largest one being property tax. Some states tax wages paid to employees at an average rate of 2%. In Mexico City, employers (physical persons and companies) must pay 3% on wages paid to their employees every month. Real estate is subject to a bi-monthly payment (called *predial*), calculated by applying the rates established in article 130 of the Federal District Fiscal Code to the official assessed value of the property.

## OTHER TAXES:

### SOCIAL SECURITY PAYMENTS

All employers must register their employees with the Mexican Institute of Social Security which provides them with benefits for job-related and other disabilities, as well as pensions and death benefits. Amounts paid for

each employee to the Institute are computed on the basis of all payments made to the employee for wages and benefits, with a few exceptions that meet certain requirements. These include savings, food, prizes for attendance and punctuality, as well as a portion of overtime and profit-sharing.

Approximately one third of the payments are withheld by the employer from the employees' wages and the other two thirds are paid by the employer. Both employee and employer contributions should be made by the employer on a monthly basis. Beginning from financial year 2014, it is required to issue digital tax receipts for wages paid by employers to each employee.

## **NATIONAL HOUSING FUND FOR WORKERS (INFONAVIT)**

The objective of this Fund is to provide housing for all workers, usually favouring workers in low-income brackets. The employer, on behalf of the employees, must make bi-monthly contributions to the Fund amounting to 5% of wages and benefits paid with a limit of 25 "*Upgrade Unit Measures*" (UMA/Unidad de Medida y actualización and/or UMI/Unidad de Mixta Infonavit, i.e. minimum monthly wage). As in the case of social security, contributions and benefits received by employees from the Fund are tax-exempt. With this payment, the employers comply with their constitutional obligations to provide housing for employees.

## **FOREIGN TRADE TAXES**

Customs duties are maintained both for import as well as for export. Duties on export are minimal to none and import duties average 20%, depending on each specific item. In accordance with the North American Free Trade Agreement (NAFTA), duties on imports from the United States and Canada will be gradually eliminated over a 15 year period and will disappear completely at the end of that time period. Beginning in 1994, Mexico eliminated taxes on the importation of specific products from the United States and Canada.

## **SPECIAL TAXES**

Taxes on production and services are levied on relatively few items such as the importation and sales of cigars, alcoholic beverages and supplying agency services for brokerage, distribution, flavoured drinks, etc. of said goods. There is also a special tax on telephone services. A tax on new automobiles and vehicle ownership is applied directly to purchasers and owners of automobiles.

## **TAX ON PURCHASE OF REAL PROPERTY**

A tax of 1% to 5% of the assessed value of the property is paid by the buyer on all purchases of property. The federal government works with the states so that in co-operating states only the local tax applies without levying federal tax.

## **B. DETERMINATION OF TAXABLE INCOME**

Taxable income of companies is computed taking into account all income received less deductions allowed by law. The law mentions certain specific items which are not considered as income. These include: capital increases, recognition of the equity method of accounting, revaluation of assets and capital.

### **ALLOWABLE DEDUCTIONS**

In general terms, all expenses needed to generate income may be deducted, except in specific cases where there are certain limits and special rules for deduction. Allowable deductions include sales discounts, bad debts, interest paid and losses due to exchange and inflation. Non-deductible expenses include taxes, costs of representation, commercial credits, provisions to estimated reserves, etc. Investments in certain assets can be deducted in the tax year at a discount.

The Income Tax Law provides that payments for interest, royalties or technical assistance to a foreign entity that controls or is controlled by the taxpayer will not be deductible when:

- The entity receiving the payment is considered to be transparent except where the transaction is carried out at market value and its shareholders or partners are then subject to income tax on income through the foreign company;
- Payment is considered non-existent for tax purposes in the country where the alien is located;
- The foreign entity receiving the payment does not consider it as taxable income.

Payments that are also deductible for a related party resident in Mexico or abroad are not deductible, unless the related party accumulates income generated by the taxpayer, either in the fiscal year or the following.

## DEPRECIATION AND AMORTISATION

Deduction for investment in tangible or intangible assets is allowed by law through the depreciation or amortisation of such assets. Freight and handling, insurance, commissions and fees are allowed in addition to the purchase value of the asset. Depreciation and amortisation are calculated for full months starting with the month when the asset was purchased and using the straight-line method with no allowance for estimated disposal values. As a general rule, all types of assets - except for land - may be depreciated or amortised for tax purposes. The basic depreciation and amortisation tax rates allowed are as follows:

Outlays made prior to commencing operations	10%
Industrial buildings and warehouses	5%
Machinery and equipment	10% except on assets used for specific activities
Furniture and fixtures	10%
Cars, vans and trucks	25%
Leasehold improvements	Lease terms
Environmentally-friendly machinery and equipment	100%

## STOCK / INVENTORY

Purchases of raw materials, goods in process or finished goods intended for sale are deductible under the cost of sales system when sold by the company. Taxpayers may choose either method of inventory valuation indicated below:

- (i) First in - First out (FIFO);
- (ii) Identified Cost;
- (iii) Average Cost;
- (iv) Retailer.

## INFLATION

The law recognises the effects of inflation on a taxpayer's debts and financial assets so that, in the case of assets, the view is taken that there is a loss of purchasing power of said assets with the passing of time and, in the case of liabilities, a gain is recognised. For such purpose, an annual average of financial assets and debts is determined. The inflation factor is applied to the difference obtained comparing the assets and debts: when the debts are higher there will be a taxable income and when the assets' amount is higher there will be a deduction.

## INTEREST DEDUCTIONS

A thin capitalisation regime was incorporated into tax law in 2005 in relation to loan finance obtained by Mexican-resident companies from overseas. Taking both related party and non-related party debt into account, interest payments are not deductible where the debt/equity ratio exceeds 3:1. Companies that do not meet this ratio will have a term of five years to reduce it in equal proportions per year. These rules do not apply to financial institutions. The interest paid that exceeds this ratio will be non-deductible. From 1 January 2007 onwards, only loans with foreign parties on which the company is required to pay interest are taken into account in determining the debt/equity ratio.

## LOSSES

Tax losses may be used to offset taxable income obtained during the following ten years. The amount of tax losses is uplifted for inflation for the period from July of the year when they occur to June of the year when they are offset.

## EMPLOYEE PROFIT SHARING

All employees of a company are entitled to a share of its profits. The profit sharing is computed each year at the rate of 10% of taxable income, if any. There are certain specific items described in the law which have to be added or deducted from the taxable income for profit sharing computation purposes. Most of these relate to differences in the treatment of inflation accounting. From 1 January 2005, profit sharing paid in one year is deductible from the after-tax profit or loss of the following year.

## INCENTIVES

The Federal Revenue Law establishes the following incentives for the financial year 2018:

- Authorisation to subtract IEPS (i.e. Special Tax on Production and Services) paid for Diesel, Bio diesel and its mixtures from the applicable income tax.
- Tax credit against Income Tax for consumption of diesel in business or transportation activities.
- Credit of IEPS against the income tax due by the taxpayer in the Exercise or in provisional payments for utilizing fossil fuels in their production processes for the elaboration of their products if they do not use it in combustion engine propel machines.
- Allow the credit of expenses incurred in the payment of services for the use of highway infrastructure of quota up to 50% of the total expenditure incurred against the ISR at its expense for the same year, including in provisional payments of the fiscal year in which expenses are incurred.
- Additional deduction of 5% of the cost of what would have been sold from food banks and medicine, which are effectively donated and can be used for human consumption.
- Deduct from the taxpayer's cumulative income an additional amount of up to 25% of the salary paid to people with disabilities.

## C. FOREIGN TAX RELIEF

### CONTROLLED FOREIGN CORPORATIONS / TAX HAVENS

When enacted, the CFC regime was based on a geographical concept such that it only applied to transactions realised in specific countries or regions (Black List). Currently, this regime applies to income wherever derived where the tax charged was less than 75% of the tax that would have been paid in Mexico. Income is not subject to the CFC regime when the Mexican company does not control the overseas company or less than 20% of its annual income is passive income. For this purpose, control is that which allows the parent to decide the timing of distributions of dividends or profits.

## D. CORPORATE GROUPS

The new Income Tax Law provides the elimination of the Tax Consolidation regime. However, it grants the possibility to benefit from the following schemes:

- Continue to be taxed under the consolidation regime until financial year 2017, for which determination of tax must continue to be calculated in the same way as in the prior legislation. Once the aforementioned period has passed, the taxpayer must choose one of the two taxation schemes indicated below.
- Avail to new rules for determining the tax under the scheme of "deconsolidation" under which tax must be calculated and reported within the time specified by the new Income Tax Law. The tax charge resulting from the deconsolidation will have to be paid to the tax authorities as follows:
  - 25% by the last day of May 2014.
  - 25% by the last day of April 2015.
  - 20% by the last day of April 2016.
  - 15% by the last day of April 2017.
  - 15% by the last day of April 2018.
- In lieu of the tax consolidation regime, a new optional regime of inclusive corporations is created in which payment of tax is partially deferred by three fiscal years.

## E. RELATED PARTY TRANSACTIONS

The Secretary of the Treasury is empowered to alter the tax loss or profit in the case of transactions between related parties made at prices other than market prices, including sales or purchases, loans, rendering of services, lease or sale of real property, as well as use or transfer of intangible assets, when they are not realised at a fair market value. Taxpayers are obliged to carry out an annual transfer pricing study. Taxpayers must apply the best method rule. By default this is to be the Comparable Uncontrolled Price Method (CUP), unless the taxpayer can prove that such method is not applicable.

Since 2014, the maquiladoras (Related Parties) are required to perform the calculation of safe harbour or submit an advance transfer pricing agreement (APA). For the application of the benefits contained in tax treaties and in the case of transactions between related parties, the tax authorities may request the non-resident to demonstrate the double juridical taxation through a statement under oath.

## F. WITHHOLDING TAXES

### DIVIDENDS

Since 2014 partners in corporations are subject to an additional fee of 10% on the dividends they receive from their corporations resident in Mexico. Entities distributing dividends are required to withhold tax and will pay it together with the interim payment of the corresponding period. Additionally, individuals who receive dividends from foreign companies shall be required to make payment of an additional 10% tax by the 17th of the following month in which the income is received.

### INTEREST

The withholding tax payable on interest to non-residents depends on the type of interest in a range from 4.9% to 21% for payments to banks and other financial institutions and 35% in other cases.

### ROYALTIES

Royalties payable to non-residents are taxed at the following rates:

- For the right to use railroad wagons: 5%
- Other categories of royalties: 25%
- Royalties paid to residents of countries with a preferential tax regime: 40%.

## G. EXCHANGE CONTROL

There are no exchange restrictions in Mexico. Foreign currencies can be freely bought, sold and sent or transferred abroad. However, since 2010 there are limitations to USD cash transactions.

## H. ELECTRONIC ACCOUNTING

Taxpayers are required to have their accounting transactions in an electronic fashion based on account catalogues and codes issued by the tax authorities. They also have to send part of their accounting information.

All Individuals and Corporations inscribed in the Federal Registration of Taxpayers (RFC) have been assigned a "taxpayer email", which serves as a communication tool between the tax collecting authority and them. In this taxpayer email, the authority will notify all determinations. Among other information taxpayers will send their accounting through this channel. The tax authorities may perform electronic reviews of the accounting information sent by taxpayers.

## I. PERSONAL TAXES

Persons residing in Mexico calculate their annual tax on their total income generated both in Mexico and abroad. In the case of foreign income, taxes paid abroad are generally credited against taxes payable in Mexico. There are specific rules for each type of personal income such as: wages, fees, capital gains, dividends, etc. In the case of wages, the taxes are withheld by the employer.

In the case of salaries paid by a foreign company to a foreigner working in Mexico, personal taxes have to be computed and paid, except when the foreign company does not have a branch or fixed base in the country and the person spends less than 183 days in the country during the year. There are only a few personal expenses that taxpayers can deduct from their income which are as follows:

- School transportation for his children (only in certain cases);
- Medical and dental fees, including hospital expenses for the taxpayer, spouse, direct-line ascendants or descendants;
- Funeral expenses for the persons mentioned under (b) above;
- Donations to authorised entities;
- Contributions for employee retirement;
- Medical insurance payments;
- Interest paid related to mortgage loans for the purchase of family home;
- Payments for professional services in psychology and nutrition.

From 2011, a decree has entered into force that allows the deduction of school tuition payments from primary up to High School level. Specific amounts and rules apply.

Provisional payments must be made monthly by the employer and the annual taxes must be calculated at the end of each year. These payments are calculated by the employer according to the following table:

Monthly Taxable Income (MXN)	Tax due on lower limit (MXN)	Marginal rate on excess (%)
Up to 578.52	0	1.92
578.53 - 4,910.18	11.11	6.40
4,910.19 - 8,629.20	288.33	10.88
8,629.21 - 10,031.07	692.96	16.00
10,031.08 - 12,009.94	917.26	17.92
12,009.95 - 24,222.31	1,271.87	21.36
24,222.32 - 38,177.69	3,880.44	23.52
38,177.70 - 72,887.50	7,162.74	30.00
72,887.51 - 97,183.33	17,575.69	32.00
97,183.34 - 291,550.00	25,350.35	34.00
291,550.01 and above	91,435.02	35.00

Personal tax rates apply up to a maximum of 35% in case of foreign residents.

## J. TREATY WITHHOLDING TAX RATES

Mexico is negotiating double tax treaties with Saudi Arabia, Slovenia, Marshall Islands, Jamaica, Lebanon, Malaysia, Morocco, Monaco, Nicaragua, Oman, Pakistan, Thailand, Turks and Caicos.

