



# Doing Business in Latin America 2017



# Moore Stephens Latin America

## MISSION

To drive clients success through a strong leadership of a cohesive and well resourced international network with a top-down culture of quality.

## VISION

To be a leading, recognised and highly regarded international accounting and consulting network and the first choice in our chosen markets.

A vertical decorative image on the left side of the page showing several hot air balloons in various colors (blue, red, green, yellow) against a clear blue sky. One balloon in the foreground is prominently visible, showing a colorful geometric pattern.

## Summary

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# Executive Summary

PRECISE. PROVEN. PERFORMANCE.

## 1. Moore Stephens

**Moore Stephens** is a global network of accounting, auditing and consulting firms with 271 members firms, 614 offices and presence in 112 countries around the world. Since 1907 Moore Stephens provides accountancy and tax services to corporate and individual clients.

**Moore Stephens** has been present in Latin America from more than 100 years and today has a well organized regional structure with approximately 55 offices and 2.700 professionals, including México. More information can be found on the website: <https://mslaweb.moorestephens.com>

## 2. Tax Information

*Doing Business in Latin America* summarizes the corporate and personal tax systems of 20 countries in Latin America. This content is based on tax and legal information current to December 2017 unless otherwise indicated, and it is focused on the following aspects:

- Country Profile
- Foreign Investment regime: types of companies and their characteristics
- Auditing and Accounting
- Labor system: workforce employment, recruitment, types of contracts, conditions of employment, remuneration, etc.
- Exchange control regulations
- Tax system: number and types of taxes, tax payment, incentives
- Protection for investors
- Transfer pricing
- International agreements and conventions

This publication is an overview and should not be seen as a complete explanation of the Tax systems in Latin America. It is subject to amendments in accordance with the laws in each country and multilateral agreements.

Neither Moore Stephens International, nor any member firms of the global network are responsible for actions incurred or omitted based on this publication. Further details may be found in local publications, we advice readers to consult with specialists in the Moore Stephens member firms in each country.

**Moore Stephens Latin America**  
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# Argentine Republic

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## 3. Country Profile

The Argentine Republic is a sovereign state, organized as a federal and representative republic, and it is located in the South East end of America. Its territory is divided into 23 provinces, and one autonomous city, Buenos Aires, the capital city of the nation, and seat of the federal government. With a population of 40 million inhabitants, its human development indices, per capita income, economic growth level, and quality of life are among the highest in Latin America. Due to its extension, 2,780,400 km², it is the second largest state in South America, fourth in the American continent, and eighth in the world.

Despite the diverse origins of its population, the common language is Spanish, and its culture unifies the country. The youngest population has, in general, a good command of the English language, and, as a result of the Mercosur, many are learning Portuguese. In Argentina, there is great freedom of religion guaranteed by section 14 of the National Constitution, even though the State recognizes a pre-eminent role of the Catholic Church, which has a separate legal status with regards to the rest of the churches and religions: according to the Argentine Constitution (section 2), the National State must uphold the Catholic Church, and, according to the Civil Code, it is legally compared to a non-governmental legal entity of public law. All in all, it is a separate regime which is not considered official as the religion of the Republic.



According to the new education act, enacted on December 15, 2006, education is compulsory for children aged between 5 and 18 years old. There are public and private educational entities for all levels. The State guarantees free education for all of them, except for university postgraduate studies.

The currency unit is the Peso. However, the US dollar and other foreign currencies can be used for internal transactions.

After the deep crisis of 2001, inflation has remained in two digits. There is still a high level of intervention in the formation of some prices via subsidies, and, in some cases, through indirect price controls.

## 4. Foreign Investment Regime - Types of Companies

The types of business associations mostly used by foreign investors in Argentina are corporations, limited liability companies, and branches of foreign companies. Also, the use of partnership contracts, trusts, and franchises has become ever more frequent. The Civil and Commercial Code, the Companies Act, as well as the different specific laws form the legal system that entails contracts and companies. Companies and certain commercial contracts must be registered with the public registry of the jurisdiction of each province, and of the Autonomous City of Buenos Aires. Items to be highlighted of the main company types, contracts and legal entities:

- Corporations
- Limited Liability Companies
- Branches of Foreign Companies
- Simplified Corporation
- Trusts
- Non-Profit Associations
- Foundations

#### 4.1 Corporations or Public Companies (SA)

Capital is represented by shares, and shareholders limit their liability to the payment of the shares subscribed.

Corporations are formed by one or more shareholders, and shares can be in the hands of private holders or they can be traded in the Stock Exchange, since its shares are negotiable and transferrable. This is the only type of company that can offer shares publicly. The shareholders' liability is limited to the capital subscribed and paid up. Regarding the form of management and government, it is managed by a board of directors, and decisions are taken at the shareholders' meeting.

Directors are chosen at the meeting, and they are personally liable for their acts. They must be residents or native Argentines. Shareholders can be individuals or companies, both national and foreign.

In the event a shareholder was a foreign company, prior to participating in the creation of the local corporation, its by-laws must be registered with the Board of Legal Entities (IGJ), and its legal existence must be proven in the country of origin. A legal representative must be appointed, and a legal domicile must be established in the Argentine Republic. Corporations cannot be created in a fiscal paradise, and they must maintain assets that exceed the value of those to be invested in Argentina. Once a year, through their legal representative, they must confirm before the Board of Legal Entities their continuity within the category required by the laws in force in the Argentine Republic.

All corporations are subject to supervision and control by government authorities. Corporations are created by public deed, and they are registered with the Public Registry, the control authority with local jurisdiction. In some cases, such as their corporate capital amount, having shares in the stock market or in connection to the national state, control is permanent.

The corporate name must contain the terms "sociedad anónima" (corporation) or its abbreviation, "S.A.". Shares are nominative, and non-endorsable, and they will require the appointment of an auditor, or an auditing committee. The current minimum corporate capital amounts to Ar\$ 100,000; in any case, it must be in accordance with the activity foreseen for the corporation. A name, corporate purpose, term, domicile, and termination date must be established at the moment of incorporation. The termination date can be any month of the calendar year.

#### 4.2 Limited Liability Company SRL

It can be created by a public or private deed, and the articles of organization must be registered with the Public Registry, upon prior publication in the Official Bulletin. It must have, at least, 1 member, and it cannot

exceed 50 members. Its capital is divided into shares, and members limit their liability to the payment of the shares they subscribe or acquire. The liability of the members is joint and several, provided the capital is subscribed but not paid up. All the shares grant 1 voting right and no kind of benefits in the allocation of profits. Regarding management and government, it has managers whose roles are extended indefinitely, and decisions are made at the shareholders' meetings. Its shareholders can only be individuals.

The company name must compulsorily include the terms "Sociedad de responsabilidad limitada" (Limited Liability Company), or its abbreviation, or the acronym "SRL".

#### 4.3 Simplified Corporation (S.A.S)

The "Simplified Corporation" or "SAS" was created by Act No. 27349. The SAS is a new company type with an independent regulation, outside the scope of the General Companies' Act, which combines the advantages of the SRL with the advantages of the SA. This company type can be incorporated by means of a public or private deed. Capital stock is divided into shares, which ownership appears in a book kept by the company itself, and the company may choose to be managed by a board of directors. The characteristics of this type of company are: it can be a sole proprietorship, with capital stock formed by, at least, two adjustable minimum living wages; the possibility of financing by means of different kinds of shares, or by means of crowdfunding; irrevocable contributions for two years; the possibility of prohibiting the transfer of shares for ten years; solving conflicts by means of negotiations and arbitration; the use of new technologies for company acts and accounting books; and the prevalence of the clauses in the by-laws.

#### 4.4 Branches of Foreign Companies

In order for a company to be able to operate as a branch, it is necessary to prove the existence of the parent company abroad. The articles of organization, by-laws, or company agreement must be registered with the Public Registry, and representatives must be appointed and registered in the same manner. Branches are subject to control by the board of legal entities, and they must comply with the same requirements as those demanded for corporations subject to said control. Branches must keep separate accounts from those of the parent company, and they must file their financial statements with the board of legal entities. There is no minimum capital required for their creation.

#### 4.5 Joint Ventures

There are different types of joint ventures that could be classified as ventures for collaboration or cooperation, and the ones mostly used are the collaborative associations, and the temporary joint ventures (UTE). In the

case of the temporary joint ventures (UTE), the companies incorporated in the country and individual businessmen and/or companies incorporated abroad partner for the development or performance of a certain work, service, or supply within or outside the country. This is not a company, it does not create a new legal subject. The term of the contract shall be the work, service or supply that gave origin to the partnership. The contract can be executed by a public or private deed, and it must be registered together with the appointment of its representative with the Public Registry of Commerce. They do not have capital of their own, but a Common Operative Fund formed by the members, to whom it belongs in the percentage set forth in the contract. A foreign company can be part of an UTE if it conforms to the requirements demanded for the branches.

#### **4.6 Other Types of Legal Entities and Contracts Trusts**

A trust is capital subject to a certain purpose that implies the transfer of title of an asset or interest under a trust. It is a contract that efficiently accompanies financing, real estate development organization, administration, debt reorganization, investment projects and mechanisms for the strengthening of guaranties and agreements, among others.

#### **Non-Profit Associations**

These are legal entities that exercise a right of association, they are private, and their main purpose is the common good; they have their own capital, capacity to acquire property granted by their articles of incorporation, they do not subsist entirely on State allowances, and they are authorized to operate, under the control of the laws in force of the Board of Legal Entities.

#### **Foundations**

These are legal entities incorporated for the common good, non-profit, by means of a capital contribution made by one or more persons intended to the implementation of their purposes. To exist as such, they must necessarily be created by means of a public deed, and request and obtain the authorization from the State to operate. If the founder is an individual, it can order its creation as an act of last will. It is controlled by the laws in force of the Board of Legal Entities.

#### **Cooperative Associations**

These are legal entities formed by individuals voluntarily joined to form an organization which administration and management must be carried out as agreed by the members. The intention is to cover the economic, social and cultural needs and aspirations common to all members by means of a company. The diversity of needs and aspirations forming the company purpose defines a very varied type of cooperative associations. To exist as such, they must obtain the authorization from the State

to operate. They are controlled by the laws in force of the National Institute of Associations and Social Economy (INAES).

#### **5. Auditing and Accounting**

The profession of the CPA is essentially self-regulated, and the federation of professional associations is a member of IFAC. As such, it requires the adoption of international accounting and auditing regulations, which became compulsorily applicable to open companies as from January 1, 2012.

#### **6. Labour Regulations**

The basic requirements for incorporating personnel to a company must comply with the labour regulations in force in Argentina, and with the collective labour agreements.

##### **6.1 Payment and Compulsory Annual Bonus**

The Federal Employment, Productivity, and Minimum Adjustable Living Wage Association (National Employment Act 24013) sets the minimum monthly living wage sum for monthly workers, and the day and hour wages for journal workers. Employed workers receive an additional compulsory payment (annual bonus), which is paid in two annual instalments in June and December. Each instalment equals to 50% of the best monthly, normal, and usual wages of the semester.

##### **6.2 Term of the Labour Agreement**

For Argentine legislation, the labour agreement is informal and indefinite, except when its term of duration had been expressly established in writing, or when the manner of performance of the tasks or activities reasonably appreciated so justify it.

It shall be understood that the labour agreement will be performed on trial during the first three (3) months after it becomes enforceable. Any of the parties may terminate the agreement without a cause during said term, and said party will not be entitled to compensation regarding termination, but it will have the obligation to give prior notice.

##### **6.3 Severance Payment for Unfair Dismissal**

In case of unfair dismissal, the employer must pay the worker a severance payment equal to ONE (1) month wages for each year of service, or a fraction greater than three (3) months, taking as a basis the best monthly, normal, and usual wages accrued during the last year, or during the time of the rendering of services, if shorter.

Said basis shall not exceed a sum equal to three (3) times the monthly wages of the sum resulting from the average of all severance payments foreseen in the labour agreement applicable to the worker at the time of dismissal.

The labour agreement shall not be terminated without prior notice, or, in lack thereof, without a severance payment. Prior notice must be given with the following anticipation:

- Fifteen (15) days when the worker is on trial; one (1) month when the worker had been employed for no more than five (5) years, and two (2) months when exceeding said term.

The party failing to give notice, or giving undue notice, must pay the other party a substitutive indemnity equal to the wages that would correspond to the worker during the terms above mentioned.

## 6.4 Vacations

The worker shall have a paid, annual, minimum and continuous annual vacation term with the following duration: fourteen (14) running days when seniority does not exceed five (5) years; twenty-one (21) running days when seniority exceeds five (5) years but not ten (10); twenty-eight (28) running days when seniority exceeds ten (10) years but not twenty (20); and thirty-five (35) running days when seniority exceeds twenty (20) years.

## 6.5 Social Security

Social security taxes are shared by the employee and the employer. The employer cost can amount to 29% of the wages, while the worker pays, in average, 20% of his or her wages as a deduction, excluding the income tax. Formation of the sums withheld or paid for commerce employees, for example, are as follows:

## 6.6 Employee Contribution

Pension 10.17% - 11%

National Social Security Administration (INSSJYP) 1.5 - 3%

Required External Funds (FEN) 0.89% - 0%

Family subsidy 4.44% - 0%

Health insurance 6% - 3%

Life insurance (1) Ar\$ 2.46 per employee 0%

Occupational Risk Insurer (ART) (1) 2-3% - 0%

Business Employees Union (SEC) 0% - 2%

Union 0% - 0.50%

Argentine Institute of Professional and Technological Training for Commerce (INACAP) Ar\$ 13.74 per employee (1), depending on the activity of the company

## 6.7 Unions

Act 23551 regulates the activity of the associations, which purpose is the defence of the rights of the workers.

## 7. Exchange Market

As from mid-December 2015, meaningful changes were introduced regarding the regulations of the exchange market operation for a better flexibility in ex-

change operations.

These modifications enabled the possibility for the entities authorized to operate in the exchange market to perform arbitration and foreign currency exchange operations with their clients, and they softened conditions for residents to have access to the exchange market to form external assets, and conditions for the repatriation of portfolio and direct investments of non-residents.

The Central Bank continued softening the regulations on exchange matters, meaningfully simplifying the general conditions under which the market exchange had been operating from 2002 until July 2016.

The new regulations set forth that the exchange operations can be made by means of an affidavit of the sum corresponding to the exchange operation, except for the cases in which specific requirements are set, eliminating, in general, the obligation to justify each exchange operation with documentation.

Likewise, operations for the creation of external assets of non-residents were no longer subject to an amount limit, and market access restrictions were eliminated when related to derivative transactions with counterparts abroad. On the other hand, the conditions to operate in the exchange market at extended times were softened.

In order to access the exchange market to perform transfers abroad for the payment of services, interest, profits, and dividends, and for the acquisition of non-financial assets not produced, if applicable, the "Survey of the issuance of debt securities and external liabilities of the financial and non-financial private sector" for the debt being paid abroad and the "Survey of Direct Investment" compliance affidavit must be submitted.

BCRA (Central Bank of the Argentine Republic) regulations are constantly changing, so it is advisable to analyze any international transaction prior to its execution. This includes both import and export operations.

## 8. Tax System

The Argentine tax system is formed by national, provincial, and municipal taxes. In the national scope, the main taxes are:

### 8.1 National Taxes:

- Income Tax: It includes the transfer prices policy
- Assumed Minimum Income Tax
- Personal Property Tax
- Value Added Tax
- Bank Debits and Credits Tax
- Internal Taxes
- Personal Property Tax: Surrogate Decision Maker
- Real Estate Transfer Tax

## 8.2 Provincial Taxes

- Territorial Taxes
- Turnover Tax
- Stamp Tax

Likewise, there are certain duties imposed by provinces or municipalities.

## 8.3 Taxes on Companies

### 8.3.1 Income Tax

Pursuant to the Argentine Income Tax Act, residents pay this tax on the total amount of their income. Non-residents pay taxes only on their income derived from Argentine sources.

Argentine companies must file their annual income tax return together with their financial statements. The tax return must clearly reflect the adjustments made to determine taxable earnings or losses, and the tax credit. Tax returns must be filed with the Federal Public Revenue Administration (AFIP) within a term of five months after the closing date of the financial year.

The income tax rates are as follows:

For companies and the different company forms, the progressive reduction of the aliquot estimated for corporate earnings: from 35 % to 30 % for financial years 2018 and 2019, and 25 % as from 2020 onwards.

For resident individuals, a progressive rate on general income from 5 % to 35 %.

For resident individuals, special rates:

15 %: For returns or capital gains derived from foreign currency instruments, or instruments with an escalation clause, and other income from financial assets, excluding foreign exchange gains/losses and the restatement of equity.

5%: For returns or capital earnings derived from fixed income instruments stated in national currency without an escalation clause.

Companies and diverse partnerships 35%  
Individuals (progressive rate) 5% to 35%  
Gambling 41.50%  
Profits from Digital Platforms 41.50%

Dividends and other similar earnings derived from earnings accrued as from January 2018 obtained by individuals and from undivided successions shall be levied by a 13 % aliquot (7 % in financial years started in 2019, 2020, and 2021).

When the dividends and earnings are paid to beneficiaries abroad, the payor must apply the corresponding withholding.

Assumed dividend payment is established, without admitting evidence to the contrary, under certain conditions, for example, when fund withdrawals are made, or for fees or compensations where the effective rendering of the service cannot be proven.

A cost escalation mechanism is established for assets obtained or investment made during the financial years starting as from January 1, 2018. The escalation shall be made based on the percent variations of the Internal Wholesale Price Index (IPIM, in Spanish) provided by the INDEC (National Institute of Statistics and Censuses).

### 8.3.2 Assumed Minimum Income Tax

A 1% rate taxes international assets of Argentine companies. The payment of this tax and of the income tax can be mutually compensated. The term to take the payment of the assumed income tax on account of the Income Tax is extended to 10 years. The Omnibus Money Laundering Act (27260) sets forth the repeal of the tax for all taxpayers based on financial statements starting as from January 1, 2019.

Another act exempts companies classified as "Pymes" (small and medium-sized enterprises) from the tax for financial statements as from January 1, 2017.

### 8.3.3 Personal Property Tax Surrogate Decision Maker

This tax is levied upon the net accounting assets of the company at a 0.5% rate at the end of the financial year on the shareholders' contributions, Argentine or alien individuals, and foreign companies. In the case of alien individuals, the provisions established in the Agreements must be observed to avoid double taxation in force. Act 27260 grants a benefit to the taxpayers that had complied with the tax during the two previous years, being exempted from 2016 to 2018.

### 8.3.4 Value Added Tax

The value added tax (VAT) or "IVA" is levied upon consumption goods, and it applies to the sale of items, to the rendering of services, and to the imports of certain goods. To maintain VAT as a consumption tax, there is a compensation mechanism through which debits generated by the sale of products can be paid through VAT which is paid when purchasing items, or when paying services to third

parties. Tax debit is generated when applying the net sales price to the current proportional rate of the tax. On the other hand, tax credit is generated in the purchase of consumption goods, hiring of services, etc. The difference between the tax included in the sales (tax debit) and that taken from the invoices of the purchase of consumption goods and services (tax credit) constitutes the sum to be paid to tax authorities for each tax term.

Tax authorities implement a system of anticipated withholdings before the tax debit deposit.

There are some products and services that are exempted from this tax.

The percentage added to the price as VAT is 21%. However, there are differential rates for sales or the rendering of services (for example, 27% in the case of the electrical power supply for a shop or professional office, provided such person is a Registered VAT Payer or an Individual Tax Payer), and 10.50% for main activity.

From the most relevant aspects of the recent reform dated 12/29/17 (Act No. 27430), the following are highlighted:

Digital services: Digital services are included within the tax scope, defining the taxable events and the taxable basis to be applied. The purpose of this escalation is applicable to taxable events taking place as from 2/1/2018. Return of positive balance derived from investment: The return of tax credit deriving from the purchase, construction, manufacturing, or import of fixed assets – except motor vehicles – that, having been acquired as from 1/1/2018 and after 6 months have elapsed from the calculation thereof, had not been used due to tax debits derived from the activity. This treatment shall also apply to assets acquired under the leasing mode, after 6 months from exercising the call option.

### 8.3.5 Bank Debits and Credits Tax

This tax is levied upon bank account deposits and extractions at a 0.6% rate. 34% of the tax on bank credits can be considered a payment on account of the income tax.

“Pymes”, Micro and Small companies can calculate 100% of the tax as a payment on account of the Income Tax. Mid-sized manufacturing companies may discount 50%.

### 8.3.6 Internal Taxes

This tax is levied upon alcoholic beverages, beers, non-alcoholic beverages, syrups, extracts, and concentrates, automobiles and gas motors, cellular and

satellite telephone services, champagnes, sumptuous objects, motor vehicles and motors, and recreational or sportive vessels and aircraft which will be applied pursuant to the provisions of this act.

### 8.3.7 Transfer Prices

In 1998, the transfer price concept was introduced to tax legislation according to the OECD guidelines. The election of the transfer prices method applicable in Argentina depends on the information available, the type of operations, and the magnitude of the necessary adjustments to achieve comparability.

The Income Tax Act incorporated the following methods to evaluate operations of all kinds, which includes operations for tangible and intangible assets, services, and financial operations:

- Comparable prices (uncontrolled);
- Actual price;
- Additional cost;
- Profit splits;
- Net operational margin.

A transfer prices report must be carried out annually, and penalties for not filing said report amount up to Ar\$ 45,000.

The obligation to file Transfer Price reports is not only due to economic relations between the Principal Company and the local company but also due to functional reasons, such as the dependence upon a single supplier or client. Relations with tax havens always require the suitability of the operations to be proven, and the demonstration of the prices agreed as between independent parties.

**Upon Act No. 27430, published on 12/29/17, the International Tax Transparency concept is included in the Income Tax, with the following updates**

- It defines “non-cooperating jurisdictions”.
- It defines “low or non-existent tax jurisdictions” as special countries, domains, jurisdictions, territories, member states, or tax systems establishing a maximum taxing of company revenue below 60 % of the one in force in Argentina.
- It creates a tax on profits derived from trusts, private interest foundations, and further similar organizations created, domiciled or located abroad, related to operations and individuals residing in our country.
- It creates a tax on individuals residing in the country for earnings obtained through their direct or indirect participation, or companies incorporated, domiciled, or located abroad, provided they comply with certain requirements.

### 8.3.8 Real Estate Transfer Tax

The transfer of ownership for real estate located in Argentina which is owned by individuals or undivided inheritance are taxed with a 1.5% rate provided said operation is not taxed by the income tax. This rate is applicable to sales which acquisition is prior to 12/31/17.