	Dividends <sup>1</sup> (%)	Interest (%)	Royalties (%)
<b>Treaty countries:</b>			
Australia	0/15	10/15	10
Austria	5/10	10	10
Bahrain	0	4.9/10	10
Barbados	5/10	10	10
Belgium	5/15	10/15	10
Brazil	10/15	15	15
Canada	5/15	10	10
Chile	5/10	15	15
China	5	10	10
Colombia	0	5/10	10
Czech Republic	10	10	10
Denmark	0/15	5/15	10
Ecuador	5	10/15	10
Estonia	0	4.9/10	10
Finland	0	10	10-15/10
France	5-15/0	15/15	5-10/15/10
Germany	5/15	5/10	10
Greece	10	10	10
Hong Kong	0	4.9/10	10

Hungary	5/10	10	10
India	10	10	10
Indonesia	10	10	10
Iceland	5/15	10	10
Ireland	10/5	5/10	10
Israel	5-10/10	10	10
Italy	15	15	15/0
Japan	0-5/15	10/15	10
Korea	0/15	5/15	10
Kuwait	0	4.9/10	10
Luxembourg	8/15	10	10
Latvia	5/10	5/10	10
Lithuania	0/15	10	10
Malta	0	5/10	10
Netherlands	5/15	5/10	10
New Zealand	15	10	10
Norway	0/15	10/15	10
Panama	5/7.5	5/10	10
Peru	10/15	15	15
Poland	5/15	10/15	10
Portugal	10	10	10
Qatar	0	5/10	10
Romania	10	15	15
Russia	10	10	10
Singapore	0	5/15	10
Slovak Republic	0	10	10
Spain	5/15	5/15	10/0
South Africa	5/10	10	10
Sweden	0-5/15	10/15	10
Switzerland	15/0	10/15	10
United Kingdom	0/15	5/10	10
Turkey	5/15	10/15	10
United Arab Emirates	0	4.9/10	10
United States	0-5/10	4.9-10/10	4.9-15/10
Uruguay	5	10	10
Ukraine	5/15	10	10

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## Notes:

1. The lower rate applies provided the corporate shareholder holds a minimum percentage of share capital or voting power in the payer which varies depending on the country concerned. Individual tax treaties should be consulted to determine the applicable rate circumstances.
2. The rates established above are found in the document published by the SAT (Tax Administration Service) named "Withholding Tax Rate for Dividends, Interests and Royalties According to the Double Tax Conventions in Force" (updated: January 2019) on the following link: <http://www.sat.gob.mx>

**MEMBER FIRM**

City	Name	Contact Information
Managua	Aldo Eli Guerra L.	+505 8886 6076 aldo.guerra@pkfnicaragua.com.ni

**BASIC FACTS**

Full name:	Nicaragua
Capital:	Managua
Main languages:	Spanish
Population:	6.32 million (2019 estimate)
Monetary unit:	Nicaraguan Cordoba (NIO)
Internet domain:	.ni
Int. dialling code:	+505

**A. TAXES PAYABLE****COMPANY TAX**

The main Nicaraguan taxes are:

- 1) Income tax.
- 2) Value Added Tax (VAT).
- 3) Consumption selective tax.

A company is resident in Nicaragua if it is incorporated or domiciled in the country or has its place of effective management in Nicaragua. Nicaragua has introduced the concept of a permanent establishment (PE), under which a PE may be treated as a resident for tax purposes.

The general income tax rate is 30% or a definitive minimum tax of 1% on gross income obtained during the fiscal year, whichever is higher. Income earned by non-resident individuals from Nicaraguan sources is generally subject to 15% final withholding tax. Calculation of taxable income depends on the classification of the income.

**Territoriality principle:**

The income tax system is based on the territoriality principle. Companies are subject to income tax only on their Nicaraguan-source income. Nicaraguan-sourced income comprises:

- income from property located in Nicaragua;
- income from services supplied to Nicaraguan residents (including services provided by persons not physically present in Nicaragua);
- income from assets or rights and any other type of passive income in Nicaraguan territory; and
- income from businesses activities carried out in Nicaragua, regardless of where that income is received.

**Tax period:**

The tax year generally runs from 1 January to 31 December of each year, although a taxpayer may request permission to adopt one of the following tax periods: April-March or October-September. The tax return must be filed within 3 months after the company's year-end.

**Classification of income**

- Income or taxable gross income. Taxable income is defined as gross income, less costs and expenses allowed by Nicaraguan legislation. Taxable income includes labour income, income from economic activities and capital income and capital gains (or losses). Certain income is exempt.
- Non-taxable income or gross income (not constitutive of income).

## CAPITAL GAINS TAX

A withholding tax rate of 10% is levied on capital gains realised by non-resident individuals through selling real estate property located in Nicaragua.

## BRANCH PROFITS TAX

Branches of foreign companies are taxed in the same manner as subsidiaries. There is no branch remittance tax.

## VALUE ADDED TAX (VAT)

VAT is an indirect tax levied for acts performed on Nicaraguan territory on the following activities:

- The sale of goods, provision of services, or use or enjoyment of property, the payment shall be made monthly to the tax administration within the fifteen (15) days to the taxable period, or in smaller instalments;
- The import or admission of goods or merchandise, in the Declaration or customs form of import, prior to removal of the goods or merchandise of the enclosure or customs warehousing; and
- The disposal back on imports or internment of goods or goods with customs exemption.

### Filing and payment

The VAT return must be filed in the month following the tax period and any VAT due must be paid at that time. Taxpayers falling within the scope of the large taxpayer regime must submit a VAT return every 15 days.

### Taxable persons:

Taxable persons are individuals, legal entities and any economic unit that performs taxable transactions, including the state, autonomous regions, national institutions and municipalities.

Tax-exempt persons include: universities and centres for superior technical education, central government and its municipalities, the army and national police forces, members of diplomatic or consular posts of foreign nations (under reciprocity treatment), as well as international organisations and missions, churches and religious foundations, and entities declared exempt from tax by the Constitution. Tax exemptions are also granted by specific laws in respect of certain activities (e.g. tourism, exports and free zones).

### Rates

The standard VAT rate is 15%, except for exports of domestic production goods and services abroad, which will be zero-rated.

## LOCAL TAXES

Nicaragua's income tax law affects the whole national territory equally.

## OTHER TAXES ON CORPORATIONS

### Capital Duty

No.

### Payroll tax

Payroll tax must be withheld at progressive rates, ranging from 0% to 30%.

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### Real property tax

The municipalities levy a 1% tax on the value of real estate.

### Social security

An employer is required to contribute 19% of the gross salary of each employee to social security, subject to a maximum per employee salary of NIO 88,005.78 for 2018.

### Stamp duty

Stamp duty is levied on certain types of documents issued in Nicaragua or abroad that produce effects in Nicaragua. The amount varies depending on the transaction.

### Transfer tax

No.

## Nicaragua

### Other

Mining and oil companies are subject to taxes in addition to the income tax.

## OTHER TAXES ON INDIVIDUALS

### Capital Duty

No.

### Real property tax

The municipalities' authorities levy a real property tax on the occupation of real property.

### Social security

Social security contributions are levied at 6.25% at the level of employees and at 19% at the level of employers and are determined on the basis of wages and salaries. The minimum taxable salary is NIO 82,953.88 for social security contribution purposes.

### Stamp duty

Stamp duty is levied on certain types of documents issued in Nicaragua or abroad that produce effects in Nicaragua. The amount varies depending on the transaction.

### Capital acquisitions tax

No.

### Inheritance / estate tax

If the property is required to be registered with the Public Record of Property, an occasional withholding tax will apply at rates ranging from 1% to 4%.

## B. DETERMINATION OF TAXABLE INCOME

The net taxable income of a corporation or partnership is determined by subtracting all allowable deductions from gross taxable income. Generally, expenditures and/or losses are deductible provided they are incurred in gaining or producing taxable income, or preserving the source of income. Special rules apply in respect of certain expenditures.

## DEPRECIATION

Depreciation is allowed in regard of tangible fixed assets. Depreciation is generally calculated at a fixed annual percentage in accordance with the straight-line method. However, an accelerated depreciation regime is available for exporters under a specific law to promote exports. Maximum depreciation rates for assets are as follows:

<b>Buildings:</b>	<b>Rate (%)</b>
Used for commercial purposes	5
Used for industrial purposes	10
Fixed installations used for agricultural purposes	10
Buildings for rent	3.33

<b>Equipment and machinery</b>	<b>Rate (%)</b>
Used for industrial purposes in general	
Fixed machinery	10
Not permanently attached to buildings	14
Other	20
Used in agricultural industries	20

Amortisation of intangible assets or deferred expenses is allowed as a deduction.

## STOCK / INVENTORY

The Income Tax regulations only allow the use of the average-cost method according to the normal course of operations. No other method is allowed.

## CAPITAL GAINS AND LOSSES

A withholding tax rate of 10% is levied on capital gains realised by non-resident individuals through selling real estate properties located in Nicaragua.

## LOSSES

Losses may be carried forward for three years. The carry-back of losses is not permitted.

## FOREIGN SOURCE INCOME

Both residents and non-residents are subject to tax on Nicaragua-sourced income only (however, residents have a base amount that is exempt from taxes). All foreigners who intend to reside indefinitely in Nicaragua are considered residents for tax purposes.

The applicable income tax rates are:

- Employment Income of Residents: progressive up to 30% (base amount is tax-exempt);
- Employment Income of non-residents: flat 20%;
- Taxation on interest: 10% withholding tax;
- Taxation on dividends: 10% withholding tax;
- Taxation on capital gains: the same as employment income.

## TAX INCENTIVES

Reduced tax rates are available to companies operating in the tourism and energy sectors.

### Incentives Act for Tourism Industry in Nicaragua

The Law of Incentives for the Tourism Industry of Nicaragua provides a number of tax incentives for investment in this sector ranging from investment in the areas of accommodation, food and beverage, travel agencies to tourist transportation, airlines, among others. These incentives are:

- Exemption of 80 to 100% of the income tax (IR) for a period of ten years.
- Exemption of property tax for a period of ten years.
- Exemption of Value Added Tax (VAT) applicable to design services, engineering and construction services.
- Exemption of import tax and VAT on the local purchase of goods, furniture, equipment, ships and vehicles of 12 passengers or more or cargo vehicles, this must be declared necessary for the establishment and operations of the tourism activity by the Tourism Board; and on the purchase of equipment that contribute to save water and energy and those necessary for the safety of the project.
- Exemption of import tax and VAT on the purchase of non-luxury materials and fixtures of the building.
- In case of reinvestment: if at the end of the incentive regime for ten years, the investor decides to reinvest at least 35% of the value of the originally approved investment, he/ she can receive all the benefits for ten additional years.

## C. FOREIGN TAX RELIEF

The Nicaraguan tax system is based on the territoriality principle. Foreign-sourced income is not taxed and thus no foreign tax credit is granted.

## D. CORPORATE GROUPS

Group taxation is permitted only when previously approved by the tax authorities. The economic group must submit a business case to the tax administration justifying the economic reason of their request.

### Thin capitalisation

The Nicaraguan tax system does not impose any form of thin capitalisation rules.

## Nicaragua

### Controlled foreign companies (CFCs)

Nicaragua does not have any CFC rules.

## E. RELATED PARTY TRANSACTIONS

Transfer pricing provisions have come into effect on 30 June 2017 (enacted by Law No. 822).

The transfer pricing rules apply to transactions conducted between an individual or legal entity domiciled or resident in Nicaragua and its related entities resident abroad and entities operating under a special tax regime.

The TP rules: (1) include the arm's-length principle and related-party definition; (2) regulate the criteria that taxpayers must follow to perform a comparability analysis; and (3) establish the transfer pricing methods to apply when assessing the arm's-length principle. The tax authorities are authorised to adjust prices when taxpayers do not comply with the arm's-length principle.

The TP rules also include provisions for Advance Pricing Agreements. Taxpayers are able to request an APA for up to five tax periods.

Taxpayers must prepare transfer pricing documentation on an annual basis. Law No. 822 sets out a general framework for the supporting documentation requirement. Taxpayers must have the transfer pricing documentation prepared by the time they file their tax returns. They must maintain the transfer pricing documentation in case it is requested by the tax authorities. If the tax authorities request the documentation, taxpayers have 10 business days to submit it.

## F. WITHHOLDING TAX

### Dividends

Dividends paid to a non-resident are subject to a 15% withholding tax. The rate increases to 17% if the payment is made to a resident of a tax haven jurisdiction.

### Interest

Interest paid to a non-resident or nonfinancial institution is subject to a 15% withholding tax. The rate increases to 17% if the payment is made to a resident of a tax haven jurisdiction.

### Royalties

A 15% withholding tax applies to patent royalties paid to a non-resident. The rate increases to 17% if the payment is made to a resident of a tax haven jurisdiction.

### Technical service fees

Technical service fees paid to a non-resident are subject to a 15% withholding tax. The rate increases to 17% if the payment is made to a resident of a tax haven jurisdiction.

### Branch remittance tax

There is no branch remittance tax in Nicaragua.

### Other

A 1.5% withholding tax is levied on reinsurance premiums. Income from insurance premiums and income from maritime and air transport are subject to a 3% withholding tax. The rate in other cases generally is 15%. Income from immovable property derived by non-resident companies is subject to a final withholding tax rate of 15% on 70% of the gross amount.

## G. FOREIGN EXCHANGE CONTROL

There are foreign exchange controls, and the Nicaraguan Central Bank issues foreign exchange rates on a monthly basis. There are no restrictions on the import or export of capital.

Repatriation payments may be made in any currency. In principle, residents may hold bank accounts in any authorised currency, and non-residents may do so in special cases.

## H. PERSONAL TAX

### Basis

Residents and non-residents are taxed on Nicaraguan-sourced income only.

**Residence**

A national or a foreign individual who remains in Nicaragua for more than 180 day during the calendar year, even if not continuously, is considered a resident for tax purposes.

**Filing status**

A married couple living together may elect joint or separate assessment.

**Taxable income**

Taxable income includes income from employment, trading income and income from investments in Nicaragua that exceed NIO 100,000.

**Capital gains**

Capital gains are subject to a 10% tax.

**Deductions and allowances**

A deduction equal to 25% of education, health and professional services expenses is granted annually up to a maximum of NIO 20,000, provided supporting invoices are maintained.

**Rates**

The rates for a resident individual are progressive up to 30%. The rate is 15% for a non-resident individual deriving Nicaraguan-sourced income.

**I. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

Nicaragua has not concluded any double tax treaties.

**PANAMA****MEMBER FIRM**

City	Name	Contact Information
Panama	Carmen Gonzalez	+507 269 5703 cgonzalez@pkfpanama.com

**BASIC FACTS**

Full name:	Republic of Panama
Capital:	Panama City
Main languages:	Spanish, English
Population:	4.17 million (2019 estimate)
Monetary unit:	Balboa (PAB) (at par with USD)
Internet domain:	.pa
Int. dialling code:	+507

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**KEY TAX POINTS**

- Corporate income tax is only chargeable on revenue arising from business activities and assets situated in Panama.
- An alternative minimum income tax system applies to all companies except small companies invoicing up to USD 1,500,000 per annum.
- Tax is chargeable at 10% on the net profit arising on the sale of real estate property. A different tax calculation method applies to the sale of shares and securities.

- VAT is charged on the supply of goods and services at a standard rate of 7%, although some goods are subject to higher rates and others are exempt.
- Withholding taxes apply to the payment of dividends by Panamanian companies to all recipients. Services and fees, interest, commissions, royalties or technical assistance fees, etc., paid or accrued to foreign recipients are subject to withholding tax only if the local payer will take it as a deductible expense.
- All individuals are subject to income tax on Panamanian source income. Progressive tax rates apply.

## **A. TAXES PAYABLE**

### **COMPANY TAX**

Panama's income tax law affects aggregate and annual revenue from business activities conducted in Panama or from assets situated in the country, when any of the causes of such revenue occur within the national territory. The standard tax rate for companies is 25%. Companies in which the State has more than a 40% share will pay 30% income tax.

The fiscal year of companies normally corresponds to the calendar year but it is allowable to have fiscal years ending on other dates if a request is made to the Tax Department authorities. Corporate tax returns and payments are due by the end of the third month following the end of the fiscal year. An extension of one additional month may be granted if requested. Extensions to file a tax return, however, do not affect the time for payment of tax. Corporations are required to prepay their estimated tax liability in three instalments, based on the income tax of the previous fiscal year.