For sales made after 12/31/17 derived from acquisitions taking place as from 12/31/17, earnings for the sale of real property and the conveyance of property rights, except for real property intended for housing/dwelling, shall be included within the scope of the income tax with a 15 % aliquot on the capital gains obtained regarding the escalated acquisition cost.

### 8.3.9 Real Estate Taxes

This provincial tax is levied upon real estate, and the rates and valuations depend on each zone and province.

### 8.3.10 Turnover Tax

This is a tax on turnover. Each tax is levied upon each commercial operation, without any tax credit given for taxes paid during prior terms. Rates vary depending on activity and province, and they range from 1% to 5%. (In general, primary and industrial activities are exempted).

### 8.3.11 Stamp Tax

Public and private documents, or certain operations, require the payment of the stamp tax for their formal execution, and this applies to deeds, promissory notes, and leases or other types of agreements, among others.

### 8.3.12 Withholdings

Some types of payments to non-residents are subject to tax withholding. In accordance with certain guidelines, the income tax, the value added tax and the turnover tax are withheld at the moment of payment.

## 8.4 Individuals Tax

### 8.4.1 Income Tax

All income obtained by individuals is taxed by the income tax.

Individuals referred to in the previous paragraph residing in the country are taxed on the total amount of their income obtained in the country or abroad. The sums duly paid under similar taxes on their activities abroad can be considered a payment on account of this statutory tax up to the limit of the tax burden increase originated by adding the income obtained abroad.

Non-residents pay taxes only on the income derived from Argentine sources.

Residents in the Republic shall be individual persons living for more than 6 months in the country during the course of the financial year. To all purposes of this act, residents in the country shall also be individuals residing abroad to the service of the Nation, provinces, or municipalities, and officers of Argentine nationality acting in international organizations where the Argentine Republic is a member State.

### 8.4.2 Income Categories

The law establishes the following four income categories: land income, capital income, company income, work income, and personal income. The tax return reflects the net income for each category, and, after a deduction is made on the sums permitted by law, the profits or losses are determined subject to tax.

All information provided by tax payers in their tax returns is subject to review by the Federal Public Revenue Administration (AFIP).



### 8.4.3 Personal Deductions

Resident individuals will be able to deduct certain sums from their net income/revenue according to the following table, which is applicable to the financial year 2016:

Non-taxed income	66.917,91
Spouse	62.385,20
Children (each)	31.461,09
Other dependents	- - -
Special deductions	66.917,91
Special deductions increased	321.205,97

A new deduction is incorporated as item i) of section 81, which can be calculated by the taxpayer or the originator (in case of undivided successions): the housing rent.

Therefore, based on the financial year for and including 2017, from the financial year's profit, whichever the source of the profit, 40% can be deducted from the sums paid as real estate rent intended for housing, and up to the limit of the sum established as a non-taxable minimum provided in item a) of section 23 of the act.

For this deduction to apply, the taxpayer or the originator must not hold title to any real estate property, whichever the percentage.

Taxable scale for individuals on Income Tax 2018:

Accumulated Net Taxable Income		Will Pay		
From More Than Ar\$	To Ar\$	Ar\$	Plus	On Surplus of Ar\$
0	20,000	--	5 %	0
20,000	40,000	1000	9 %	20,000
40,000	60,000	2,800	12 %	40,000
60,000	80,000	5,200	15 %	60,000
80,000	120,000	8,200	19 %	80,000
120,000	160,000	15,800	23 %	120,000
160,000	240,000	25,000	27 %	160,000
240,000	320,000	46,600	31 %	240,000
320,000	Hereinafter	71,400	35 %	320,000

#### 8.4.4 Tax Payment

The AFIP (tax authority) sets, by General Resolutions, the term expiration dates to file tax returns, and to pay income tax sums owed.

Payments shall be made by bank deposit or e-transfer, as provided by the general resolution.

Also, tax payers and income tax payers must determine and make advance payments of the tax to be paid. Individuals must make 5 advance payments.

The basis of the calculations is the tax determined by the tax term immediately prior to that for which the advance payments will be credited. This calculation basis allows deductions.

A 20% rate will be applied to the resulting sum.

The remaining tax payers, except for those that do not meet the taxable sums, must file an annual tax return for their income as of December 31, which will expire in April each year.

Non-residents subject to the corresponding withholding need not file an annual tax return.

#### 8.4.5 Personal Property Tax

Individuals or undivided inheritance are subject to tax for property they may own at the end of each calendar year, including those subject to economic processes, pursuant to what is established hereunder:

- Individuals domiciled in the country, and undivided inheritance based therein for property located in the country and abroad.
- Individuals domiciled abroad, and undivided inheritance based therein for property located in the country.

There is tax-exempted property as well. The Personal Property Tax Act sets forth the manner in which property located in the country and abroad is to be appraised in order to pay the tax.

Act 27260 introduces changes to the Personal Property Tax. On the one hand, the non-taxable minimum is set to Ar\$ 800,000 for 2016, Ar\$ 950,000 for 2017, and, as from 2018, Ar\$ 1,050,000. Also, the proportional rates are modified: 0.75% for 2016, 0.50% for 2017, and 0.25% for 2018. Likewise, since 2016, a tax will be paid on the excess value and not on all the assets levied.

The same act grants a benefit for the taxpayers that paid the tax during the two previous years, being exempted from the tax payment from 2016 to 2018. This measure also covers the surrogate decision makers of property abroad and companies that pay on account of their members.

#### 9. Bilateral Treaties

Argentina has signed bilateral investment treaties with several countries, such as Germany, Austria, Armenia, Australia, Bolivia, Bulgaria, Canada, South Korea, Costa Rica, Chile, China, Denmark, Ecuador, Egypt, Spain, and USA. UU., Guatemala, Finland, France, Holland, Hungary, Indonesia, Israel, Italy, Jamaica, Luxembourg, Mexico, Nicaragua, Malaysia, Morocco, Peru, Poland, Portugal, Romania, United Kingdom, Senegal, Sweden, Switzerland, Tunisia, Turkey, Ukraine, Vietnam, Venezuela, among others, in order to protect investments.

Within the framework of Mercosur, two agreements were signed to promote foreign investment, thus ensuring a fair treatment for any national investment within Mercosur.

Protocol Investment Promotion for non-members in 1994 (Act 24554) and the Colony Protocol 1997 (Act 24891).

#### 10. Agreements to Avoid Double Taxation

Likewise, Argentina has celebrated 20 comprehensive agreements to avoid double taxation and to prevent tax evasion; see the following official site:

[http://www.mecon.gov.ar/sip/basehome/dir3\\_convenios.htm](http://www.mecon.gov.ar/sip/basehome/dir3_convenios.htm). These agreements avoid investments made between signing countries to pay income, capital and/or property taxes twice. As a main benefit from these agreements, we can mention the reduction in the income tax rate on royalties and interest paid abroad.



# Belize

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## 3. Country Profile

Belize (formerly "British Honduras", the name of the country was changed in the year 1973) is located in the east or the Caribbean coast of Central America, bordered on the north and western part with Mexico, and in the south and the rest of the west by Guatemala. Belize achieved full independence on 21<sup>st</sup> September 1981.

The population was estimated to 387,879 in 2017, with a growth rate of 2,056 % per annum. The ethnic composition is as follows: 48.7 % mestizo, 24.9% creole, 10.6% Maya, 6.1% Garifuna, and 9.7 % other. Due to racial harmony and religious tolerance, the different racial elements in Belize have been mixed and combined with success, and Belize has gained a world-wide reputation for its friendly people. English is the official language although Spanish, Creole, Garifuna



and Mayan are widely spoken throughout the country. The dominant religion is Christianity - both Catholics and Protestants. Small groups practice Islam, Hinduism and the Baha'i.

## The Government

The Government of Belize is operated on the principles of Parliamentary Democracy based on the Westminster System. The country is a sovereign, democratic state. Queen Elizabeth II of Great Britain is the Head of State; she is represented by the Governor General Sir Colville Young since 1993.

The House of Representatives consists of 31 members of representatives that are elected by direct popular vote for a term of five years. The Governor General appoints the Prime Minister, who is the leader of the majority party. The Governor General appoints the Senate of 13 members, in which case six members are nominated on the advice of the Prime Minister, three are nominated on the advice of the leader of the opposition, and three more are nominated on the advice of the Council of the Churches in Belize and the Association of Evangelical Churches, the Belize Chamber of Commerce and Industry of Belize and the Better Business Bureau, and the National Congress of Trade Unions and the Steering Committee of the Civil Society. One senator is nominated by the non-governmental agencies. Currently the Honorable Dean Barrow is the Prime Minister.

Belize has a legal system based on common law. There is a Supreme Court of Justice, and the president of the Supreme Court is appointed by the Governor General on the advice of the Prime Minister. The Caribbean Court of Justice (CCJ) has replaced the Judicial Committee of the Privy Council (Judicial Committee of the Privy Council) as a court of last instance for the members of the Caribbean Community (CARICOM) and also

serves as a court of appeal in both civil and criminal cases of common law courts in all the state members.

General elections are held every five (5) years, and legal voting age is 18. There are two major political parties in the country - the People's United Party (PUP) and the United Democratic Party (UDP). The most recent general elections were held in November 2015, in which the United Democratic Party (UDP) won 19 out of 31 seats.

The official currency of Belize is the Belize Dollar (BZ\$), which has been pegged to the United States dollar at a rate of BZ \$2.00 = US \$1.00 since 1976.

Belize currency denominations are printed at \$ 100, \$ 50, \$ 20, \$ 10, \$ 5 and \$ 2 - dollar bills and coins are \$ 1.00, \$ 0.50, \$ 0.25, \$ 0.10, \$ 0.05, and \$ 0.01 cents a unit.

#### 4. Foreign investment regime - types of business entities

The corporate type most commonly used by foreign investors in Belize is Belize Chapter 250 Limited Company.

Other business types allowed include:

- Sole Proprietor
- Partnerships
- Limited Liability Partnerships
- Registration of an overseas company (foreign branch)

#### 4.1 Registration of business name and companies

##### 4.1.1 Registration of business name

In accordance with the Business Names Act Chapter 247 of the Laws of Belize, each company or individual who operates a business in Belize must register a business name.

Application forms can be obtained from the Registrar of Companies in Belize. All applications require a name search before proceeding to avoid duplication of names. Moreover, to register a business name, the Business Names Act provides that a business owner abroad must be a permanent resident or have a partner in Belize, and a foreign company must obtain the approval of the Central Bank of Belize. Identification documents to be submitted with your application are a passport, social security card, voter registration card or residence card. Certified copies are accepted.

##### 4.1.2 Incorporation of a limited company

The incorporation is usually done through a lawyer or accountant, and requires the filing of the Memorandum and Articles of Association in order to be issued a Certificate of Incorporation.

Benefits of registering a Limited Company under Chapter 250 of the Laws of Belize:

- **Limited Liability**, which means that the capital providers are not subject to losses higher than the amount of initial investment;
- **Transferability of shares**, whereby the rights of the company can be transferred easily from one investor to another, without the reconstitution of the organization under the law;
- **Juridical Personality**, meaning that the corporation itself as a fictive "person" has legal standing and may thus sue and be sued, may make contract, and may hold property in a common name; and
- **Indefinite Duration**, by which the life of the company may extend beyond the participation of any of its founders.

##### 4.1.3 Registration of an overseas company (foreign branch)

Foreign companies doing business in Belize are required to register as an overseas company in accordance with the Companies Act Chapter 250 of the laws of Belize. The registration of an overseas company, in essence, causes it to enjoy the benefits as if registered locally initially as a Limited Liability Company in Belize. Documents required to register an overseas company:

- A certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and if the instrument is not written in the English language, a certified translation thereof;
- A list of the directors and secretary of the company containing their particulars such as full name, usual residential address, nationality, business occupation, and if the director is Corporate; the Corporate's name and registered office;
- The names and addresses of some one or more persons resident in Belize authorized to accept on behalf of the company service of process and any notices required to be served on the company, provide for the creation, registration, dissolution and liquidation of companies with limited liability;

##### Other requirements

- Must have a registered office in Belize;

- Must keep accounting records for 5 years in Belize or designated office;
- Every over-seas Company shall, in every calendar year, file with the Registrar such a statement in the form of a balance sheet as would, if it were a company incorporated in Belize and having a share capital, be required under this Act to be included in the annual summary.

#### 4.1.4 Limited Liability Partnership

A Limited Liability Partnership are forms of business entities which permit one partner to be shielded from individual joint liability for partnership obligations created by another partner's or person's misconduct. A partner's liability is not limited, however, when the misconduct took place under the supervision or control of the partner. Only liability arising from the misconduct of other partners or persons is covered by this law; the partnership is not relieved from liability for other partnership obligations and individual partners are liable for their own misconduct. A limited liability partnership may be registered in Belize, where the people who wish to form the partnership with a common view to profit, come to an agreement and understand the following provisions of the Limited Liability Partnership Act:

- Provide for the creation, registration, dissolution and liquidation of companies with limited liability;
- The name of partnership includes the words "Limited Liability Partnership", but the abbreviations "LLP" or "L.L.P." can be replaced in actual use;
- There is no limit to the number of people who can be partners; any person can be a partner - including individuals, corporations or other limited liability partnerships;
- You must have a registered office in Belize;
- Must keep accounting records for 5 years;
- There are no reporting or audit requirements of the accounts;
- Partners can lend money or borrow money from the association.

#### 5. Audit and accounting

The accounting profession is regulated by the Institute of Chartered Accountants of Belize (ICAB). ICAB is a member of the Institute of Chartered Accountants of the Caribbean (ICAC) who are in turn members of the International Federation of Accountants (IFAC). ICAB requires adopting international standards of accounting and auditing, or may choose to adopt accounting principles generally accepted in the United States of America. Recent changes in laws and regulations, locally and internationally, require accounting records of all businesses to be kept for a minimum of 5 years and be available for inspection by the authorities at its regis-

tered office or designated office at all times.

#### 6. Labor regime

##### 6.1 Duration of the contract of Work

In Belize, the contract of work can be formal or informal and may be for a definite or indefinite period of time depending on the type of work to be performed. Contracts for work generally include a probationary period of two weeks or more (up to three months) as may be approved by the employer.

Either party may terminate the contract during the probationary period at will without any notice.

An employee's work week by law is not to exceed 6 days or 45 hours per week. In addition, hours worked in excess of 45 hours are considered overtime hours and attract a rate of time and a one half. The minimum wage is BZ\$3.30 per hour effective in 2012 for all types of workers except for highly skilled workers or professionals who can negotiate the salary with the employer.

In general, the laws of the work week seem to be comparable with other countries and the minimum wage shows signs of improvement based on cost of living.

##### 6.2 Compensation for dismissal

Notice period is mandated by law and is determined by the duration of employment. Employees who have worked 2 weeks to 6 months are given one weeks' notice; 6 months to 2 years are given 2 weeks' notice; 2 years to 5 years are given 4 weeks' notice; and 5 years and above are given 8 weeks' notice. In any case of employment, notice pay in accordance with notice period mandated by law is required to be paid for lack of notice.

##### 6.3 Sick leave and vacation

In Belize employees are allowed 16 days of sick leave at the regular rate of pay. To obtain sick leave authorization, an employee must have worked at least 60 days within 12 months. Employees are also entitled 2 weeks annual vacation leave after working for more than 12 months per year. Women who are pregnant are allowed a maximum of 30 days of sick leave that results from the pregnancy.

##### 6.4 Social security charges

The costs of social security contributions are shared between the employer and the employee. The average cost to the employer is approximately 6.5% of salary, while the average cost to employees is a maximum of 3% of their remuneration in the form of deduction and excluding income tax. A minimum of fifty contributions are required to qualify for benefits under the scheme. There is currently a proposal by the Social Security Board to amend the rates in Table A in 2018.

The rates noted below are currently in force.

**TABLE A**

Weekly Salary	Employer's Contribution	Employee's Contribution	Total paid to Social Security
<b>Below \$70.00</b>	\$3.57	\$0.83	\$4.40
<b>\$70.00-\$109.99</b>	\$5.85	\$1.35	\$7.20
<b>\$110.00-\$139.99</b>	\$8.45	\$1.95	\$10.40
<b>\$140.00-\$179.99</b>	\$9.65	\$3.15	\$12.80
<b>\$180.00-\$219.99</b>	\$11.25	\$4.75	\$16.00
<b>\$220.00-\$259.99</b>	\$12.85	\$6.35	\$19.20
<b>\$260.00-\$299.99</b>	\$14.45	\$7.95	\$22.40
<b>300.00 and Above</b>	\$16.05	\$9.55	\$25.60

## 6.5 National occupational safety and health regulations.

The new law is in its final stages of enactment and generally covers the employer's responsibility for occupational safety and health of its employees.

## 7. Exchange control

### 7.1 Foreign investment income

Foreign investment income, which are of a capital nature, earmarked for the purchase of property or to provide commercial loans for more than one year term, must be registered with the Central Bank of Belize. Foreign currencies transferred to Belize will be converted to Belizean dollars and deposited in a local bank account. Foreign exchange earned for the export of goods and services, the Central Bank of Belize acts as the clearing house for such foreign currencies and may authorize certain businesses to hold foreign currency accounts in Belize.

### 7.2 Outflows of foreign currency

Investors wishing to repatriate their capital can do so,

as long as they are in U.S. dollars and with the permission of the Central Bank of Belize. With respect to profits and dividends, it is possible to repatriate those once Income Tax clearance is provided by the Income Tax Department. The repatriation of investments originating from overseas can be returned to the investor once authorized by the Central Bank of Belize.

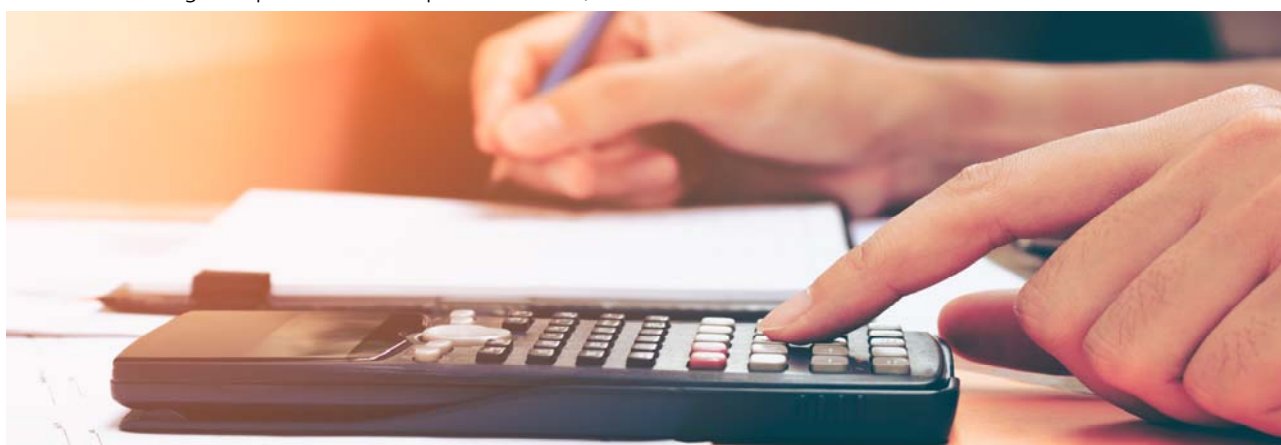
## 8. Taxation

The tax structure of Belize consists of national and municipal taxes. At the national level, the main taxes are:

### 8.1 Domestic taxation:

- Income and Business Tax
- Personal Income Tax
- Property Tax
- General Sales Tax
- Stamp and Transfer Tax

There are also certain fees and taxes imposed by the municipalities.



## 8.2 Income and business tax

### 8.2.1 Business tax

Businesses and self-employed with receipts over BZ \$ 75,000 gross income per year must pay the tax on gross sales known as the Business Tax. The rate varies by business classification, as shown by the following table. Business Tax is paid monthly to the Tax Department.

**TABLE B**  
Business tax rate for companies and self-employed persons (local):

Type of business / activity	Rate % on gross income
Regular trade or business	1.75%
Professional services	6.0%
Commissions and royalties	5.0% & 15.0%
Rental income	3.0%
Income of radio, television, and newspapers companies	0.75%
Income of national airlines	1.75%
Insurance premiums	1.75%
Revenues from telecommunications provider	19.0%
Services for the supply of electricity	1.75%
The income of service stations including fuel/lubricant	0.75% & 1.75%
Casino and gambling	8.0%
Real estate business	1.75% & 15.0%
Tour operators and travel agencies	6.0%
Construction	1.75% & 6%
Local dividends withholding tax	15%
Dividends paid by telecommunications service provider	0%
The interest income from financial institutions	6%, 12% & 15%
International financial services	3%

**TABLE C**  
Tax rate on foreign payments:

Type of payment	Tax %
Dividends and interest	15.0%
Management fees	25.0%
Rental of plant and equipment	25.0%
Technical services	25.0%
Commissions and royalties	0%

**TABLE D**  
Corporate tax rate:

Tax Type	Tax %
Tax on net income	25.0%
Tax on net income of petroleum operations	40.0%

**TABLE E**  
Tax rate - CARICOM:

Type of payment	Tax %
Dividends	0%
Management fees	15.0%
Interest	15.0%
Royalties	15.0%

Business tax payments made during the year under TABLE B count as credit toward income tax on net income of corporations. At the end of the tax year, corporations are given the option to accept the business tax paid as the final tax or can opt to file a corporate tax return to determine whether any tax credits may be due.

### 8.2.2 General sales tax

General sales tax (GST) is a tax imposed on the value or the mark-up added to imports and other goods and services supplied by one business to another or to final customers. GST is calculated and charged on transactions in the production and delivery chain but the consumer pays GST only on the final selling price. However, the tax paid on inputs by a registered person is netted off the tax received on the output and only the difference is paid to Government. Where the input tax incurred by a registered person exceeds the output tax (received), the registered person may claim the difference as a credit against future tax liability.

There are some products and services that are exempt from this tax.

The GST percent is 12.5%.

### 8.2.3 Calculation and collection

Businesses are required to file a monthly tax return in the prescribed form and pay the appropriate taxes by the due date to avoid any penalties and interest.

### 8.2.4 Stamp duty and transfer tax

Stamp Duty / Transfer Tax is governed by the Stamp Duties Act Chapter 64 of the Laws of Belize. It becomes payable on any transactions involving taxable land. Nationals and Foreign Investors are required to pay 5% and 8% respectively, of the value; however if the value of the land falls below US\$10,000 then the transaction is tax exempt.