### **ALTERNATIVE MINIMUM INCOME TAX**

A tax rate of 25% is applied to the net taxable income on whichever is higher between:

- (1) The amount of the net taxable income (traditional calculation of deducting costs and expenses from gross taxable income); and,
- (2) The net taxable income that arises after deducting 95.33% from gross taxable income.

If, after applying the second alternative, the company incurs losses due to the payment of the tax or, if the effective rate of the income tax exceeds 25%, it can request the Tax Department not to apply the alternative calculation. Small companies that invoice less than USD 1,500,000 gross taxable income in the fiscal year are exempt from applying the alternative calculation.

### **CAPITAL GAINS TAX**

On sales of real estate there are two taxes involved. One is a 2% transfer tax and the other is a 10% income tax on the net profit. The 2% transfer tax rate is applied on the higher of the sales price or the registered value of the property in the Public Registry plus a 5% surcharge for each complete calendar year for which the property is held.

The 10% income tax is calculated on the net profit of the transaction. Net profit is calculated by deducting the cost of the property plus any related expenses from the sales price. The buyer of the real estate will withhold 3% of the higher amount between the sale price or the cadastre value and remit it to the Tax Department. The seller will calculate a 10% tax on the profit. If this result is higher than the 3% withheld by the buyer, the seller can choose to consider the 3% as the final tax. If the 10% of the profit is lower than the 3% withheld by the buyer, the seller can request a reimbursement for the difference.

Income from the sale of securities is taxable as follows. The buyer will withhold 5% of the sale price and remit it to the Tax Department. The seller will calculate a 10% tax on the profit. If this is higher than the 5% withheld by the buyer, the seller can choose to consider the 5% as the final tax. If the 10% of the profit is lower than the 5% withheld by the buyer, the seller can request a reimbursement for the difference. Income from the sale of government securities and those issued by companies registered with the National Securities Commission is not taxable.

### **BRANCH PROFITS TAX**

Branches of foreign companies are subject to the same tax rates as Panamanian companies. In addition to corporate income tax, branches of foreign registered companies are subject to a 10% branch remittance tax on after-tax profits. The withholding tax is final and must be remitted along with the filing of the annual tax return.

### **SALES TAXES/VALUE ADDED TAX (VAT)**

Many consumer services and goods are subject to a 7% value added tax. Alcoholic beverages and hotel room

rentals have a 10% tax rate and cigarettes and tobacco products have a 15% tax rate. The following items are exempt from VAT:

- Food (except restaurants that serve alcoholic beverages which are taxed);
- Medicines and medical services;
- House rentals with a contract period of more than six months. House rentals with contract periods of less than six months are subject to VAT.

Companies with purchases of over USD 5,000,000 in the previous year become withholding agents, and are required to retain 50% of VAT included in their vendors' bills. Institutions that manage credit and debit cards will withhold 50% of VAT included in sales of goods or services paid with credit and debit cards. The tax authorities have published a list of companies designated as withholding agents.

## LOCAL TAXES

Panama's income tax law affects the whole national territory equally.

## OTHER TAXES

Other taxes are also applicable, including:

### PREPAID DIVIDEND TAX

Local corporations must pay a 4% complementary tax on each fiscal year's net taxed profit on behalf of their shareholders if no dividends are declared. This 4% will be applied to dividend tax when dividends are declared. The rate for companies established in a Free Zone is 2%.

### FRANCHISE TAX

Foreign and domestic corporations registered in the Public Registry are subject to an annual tax of USD 300, regardless of whether they are doing business in Panama. There is a penalty of USD 50 for late payment and, after two years of non-payment of the franchise tax, there is a restoration fee of USD 300 per year.

### ANNUAL LICENCE TAX

All industrial or commercial business, except those exempted by specific laws, are required to have a license to operate. This tax is 2% of the company's net worth, including amounts owed to the foreign home office or foreign affiliated companies. The tax is payable annually up to a maximum of USD 60,000. For companies established in a Free Zone, this tax is 0.05% of the company's net worth, including amounts owed to the foreign home office or foreign affiliated companies. The tax is payable annually up to a maximum of USD 50,000.

### MUNICIPAL TAX

Lucrative activities in any municipality shall pay local tax upon gross income, calculated according to the companies' category and activity.

### SOCIAL SECURITY TAX

These are payments that are made monthly by employers and employees on the payroll of companies for the purpose of guaranteeing the functioning of the worker social security system and retirement benefits at the national level.

	Employer	Employee
Social Security:		
- Salary	12.25%	9.75%
- XIII Month	10.75%	7.25%
Education tax	1.5%	1.25%
Professional Risk*	0.98% - 5.67%	0

\* According to activity

## ANNUAL BANKING INSTITUTIONS TAX

Banking institutions are subject to an annual tax as follows:

Banks with General License	Annual Tax
Assets up to USD 100 million	USD 75,000
Assets between USD 100 and USD 200 million	USD 125,000
Assets between USD 200 and USD 300 million	USD 175,000
Assets between USD 300 and USD 400 million	USD 250,000
Assets between USD 400 and USD 500 million	USD 375,000
Assets between USD 500 and USD 750 million	USD 450,000
Assets between USD 750 million and USD 1 billion	USD 500,000
Assets between USD 1 billion and USD 2 billion	USD 700,000
Assets above USD 2 billion	USD 1,000,000
During their first year of operation, new banks with general license will pay 50% of the above annual tax	
<b>Banks with International Licence:</b>	USD 75,000
Banks for development and microfinance	USD 30,000
Exchange houses	USD 10,000

## TAX ON REAL ESTATE

A new law comes into force on 1 January 2019 and modifies the tax rate applied to all types of properties and to the owners, regardless of their citizenship.

The law exempts 100% of properties valued up to USD 120,000, when these are declared as tax family property or main residence, as of 1 January 2019. The rates are as follows:

### Tax family property or main residence

From	To	Tax rate
USD 0	USD 120,000	0%
USD 120,001	USD 700,000	0.5% on the amount exceeding USD 120,000 up to USD 700,000
Over USD 700,000	-	USD 2,900 tax on the first USD 580,000, plus 0.7%, on the amount exceeding USD 700,000

### Secondary residences and commercial and industrial properties

For other residences, commercial or industrial properties, the exemption is only for the first USD 30,000 and the rate to be applied increases.

From	To	Tax rate
USD 0	USD 30,000	0%
USD 30,001	USD 250,000	0.6% on the amount exceeding USD 30,000 up to USD 250,000
USD 250,001	USD 500,000	USD 1,320 tax on the first USD 220,000, plus 0.8%, on the amount exceeding USD 250,000
Over USD 500,000	-	USD 2,820 tax on the first USD 470,000, plus 1.0%, on the amount exceeding USD 500,000

## B. DETERMINATION OF TAXABLE INCOME

The net taxable income of a corporation or partnership is determined by subtracting all allowable deductions from gross taxable income. Generally, expenditures and/or losses are deductible provided they are incurred in gaining or producing taxable income, or preserving the source of income. Special rules apply in respect of certain expenditures.

## ALTERNATIVE METHOD OF CALCULATING A MINIMUM NET TAXABLE INCOME

The net taxable income under this method arises after deducting 95.33% from the gross taxable income. Under this formula, the net taxable income will be 4.67% of the gross taxable income. The larger of the two amounts will be the net taxable income for the fiscal year. The alternative method of calculating a minimum net taxable income is applicable to companies with gross taxable income of USD 1,500,000 and above.

## DEPRECIATION AND DEPLETION

Depreciation is normally calculated by the straight-line method over the estimated useful life of the asset. The regulations also permit the use of the sum-of-the-digits and declining-balance methods. Depletion of mines and other natural resources is based on units extracted or produced. Using any other method requires the approval of the Income Tax Department.

## STOCK / INVENTORY

The Income Tax regulations allow the use of the specific cost, FIFO, retail-inventory, or average-cost method according to the normal course of operations. The method used cannot be changed by the taxpayer for at least five years and will require a written notification to the Tax Department authorities.

## DIVIDENDS

The corporation declaring the dividend must withhold a 10% tax on all dividends declared from income earned within the Republic of Panama. However, dividends on bearer shares are subject to a 20% dividend tax. Dividends declared by branches or domestic subsidiaries of foreign corporations on income earned within the Panamanian territory are subject to the 10% tax as well. However, dividends on bearer shares are subject to a 20% dividend tax. Companies requiring a commercial operating license must withhold a 5% tax on dividends declared from income obtained on exports or from foreign source.

Companies established in a Free Zone must withhold a 5% tax on dividends, regardless of the source of income. Loans and advances to shareholders are subject to 10% dividend tax, except for bearer's shares which are subject to a 20% withholding tax. Capital shares can be reduced only if the total retained earnings have been distributed and the dividend tax paid.

The dividend tax may vary subject to the application of a double tax treaty.

## INTEREST INCOME

The following types of interest earned are not subject to income tax:

- Savings and time deposits with banks;
- Panamanian government securities;
- Securities issued by companies registered with the National Securities;
- Commission, provided the securities were acquired through a securities exchange duly established to operate in Panama;
- Loans granted to the agricultural and agro-industrial sectors;
- Loans granted to the tourism sector.

## INTEREST DEDUCTIONS

Interest is normally deductible on an accrual basis but must be capitalised if it relates to financing of real estate construction. Once the construction is completed, interest is then deductible from income.

## LOSSES

Losses incurred in any given year can be taken as a valid deduction over the next five years at a carry forward rate of 20% of the loss per year, as long as this deduction does not reduce the current taxable income by more than 50%. Excess over this limitation for any given year will be lost.

## SOURCE OF INCOME

Foreign-sourced income is not subject to income tax. Only income earned in the territory of Panama is subject to Panama income tax. Income received by persons or companies domiciled outside of Panama will be considered from a Panamanian source if it arises from services or actions that benefit persons or companies located in Panama, including fees, interests and royalties. The income tax to be withheld is at the regular

rates for individuals or corporations but only on 50% of the amount of income received by the recipient and may be deductible.

### INCENTIVES

- a) The following incentives are available to these qualifying industries and corporations:
- b) Companies operating in the Colon Free Zone, or any other Free Zone in the country, are tax-exempt on profit derived from sales from the Free Zone to foreign countries;
- c) Companies operating in "Ciudad del Saber" (City of Knowledge) and "Panamá Pacífico" (Pacific Panama) are exempt of income tax, import duties and VAT. Dividend tax of 10% or 5% applies when dividends are declared;
- d) For "small business" companies, income tax is calculated over a combination of the personal tax rate and corporate tax rate. Companies are considered small as long as they:
  - Are not related or affiliated to other companies;
  - Are not a result of the fractionalisation of other corporations;
  - Have an annual gross income of less than USD 200,000; and,
  - Their shareholders are individual persons.
- e) Financial entities, including savings and loans associations or any other legal entity that previously registers with the Tax Authorities and whose commercial line of business is that of granting mortgage loans or engaging in construction and that meet the requirements and formalities provided for, may benefit from the tax regime called "Preferential Mortgage Loans":
  - The referred preferential portion may not exceed 4% in housing loans, whose value registered at the time of financing is greater than forty thousand balboas (USD 40,000) and does not exceed eighty thousand balboas (USD 80,000);
  - The preferential portion in housing loans, whose value registered at the time of financing is greater than eighty thousand balboas (USD 80,000) and does not exceed one hundred and twenty thousand balboas (USD 120,000), shall be 2%.

### C. CORPORATE GROUPS

Group taxation is not permitted in Panama.

### D. RELATED PARTY TRANSACTIONS

Transactions between related parties are treated normally as long as an "arm's length" basis is used. They are shown individually in the income tax return. For purposes of paying the annual operations notice tax, the amount owed to related parties abroad is not reduced as an obligation, causing an increase in this tax.

### TRANSFER PRICING

There is a transfer pricing system for import and export with non-resident related parties of goods, services and rights. These prices are based on the following methods: comparative independent price method, resale price less profit method, production cost plus profit method, profit-split method, or the transaction net margin method.

The tax authorities require a study of transfer prices with the chosen method according to the agreements between companies and also the annual presentation of a declaration of transactions with related parties.

### E. WITHHOLDING TAX

Services and fees paid or accrued to individuals and to resident corporations are not subject to withholding tax, except for payments on dividends distributed from retained earnings arising from Panama-sourced income. Services and fees, interests, commissions, royalties or technical assistance fees, etc., paid or accrued to foreign recipients are subject to withholding tax only if the local payer will take it as a deductible expense. The withholding tax is at the regular rates for individuals or corporations but only on 50% of the amount of income received by the recipient. The withholding tax must be remitted to the tax authorities within 10 days following the retention or registration, whichever comes first.

The withholding tax may vary subject to the application of a double tax treaty. In order to invoke the treaty for the first time, it is necessary to submit an application through a memorial, the tax residence certificate, original invoice and identification of the legal representative.

## F. EXCHANGE CONTROL

The exchange rate in the Republic of Panama is always USD 1 = B/.1.00 (BALBOA).

## G. PERSONAL TAX

The rates set out below are applicable to any individual's net income earned:

Net Income	Tax rate
Up to USD 11,000	0%
From USD 11,001 to USD 50,000	15% on the amount exceeding USD 11,000 up to USD 50,000
Over USD 50,000	USD 5,850 tax on the first USD 50,000, plus 25% on amounts exceeding USD 50,000

## H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Panamanian companies or individuals that will apply the withholding tax rates indicated in the treaties must first notify this in writing to the Tax Department.

	Dividends <sup>1</sup> (%)	Interest <sup>2</sup> (%)	Royalties <sup>3</sup> (%)	Service Fees (%)
<b>Treaty countries:</b>				
Barbados	5/7.5	5/7.5	7.5	7.5
Czech Republic	10	5/10	10	0
France	5/15	5	5	0
Ireland	5	5	5	0
Israel	5/15/20	15	15	0
Italy	5/10	5/10	10	10
Korea	5/15	5	3/10	15
Luxembourg	5/15	5	5	5
Mexico	5/7.5	5/10	10	12.5
Netherlands	15	5	5	15
Portugal	10/15	10	10	10
Qatar	6	6	6	15
Singapore	4/5	5	5	15
Spain	5/10	5	5	7.5
United Arab Emirates	5	5	5	0
United Kingdom	15	5	5	0
Vietnam <sup>4</sup>	5/7/12.5	10	10	7.5

Notes:

1. The lower rate applies to dividends paid to foreign corporations that own a particular percentage of share capital.
2. The lower rate applies to interest paid to foreign banks and the higher rate applies to others.
3. The lower rate applies to royalties paid for the use of commercial, industrial and scientific equipment. The higher rate applies to other royalties paid.
4. Entry into force: 14 February 2017. Effective date: 1 January 2018.

## I. AGREEMENT FOR TAX COOPERATION AND EXCHANGE OF INFORMATION

The Republic of Panama has agreements for tax cooperation and the exchange of information relating to taxes with the following countries: Canada, Denmark, Finland, Greenland, Iceland, Japan, Norway, Sweden, The Faroes and the United States of America. These agreements apply to taxes of every kind imposed on the contracting parties.