Public and private documents including certain transactions require the payment of stamp duty in order for it to be legally effective, including scriptures, promissory notes, and contracts.

### 8.2.5 Deductions

Some types of payments from Belize to non-residents are subject to withholding tax. (TABLE C). Certain local contract payments in excess of BZ\$3,000 are subject to a 3% contract tax withholding.

## 8.3 Tax on individuals

### 8.3.1 Income tax

Income tax is paid at a rate of 25% on the taxable income of all employed persons resident in Belize who earn in excess of BZ\$25,600 (US\$12,800) a year, individuals who earn less are exempt from income tax.

Non-residents are taxed only on earnings received in Belize.

An individual is deemed to be a resident of Belize during a basis tax year if he spent in the aggregate more than one hundred eighty two days within the country or was domiciled in Belize.

### 8.3.2 Payment of tax

Employee tax is paid on the pay as you earn (PAYE) system and the estimated tax is withheld and paid monthly to the tax department.

#### 8.4 Other taxes

The Belize Customs Tariff is modelled from the Harmonized Description and Coding System (HS). The rates are based on the Customs Value (Cost, Insurance, Freight - CIF). Import Duties are levied at the point of importation, and is the liability of the importer. The Belize Customs & Excise Department is responsible for the collection of import duties. Rates range from 0 to 45% with the majority of commodities attracting a rate of 20%. There are some items that attract a Revenue Replacement Duty (RRD) ranging from 5%- 40% based on the aggregate of the Customs Value and the Import Duties. Under the CARICOM agreement, all imported products entering Belize from a CARICOM member state are exempt from import duties. In order to receive an exemption, importers must produce a CARICOM Certificate of Origin to the Comptroller of Customs. Customs brokerage services are necessary when the commercial value of imported goods exceed Bz\$200.00 (US\$100).

#### 9. Bilateral treaties

Belize has signed bilateral investment treaties with several countries, including: the Caribbean Community CARICOM that includes Antigua and Barbuda, Barbados, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad & Tobago. Please see Table E for list of tax rates within CARICOM region.

As regional group, CARICOM has negotiated and signed several bilateral trade agreements, namely:

1. CARICOM - The Dominican Republic Free Trade Agreement
2. CARICOM - Costa Rica Free Trade Agreement
3. CARICOM - Venezuela Trade and Investment Agreement
4. CARICOM - Colombia Trade Cooperation, Economic and Technical
5. CARICOM - Cuba and the Economic Trade Cooperation Agreement

CARICOM is also pursuing other partnerships, including:

1. CARICOM - MERCOSUR negotiations
2. CARICOM - Canada negotiations
3. CARICOM - USA negotiations
4. CARICOM - Central America negotiations

Other bilateral treaties include: CBI & CARIBCAN, ACP-EU relations, Belize-Guatemala Partial Scope Agreement & Central American Integration System (SICA).

#### 10. Double taxation avoidance agreements

Belize has signed 14 double taxation avoidance treaties, all of which are in full force. Countries that have

signed these agreements are members of CARICOM (11) including Antigua and Barbuda, Barbados, Belize, Dominican, Grenada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tabago; Austria (1); Switzerland (1) and UK (1).

#### 11. Tax Information Exchange Agreements

##### 11. Tax Information Exchange Agreements Belize has signed the following Tax Information Exchange Agreements with the following countries:

Statutory Instrument No. 90 of 2010 -Tax Information Exchange Agreement (Belize/Australia) Order, 2010  
 Statutory Instrument No. 91 of 2010 - Tax Information Exchange Agreement (Belize/United Kingdom) Order, 2010  
 Statutory Instrument No. 92 of 2010 - Tax Information Exchange Agreement (Belize/Belgium) Order, 2010  
 Statutory Instrument No. 93 of 2010 -Tax Information Exchange Agreement (Belize/Netherlands) Order, 2010  
 Statutory Instrument No. 105 of 2010 - Tax Information Exchange Agreement (Belize/Sweden) Order, 2010  
 Statutory Instrument No. 106 of 2010 -Tax Information Exchange Agreement (Belize/Finland) Order, 2010  
 Statutory Instrument No. 107 of 2010 -Tax Information Exchange Agreement (Belize/Greenland) Order, 2010  
 Statutory Instrument No. 108 of 2010 -Tax Information Exchange Agreement (Belize/Norway) Order, 2010  
 Statutory Instrument No. 109 of 2010 -Tax Information Exchange Agreement (Belize/Iceland) Order, 2010  
 Statutory Instrument No. 110 of 2010 - Tax Information Exchange Agreement (Belize/Denmark) Order, 2010  
 Statutory Instrument No. 111 of 2010 -Tax Information Exchange Agreement (Belize/Faroes) Order, 2010  
 Statutory Instrument No. 112 of 2010 - Tax Information Exchange Agreement Belize/Portugal) Order, 2010  
 Statutory Instrument No. 113 of 2010 - Tax Information Exchange Agreement (Belize/France) Order, 2010  
 Statutory Instrument No. 124 of 2010 - Tax Information Exchange Agreement (Belize/Ireland) Order, 2010  
 Statutory Instrument No. 47 of 2012 - Tax Information Exchange Agreement (Belize/Mexico) Order, 2012  
 Statutory Instrument No. 61 of 2013 - Tax Information Exchange Agreement (Belize/Poland) Order, 2013  
 Statutory Instrument No. 81 of 2013 - Tax Information Exchange Agreement (Belize/India) Order, 2013  
 Statutory Instrument No. 43 of 2014 - Tax Information Exchange Agreement (Belize/South Africa) Order, 2014  
 Statutory Instrument No. 59 of 2016 - Tax Information Exchange Agreement (Belize/The CZECH Republic) Order, 2016  
 Statutory Instrument No. 60 of 2016 - Tax Information Exchange Agreement (Belize/Switzerland) Order, 2016.

On 27 June 2014, Belize signed the Convention of Mutual Administrative Assistance in Tax Matters. Signato-

ries to this convention include the Member States of the Council of Europe and the member countries of the OECD.

Belize is currently categorized by the OECD as working toward meeting internationally agreed tax standards. With regard to Common Reporting Standards (CRS), Belize implementation date is mid-year 2018.

## 12. Development incentives and fiscal incentives

### 12.1 Development incentives

A variety of investment incentives are offered by the Government of Belize (GOB). These allow investors a legal framework for participation in economic activities and were developed to provide grants to support genuine investors, always when their proposals are approved by the GOB. As a general rule, when evaluating investment proposals, the GOB focuses on the economic and social benefits that can be obtained with the investment. Other critical aspects of the proposals are the overall viability of the investment.

Listed below are the incentive programs currently enacted and in effect:

- Fiscal Incentives Program (also known as development concessions)
- Export Processing Zones (EPZ)
- Free Zones (FZ)
- Program of the Qualified Retired Persons (QRP)
- Diaspora Returnee Incentive Program (DRIP)
- Gaming Control (Casino & Gaming)

### 12.2 Fiscal incentives program

The fiscal incentive program was designed to promote the genuine investment in Belize through tax exemptions and tax holidays. The Law provides the current and potential investors with a legal framework and fiscal framework to stimulate productive economic activities.

Full duty exemption:

- Duty exemption of up to a maximum of 15 years to companies granted an Approved Enterprise Order.
- Duty exemption may be renewed for a further term of 10 years or a total of 25 years for companies engaged in agriculture, agro-industrial products, mari-culture, food processing and manufacturing with operations centred on export, and that are highly labour intensive.

#### 12.2.1 Categories

Several categories of items may benefit from full or partial relief from Import Duty, depending on the nature of the business.

Examples of categories that may be approved:

- Building materials and supplies
- Plant, machinery and equipment
- Specialized tools (except hand tools)
- Utility vehicles and transport
- Fixtures and fittings
- Office equipment and appliances
- Spare parts for plant, machinery and equipment
- Agricultural machinery and supply
- Raw materials and other items for the exclusive use of approved enterprise.

## 13. International financial services

Belize continues to experience steady growth in its International Financial Services (IFS) industry. In 1992, the International Business Companies Act, based on the British Virgin Islands model, was enacted. This was supplemented by the Trusts Act (1992), and followed by the Offshore Banking Act (1996). Key success factors for Belize's vibrant financial sector are a highly literate workforce, stable democracy, flexible investment incentives, fixed exchange rate, and being the only English-speaking country in Central America. Belize has developed a favourable reputation based on investor-friendly legislation for service providers, ethical codes of conduct, capital gains repatriation, and no restrictions on nationality. Proximity to the United States, Mexican, and Canadian markets, have created the platform on which the country's international financial services industry continues to grow. Also supplementing this sector are our historical ties to the United Kingdom, and European Union.

Belize offers a full array of investment initiatives designed to meet the needs of global investors. Services include:

- International Business Corporation - IBC
- International Companies with Limited Liability (Limited Liability Corporation – LLC)
- Belize Exempt Trust
- Foundations
- Protected Cell Company
- Mutual Funds
- International Insurance
- Offshore Bank

While the banking sector is regulated by the Central Bank of Belize, the International Financial Services Commission (IFSC) has jurisdiction on all non-banking transactions. The 'Code of Conduct' legislation assures investors that the industry's professional standards and integrity are maintained. The Money Laundering (Prevention) Act of 1996, was implemented as a preventative measure to safeguard institutions and investment entities. Serving as a supplement to this Act, the IFSC regulates all other financial crimes such as internet

fraud and other nonbanking transactions.

### **13.1 Offshore company (International Business Corporation – IBC)**

An offshore company is a company registered in a country that offers a very advantageous taxation system, provided the activity is not exercised in the territory in which it is registered. More specifically, offshore companies have three characteristics: First, must be registered as an entity within the territory. Second, the "founders" (customers) must be domiciled outside the territory in which the company is registered. Finally, the company should exert most of their business outside the territory in which it is registered.

### **13.2 Offshore companies with limited liability (International Limited Liability Company – LLC)**

Conceptually, a Limited Liability Company or an LLC is a hybrid between two familiar business structures, namely, a corporation and a partnership. An LLC combines the best of both worlds by offering the advantage of both a corporation and a partnership without the disadvantages of either form.

An LLC, has distinct advantages over both a corporation and a partnership in that it not only avoids multiple level taxation, it also limits the liability of its members to the extent of the contributions made by them to the Company. No member of an LLC has personal liability for the debts of the LLC except where there are personal guarantees or other special arrangements. Moreover, LLC members, unless restricted by agreement, fully participate in the management of the LLC, while limited partners in a limited partnership may not participate in the management of the enterprise without risking the loss of their limited liability status.

### **13.3 Belize exempt trust**

The primary benefit of a Belize trust is that it allows the legal ownership of property to be distinguished and separately vested from the enforceable rights of use and enjoyment of that property. This makes the Belize offshore trust, particularly when established as an exempt trust, an extremely flexible, sophisticated and creative instrument for asset protection, tax, estate and investment planning, and the preservation of confidentiality.

The Belize Trust law, based on the Guernsey Trusts Law of 1989 but with various modifications and innovations, is one of the strongest and most flexible asset protection trust legislation in the world.

#### **Other benefits of the Belize Trust include:**

- No legal requirements to audit Belize trust accounts
- A Belize trust and its trust property is exempt from income and business tax, estate, inheritance, succession or gift tax and all instruments relating to the

trust property or to transaction carried out by the trustee on behalf of the trust shall be exempt from stamp duty.

- Trustees of a Belize trust shall be regarded as a non-resident of Belize and shall be exempt from exchange control with regard to the trust property and to all transactions carried out by the trustee on behalf of the trust.
- The Belize trust is extremely flexible and can accommodate numerous asset protection clauses.
- Typically discretionary trusts. Such trusts may also provide for automatic successor trustee and protector provisions.
- The Belize trust laws also permit the establishment of private trust companies.

### **13.4 Foundations**

A foundation created in Belize is a separate legal entity. In Belize, private foundations can carry out business, market, buy and sell properties, sue and be sued, enter into contracts, open bank accounts and maintain assets under its own name.

The Foundation Act of Belize, enacted in 2010, establishes the principles of offshore foundations in Belize. The principles of offshore foundations in Belize are similar to the legislation of other private foundations. Under this Act, a person or company can create an offshore Foundation charitable, not charitable, ordinary or without purpose.

Foundations in Belize can be founded by one or more persons or by a company with a member of the Council.

### **14. Merchant Shipping (IMMARBE)**

The International Merchant Marine Registry of Belize, commonly known by its acronym of IMMARBE, is now operated fully by the Government of Belize since June 11, 2013. IMMARBE first opened its doors in 1991 as an open Ship Registry with the intention of offering to the ship owners and operators of the world a very serious and efficient shipping registry based on reliable services, competitive prices and high standards of maritime safety. We are governed by the Merchant Ships (Registration) Act, 2010.

IMMARBE operates daily through the main office located in Belize City known as the Head Office and through a network of 67 Designated Offices. The Designated Office authorized by the Government of Belize is located in the different main ports and shipping centers of the world. It is important to take into consideration that the success of IMMARBE is based in the promotional effort that all the Designated Offices have had to perform. Success can also be attributed to the efficiency and reliability of its Head Office staff that are challenged each and every day to provide excellence in

ship registration.

### **Advantages of registration**

- IMMARBE has attained ISO 9001-2008 Certification
- Attractive and competitive tonnage taxes, fees and incentives
- A network of Deputy Registrars in major maritime centers
- Worldwide Network of General Safety Inspectors
- A well-established legal system and mortgage recording services
- Professional technical staff offering 24 hour's service.
- Belize has a number of memberships in Regional Fisheries Management Organizations such as ICCAT, IOTC, IATTC and WCPFC.

### **Types of registration**

- Provisional registration (6 months)
- Permanent registration (without expiry)
- Special registration (3 months)
- Dual-out registration (Charter out, 1 or 2 years)
- Dual-in registration (Charter in, 1 or 2 years)
- Vessels Under Construction Registration (no validity period)

Ship registration services are provided by a Moore Stephens Magaña LLP affiliate, Registry Services (Belize) Limited.



## The Plurinational State of Bolivia

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### 3. Country Profile

The Plurinational State of Bolivia is a landlocked country located in the West Centre of South America, with a population of about 10.5 million inhabitants. It borders on Brazil to the North and East, on Paraguay and Argentina to the South, and on Chile and Peru to the West. The Bolivian territory covers different geographical areas, such as the Andes Mountains, the Andean plateau, the Amazonia, and the Chaco. It is one of the countries with greatest biodiversity in the world.

Politically, Bolivia is a plurinational, decentralized state with autonomous regions. It is divided into 9 departments. Sucre is the Capital, seat of the judicial power,



while La Paz is the seat of the executive and legislative powers, and of the electoral body.

Ancient civilizations like the Tiwanaku developed in the Bolivian territory. The country became independent from the latter in 1825 and has inherited the traditions of the colonial, mixed races, and the pre-Colonial cultures, that gives the quality of multi-ethnic and pluricultural country, rich in the mixture of traditions, and folklore of its people of mixed races, natives, whites descending from Creoles, Afro-Bolivian, and, in a minor scale, European and Asian immigrants.

The Constitution sets forth the division of powers into four government bodies:

#### Executive Power

It's formed by the President, the Vice-President, and State Ministers.

#### Legislative Power

The Vice-President of the State heads the Plurinational Legislative Assembly with 36 Senators and 130 Deputies.

#### Judicial Power

It's formed by the Supreme Court of Justice, Tribunals, Courts, and the Magistrates' Council.

#### Electoral Body

It's formed by the Supreme Electoral Court, Departmental Tribunals, Electoral Courts, Table Courts, and Electoral Notaries.

#### Economy

Bolivia has a diversified economy, mainly focused on manufacturing, banking and extraction and export of commodities. It is the fourth largest economy in regional growth, above the Latin American average in 2012. GDP per capita is one of the lowest in Latin America with minimum national wage of 172 dollars

per month. The country's official currency is the boliviano (BOB). Even though both the national currency and the dollar are largely accepted nationwide, and for any operation, besides last years there was an important remonetization process as a consequence of public confidence in national currency and economic activity prospects that lead in the expansion of monetary aggregates and international reserves.

The most important economic activities are mining (San Cristobal Project), and the extraction of natural gas (YPFB), both belonging to the primary sector. Within the secondary sector, Bolivia is renowned for beer, dairy, oleaginous, and textile sales. In the tertiary sector, banking and telecommunication activities are renowned. In addition, pharmaceutical and manufacturing industries, and commercial conglomerates, such as supermarkets, are renowned as well.

In the last years, the average GDP growth was around 4.8%, reaching twin surpluses, fiscal (since 1940), and current account mainly due to increases in tax revenues and public (in 2012 five times greater than 2006) and private investment. The economically active population rate reaches 71.9%, and the unemployment rate is 3.8%, one of the lowest in the region.

Bolivia is one of the countries with greatest microfinance development in the world (2nd position worldwide).

## 4. Investment

### 4.1 National Investment Act

Bolivia has a legal framework for private investment, the Investment Act, which purpose is to foster and secure national and foreign investment to promote economic growth and social and economic development.

### Investment Incentives

Foreign investors have the same rights, duties, and guarantees as national investors, aside from having property rights, they have guaranteed:

- A freedom of currency exchange system, neither restriction for capital inflow and outflow, nor for the remittance abroad of dividends, interest, and royalties for technology transfer, and/or other business concepts.
- The freedom of production, trade, import and export of goods and services, as well as the free determination of prices.
- Internal taxes and duties repayment, through tax rebate certificates, paid on inputs and capital goods Incorporated into export goods.  
Bolivia has a simple tax system with low transfer price regulation.

## 4.2 Types of Companies

The Bolivian legislation considers the existence of different types of companies, which are:

- Companies
- Company Transformation
- Company Fusion
- Partially Government-Owned Company
- Foreign Company
- Shared Risk Agreements (Joint Ventures)

### 4.2.1 Companies

Companies can be created under different types:

#### 4.2.1.1 General Partnerships

General partnerships are created by public deed. Partners are jointly and unlimitedly liable for partnership obligations; therefore, in case these obligations exceeded the amount of their capital contributions, partners shall be liable to the extent of their personal assets for said obligations.

#### 4.2.1.2 Limited Partnerships

The limited partnership is formed by one or more limited partners that are only liable to the extent of their capital contributions, and by one or more managing or general partners that are jointly and unlimitedly liable for partnership obligations, whether they make capital contributions or not. The administration and representation of the partnership will be in the hands of the general partners, or third parties appointed, and general partnership administration rules will apply.

#### 4.2.1.3 Limited Partnerships with Stock Capital

In the limited partnership with stock capital, managing partners are liable for partnership obligations as in a general partnership. Limited partners limit their liability to the amount subscribed in their shares.

#### 4.2.1.4 Limited Liability Companies

This type of company is formed by two or more "partners" liable for company obligations according to the amount of their capital contributions. It requires a minimum of two, and a maximum of 25 partners. Capital contributions must be paid in full at the time of their legal creation.

#### 4.2.1.5 Corporations

In this type of company, shares represent capital contributions. The shareholders' liability is limited to the amount of shares they had subscribed. The administration of the corporation will be in the hands of a Board of Directors, formed by a minimum of three directors, whether shareholders or not, appointed by the shareholders' meeting. Corporate by-laws can set forth a greater number of directors, which shall not exceed twelve.

#### 4.2.1.6 Joint Ventures or Partnerships

Joint ventures or partnerships have an agreement where one or more individuals have an interest in one or more certain or temporary operations to be performed through their mutual contributions; said operations will be performed by one, two, three, or up to all partners, as agreed in the joint venture agreement.

This type of association has no legal status, and no corporate name. It is not subject to the requirements that govern the creation of companies, and it does not require its registration with the Registry of commerce. Its existence can be proven by all evidencing means.

The partner(s) in charge of the operations act on their behalf. Third parties acquire rights and undertake obligations only concerning said partners, and they are jointly and unlimitedly liable. Partners who are not in charge of the operation have no direct right against third parties.

With the consent of the other partners, the partner(s) in charge of the operations must make their names known, so that all partners are jointly and unlimitedly liable to third parties.

#### 4.2.2 Company Transformation

A company can be transformed by adopting any other company type foreseen in the Code of Commerce. Transformation shall not dissolve the company, nor will it modify its rights and obligations.

The joint and unlimited liability of the partners, existing under the previous company type, is not modified with transformation, unless the creditors so agree.

#### 4.2.3 Company Fusion

Fusion shall exist when two or more companies are dissolved without liquidation to form a new one, or when another acquires one company or other companies dissolved but unliquidated.

The newly formed company, or the company acquired, shall acquire the rights and undertake the obligations of the companies dissolved at the time of total transfer of their corresponding assets because of the final fusion agreement.

The new company will be created according to the regulations that apply to the newly formed company type. For the case of the acquired company, the articles of organization or by laws shall be modified pursuant to the regulations in force.

The final fusion agreement will be registered with

the Registry of Commerce, and it will be published as set forth in the Code of Commerce.

The managers of the new company, or of the acquired company, will be the representatives of the companies dissolved and acquired, notwithstanding the liabilities corresponding to their mandate

#### 4.2.4 Partially Government-Owned Company

A partially government-owned company is formed by a public entity (government - dependent), and a private company for the performance or implementation of activities of collective interest, the fostering, or the development of industrial or commercial activities or services. The liability of both parties is limited to the contributions made, and to the responsibilities established at the time of creation of this type of company. The name of partially government-owned companies must compulsorily include the reading "sociedad anónima" (corporation), or its abbreviation, "S.A.", the word "mixta" (partially government-owned), or its abbreviation, "SAM".

#### 4.2.5 Foreign Company

This type of company is formed pursuant to the laws of the place where it is created, that is to say, it is governed by the existing provisions there in as to its type and legal existence. To develop activities in Bolivia, a legal status shall be acknowledged subject to provisions of the Code of Commerce, and other Bolivian laws.

Any company created abroad which main purpose in the country is the commercial or industrial exploitation shall be registered as a local company to the effects of said exploitation, functioning, control, taxing, and liquidation regarding its business in Bolivia, and, in if it were the case, the termination of its legal status.

Any company created abroad can perform casual or isolated activities in the country, but it cannot carry out acts of commerce permanently without the prior compliance with the requirements of Bolivian legislation. To be registered with the Registry of Commerce, and to carry out the usual activities entailed in their company purpose, these companies must:

Upon judicial decree, and at notary public's office appointed for its domicile in the Republic, record the articles of incorporation, its amendments, by-laws, and provisions evidencing their legal existence in the country of origin, as well as the legal authorization or resolution of the competent administrative body of the company to establish a branch or permanent representation in the country. This shall also apply to the individual(s) representing the company

with broad and sufficient powers to perform acts encompassed in the company purpose. These individuals shall be the judicial and extrajudicial representatives of the company for all legal effects.