## MEMBER FIRM

City	Name	Contact Information
Asunción	Fernando A. Cardozo C.	+595 21 60 30 44 fcardozo@pkf-controller.com.py

## BASIC FACTS

Full name:	Republic of Paraguay
Capital:	Asunción
Main languages:	Spanish, Guaraní
Population:	6.96 million (2019 estimate)
Monetary unit:	Paraguayan Guaraní (PYG)
Internet domain:	.py
Int. dialling code:	+595

## A. TAXES PAYABLE

## TAXES AND FEDERAL LEVIES

## CORPORATE TAX

The Paraguayan tax system relies heavily on four basic taxes: Value Added Tax (VAT), Tax on income from commercial and industrial activities (IRACIS), Tax on Agricultural Income (IRAGRO) and Selective Consumption tax (ISC).

Corporate income tax (*Impuesto a la Renta de Actividades, Comerciales, Industriales y de Servicios*, IRACIS) is levied upon all resident and non-resident legal entities deriving Paraguayan-source income. Non-residents without a permanent establishment or presence in Paraguay are only taxed on certain types of Paraguayan-source income. For corporate income tax purposes, taxable persons are: companies, individuals undertaking large-scale business activities, state-owned companies and government agencies, subsidiaries, branches, agencies and permanent establishments of foreign companies located in Paraguay and registered with the Paraguayan tax authorities. Companies engaged in agricultural activities are subject to a special income tax regime.

The Paraguayan tax system uses the territorial source criterion to tax income. This means that all income from property or rights within the national territory are taxed. However, the yields obtained from capital placed abroad and exchange differences thereof, are considered to be Paraguayan-sourced when the investing or beneficiary institution is based in Paraguay. An inflation adjustment is not taken into account but taxpayers are required to revalue their assets each year according to the rates set by the Government.

Corporate income tax is assessed at the rate of 10%. Additionally, a tax is levied on the distributing company at the rate of 5% on dividends or profit distributions to resident and non-resident shareholders. The tax is due at the time the dividends or profit distributions are declared by the shareholder or member's meeting, or at the time they are registered in the company's accounting books (in case the company does not carry out meetings under its by-laws). Dividends or profit distributions are considered as accrued by the recipient at that time, independently of the time of payment. The taxable base is the net amount of dividends or profit distributions, which excludes the corporate income tax paid and the profits capitalised or allocated to reserves. The taxable person is the company making the payment or distribution. The company must pay the 5% tax within 2 months from the shareholders' or members' meeting or registration in the company's accounting books.

## SMALL TAXPAYER INCOME TAX (IRPC)

There is also a special tax for Small Taxpayers, which taxes income derived from commercial, industrial or non-personal services activities and whose income earned in the previous calendar year does not exceed PYG 500,000,000 (approximately USD 89,000).

The income tax on small business (*impuesto a la renta del pequeño contribuyente*, IRPC) is levied annually

at the rate of 10% on the lesser of (i) the actual net income or (ii) a presumed net income.

Effective 1 January 2014, tax amendments were introduced regarding persons subject to this tax:

- a proprietorship carrying on commercial or industrial activities or performing services may be subject to this tax provided its annual accrued income in the previous tax year does not exceed PYG 500 million;
- if a proprietorship derived income in excess of this amount, it will become a taxpayer of the "income tax for commercial or industrial activities, or performance of services (IRACIS)" as from the following tax year, and will be registered as such by the tax administration; and
- a proprietorship registered as an IRACIS taxpayer may not become an IRPC taxpayer.

Subsidiaries and permanent establishments of foreign companies and companies carrying on import and/or export activities are excluded from the scope of this tax.

## BRANCH PROFITS TAX

Branches are taxed at the same rate of 10% as Paraguayan domestic corporations. Profits transferred or credited to the head office are subject to a 15% withholding tax when remitted to the foreign head office. Furthermore, the payment of dividends is subject to a 5% tax rate, which has to be paid at the time of remittance and is charged to the local entity.

## CAPITAL GAINS TAX

Gains on all assets, tangible and intangible, are taxable as part of profits and subject to income tax at a rate of 10%. Foreign currency exchange gains are also taxable at the same tax rate.

## VALUE ADDED TAX (VAT)

VAT (*impuesto al valor agregado*, IVA) is levied on taxable supplies of goods and services as well as on imports of taxable goods and services into Paraguay. Exports are zero rated. Some specified transactions are exempt without credit for previously paid VAT. In computing tax liability, input VAT may be credited against output VAT, so that in practice only the value added to the taxpayer's supplies is taxed. VAT applies to all stages of the distribution process. VAT taxes the asset disposal or sale of services, the provision of services (excluding personal information rendered in a dependent relationship) and the importation of goods.

Are subject to payment of VAT individuals, sole proprietorships domiciled in the country, cooperatives with the scope set forth in Law No. 438/94, and companies engaged in commercial, industrial or service activities. The tax is calculated on the sales price of the goods or the services. The standard VAT rate is 10% while a 5% rate applies to the sale of pharmaceuticals, the basic family basket and agricultural, horticultural and fruit products as well as to property rentals.

Exports of goods and services of international freight for the transport of goods are not subject to VAT. In these cases the local exporter has the right to recover the tax credit associated with the exported products, which depends on the completion of certain formalities with the Tax Administration. Paraguayan law establishes a system of withholding tax on local suppliers by exporters and certain taxpayers appointed by the Tax Administration.

## SELECTIVE CONSUMPTION TAX

Excise tax is payable at the time of the import or the first sale (by local manufacturers) of certain products such as soft drinks and alcoholic beverages, cigarettes, toiletries, fuels, among others, constituting a cost to the importer or local manufacturer. The tax is paid monthly, with the exception of fuels which is on a weekly basis. The settlement and payment are carried out before removal of goods from customs, i.e. before the warrant and order release of goods for departure.

## MUNICIPAL TAXES

### Municipal Patent for Industries

Over the asset value applies a fee plus a fixed rate of 0.05% on the excess of the minimum amount according to the scale provided by law. Industrial companies have a discount of 20% on the resulting patent. The new industrial plants and those that expand their facilities have a discount of 25% on the resulting patent for 3 years.

### Commercial Patent

Over active value applies a fixed fee plus a rate of 0.05% on the excess of the minimum amount according to the scale provided by the Act.

## **Vehicles Patent**

A tax is applied over the value for duty consisting of a fixed fee plus a rate of 0.6 to 1% on the excess of the minimum amount according to the scale provided in the Act. The law provides reductions for certain types of vehicles as taxis and remise cargo vans, buses and hearses.

## **Building**

A tax over the value of the work sheet is applied, according to the intended scale in the Law between 0.2 and 4%.

## **SOCIAL SECURITY REGIME**

Are mandatorily subject to a social security scheme, salaried workers, regardless of their age and the amount of compensation they receive. The percentage of current worker- employer contribution is 25.5% monthly, corresponding to 9% and 16.5% for workers and employers respectively. The basis for calculation is the current employee remuneration which is the total remuneration received by the worker in money, species or royalties, including extraordinary, additional or piecework work, commissions, perks, severance pay, awards, fees, interests and any other accessory remunerations with a normal character in the company or workplace, except for bonuses.

## **B. DETERMINATION OF TAXABLE INCOME**

The taxable amount for purposes of calculating the tax on annual income is determined by deducting from the taxable gross income (difference between total income from commercial, industrial or service operations and the cost thereof), the expenses necessary to obtain and maintain the production source.

## **DEPRECIATION**

Depreciation of property constituting the fixed assets is calculated annually based on the estimated life of each type of asset. When an activity involving depletion of the production source is made, the tax law allows depreciation proportional to such exhaustion. Intangible assets such as trademarks, patents and others are amortised using an annual percentage of 25%.

## **STOCK / INVENTORY**

The cost of inventory includes all cases arising from its acquisition and processing, as well as other costs incurred to put it on deposit or application to the production process.

The valuation methods supported by the local tax rules are:

- Acquisition Cost;
- Conversion Cost;
- Any other valuation method prescribed in the International Financial Reporting Standards (IFRS), prior authorisation of the Tax Administration.

## **DIVIDENDS**

The distribution of dividends is subject to Income Tax headed by the local taxpayer (entity distributing the dividends) with an additional fee of 5%, which must be applied to the amount of profits paid, remitted or credited, being either local or foreign shareholders. That tax will be non-deductible at the level of the taxpayer for the purpose of liquidating its tax expense. Partners and shareholders domiciled or established abroad, such as the head office abroad, tax the IRACIS by means of deduction, at the time that they are paid, remitted or credit profits by companies or branches opened in the country. In this case, the company or the local branch should act as a retainer agent, applying the rate of 15% on net amounts referred rotated or credited.

## **INTEREST DEDUCTION**

Interest paid, which will be taxed in the hands of the receiver (creditor), will be allowable as a deduction for tax purposes. Interest paid to an overseas head office, other branch or agency by a Paraguay branch, agency or permanent establishment (on the capital, loans or any other investment made by the overseas head office, other branch or agency) will be allowable as a deduction for Paraguay tax purposes as long as the interest is subject to tax in the hands of the recipient and any Paraguay withholding tax has been accounted for.

There are no thin capitalisation rules in Paraguay.

## **LOSSES**

Tax losses may not be carried forward or back.

However, the tax losses generated under the Agricultural Income Tax (IRAGRO) can be offset against taxable net income following five years.

## FOREIGN SOURCE INCOME

The Paraguayan corporate income tax system is based on the territoriality principle, whereby tax is only due on business income generated by companies operating in Paraguay. Foreign-sourced income is not taxable. However, interest, commissions, and capital gains are considered Paraguayan-sourced income and subject to corporate income tax when the investor is resident in Paraguay.

## TAX INCENTIVES

### ACT 60/90

Act No.60/90 was passed in order to promote and increase capital investments (domestic and / or foreign), by granting fiscal benefits to those who make investments in line with the economic and social policy of the Government and aim to:

- a) To increase the production of goods and services;
- b) Creating permanent jobs;
- c) To incorporate technologies to increase production efficiency and enable greater and better use of raw materials, labour and domestic energy resources;
- d) The investment in capital and reinvested earning.

### Benefits and tax exemptions

Investment projects that are approved can enjoy, depending on the characteristics of each investment project, the following payment exemptions:

- Value Added Tax on the purchase of imported capital goods (as well as capital goods produced in Paraguay) used in the facility for industrial or agricultural production;
- All taxes levied on the creation, or registrations of companies and enterprises;
- Tariffs and internal taxes on imports of capital goods, raw materials and inputs for use in investment projects for the production of capital goods;
- Taxes and other levies on remittances and payments abroad in respect of interest, commissions and capital of such when the investment is financed from abroad and is at least USD 5,000,000 in a lapse of 10 years;
- All taxes which affect dividends and profits from projects approved, for a term of 10 years counted from the start of the project when the investment is at least USD 5,000,000 and the tax on such dividends or utilities were not fiscal credit of the investor in the country from which the investment provides.

### Scope of Benefits

The exemptions provided in the Law apply, among others, to investments in: financing, capital goods, specialised technical assistance, mining, hotel and rental of capital goods (leasing), providing services in air cargo and passengers, river transport, land freight transport in general, public passenger transport, health, radio, television, press, rural and urban fixed telephony, mobile telephony, scientific research, silos, storage, and data transmission services .

### Validity of Benefits

- 10 years when investment resources are from capital repatriation or when investments are filed in preferred areas of development; or
- 7 years when investments come from incorporation of capital goods of national origin.

## FREE ZONE PROCEDURE

Paraguay has established free zones (FZs) in different areas of its territory. These areas can be used to carry on qualifying transactions. The incentives can be summarised as follows:

- taxpayers conducting qualifying activities and exporting abroad may opt to be taxed at a 0.5% rate on their total export turnover;
- taxpayers may sell finished products and services within the FZ, subject to a 0.5% tax, as long as the related sales turnover in the relevant tax period does not exceed 10% of the taxpayer's total gross

income, otherwise, the latter may be subject to income tax at an effective rate of 3% on the ratio of the sales within the FZ and net income after deduction of related expenses; and

- the import of goods into the FZ is exempt from customs taxes and duties. The export of goods and services is also exempt.

### MAQUILADORA REGIME

The Maquila Regime is regulated by Law 1064/97 under which a local company/subsidiary/branch ('Maquiladora') signs a contract with a foreign entity to produce goods and/or to provide services for export only, operating for account and risk of the foreign entity, who can supply all the raw materials and other inputs to the Maquiladora from any local or foreign supplier.

Any person or company, national or foreign, domiciled in Paraguay may be licensed for a Maquila export program. Such companies may be incorporated under any form: corporations, limited liability companies, foreign branches, or individual limited liability enterprises, without any ownership restrictions, having total or partial foreign, national or joint venture participation. There are no restrictions as to minimum capital or minimum/maximum production.

The Maquiladora must file an application for a Maquila Program to the Maquila Council with details of the estimated undertaking. Once the program is approved, it can be modified as necessary, and the following benefits are granted:

- Suspension of all applicable taxes and duties on raw materials and other inputs required for the performance of the Maquila Program that can enter on Paraguayan territory;
- Tax exemptions including but not limited to income tax, value added tax, customs duties, port and airport taxes and duties and any type of tax, rate or charge applied to loans financing Maquiladora undertakings.
- No taxes applicable to production, except a 1% tax on value added on Paraguayan territory.
- Either the Maquiladora or the Head Office may issue export invoices.
- Maquiladoras can perform production by themselves or can subcontract to other local companies, and tax benefits might extend to subcontractors under certain conditions.

Requirements include a guarantee (insurance policy, warrant or bank guaranty) for customs duties for a value equal to the suspended taxes.

### C. FOREIGN TAX RELIEF

As foreign-source income is not subject to corporate income tax in Paraguay (see above under 'Foreign Source Income'), no credit is granted for foreign taxes.

### D. CORPORATE GROUPS

There are no provisions in Paraguayan law for the filing of consolidated tax returns.

### E. RELATED PARTY TRANSACTIONS

Paraguayan law does not contain transfer pricing provisions. However, it contains some provisions dealing with certain payments that affect the transfer price on the cost of goods for importation and exportation activities, like soybeans and soybean products.

There are no CFC (Controlled Foreign Company) provisions in Paraguayan law.

### F. WITHHOLDING TAX

Domestic-source income derived by non-residents without a permanent establishment in Paraguay is generally subject to a final withholding tax levied on the gross amount of income.

Dividend payments or profit distributions to non-resident shareholders are subject to a 15% withholding tax on the gross amount. Interest paid to non-residents is subject to a 30% withholding tax. As the withholding rate is applied on 50% of the interest, Paraguayan-sourced interest payments are taxed at an effective rate of 15%. Interest paid to non-resident financial institutions is subject to a 6% effective withholding tax rate. Royalties paid to non-residents are subject to a 30% withholding tax. As the withholding rate is applied on 50% of the royalty payment, Paraguayan-sourced royalty payments are taxed at an effective rate of 15%.

Branch profit remittances paid to head offices are subject to a withholding tax at the rate of 15% on the amount remitted (in addition to the corporate income tax rate of 10% and the additional income tax of 5% levied at the time of distribution). The withholding tax applies only if the profits are actually distributed or remitted to the head office.

Fees and commissions paid to non-residents are subject to a tax of 30%, which is withheld at source. As the withholding rate is applied on 50% of the payment, domestic-source fees and commission payments are taxed at an effective rate of 15%. Deemed taxable income derived by non-residents from leasing immovable or movable property is 50% of the gross rental amount, which is subject to a tax of 30%. Consequently, Paraguayan-sourced rental payments are taxed at an effective rate of 15%.

Capital gains derived by non-residents are subject to a tax of 30%, which is applied on 50% of the gain. Consequently, domestic-source capital gains are taxed at an effective rate of 15%.

## G. EXCHANGE CONTROL

The Paraguay Central Bank does not control the foreign-exchange market. A free-market rate of exchange prevails.

## H. PERSONAL TAX

Personal Income Tax (IRP) is levied on income from Paraguayan sources generated by conducting personal income generating activities. IRP taxpayers are individuals and single companies whose income exceeds 10 minimum monthly wages or the equivalent of 120 monthly minimum wages in the course of a year. The threshold to be subject to tax is reduced by 12 monthly minimum salaries per year, until it reaches the level of 36 minimum salaries in 2019. The individual income tax has been introduced progressively since 2012 when it entered into force. Individuals whose annual income exceeds the following amount are subject to income tax:

- 2012: 120 minimum salaries;
- 2013: 108 minimum salaries;
- 2014: 96 minimum salaries;
- 2015: 84 minimum salaries;
- 2016: 72 minimum salaries;
- 2017: 60 minimum salaries;
- 2018: 48 minimum salaries; and
- as from 2019: 36 minimum salaries (final minimum amount).

The rates are:

- 10% for income above 10 minimum monthly wages (approximately USD 3,800);
- 8% for income not exceeding 10 minimum monthly wages and 20% on 50% of the amount earned by individuals domiciled abroad by performing taxable activities in the country. In the latter case the payor should act as a withholding agent on any payment, credit or remittance.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
<b>Domestic rates</b>				
Companies	15	15	6/15	15
Individuals	15	--	15	12/15
<b>Treaty countries:</b>				
Chile	10	10	10/15 <sup>1</sup>	15
Taiwan	5	5	10	10

Notes:

- In case of a loan to Chile, the interest is subject to a 15% withholding tax if it is provided by a bank or insurance company, while if the loan is provided by an associated company or head office the withholding tax rate is 10%.

**MEMBER FIRM**

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**BASIC FACTS**

Full name:	Republic of Peru
Capital:	Lima
Main languages:	Spanish, Quechua and Aymara
Population:	32.90 million (2019 estimate)
Monetary unit:	Sol (PEN)
Internet domain:	.pe
Int. dialling code:	+51

**KEY TAX POINTS**

- Corporate Income Tax (CIT) is payable at a rate of 29.5% applicable from 2017 onwards.
- Value Added Tax is imposed on the sale of goods, the supply and use of services in the country and the import of goods made at different stages of the economic cycle. The general tax rate is 18%.
- Royalties and similar income are subject to withholding income taxes at source.
- Peruvian citizens residing in Peru are taxed on their worldwide income, regardless of where the income is generated or where it has been paid or the currency received for it. In the case of non-resident citizens, they are taxed only on their Peruvian-source income.

**A. TAXES PAYABLE****NATIONAL TAXES AND LEVIES****COMPANY TAX**

Resident companies are taxed on its worldwide income. Any profits, including capital gains, are included in the taxable income of a corporation and taxed at the regular corporate rate. Resident companies are those incorporated or established in Peru.

Corporate Income Tax (CIT) is payable at a total rate of 29.5%. An additional 5% applies for distribution of dividends.

The tax year for a company is its accounting year, which ends on 31st December. Companies are required to make monthly advance payments of CIT based on one of the following methods:

- 1.5% of monthly net revenue; or,
- The monthly net revenue times a ratio between the income tax and the net revenue, both from the preceding year.

Companies must file their Annual Income Tax Return and pay any balance due up to the end of March or the first days of April each year.

Mining companies are, in addition to their specific corporate rates of tax, subject to a royalty calculated on the gross sales relating to the transfer of mineral resources. The royalty is calculated in terms of a specific formula and, depending upon the operating margin, is in a range from 1% to 12%.

## CAPITAL GAINS TAX (CGT)

Strictly speaking, CGT is not a tax in its own right but rather forms an integral part of Peruvian Income Tax legislation. As a general rule, capital gains are defined as any income obtained from capital assets disposal.

Capital assets are those not intended to be traded within any business or company. Subject to any exclusions and exemptions, a taxable gain is calculated by taking the difference between the proceeds received on disposal of the asset and the base cost and then multiplying this amount by the tax rate (which varies depending on the nature of the taxpayer).

## BRANCH PROFITS TAX

Peruvian branches of foreign companies are subject to tax on Peruvian-source income only at the regular corporate rate.

## VALUE ADDED TAX (VAT)

Peruvian VAT is imposed on the sale of goods, the supply and use of services in the country and the import of goods made at different stages of the economic cycle. The general tax rate is 18%. It is a monthly basis tax operating under the system of debit / credit, offsetting the tax generated from sales with the tax paid on purchases.

Exports are zero-rated and very few exemptions exist.

There are two particular systems for recovering the tax credit generated by the Peruvian VAT:

- Early Recovery: Companies at a pre-operative stage longer than two years with Large projects may apply for early recovery of VAT, which allows them to obtain a VAT credit refund prior to starting operations. An investment agreement with the Ministry of this sector is required and a minimum investment of USD 5 million is required;
- Definitive Recovery: This applies mainly to the mining, oil and gas industries. Thus, the system applies to holders of mining claims which are not in the production phase and enter into an Exploration Investment Agreement with the State, while those who have entered into Contracts of Services or License under the Hydrocarbons Law may request this benefit during the exploration stage.

## FRINGE BENEFITS TAX

Employees are taxed on the value of the fringe benefits they receive as determined in accordance with Peruvian Income Tax Law. The tax levied is in accordance with the tax rates applicable to natural persons.

## LOCAL TAXES:

### REAL ESTATE TAX

It is an annual tax levied on the value of urban and rural properties. Lands, buildings and fixed and permanent facilities are deemed properties for Real Estate Tax purposes. The taxpayer status is determined as of 1 January each year and the payment will be made at the District Municipality where the property is located.

The rate is progressive and cumulative as detailed below (measured in UIT tax units, see note):

Real State Tax - Progressive Cumulative Scale	Rate
From 0 UIT to 15 UIT - (up to PEN 63,000)	0.2%
From 15 UIT to 60 UIT - (up to PEN 252,000)	0.6%
Above 60 UIT - (for the excess of PEN 252,000)	1.0%

Note: UIT = Annual Tax Unit. 2019 UIT = PEN 4,200.00

## VEHICLE OWNERSHIP TAX

This is an annual tax levied on property consisting of cars, four-wheel drive and station wagons manufactured locally or imported during the three fiscal years following the year in which the vehicle was first registered with the Vehicle Property Registry. The Provincial Municipality within which jurisdiction the owner resides will be

the creditor administering and collecting the tax. The tax base is the original value of the acquisition, import or entry into the patrimony.

Vehicle Ownership Tax <sup>1</sup>	Rate
Rate Applicable	1%

Note:

1. Tax sum cannot be lower than 1.5% of the UIT effective as of 1st January of each tax year.

## REAL ESTATE TRANSFER TAX (ALCABALA)

This is a tax levied on the transfer of title to real estate located in urban or rural areas, on gratuitous or onerous title, as the case may be, including sales with reservation of the right to ownership. Taxable base is the transfer value of the property and is paid by the buyer, who shall pay the tax at the District Municipality where the property is located.

Real Estate Transfer Tax (Alcabala) - Progressive Scale	Rate
From 0 UIT to 10 UIT - (up to PEN 42,000) <sup>1</sup>	0%
For the excess of 10 UIT	3%

Note: 1. Exempted portion.

## OTHER TAXES

### TEMPORAL NET ASSETS TAX (ITAN)

Temporal Net Assets Tax (known by its Spanish acronym as ITAN) is levied at a rate of 0.4% on the company's net assets with a value exceeding PEN 1,000,000.00, as assessed at 31 December of the previous year. The amount paid for the ITAN by the taxpayer is a credit to be offset against corporate income tax. If not totally offset, the remaining ITAN may be refunded by the Peruvian Tax Administration (SUNAT).

In the case of subsidiaries or branches of foreign companies, they can offset the ITAN obligation with the Income Tax amount paid in Peru, so as to use the whole income tax paid as a tax relief in its country of origin.

Companies which are in pre-operative stages or have begun operations as from 1 January of the year for which the ITAN must be paid are exempted from ITAN.

### TAX ON FINANCIAL TRANSACTIONS (ITF)

The Tax on Financial Transactions (known by its Spanish acronym 'ITF') levies transactions (deposits and withdrawals) made through the Peruvian financial system and is deductible as an expense for income tax purposes. Its rate is 0.005%.

The ITF is a complementary measure of the so-called "bankarisation" or banking usage which requires companies to pay any amounts exceeding USD 1,000 or PEN 3,500.00 through so-called "means of payment", which include account deposits, money orders, money transfers, payment orders, debit cards or credit cards issued in the country and "not negotiable" checks. Otherwise, cost or expense not performed using such methods shall not be recognised for tax purposes.

### EXCISE TAX (ISC)

Excise Tax is levied on specific goods such as cigarettes, beer, liquor, soft drinks, fuel, vehicles, gambling/betting services and other luxury items. It is levied on the sale in the country of such goods at producer level and/or import of them. It is applied using three systems:

- Specific, which applies a fixed amount in Soles per unit of measure;
- To the value, which is applied based on a percentage on the sale price;
- To the sale price, which involves applying a percentage of the suggested retail price.

### CUSTOMS DUTIES

The import of goods into Peru is subject to payment of Customs Duties with ad valorem rates. Additionally, Value Added Tax, the Excise Tax, Antidumping rights, Compensation and others depending on the type of goods imported, are applied, as detailed below:

	<b>2018</b>
Customs tariffs <sup>1</sup>	0%, 4%, 6%, 11%
Value Added Tax <sup>2</sup>	18%

Notes:

1. Rates are applied on CIF value and according to the imported goods.
2. VAT is applied on CIF Value plus Customs tariffs. Depending upon the type of goods, excise tax is also applied. Customs duties are subject to a refund system or drawback, which entitles the producers/exporters to apply for a refund of all or part of customs duties affecting imports of raw materials or inputs used or consumed during the production process of exported goods, provided that the CIF value of imports of such goods does not exceed 50% of the FOB value of the export product.

## B. DETERMINATION OF TAXABLE INCOME

The taxable income of a company is determined by deducting expenditures and costs incurred in the production of income and other permitted expenses and allowances from the company's income.

## ALLOWANCES: PLANT, MACHINERY AND EQUIPMENT USED IN MANUFACTURE

Depreciation is calculated using the straight-line method or any other system provided they do not exceed the maximum rate of depreciation and the cost of acquisition of fixed assets. The following are some of the rates allowed by Peruvian Income Tax Law:

<b>Asset Type</b>	<b>Conditions for Annual Allowance</b>	<b>Annual Allowance</b>
Commercial buildings and constructions or improvements	Construction of buildings or improvements used wholly or mainly for carrying on process of producing income in the course of trade.	Straight-line at 5% of cost (previously 3%)
New commercial buildings (other than residential accommodation) (Note 1)	This is a special depreciation regime for construction projects and buildings erected since 1 January 2014 and wholly or mainly used for the purpose of producing income in the course of trade.	Straight-line at 20% of cost
Cattle and fishing nets	Cattle either used for the purpose of producing income in the course of trade or reproduction.	Maximum 25% of cost
Equipment for data processing	Hardware and any other equipment for data processing wholly or mainly used for the purpose of producing income in the course of trade.	Maximum 25% of cost
Machinery and equipment used for mining, oil and gas activities and construction, except furniture and fixed equipment	Machinery and equipment used at all exploration / exploitation stages in the mining and oil industries, wholly or mainly used for the purpose of producing income in the course of trade.	Maximum 20% of cost
Machinery and equipment purchased from 1 January 1991	Machinery and equipment wholly or mainly used for the purpose of producing income in the course of trade and purchased from 1 January 1991.	Maximum 10% of cost
Land transport vehicles (except railroads) and any kind of industrial oven	Land transport vehicles and any kind of ovens wholly or mainly used for the purpose of producing income in the course of trade.	Maximum 20% of cost
Other fixed assets (Note 2)	Other assets wholly or mainly used for the purpose of producing income in the course of trade.	Maximum 10% of cost

Notes:

- 1 Pursuant to the provisions of Law 29342.
- 2 Limited-time intangibles (software, copyrights, patents, etc.) should be amortised over just one tax year, or under the straight-line system over a ten-year term.

## STOCK / INVENTORY

All trading stock on hand at the end of the tax year must be added to income while all trading stock on hand at the beginning of the year ranks as a deduction. Inventories should be carried at cost and will be determined specifically or using the "first in, first out" method (FIFO), average cost method or the basic inventory. The "last in, first out" method (LIFO) of valuing trading stock is not permitted.

## RESEARCH AND DEVELOPMENT EXPENDITURE (R&D)

Generally, tax is applied to taxable income, which is the accounting profit in the tax period after adjustments provided for by the Peruvian Income Tax Law. Exemptions are usually insignificant. Expenses are deductible to the extent incurred in producing taxable income, subject to certain restrictions and limitations. Expenses given to projects of scientific and technological research and technological innovation are deductible for purposes of income tax, linked or not to the line of business of the company, provided that the projects are classified by the National Council for Science, Technology and Technological Innovation (CONCYTEC). Starting in 2016, the 30309 Law came into effect, with the purpose of promoting scientific research, technological development and innovation. The law provides tax benefits related to deductions for projects starting in 2016 which are not already included in the deduction established by the law on Income Tax.

## INTELLECTUAL PROPERTY

As stated above, deduction of limited-time intangibles (software, copyrights, patents, etc.) should be amortised over just one tax year or by the straight-line system for a ten-year term.

## INTEREST AND FINANCE CHARGES

Interest paid and financial charges incurred in the production of income are deductible expenses for Income Tax purposes. Interest paid to non-residents (or related entities) is generally subject to withholding tax at a rate of 30%. For interest paid by Peruvian resident financial institutions for the use of credit lines in Peru, or unaffiliated foreign lenders, the withholding tax rate is 4.99%, subject to the following conditions:

- The proceeds of the loan are brought into Peru as foreign currency through local banks or are used to finance the import of goods;
- The proceeds of the loan are used for business purposes in Peru;
- The interest rate does not exceed the prime rate plus three percentage points. In the case of loans obtained in the American money market of the United States of America and in the European money market, the prevailing LIBOR rate plus 4 points is considered a prime rate. The three or four percentage points are designed to cover expenses, commissions and any other additional charges related to the loan.