#### 4.2.6 Shared Risk Agreements (Joint Ventures)

Pursuant to Bolivian legislation, companies created in the country such as government entities and corporations, including autarchic companies and individuals, national or foreign, domiciled or represented in the country, can enter into an agreement through shared risk agreements; they must establish a legal domicile in Bolivia, and comply with other requirements established by national legislation

### 5. Audits and Accounting

Company accounting, and, in particular, registration and assessment of the elements of the annual accounts are developed by compulsorily applying the generally accepted accounting principles in Bolivia, approved by the National Technical Association of Auditors and Accountants of Bolivia (CTNAC). In Bolivian the convergence process of IFRS/IAS was proposed. Companies that belong to General Regime, compelled to carry out annual audits on their financial statements are those whose income is greater than or equal to BOB 1,200,000, being in this regime are Large Taxpayers (called GRACO) and PRICOS (Main Taxpayers) which by their nature have incomes higher than the minimum described.

### 6. Labour Regulations

The General Labour Act determines the rights and obligations in general that derive from labour, and according to the type of labour agreement entered into.

#### 6.1 Types of Labour Agreements and Employment Conditions

The Bolivian legislation acknowledges the following types of agreements:

- Individual Labour Agreement
- Joint Agreement
- Training Agreement
- Engagement Agreement

#### 6.2 Remuneration

Remuneration can be

- Remuneration can be:
- Per journal
- Per piece rate
- Onwages
- Oncommission
- In kind
- With participation on the benefits
- Combined

Additionally, there are other types of remunerations such as:

- **Annual Bonus:** It is equal to one monthly wage, and it must be paid once a year, up to December 20.
- **Annual Premium:** It is the legal participation in the profits, and it equals to one month wages or salary.
- **Production Bonus:** It is applicable to industrial companies; this is an additional remuneration for productive effort, additional as well, different from the annual premium, and it is aimed at exceeding certain production goal agreed between the company and the union.
- **Seniority Bonus:** These are monthly payments calculated on a percentage basis, and according to a scale. This bonus is in accordance with the Minimum National Wages.

#### 6.3 Labour Benefits

- **Vacations:** After the first year of uninterrupted work, workers are entitled to a vacation term. The duration of said term shall be according to a scale ranging from fifteen to thirty working days.
- **Maternity Leave:** The law establishes the right of the pregnant woman to a maternity leave of 45 days before the birth, and 45 days after the birth.

#### 6.4 Other Labour Aspects

- **Severance Payment for Term of Services:** When the worker was dismissed for any reason not attributed to the worker, the employer must provide a severance payment for the term of services, which shall equal a month's wages for each year of uninterrupted work.
- **Severance Pay:** When the worker was suddenly dismissed due to reasons not attributed to him, the employer shall be compelled to make this severance payment, which shall correspond to three wages or salaries.

#### 6.5 Social Security

**Social Security and Retirement Contributions:** All All employed or independent workers (freelancers) are compelled to become a member of one of the Retirement Funds Administrators, and to have Compulsory Social Security. Both the employer and the employee must make the payment of the contributions. The rate derived from these contributions is calculated on the total amount earned (for the worker), and on the total sheet (for the company).

Contributions must be paid monthly, both to the AFP (Retirement Funds Administrators), and to the corresponding Social Security chosen by the company, pursuant to the following rates:

WORKER CONTRIBUTION		COMPANY CONTRIBUTION	
Retirement Contribution	10%	Compulsory Social Security	10%
Common Risk Premium	1.71%	Professional Risk Premium	1.71%
AFP Commission	0.5%	Pro-Social Housing	2%
National Joint Fund	0.5%	Joint Social Security Contribution	3%
<b>TOTAL 12.71%</b>		<b>TOTAL 16.71%</b>	

There are also special contributions for individuals with salaries equal to or above BOB 13,000, to be paid according to the following cumulative scale:

National Joint Contribution (for salaries above Bs. 13,000)	
> Bs. 13.000	( Total earned - 13000 * 1%)
> Bs. 25.000	( Total earned - 25000 * 5%)
> Bs. 35.000	( Total earned - 35000 * 10%)



- **Family Allowance:** Pregnant working women, or workers whose wives are pregnant, are entitled to Maternity, Lactation, and Birth allowances. The first two allowances consist in a payment in kind, equal to the Minimum National Wage, and the third one is a single payment, equal to the Minimum National Wage for the birth of each child.
- **Burial Allowance:** It consists in a single payment equal to the Minimum National Wages for the death of each minor child under 19 years of age.

## 6.6 Foreign Workers

The Bolivian legislation establishes that the number of foreign workers must not exceed 15% of the total number, and that it will correspond to technicians only, since it is mandatory to have Bolivian nationality to be a Director, Administrator, Advisor, or Representative in state entities and private companies where the activity is directly related to the interests of the State.

## 7. Currency Inflow and Outflow Controls

All companies or individuals must declare currency inflows and outflows with due anticipation to the operation date on the Central Bank website by filling in the "Foreign Currency Cash Inflow or Outflow Affidavit for Sums between 50,000 and 500,000 Dollars" form. Once the form is filled in, the BCB (Central Bank of Bolivia) will immediately proceed to authorize the operation, and a unique number and code will be generated for said operation. Interested parties shall print two copies of the form to file it before the customs authority at the moment of performing the operation. All sums above 500,000 dollars must be authorized by the Treasury Department.

This provision applies only to operations in foreign currency cash. E-transfers (bank transfers) are not encompassed within the scope of the Decree that regulates this provision.

## 8. Tax System

The Bolivian tax structure is formed by taxes, rates, and contributions that can be national, or municipal.

### 8.1 National Taxes

#### 8.1.1 Value Added Tax

The Value Added Tax is a tax on:

- The sale of goods located or placed within the territory of the country.
- Contracts for works, rendering of services, and any other type of rendering, whichever its nature, performed within the national territory.
- Final imports.

Interest generated on financial operations will not

be encompassed in the purpose of this tax. Said operations shall include credits granted or deposits received by financial entities. Likewise, the sales or transferences derived from company reorganizations or capital contributions are not included in the purpose of this tax.

The proportional rate of this tax shall be 13%, monthly payable. The calculations are obtained by adding all the income taxed (which generate a tax debit), and deducting the costs or expenses (tax credit). When the difference was in favour of the tax authority, the sum shall be paid in the terms established. If, on the contrary, the difference was in favour of the taxpayer, the VAT in favour of the tax authority corresponding to previous tax periods can compensate this sum, together with the assessment update.

Tax exemptions shall include the following:

- Goods imported by members of the diplomatic body accredited in the country, or individuals and entities or institutions having said status according to the provisions in force, international agreements, or reciprocal treaties with certain countries.
- Goods entered "bona fide", and travelers arriving in the country as set forth in the custom duties.
- Book sales domestically produced and imported, and official publications of public institutions.

#### 8.1.2 Value Added Tax Complementary System (RC-IVA)

This is a tax on all income belonging to individuals or undivided inheritance, derived from capital investment, work, or the joint application of both factors. Interest generated by term deposits in the financial system is exempted when they were in national currency, and for terms greater than 30 days, as well as those in foreign currency, or national currency with a value equal to the U.S. dollar for a term of three years or greater, and the yields of other debt securities issued for a term equal to or greater than three years.

The proportional rate of this tax shall be 13%, monthly payable. Taxpayers will be able to consider the rate corresponding to the purchase of goods and services, work agreements, or any other kind of services or consumables as paid because the tax determined by the application of said proportional rate.

It is important to take into account the jurisdictional basis of this tax, since the total amount of income derived from Bolivian sources is subject to it. In general, income from Bolivian sources shall include those deriving from goods located, placed, or economically used within the country, the per-

formance of activities within the national territory when capable of producing income, or events taking place within the limits thereof, without prejudice to the nationality, domicile or residence of the owner or parties taking part in the operations, or of the place where the agreements are celebrated.

### 8.1.3 Company Profits Tax (IUE)

This is a tax on the profits resulting from the financial statements of the companies at the end of each financial year. All companies, public and private, are taxed, including: corporations, limited partnerships with stock capital, general partnerships, cooperatives, limited liability companies, limited partnerships, de facto business associations, sole proprietorships subject to regulations, branches, agencies or permanent companies formed or domiciled abroad, or any other type of company.

The following are also included in this tax system:

- Companies formed or to be formed within the national territory that extracts, produce, benefit from, reform, fund, and/or trade minerals and/or metals.
- Companies which purpose is the exploration, exploitation, refining, industrialization, transport, and trade of hydrocarbons.
- Companies which purpose is the generation, transmission, and distribution of electrical power.

Individuals who are not compelled to keep accounting records that allow for the creation of financial statements must file an annual tax return as of December 31 of each year, where they will include the total amount of their annual income taxed, and the expenses necessary for obtaining said income, and maintaining their originating source. Incomes derived from company reorganization processes will not be taxed.

The proportional rate of this tax shall be 25%, annually payable. The net taxable profit shall result from deducting the necessary expenses from the gross profits for the procurement and preservation of the source, including compulsory contributions to regulatory/supervising entities, allowances for social security, and national and municipal taxes.

When, for one year, a company suffered losses of Bolivian sources, that loss can be deducted from taxed profits to be obtained in the years immediately following. The following shall be exempted from this tax:

- Activities of the National State, Departmental Prefectures, Municipalities, Public Universities, and entities or institutions belonging there to.
- Profits obtained by civil associations, foundations, or non-profit organizations legally authorized having

signed agreements, and developing the following activities: religious, charity, humanitarian, cultural, scientific, ecological, artistic, literary, sportive, political, and unions.

- Interest in favour of international credit entities, and foreign official entities which agreement had been approved by the National Congress.

Also, there are achieved by an additional rate of 12.5% those activities of non-renewable natural resources when generating favorable conditions for minerals and metals, applied to the established annual net income when prices are above those required by law.

On the other hand, the additional tax rate for the financial sector IUE (AA-IUE), 12.5% tax additional utilities of financial institutions and non-bank (except those of 2nd Floor), when their benefits exceed 13% of the coefficient of return on equity.

### 8.1.4 Company Profits Tax Foreign Beneficiaries (IUE-BE)

When tax is paid on income derived from foreign Bolivian sources, it will be assumed that the net taxed profits shall equal 50% of the total amount paid or remitted, without accepting proof to the contrary.

In this way, those paying or remitting said sums to beneficiaries abroad must retain a 25% rate on the assumed net taxed profit as a single and final payment

### 8.1.5 Operations Tax (IT)

All individuals involved in commerce, industries, professions, trades, businesses, leasing of assets, works, and services, or any other profitable activity, shall be taxed. All acts on Gratuitous Title that entail the transfer of ownership of property, real estate, and interest shall also be included in the purpose of this tax. The tax is determined based on the gross income accrued during the tax term for the financial year of the activity taxed.

The proportional rate shall be 3%, monthly payable; the following shall be exempted from this tax:

- Personal work performed by an employee with a fixed or variable remuneration.
- Exports.
- Interest on deposits in savings accounts, term current accounts, and any income derived from security investments.
- Private educational entities.
- Services rendered by diplomatic representations in foreign countries, and international organizations accredited by the State.

- The trading of Securities, and the purchase and sale of units of interest, in the case of Limited Liability Companies.