If the first two aforementioned conditions are met and the interest rate exceeds the prime rate plus three points or the LIBOR plus four points, the excess interest is subject to withholding tax at the regular rate of 30%.

## TAX LOSSES

Tax losses may be carried forward subject to the following two systems:

- (a) Offset in full for a four-year term limit subsequent to the year in which it was generated;
- (b) Offset indefinitely during the subsequent years, only up to 50% of annual net income. No carry back is allowed.

## INTEREST RECEIVED

Interest received (or accrued) is included in gross income of any corporation.

## C. FOREIGN TAX RELIEF

Peruvian resident individuals and corporations are subject to tax in Peru on their worldwide income. However, this general principle may be overridden by the provisions of a double tax treaty.

## CREDIT FOR INCOME TAX PAID ABROAD

Taxes paid abroad on income from foreign taxable sources are deductible from Peruvian income tax, provided that these do not exceed the amount obtained by applying the average rate on income earned abroad, or the tax effectively paid abroad. The amount of credit that for any reason is not used in the taxable year cannot serve as compensation in other taxable years and will not be entitled to any reimbursement.

## D. CORPORATE GROUPS

Group taxation is not applicable. There are no provisions for filing consolidated returns and relieving losses within a group.

## E. RELATED PARTY TRANSACTIONS

Thin capitalisation: Pursuant to the Peruvian Income Tax Law, interests paid by entities domiciled in Peru, to related entities or related companies over the "3" factor resulting from applying the "debt/equity" ratio on the taxpayer's net equity at the end of the previous year, shall not be deductible in determining the Income Tax.

Transfer Pricing: Peruvian Income Tax Law includes transfer pricing rules based on the arm's length principle according to the guidelines of the Organisation for Economic Cooperation and Development (OECD). However, these rules do not apply solely to transactions between related parties but to transactions with offshore entities whose domicile are located in territories with low or no taxation (tax havens) and are applicable for purposes of Income Tax. The law provides the following transfer pricing methods:

- Comparable Uncontrolled Price Method;
- Resale Price Method;
- Increased Cost Method;
- Utility Partition Method;
- Residual Method of Utility Partition; and,
- Transactional Net Margin Method.

Peruvian Tax Administration requires special declarations in which the taxpayer must prove the reasonableness of its transfer pricing policies.

## F. WITHHOLDING TAXES

Royalties and similar income are subject to withholding income taxes at source.

- A withholding tax applies to interest paid in the production of income at a rate of 30%.
- Interest paid by banks or financial institutions for the use of credit lines in Peru, or loans obtained from unaffiliated foreign lenders are subject to a 4.99% withholding tax, subject to the following conditions:
  - The proceeds of the loan are brought into Peru as foreign currency through local banks or are used to finance the import of goods;
  - The proceeds of the loan are used for business purposes in Peru.

Dividends or other forms of distribution of profits, including remittances of profits from Peruvian networks or subsidiaries of foreign companies, are subject to 5% of the withholding of income tax from the year 2017 onwards. It should be noted that for the years 2015/16 the applicable withholding rate was 6.8%.

Royalties are subject to a 30% withholding income tax.

- Technical assistance services for commercial purposes in Peru are subject to withholding income tax of 15% provided that the purchase consideration for the service does not exceed 140 UIT at effect at the time of conclusion. If the service exceeds the amount described, a report from an audit firm will be submitted to SUNAT, which will certify that the assistance was provided effectively. The report in question must be issued by an audit firm domiciled in Peru, that has current registration in the Register of Audit Firms in an Institute of Public Accountants or other audit firms entitled under the provisions of the country in which they are established to provide such services.

In case of not having this report, the applicable rate will be 30%.

- Digital services economically used in Peru are subject to a 30% withholding income tax. In the event that they are rendered together with technical assistance. The amount for each of them shall be distinguished on an individual basis. If it is not possible, the transaction will be treated as appropriate to the essential or predominant operation.

## Peru

- Property Leasing is subject to a 30% Withholding Income Tax, to be applied on income received by non-resident legal entities. A 5% Withholding Income Tax applies on income received by non-resident individuals.
- Capital gains from the disposal, redemption or ransom of transferable securities issued by companies incorporated in Peru are subject to a 30% Withholding Income Tax except where the transaction is performed through a centralised mechanism of negotiation in Peru (stock market), in which case the rate is 5%.

In order to consider the disposal of securities to be made in Peru, they should be registered at the Public Registry of Transferable Securities and negotiated at the domestic stock market.

In case of some activities performed partly in Peru and partly overseas by non-domiciled individuals, including income generated by their subsidiaries or permanent establishment, the following schemes of withholding income tax apply:

Activity	% Gross Income Qualifying as Net Income from Peruvian Source	Effective Rate (%)
Air transport	1	0.3
Lease of vessels	80	8.0
Lease of aircrafts	60	6.0
Supply of shipping containers	15	4.5
Transport containers demurrage	80	24.0
Insurance	7	2.1
International news agencies	10	3.0
Maritime transport	2	0.6
Motion picture distribution	20	6.0
Transfer of television broadcasting rights	20	6.0
Telecommunications services	5	1.5

## G. EXCHANGE CONTROL

Foreign-exchange controls have been eliminated. Consequently, transactions are carried out in a free market at prices set by supply and demand.

## H. PERSONAL TAX

Pursuant to Peruvian Income Tax Law, Peruvian citizens residing in Peru are taxed on their worldwide income, regardless of where the income is generated or where it has been paid or the currency of receipt. In the case of non-resident citizens, they are taxed only on their Peruvian-source income.

In case of foreign citizens, they are deemed to be residents if they have been physically present in Peru for more than 183 days within a 12-month period.

For both cases, resident status shall be determined at the beginning of each tax year. Changes regarding such condition that may occur during the fiscal year shall become effective from the start of the next fiscal year.

For domiciled individuals, tax on income from work either independently or as employees (wages, salaries, etc.) shall be determined by applying a progressive cumulative rate based on the amount of income received during the tax year, according to the following detail:

### Progressive Cumulative Scale

Income	Rate
Up to 5 UIT	8%
For the excess of 5 UIT and up to 20 UIT	14%
For the excess of 20 UIT and up to 35 UIT	17%

For the excess of 35 UIT and up to 45 UIT	20%
Above 45 UIT	30%

## DEEMED EMPLOYEES

Labor brokers and personal service providers are regarded as employees. A labor broker is a natural person who, for reward, provides a client with other persons to render a service for the client or procures such other persons for the client and remunerates such person.

A personal service provider is a company or trust where any service rendered on behalf of the entity to its client is rendered personally by any person who is a connected person in relation to such entity and certain provisions are met.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Royalties (%)	Dividends (%)	Interest (%)
<b>Treaty countries:</b>			
Andean Community <sup>2</sup>	-	-	-
Brazil	15	10/15 <sup>3</sup>	15
Canada	15	10/15 <sup>4</sup>	10/15
Chile	10/15	10/15 <sup>5</sup>	15
Korea	10/15	10	0/15
Mexico	15	10/15 <sup>6</sup>	0/10/15
Portugal	10/15	10/15 <sup>7</sup>	0/10/15 <sup>1</sup>
Switzerland	10/15	10/15 <sup>8</sup>	10/15

Notes:

1. The 10% rate applies with respect to loans granted by banks.
2. The Andean Community Treaty (Bolivia, Colombia, Ecuador, Peru) levies income under the source principle. The domestic withholding rate applies. There is no reduction under the Treaty.
3. The reduced 10% rate applies if the beneficial owner is a company which holds directly or indirectly at least 20% of the voting rights of the dividend-paying company.
4. The reduced 10% rate applies if the beneficial owner is a company that controls directly or indirectly at least 10% of the voting power of the dividend-paying company.
5. The reduced 10% rate applies if the beneficial owner is a company that controls directly or indirectly at least 25% of the shares with voting rights in the dividend-paying company.
6. The standard rate under the treaty is 15%. However, under the application of a most favoured nation clause the rate is reduced to 10% (under the Korea-Peru treaty the general rate for dividends is 10%).
7. The 10% reduced rate applies if the beneficial owner is a company (other than a partnership) that controls directly at least 10% of the voting power in the Peruvian dividend-paying company.
8. The 10% reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital and of the voting power of the dividend-paying company.

## MEMBER FIRM

City	Name	Contact Information
Montevideo	Juan Antonio Chiarino	+598 2600 2255 jachiarino@pkfuruguay.com.uy

## BASIC FACTS

Full name:	Republica Oriental del Uruguay
Capital:	Montevideo
Main languages:	Spanish
Population:	3.48 million (2019 estimate)
Monetary unit:	Uruguayan Peso (UYU)
Internet domain:	.uy
Int. dialling code:	+598

## KEY TAX POINTS

- Corporate net income obtained by legal entities resident in Uruguay and by non-residents operating through a permanent establishment is taxed by IRAE at a rate of 25%. Under certain conditions there are options to be liquidated in a fictional form if it is more convenient (IRAEFIC) - (IRAEFA).
- Uruguay operates a territorial system of taxation.
- Resident and non-resident individuals are subject to personal income tax (IRPF - IRNR) on Uruguayan source income at varying tax rates depending on the type of income concerned. Personal income tax consists of two categories:
  - Category 1: tax capital income (capital gains and leasing of real estate) and equity increases (sales of shares, patents, real estate, etc.).
  - Category 2: tax personal services income (dependent and independent) from Uruguayan source of individuals taxed at progressive rates up to 36%.
- The standard VAT rate is 22% but there is a reduced rate of 10% for certain items while some are VAT-exempt.

## A. TAXES PAYABLE

## TERRITORIALITY

Uruguay taxes income under the territorial system of taxation. Thus, foreign source income is not taxable in Uruguay. However, this principle has some exceptions such as technical services, advertising, derivative instruments, internet platforms, image rights of athletes and operations with low-taxed companies.

## CORPORATE TAX

Resident legal entities (corporations and individuals) and non-resident entities with a permanent establishment in Uruguay are subject to corporate income tax (IRAE) on their net income of Uruguayan source obtained from industrial, commercial and agricultural activities at a rate of 25%.

Individuals and some corporate types with income not exceeding certain threshold amounts may choose to be taxed under IRAEFIC instead of IRAE at progressive rates from 3.3% to 12% on income.

Companies or individuals deriving income from agricultural activities may opt to be subject to IRAE, IRAEFA or IMEBA, which depends on the type of company, amount of income and amount of hectares exploited. Agricultural income subject to IRAEFA is taxed at a rate ranging from 3% to 3.75% while agricultural income subject to IMEBA is taxed at a rate ranging from 0.01% to 2%.

Non-resident entities without a permanent establishment in Uruguay are subject to a specific tax on income

of non-residents (IRNR). It is not a corporate tax since it does not apply to activities that combine capital and labor, except for works of less than 3 months.

Dividends, profit distributions or remittances generated by income taxed under IRAE, paid or credited in Uruguay or abroad by taxpayers subject to IRAE are also subject to a withholding tax at the rate of 7% (otherwise they are exempt from tax). The name of the tax is IRPF for residents and IRNR for non-residents. Dividends, distributions of profits or remittances generated by income taxed under IRAE that remain undistributed after four fiscal years are treated as a deemed distribution and are subject to a 7% deemed dividend tax.

The tax year is the same as the commercial year of the company, provided that adequate accounting records are kept. Otherwise, the fiscal year is the calendar year (31 December). The fiscal ending date for agricultural companies is mandatorily 30 June and for non-residents without a permanent establishment in Uruguay it is 31 December. In all cases, companies must file their tax returns before the end of the fourth month following the end of their tax year. Advance tax payments are made on account of the final liability for the relevant tax year. If the total advance payments exceed the final liability, a refund is made by means of credit certificates, which may be used to pay the taxpayer's future taxes but may not be repaid.

## CAPITAL GAINS TAX

Capital gains earned by corporations and permanent establishments of non-residents are subject to the same fiscal treatment as normal taxable income and must be included in the same tax return.

Capital gains earned by individuals resident in Uruguay are subject to IRPF at a rate ranging from 0% to 12%.

Capital gains earned by non-resident entities without a permanent establishment in Uruguay are subject to IRNR at a rate ranging from 0% to 12%.

## BRANCH PROFITS TAX

Branches of foreign corporations are subject to IRAE and IMEBA at the same rate as resident companies. Dividends, profit distributions or remittances generated by income taxed by IRAE, paid or credited abroad by taxpayers are also subject to a withholding tax called IRNR at the rate of 7%. Repatriations of branch profits to a head office outside Uruguay are subject to this tax.

## VALUE ADDED TAX (VAT)

Imports and the supply of goods and services in Uruguay are subject to VAT at the basic rate of 22%. Land, leases of real estate, cattle, non-industrial agricultural products, agricultural machines, newspapers, foreign currency, precious metals, public and private securities and certain essential goods and services are exempted. Certain essential goods, as well as medicines, new buildings, fruits, flowers, vegetables and land transport of passengers are subject to the minimum rate of 10%. A monthly payment is due on the sales of the previous month. Tax included in the purchases of merchandise, services and fixed assets (input VAT) is deductible from the tax billed to customers (output VAT).

## FRINGE BENEFITS TAX

No tax is levied specifically on fringe benefits as they are taxed along with Personal Income Tax (IRPF Category 2) (the taxpayers are the employees) and social security contributions (the taxpayers are the employers and employees).

Note: see section H for Personal Income Tax.

## SOCIAL SECURITY CONTRIBUTIONS

Employers (corporations and individuals) are subject to social security taxation on all salaries and fringe benefits paid to employees (subject to some specific exceptions) at the rate of 7.5% plus 5% of medical care.

Employees are subject to a withholding tax on their social security contributions from 18% to 23% on the gross amounts received (excluding withholding tax). In addition, they are subject to a withholding tax on their personal income tax from 0% to 36% on the gross amounts received (excluding withholding tax).

Social security contributions and personal income tax are due monthly on amounts paid for the previous month.

## LOCAL TAXES

Two principal municipal taxes are in force. The main one, so-called "Real Property Contribution", is collected by the municipal authorities. Taxpayers are the owners (companies, individuals and non-resident entities) of

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land and buildings located in urban and rural areas. It represents a percentage (from 0.25% to 1%) of the cadastral value and is due yearly spread over three to six payments.

The second local tax is payable by owners of buildings (companies, individuals and non-resident entities) on a monthly basis for the services rendered by the local authority. This amount is adjusted periodically according to current inflation.

### OTHER TAXES

A very important tax is the "Net Wealth Tax" which is determined as a percentage of the net fiscal equity at the end of the tax year.

Corporations, individuals and non-resident entities that pay IRAE are subject to the tax at a standard rate of 1.5% on their net worth, calculated on the difference between taxable assets and deductible liabilities. All must file their tax returns before the end of the fourth month following the end of their tax year. Advance tax payments are made on account of the final liability for the relevant tax year. If the total advance payments exceed the final liability, a refund is made by means of credit certificates, which may be used to offset against the taxpayer's future taxes but may not be repaid.

On the other hand, individuals not taxed under IRAE must file the tax returns related to their net worth as per 31 December before 31 May of the following year. In this case, the tax has several peculiarities regarding its calculation and the tax rates range from 0% to 1%.

Excise tax "IMESI" applies to the first transaction effected in the domestic market by manufacturers or importers of some listed goods, e.g. vehicles, alcoholic beverages, cigarettes and cosmetics. The tax rates vary for each item.

Another tax is the "Tax on Primary Education", which taxes both urban and rural real estate. The former are taxed at a value equivalent to 1/3 of the real estate contribution while the latter are taxed at a rate ranging from 0% to 0.3%.

### B. DETERMINATION OF TAXABLE INCOME

#### DEPRECIATION

Depreciation of assets used in business activities must be computed using the fixed fiscal percentage established by the tax authority. If there is no established percentage, it must be determined based on the number of years of probable useful life of the assets. Depreciation is calculated under the straight-line method. Key depreciation rates include the following:

Asset	Rate
Machinery and equipment	10%
Automobiles	10%
Buildings in rural areas	3%
Buildings in urban areas	2%

#### STOCKS / INVENTORY

On the basis of original costs in local currency, companies are free to choose between FIFO or average cost. The method chosen cannot be changed without the agreement of the Tax Authority. Tax regulations do not allow generic deductions of any kind (obsolescence) or global increases (revaluations), but it allows the deduction of the value of merchandise that has suffered losses of value.

#### CAPITAL GAINS AND LOSSES

No special tax rules apply to capital gains or losses. They must be included in the tax return along with the current income.

#### INTEREST DEDUCTIONS

Interest paid to banks, financial institutions and companies that pay IRAE is deductible without limitation. Interest paid to individuals or to financial institutions located abroad is deductible up to a limited percentage that is established by the Tax Authority.

## LOSSES

Losses resulting from the tax return are deductible from gains of the next five years, and, up to that date, are reevaluated according to inflation coefficients. The accumulated tax loss can be deducted up to 50% of the net fiscal profit for the year.

## INCENTIVES

Uruguay has an Investment Law that could benefit investors, depending on several factors such as who makes the investment in Uruguay. There are benefits for generic areas and others for specific ones, which include tax reduction on the corporate net income tax, net wealth tax and VAT.

## FREE TRADE ZONES

Strategically located within Mercosur, Uruguay offers a very liberal treatment for free trade zones. Those areas of the national territory with a distinctive economic regime enjoy customs and tax exemptions and are excluded from the jurisdiction of the state monopolies. All types of export focused activities such as commercial, industrial or service oriented activities may be developed in free trade zones. Uruguay also has a very liberal treatment in the ports areas similar to free trade zone areas.

## C. FOREIGN TAX RELIEF

Foreign tax relief is not available under Uruguayan fiscal law because overseas income is not taxable.

## D. CORPORATE GROUPS

There are no special tax rules relating to corporate groups.

## E. RELATED PARTY TRANSACTIONS

Taxation of related party transactions must be calculated on the basis of the fair market value, independently of the agreement between the parties. Uruguay applies transfer pricing regulations according to the OECD model.

## F. WITHHOLDING TAX

The following income paid or credited in Uruguay or abroad by taxpayers subject to IRAE are subject to a withholding tax at the rate of:

Asset	Rate
Dividends, profit distributions or remittances	7%
Interest	7% to 12%
Royalties	12%
Technical assistance fees	12%

The name of the tax is IRPF for residents and IRNR for non-residents.

## G. EXCHANGE CONTROL

No exchange controls are in force in Uruguay. All remittances to foreign countries can be carried without limitations through banks, financial institutions and authorised currency exchange houses. All transfers must be verified under money laundry regulations.

## H. PERSONAL TAX

Resident and non-resident individuals are subject to personal income tax (IRPF - IRNR) on Uruguayan source income at varying tax rates depending on the type of income concerned. Personal income tax consists of two categories:

Category 1: tax capital income (capital gains and lease of real estate) and equity increases (sales of shares, patents, real estate, etc.). Note: see section A subtitle CAPITAL GAINS TAX for capital gains.

Income from lease of real estate is subject to tax at the standard rate of 12% while equity increases are subject to tax at 12% on the difference between price and tax cost.

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Category 2: tax personal services income (dependent and independent) from Uruguayan source of individuals at progressive rates up to 36%.

Individuals not taxed under IRAE are subject to "Net Wealth Tax". Note: see section A subtitle OTHER TAXES.

### I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies <sup>1</sup> (%)		
<b>Domestic rates</b>				
Individuals	7	7	7/12/25	12/25
Companies	7	--	7/12/25	12/25
<b>Treaty countries:</b>				
Belgium	15	5	0/10	10
Chile	15	5	4/15	10
Ecuador	15	10	15	10/15
Finland	15	5	10	5/10
Germany	15	5	10	10
Hungary	15	15	15	15
India	5	5	10	10
Korea	15	5	10	10
Liechtenstein	10	5	10	10
Luxembourg <sup>2</sup>	15	5	0/10	5/10
Malta	15	5	10	5/10
Mexico	5	5	10	10
Portugal	10	5	10	10
Romania	10	5	10	10
Singapore	10	5	10	5/10
Spain	5	0	10	5/10
Switzerland	15	5	0/10	0
United Arab Emirates	7	5	0/10	0/5/10
United Kingdom	15	5	0/10	10
Vietnam	10	5	10	10

Notes:

1. The reduced rate depends on the minimum participation percentage in capital: 10% for Belgium, Germany, Liechtenstein, Luxembourg, Singapore and the United Kingdom, 20% for South Korea, 25% for Ecuador, Finland, Malta, Romania and Switzerland, 70% for Vietnam and 75% for Spain.

Uruguay has also signed Tax Information Exchange Agreements (TIEA) with Argentina, Australia, Belgium, Canada, Chile, Denmark, Ecuador, Faroe Islands, Finland, France, Germany, Greenland, Guernsey, Hungary, Iceland, India, Korea, Liechtenstein, Luxembourg, Malta, Mexico, the Netherlands, Norway, Paraguay, Portugal, Romania, Singapore, South Africa, Spain, Sweden, Switzerland, the United Arab Emirates, the United Kingdom and Vietnam.

## VENEZUELA

### MEMBER FIRM

City	Name	Contact Information
Caracas	Beniamino Carpentieri	+58 212 952 4050 bcarpentieri@pkfve.com

### BASIC FACTS

Full name:	Bolivarian Republic of Venezuela
Capital:	Caracas
Main languages:	Spanish
Population:	32.75 million (2019 estimate)
Monetary unit:	Venezuelan Bolívar (VEF)
Internet domain:	.ve
Int. dialling code:	+58

### KEY TAX POINTS

- Venezuelan resident or domiciled companies are subject to profit tax only on their worldwide income whereas non-residents are subject to tax on their Venezuelan source income even when they do not have a permanent establishment or a fixed base in Venezuela.
- There is a progressive system of corporation tax rates which applies to income and capital gains.
- VAT is payable on imports and the supply of goods and services. The standard rate is 16%.
- Withholding taxes apply to the payment to residents and non-residents of interest and royalties. Dividends are also subject to withholding tax when they represent profits not already charged to corporation tax. A similar principle applies to branch profits repatriated from Venezuela to an overseas territory.
- Credit is available for overseas tax paid on foreign income against Venezuelan tax payable on the same income.
- Resident individuals are subject to income tax on their worldwide income. Non-residents are taxable on their Venezuelan source income.
- Tax on large financial transactions at a rate of 2%. This tax has come into effect on 8 November 2018 ("Law of Tax on Large Financial Transactions").
- In August 2018, the Venezuelan government announced a monetary reconversion which created a new currency, the Sovereign Bolívar (VES), which gradually replaces from 20 August 2018 the previous currency (VEF) at a conversion rate of VES 1 to VEF 100,000. Entities need to adapt their systems and processes to the new currency.

### A. TAXES PAYABLE

#### COMPANY TAX

Venezuelan resident or domiciled companies are subject to profit tax on their worldwide income. Non-resident or non-domiciled companies are subject to corporation tax only on Venezuelan-sourced income even when they do not have a permanent establishment or a fixed base in Venezuela. Foreign resident or domiciled companies who have a permanent establishment or fixed base in the country will exclusively pay taxes on the income of national or foreign source attributable to this permanent establishment or fixed base.

Tax is imposed on a current year basis. The tax year adopted is generally that specified in a company's statutory documents with the standard year being a calendar year. However, it should be noted that other periods are also allowed, including periods of 12 months or less. Final tax is payable when lodging the final corporation tax return, usually required within three months of the end of the accounting period. The taxable income is expressed in tax units. The tax unit (*unidad tributaria*, TU) is a tax adjustment index. Its value is

adjusted annually by the tax authorities in accordance with inflation and amounts to VEF 17 for 2019. The corporate income tax rates are as follows:

Taxable income (Tributary unit (TU))	Rate (%)
0 to 2,000	15
2,001 to 3,000	22
Over 3,001	34

Income from banking activities, financial, insurance and reinsurance are taxed at a fixed rate of 40%.

### CAPITAL GAINS TAX

There is no separate or distinct tax on capital gains. However, capital gains and/or losses from the sale of assets belonging to companies that are situated in Venezuela are included in the calculation of the income for the purposes of determining the tax liability of companies (income tax). Under the law, a flat tax of 34% is established for dividends arising from the excess of the dividend payer's net income (on which dividends were declared) over its taxable net income (taxed fiscal net income). Dividends received from companies incorporated and domiciled abroad or incorporated abroad and domiciled in Venezuela are excluded from net income as contemplated in the law but tax paid on such dividends may be applied outside Venezuelan territory.

There is no tax on earnings of branch offices in Venezuela. Venezuelan branches of foreign companies are taxed in Venezuela for income obtained in the country pursuant to corporate tax. According to the income tax law, companies or community estates established abroad and domiciled in Venezuela or established and domiciled abroad, which have a permanent establishment in Venezuela, are liable for paying a tax of 34% on any excess of the net income of the permanent establishment that is neither exempt nor exonerated over its taxed fiscal net income for the fiscal year on behalf of their partners, shareholders or joint owners. This presumed dividend does not apply in cases where the branch can prove to the Tax Administration's satisfaction that it reinvested the full amount of the difference between its net income and its taxed fiscal net income in the country. The reinvestment must remain in the country for at least five years.

### VALUE ADDED TAX (VAT)

VAT is applicable to the sales, transmission or transfer of chattels, the rendering of services and the importation of goods, as specified in the law, and is applicable throughout the entire Venezuelan territory (the Free Port of the State of Nueva Esparta, Paraguana Peninsula in the State of Falcon and in the Cultural Scientific and Technological Tax-Free zone in the State of Merida, will be exempt from VAT). It will be paid by individuals and corporations, unincorporated or de facto companies, joint ventures and other public or private legal or economic entities, in their capacity as importers of goods, habitual or not. It will also be paid by manufacturers, producers, assembly plants, independent merchants and service providers, who engage in activities that are defined by the law as taxable acts. Certain imports of goods and services are exempt from tax. Exporters who are regular taxpayers are entitled to recover the tax paid upon the purchase of tangible chattels or receipt of services related to their export activities. This also applies in the case of chattels imported for export.

The VAT amount accruing is determined by taxation periods of one calendar month, subtracting the aggregate tax credit amounts from the respective aggregate tax debit amount. The result is the VAT to be paid. The standard rate, currently 16%, is charged on the net price of the transaction.

### TEMPORARY ADVANCE PAYMENT SCHEME OF VALUE ADDED TAX AND INCOME TAX APPLICABLE TO SPECIAL TAXPAYERS

(Extraordinary Official Gazette No. 6396 of 21 August 2018)

General aspects	Income tax	Value Added Tax (VAT)
Scope	Applicable to special taxpayers engaged in economic activities other than mine development, hydrocarbon exploitation and related activities and who do not receive royalties from those activities.	

Who is exempted from making advance payments?	Individuals under employment, classified as special taxpayers.	
Advance payment's taxable base	Calculated based on gross income obtained during the previous taxable period in relation to Value Added Tax, multiplied by a set percentage.	Calculated based on tax reported on a weekly basis, divided by week days. Weekly tax return/5 days = advance payment due
Applicable tax rate	<ul style="list-style-type: none"> <li>Two percent (2%) for financial entities, banking and insurance and reinsurance sectors;</li> <li>One percent (1%) for other taxpayers.</li> </ul>	N/A
Tax return and payment	Advance payments will apply to daily gross income received by taxpayers, which shall be reported and paid on a weekly basis. However, payment and reporting conditions shall be determined by the Tax Authorities by way of general administrative rulings	
Taxable period	<ul style="list-style-type: none"> <li>For special taxpayers, weekly periods;</li> <li>For financial entities, banking, and insurance and reinsurance sectors: daily periods.</li> </ul> <p>Note: Until the Administrative Ruling is issued</p>	Tax payable shall be determined on a weekly basis; therefore, tax returns and payments shall no longer be made on a monthly basis as stated in the Value Added Tax Act for Special Taxpayers
ANC's Decree enforceability	This Decree corresponds to a temporary scheme and shall stay in force until it is totally or partially overturned by the Executive Branch. The Decree shall come into force as from 1 September 2018	
In general	The scheme set forth in the ANC's Decree regarding Value Added Tax shall complete the taxable period in progress according to the Value Added Tax Act for special taxpayers' purposes. During the first taxable period, the calculation basis for this advance payment shall be the tax levied in the previous week.	

## LAW OF TAX ON LARGE FINANCIAL TRANSACTIONS

The Law of Tax on Large Financial Transactions has come into effect from 1 February 2016. Starting from 8 November 2018 the tax rate is 2% and it is paid by legal and economic entities without legal entity status qualified as special taxpayers by the Tax Administration. This tax is applied on debits in bank accounts or against custody deposits or any other kind of deposits, debits in liquid funds, trust assets and other financial market funds or any other financial instrument, made in banks and other financial institutions. The Tax on Large Financial Transactions is not deductible from Income Tax.

## FRINGE BENEFITS TAX (FBT)

There is no tax payable by the company on fringe benefits. Instead, any benefits provided to an employee are included in their personal income and are subject to tax.

## LOCAL TAXES

There is only a municipal tax that is assessed on gross income from commercial industrial activities at different percentages, depending on the business activities conducted and the geographic jurisdiction in which the company is located.

## OTHER TAXES

### CUSTOMS DUTIES

This involves paying tax on goods that are imported in accordance with the customs tariff which is calculated based on the cost, insurance and freight (CIF) value.

## STAMP DUTY

This is applied on certain transactions including transfer of ownership, formation of companies and a wide range of legal transactions and operations.

## **PUBLIC REGISTRY**

These are duties that are incurred for the registration and certification of authenticity of various documents in the Main and Subsidiary Registry Offices of each geographic jurisdiction in which the operation is conducted.

## **MANDATORY SOCIAL SECURITY (MSS)**

These are payments that are made monthly by employers and employees on the payroll of companies for the purpose of guaranteeing the functioning of the national worker social security system.

## **LAW FOR PROVIDING HOUSING AND HABITAT**

Companies must contribute to the obligatory savings fund with 2% monthly of workers payroll. Workers' contribution shall be 1% of his salary. The savings fund must finance housing programs for the workers.

## **NATIONAL INSTITUTE OF EDUCATIONAL CO-OPERATION (NIEC)**

Employers must contribute to this Institute on a quarterly basis at the rate of 2% of the total wages and compensation paid to their workers. Workers must contribute 0.5% of the profits paid to them by the employer at the end of the corporate business year. These contributions are for the purpose of professional training of workers and young apprentices, and tackling national illiteracy.

## **INHERITANCE AND GIFT TAXES**

This is assessed on gratuitous transfers of rights *causa mortis* or *inter vivos*.

## **ORGANIC LAW OF SCIENCE, TECHNOLOGY AND INNOVATION (LOCTI)**

This Law establishes a number of contributions that companies must make according to the activities they indulge in, as follows:

- (a) Hydrocarbon companies, 2% of annual gross revenues;
- (b) Companies in mining and electrical power activities, 1% of annual gross revenues;
- (c) Companies engaged in other production sectors of goods and services must contribute annually the equivalent of 0.5% of gross income.

The highest percentage will apply to any company which performs several activities and may as a consequence fall into more than one category above. The Law establishes that such contributions may be made in research developed in the same companies or into Government dependent Funds.

## **ORGANIC LAW OF DRUGS**

This Law establishes a contribution of 1% of annual net income of companies employing 50 or more workers. This contribution must be invested in programs for the prevention of drug traffic and consumption within the same company for its workers and their family environment. Likewise, the Law establishes that 2% of their annual net income must be contributed by companies manufacturing or importing alcoholic beverages, tobacco and its mixtures, like chewing tobacco, to maintain and operate prevention and rehabilitation centres for consumers of these substances.

## **ORGANIC LAW OF TELECOMMUNICATIONS**

In the Organic Law of Telecommunications, various taxes and duties are set forth on the companies indulging in the business of telecommunications and making use of radio-electric spectrum, sound broadcasting and open television, among others. The various taxes and duties they must pay go between 0.05% and 2.3% of their annual gross revenues.

## **ORGANIC LAW OF TOURISM**

The Organic Law of Tourism sets forth a contribution of 1% monthly on gross revenues obtained, that must be paid by those rendering tourist services.

## **ORGANIC LAW OF SPORT, PHYSICAL ACTIVITY AND PHYSICAL EDUCATION**

The law establishing the National Fund for the Development of Sport, Physical Activity and Physical Education will be constituted by the contributions made by companies or other public and private organisations

engaged in economic activities in the country for profit. The fund will be used to finance plans, projects and programs for development and promotion of sport and physical activity, and social security and athletes. The contribution by companies or other organisations, will be 1% of the net profit or annual accounting profit when the profit exceeds TU 20,000.

## CONSTITUTIONAL LAW OF THE TAX REGIME FOR THE SOVEREIGN DEVELOPMENT OF THE MINING ARC

On 29 December 2017, the Constitutional Law of the Tax Regime for the Sovereign Development of the Mining Arc was published, the purpose of which is the creation of a special tax regime in the field of Income Tax. The tax rate to be applied will be set by the President of the Republic and will depend on the capacity of production and/or processing of the gold of each subject.

### B. DETERMINATION OF TAXABLE INCOME

Taxable net income is calculated by deducting the allowable costs and deductions (prescribed under the law) from gross taxable income.

### INVESTMENT ALLOWANCE

The benefits of tax investment abatements were eliminated in the Reform of the Income Tax Law 2015 that came into effect on 31 December 2015.

### DEPRECIATION

The amount admissible as deduction for depreciation during the tax year is the percentage necessary to recover the cost of such assets during the time that they are available to be used in production. Depreciation may be increased by adjusting depreciable fixed assets for inflation. Only the straight-line or the production unit method is admitted. The Tax Administration may admit other methods. Accelerated depreciation of assets is not admitted.

### STOCK / INVENTORY

Taxpayers shall draw up an inventory of all goods intended for sale at the start of their activities and at the close of each tax year. The inventoried goods shall be appraised at the cost price. They can also be appraised at the wholesale market price when that is less than the cost price.

### DIVIDENDS

From 1 January 2001, net income from dividends is considered to be a portion of income from dividends paid or credited to account, in cash or in kind, and arising from net income that is neither exempt nor exonerated, that exceeds the taxed fiscal net income, and accordingly, has not been taxed with income tax. Dividend income is taxed at the rate of 34% of the amount paid. The full amount of the tax must be withheld at the time of payment or credit to account. Tax on dividends from companies in the oil and mining industry are taxed at the rate of 67.7% and 60% respectively and tax is to be withheld in full at source.

Dividends received from companies incorporated and domiciled abroad or incorporated abroad and domiciled in Venezuela are excluded from net income as contemplated in the law but tax paid on such dividends may be applied outside Venezuelan territory.

### INTEREST DEDUCTIONS

Interest on capital borrowed and invested in income-producing activity is deductible. In the case of interest received by companies abroad, there must be withholding in accordance with the following percentages:

Beneficiary	Rate (%)
Financial Institutions (domiciled)	5.00
Financial Institutions (non-domiciled)	4.95
Parent Company	5.00
Legal entity other than the above	32.30

## LOSSES

Operating losses can be used for three consecutive periods from the fiscal year in which they occur but only in a proportion of 25% of the total taxable income of each successive period.

## FOREIGN SOURCED INCOME

The current Income Tax Law established the obligation of residents of Venezuela and of companies domiciled in the country to pay income tax on all the revenue they obtain, whether in Venezuela or abroad.

## INCENTIVES

The Customs Duty paid on imports of goods and products used in the production of goods for export would be reimbursed by the Banco Central de Venezuela (BCV).

## REGULAR ADJUSTMENT FOR INFLATION

The income tax law considers the regular adjustment for inflation, which represents the greater or lesser value of the net worth obtained by recognising the effects of the inflation in non-monetary assets and liabilities through the application of Consumer General Price Index, based on procedures established in the Venezuelan tax legislation. The fiscal adjustment for inflation, thus calculated, is considered as a taxable gain or a deductible loss in determining the income tax expense. According to the reform of the Income Tax Law 2015 (published on 30 December 2015 and effective for periods beginning on 1 January 2016), the financial entities, the insurance and reinsurance activities, and taxpayers qualified as special by the tax administration are excluded from having to make a regular adjustment for inflation.

## C. FOREIGN TAX RELIEF

Venezuela has signed wide agreements in order to avoid double taxation and in relation to shipping and air transportation.

## D. CORPORATE GROUPS

There is no provision for consolidated tax returns.

## E. RELATED PARTY TRANSACTIONS

In cases involving commercial transactions between companies that could be considered related, they must follow the methodology stipulated in this chapter regarding transfer pricing to determine their income. The rules on transfer pricing stipulate that application thereof is mandatory in the case of operations between related parties. The law also determines when a relationship shall be deemed to exist, therefore, when the transaction is between related parties.

## F. WITHHOLDING TAX

In the case of tax withholding to domiciled, the Tax Administration considers it to be a tax advance, which may be deducted from the tax determined in the fiscal year in which it is declared.

## G. EXCHANGE CONTROL

Exchange controls are currently in effect. Foreign currency transactions are controlled by the "National Centre for Foreign Trade" Centro Nacional de Comercio Exterior (CENCOEX). Also all foreign currencies entering the territory were to be mandatory sold to the Central Bank of Venezuela. Financial institutions cannot engage in a foreign exchange business without prior approval of (CENCOEX) and/or Central Bank of Venezuela.

In September 2018, the government also introduced certain changes to the currency exchange system. The new exchange system would introduce the possibility for financial institutions to exchange foreign currency, which is in practice exchanged at a single rate regulated by the Venezuelan Central Bank (VCB). However, the relevant regulator has not yet issued the rules and regulations that would enable the application of the new exchange system. Therefore, DICOM continues to operate.

The DICOM exchange system is a single legal exchange rate that is published by the VCB.

## H. PERSONAL TAX

The tax of individuals is determined on revenue received annually, provided that such revenue is greater than TU 1,500 and they are allowed personal abatements and abatements for family charges, as well as personal expenses incurred during the fiscal year, e.g. medical expenses, school payment, insurance policies, etc.

The tax rate table is as follows:

Taxable income (Tributary unit)	Rate (%)
0 to 1,000	6
1,001 to 1,500	9
1,501 to 2,000	12
2,001 to 2,500	16
2,501 to 3,000	20
3,001 to 4,000	24
4,001 to 6,000	29
Over 6,001	34

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends (%)	Interest (%)	Royalties (%)
<b>Domestic rates</b>			
Companies	0/34	4.95/34 <sup>14</sup>	15/34 <sup>1</sup>
Individuals	0/34	34 <sup>15</sup>	34 <sup>15</sup>
<b>Treaty countries:</b>			
Austria	5/15 <sup>2</sup>	0/4.95/10 <sup>16, 17</sup>	5
Barbados	5/10 <sup>3</sup>	5/15 <sup>17</sup>	10
Belarus	5/15 <sup>4</sup>	5	5/10 <sup>19</sup>
Belgium	5/15 <sup>4</sup>	0/10 <sup>18</sup>	5
Brazil	10/15 <sup>5</sup>	15	15
Canada	10/15 <sup>4</sup>	10	5/10 <sup>19</sup>
China	5/10 <sup>6</sup>	5/10 <sup>17</sup>	10
Cuba	10/15 <sup>4</sup>	0/10 <sup>16</sup>	5
Czech Republic	5/10 <sup>2</sup>	0/10 <sup>16</sup>	12
Denmark	5/15 <sup>4</sup>	0/5 <sup>16</sup>	5/10 <sup>20</sup>
France	0/5/15 <sup>7</sup>	0/5 <sup>16</sup>	5
Germany	5/15 <sup>2</sup>	5	5
Indonesia	10/15 <sup>6</sup>	0/10 <sup>16</sup>	10/20 <sup>20</sup>
Iran	5/10 <sup>2</sup>	0/5 <sup>17</sup>	5
Italy	10	0/10 <sup>16</sup>	7/10 <sup>21</sup>
Korea	5/10 <sup>6</sup>	5/10	5/10 <sup>22</sup>
Kuwait	5/10 <sup>6</sup>	5	20
Malaysia	5/10 <sup>6</sup>	15	10
Netherlands	0/10 <sup>4</sup>	0/5 <sup>16</sup>	5/7/10 <sup>23</sup>
Norway	5/10 <sup>6</sup>	0/5/15 <sup>16, 17</sup>	9/12 <sup>20</sup>

	Dividends (%)	Interest (%)	Royalties (%)
Portugal	10	0/10 <sup>16</sup>	10/12 <sup>20</sup>
Qatar	5/10 <sup>6</sup>	0/5 <sup>16</sup>	5
Russia	10/15 <sup>8</sup>	5/10 <sup>17</sup>	10/15 <sup>20</sup>
Saudi Arabia	5	5	8
Spain	0/10 <sup>4</sup>	4.95/10 <sup>17</sup>	5
Sweden	5/10 <sup>9</sup>	0/10 <sup>16</sup>	7/10 <sup>24</sup>
Switzerland	0/10 <sup>4</sup>	0/5 <sup>16</sup>	5
Trinidad and Tobago	5/10 <sup>4</sup>	0/15 <sup>16</sup>	10
United Arab Emirates	0/5/10 <sup>10</sup>	0/10 <sup>16</sup>	10 <sup>25</sup>
United Kingdom	0/10 <sup>11</sup>	0/5 <sup>16</sup>	5/7 <sup>26</sup>
United States	5/15 <sup>12</sup>	4.95/10 <sup>16, 17</sup>	5/10 <sup>24</sup>
Vietnam	5/10 <sup>13</sup>	0/10 <sup>16</sup>	10 <sup>25</sup>

## Notes:

1. Taxed at progressive rates (see higher, under 'Company tax') on 90% of the gross payment.
2. The lower rate applies to direct participations of at least 15% of capital.
3. The lower rate applies to direct participations of at least 5% of capital.
4. The lower rate applies to direct or indirect participations of at least 25% of capital or voting power (depending on the treaty).
5. The lower rate applies to participations (direct or indirect) of at least 20% of capital.
6. The lower rate applies to direct participations of at least 10% of capital.
7. The 0% rate applies when the beneficial owner is a company that holds at least 10% of the capital of the company paying the dividends. The 5% rate applies in all other cases. The 15% rate applies if the beneficiary of the dividends is a resident of Venezuela that receives from a company resident in France dividends that would give rise to a tax credit (*avoir fiscal*). For dividends received by a resident of France, the recipient has a right to a payment from the French Treasury for an amount equal to the *avoir fiscal*.
8. The lower rate applies to direct participations of at least 10% of capital and an investment of at least USD 100,000.
9. The lower rate applies to Venezuelan companies holding at least a 25% direct participation in the capital of a Swedish company.
10. The 0% rate applies to dividends paid to government institutions and state-owned entities. The 5% rate applies to direct participations of at least 10% of capital. The 10% applies in other cases.
11. The 0% rate applies to direct or indirect participations of at least 10% of voting power.
12. The lower rate applies to participations of at least 10% of the voting stock.
13. The lower rate applies to direct participations of at least 10% of capital.
14. Taxed at progressive rates (see higher, under 'Company tax') on 95% of the gross amount, provided that the loan is invested in the production of income in Venezuela, if not the rates apply to 100% of the gross amount.
15. Interest paid to non-resident individuals is subject to a 34% withholding tax on 95% of the gross amount, provided that the loan is invested in the production of income in Venezuela, if not the rate applies to 100% of the gross amount. Royalties paid to non-resident individuals are subject to a 34% withholding tax on 90% of the gross amount.
16. The 0% rate applies, *inter alia*, to interest paid by public bodies.
17. The lower rate applies to interest paid to banks or financial institutions.
18. The 0% rate applies, *inter alia*, to interest on deposits (not represented by bearer instruments) with a bank and interest on commercial debt-claims (including debt-claims represented by commercial paper) resulting from deferred payments for goods, merchandise or services supplied by an enterprise.
19. The lower rate applies to royalties paid in respect of computer software or any patent or information concerning industrial, commercial or scientific experience.

20. The lower rate applies to payments for technical assistance.
21. The lower rate applies to copyright royalties (including films and tapes for radio and television broadcast).
22. The lower rate applies to royalties for the use of, or the right to use, any industrial, commercial or scientific equipment.
23. The 5% rate applies to royalties for patents, leasing of equipment and know-how while the 7% rate applies to trademark royalties and the 10% rate to copyright royalties (including films and tapes for radio and television broadcast).
24. The 10% rate applies to copyright royalties (including films and tapes).
25. The rate also applies to payments for technical assistance.
26. The 5% rate applies to patents, trademarks and know-how royalties while the 7% rate applies to copyright royalties (including films and tapes for radio and television broadcast).

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