#### 8.1.6 Specific Consumption Tax (ICE)

This is a tax on the sale of certain products, such as cigarettes, tobacco, beverages, beer, corn drink, and alcoholic beverages, aside from the imports of these products, and motor vehicles. ICE only affects whole sale, and it is not applied again for retail sale.

The rate for this tax is determined annually. Cigarettes are taxed according to percentage rates on their price while beverages and alcoholic beverages are taxed according to specific rates for measurement units. Vehicles foreseen for the transport of 10-18 passengers, and vehicles having a chassis fitted with a cabin shall be taxed by a 10% proportional rate on the taxable basis. Vehicles for the transport of more than 18 passengers, and with high tonnage, as well as motor bicycles, shall have an 18% rate taxed on the taxable basis.

Vehicles built and equipped for health and security services, such as ambulances, safety cars, fire fighting vehicles, and tanker trucks are exempted.

#### 8.1.7 Gratuitous Property Transfer Tax (TGB)

This is a tax on succession by inheritance, and legal acts by which the ownership of recordable property is transferred by gratuitous title. Public entities are exempted from this payment, as well as associations, foundations, or non-profit organizations legally authorized, such as religious, charity, humanitarian, welfare services, education and training, cultural, scientific, artistic, literary, sportive, political, and professional organizations, or unions. Proportional rates are established according to the blood relationship degree:

- Ascendant, descendant, and spouse, 1%
- Siblings and descendants, 10%
- Other collateral relatives, legatees, and gratuitous donors, 20%

#### 8.1.8 Tax on Flights Abroad (ISAE)

This tax affects all Bolivians and residing foreign every time they leave Bolivia by air. Holders of diplomatic passports and children under 2 years old are exempted from payment. The ISAE proportional rate is BOB 254 (this amount is updated on the January 1st each year by the Tax Authority, according to the U.S. dollar variation).

#### 8.1.9 Special Tax on Hydrocarbons, and Derivatives (IEHD)

This is a tax on the import and trade of hydrocar-

bons and its derivatives in the internal market. The proportional rate of this tax shall be in accordance with the specific rates per unit of measurement, as determined by the National Agency of Hydrocarbons, which is annually updated to the variation of the Housing Promotion Unit (UFV).

#### 8.1.10 Mining Royalties (RM)

This tax applies to each operation for the sale or export of minerals and metals, and any one performing exploration, exploitation, benefiting from, trading, and performing mineral and/or metal funding activities are subject to this tax, which is paid now of selling or exporting.

The manufacturing of minerals and metals, that is to say, those involved in transforming them into parts or capital goods, shall be exempted from RM. RM is not considered an additional tax to the Company Profits Tax (IUE), since, at the end of the administration, the consolidated annual IUE and the RM are compared, and only the larger of these two taxes will be paid.

The RM proportional rate for metals such as gold, silver, zinc, lead, and tin is determined according to an established percentage scale. For the remaining minerals, the rate is determined by the international prices of the minerals or metals; so, it varies according to this fluctuation. This tax is consolidated at the end of each financial year.

#### 8.1.11 Financial Operations Tax

This is a tax on the following operations:

- Credits and debits in current accounts.
- Payments, and fund transfers.
- Issuance of management's checks, traveler's checks, and other similar financial instruments existing or to be created.
- Issuance of management's checks, traveler's checks, and other similar financial instruments existing or to be created.
- Money transfers or money wiring abroad or within the country.
- Delivery or reception of funds owned or belonging to third parties.

The proportional rate of the tax is 0.15%, applicable to sums above USD 2,000. Operations for savings accounts in national currency, or with value maintained, are exempted from this tax.

#### 8.1.12 Direct Tax on Hydrocarbons (IDH)

The IDH applies throughout the country, to the production of hydrocarbons from the wellhead, measured and paid as royalties (18%) according to current regulations.

The tax base is equal to the royalties and participations that applies to volumes or energy of the hydrocarbons produced. The rate is 32% non-progressive on total hydrocarbons measured at the point of control.

#### 8.1.13 Tax Game (IJ)

This tax is levied on gambling, lotteries and business promotions throughout the national territory, not being achieved in their entirety those who are destined for charitable goals or assistance.

The rate is 30% for gambling and lotteries, and 10% for business promotions.

#### 8.1.14 Tax participation in games (IPJ)

The IPJ tax participation in gambling and lotteries in all of Bolivia territory, with a rate of 15% levied on the taxable people involved in that activity.

#### 8.1.15 Tax on the sale of foreign currency (IVME)

This tax reached total sales of foreign currency by the financial intermediaries (banks, non-bank and money exchange). The IVME is not deductible to IUE, and is monthly payable.

Exemptions from this tax are the ones done by the Central Bank of Bolivia (BCB) and sale of foreign currency by taxpayers at BCB.

The tax rate is 0.7% in case of banks and non-banks and 0.35% for the money exchange houses.

### 8.2 Municipal Taxes

#### 8.2.1 Real Property and Motor Vehicles Tax (IPBI, IPVA)

Owners of real estate and/or motor vehicles pay this tax. The percentage to be paid varies according to the characteristics and value of the property, which is obtained, based on zoning tables, tax scale, and depreciation. That is to say, the basis of the calculations for this tax is the tax assessment established by each municipality, in the case of real estate, and values declared at customs, for motor vehicles.

#### 8.2.2 Real Estate and Motor Vehicles Transfers Municipal Tax (IMT)

This is a tax on casual transfers of real property and/or motor vehicles. A 3% rate is applied on the greatest amount between the value of the property, and the value in the records.

### 8.3 Customs Duties

Except as set forth in the international agreements in force, the import, export, customs transit and storage of goods, and other customs operations shall be subject to the General Customs Act, and its regulations,

aside from other complementary provisions.

The Generating Fact for customs duties is the entry of foreign goods, or the outflow of goods from the customs jurisdiction under the control of customs authorities. The taxable basis of customs duties is the customs value of the good imported. The taxable basis on which the customs duties are paid shall be formed by the transaction value of the goods, which is determined by the assessment methods established in a scale, plus the loading and unloading expenses, transport cost, and insurance to the border customs, which operate as customs for entering the country. The Consolidated Customs Duty (GAC) to be paid shall be: 10% for general goods and 5% for those listed as capital goods. However, in case of an existing commercial agreement signed by Bolivia, the GAC to be paid will depend on the tax exemption of the property in question. When transported by air, the cost of the air freight shall be twenty-five per cent (25%) of the sum duly paid for this concept for the determination of the Customs CIF value.

When there is no commercial documentation evidencing the transport cost, it shall be assumed that it equals 5% of the FOB value of the goods. When the transport operation is carried out without insurance, the premium shall be assumed to be 2% of the FOB value of the goods. The national insurance policy shall only be accepted when irrefutably obtained before the shipping of the goods in the country of origin.

For vehicles entering the country by their own means of transport, or luggage of the traveler's regime, in order to determine the taxable basis, the transport cost shall be two per cent (2%) of the FOB value. To pay the Added Value Tax, and to apply the percentage of the proportional rate of the Specific Consumption Tax, in the case of imports, the taxable basis shall be formed by the border customs CIF value, plus the Customs Duty duly paid, and other non-invoiced expenditures necessary for customs clearance.

As a general rule, the term for the payment of customs duties shall be three (3) days to be counted from the working day following the acceptance of the declaration of goods by the customs administration. The same term shall apply for the payment of obligations derived from the liquidation carried out by the customs administration, and it will be counted from the time the notification with the liquidation is given. The National Customs shall be able to grant an extension to this term with general scope for exceptional cases.

### 8.4 Transfer Pricing

As part of the new transfer pricing regime established by Law No. 549 of July 21, 2014 and Supreme Decree 2227, the Tax Administration of Bolivia has issued on

which regulates the formal obligations in the matter.

Companies linked to other national or foreign, must carry out its operations as economic and as would have been made between independent reality. Otherwise the Tax Administration has the power to make adjustments and / or corresponding revaluation.

Formal obligations shall take effect from September 2015 and for each taxpayer is determined in accordance with the materiality of the amount of transactions with related accumulated in a year, applying the following scale:

<b>Greater than or equal to 15,000,000 Bolivianos (BOB)</b>	Electronic Form 601 Affidavit must submit Informative and Study of Transfer Pricing (EPT)
<b>Equal to or greater 7,500,000 Bolivianos (BOB)</b>	Electronic Form 601 Affidavit must submit Informative Operations with Related Parties.
<b>Less than Bs. 7,500,000 Bolivianos (BOB)</b>	They must keep records to show that related party transactions were made at market prices, or that the necessary adjustments were made.

Both the Study of Transfer Pricing, as the Sworn Declaration Form 601 must be submitted by the deadline for filing the Tax Return and payment of tax on Company Profits (IUE).

The EFA must be made in physical and digital format, sent via the website of the National Tax Service of Bolivia. The same shall be prepared in Spanish language, expressed in Bolivianos, and It must be signed by the legal representative of the taxpayer.

It must contain at least the following information:

- Index

- Executive Summary
- Functional analysis
- Economic analysis
- Conclusión

The methods accepted by the Tax Administration will be welcomed by the OECD (Method Comparable uncontrolled price, resale price, the cost added, the Profit Distribution and Transactional Net Margin), together with either the Notorious Price Transaction in transparent markets

In the event that the price or value of transactions between related is outside of comparable rank, and as a result has been diminished taxable IUE, the adjustment will be determined at a value equivalent to at least sample plus average value of the same.

Penalties for not filing EPT F.601 or presentations later, buggy or incomplete information is punishable with fines ranging from 50% to 100% of the maximum penalty provided in Art. 162 of Law No. ° 2492 of the Tax Code.

## 9. International Treaties

### 9.1 Bilateral Investment Agreement

Bolivia has entered into international agreements with the following countries: Argentina, Great Britain, France, Sweden, Spain, and Germany.

### 9.2 Agreements to Avoid Double-Taxation

The countries of the Andean Community have signed Decision 578: a regime to avoid double taxation, and to prevent tax evasion. The criterion applied is the tax exemption for the country where the taxable income is pretended to be consolidated; that is to say, the income is taxed by source-based taxation regime.



## Federative Republic of Brazil

### 1. Identification of the firm contact

Moore Stephens performs its activities in more than 12 Brazilian cities. Contact data of each of them please see on site:

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### 3. Country profile

#### 3.1 Territory

Brazil is the fifth largest country in the world, with a total area of 8.5 million square meters, covering about half of South America. The country is divided into five regions.

According to data collected by the Brazilian Institute of Geography and Statistics (IBGE) the Brazilian population is estimated at 206.081.432 people (last Census held in the country in 2016). The state of São Paulo is the most populous state with 44.749.699 inhabitants, followed by the states of Minas Gerais (20.997.560) and Rio de Janeiro (16.635.996). The less populous Brazilian state is Roraima which has 514.229 inhabitants.

#### 3.2 Language

Portuguese, the official language in Brazil, was introduced in Brazil with the Portuguese colonization. Currently it is the eighth most-widely spoken language in the world.

#### 3.3 Political System

Brazil is a Presidential Federative Republic, formed by the Union, states, the Federal District and municipalities, in which the exercise of the Power is assigned to different and independent governmental entities, submitted to a control system to guarantee compliance with the laws and the Constitution.

Brazil is a Republic because the Brazilians elect the



Head of State for a certain period. It is Presidential because the president of the Republic is the Head of State and Head of the Government. It is federative because the states have home rule.

The Union is divided into three powers, all independent and harmonic among them: the Legislative, that works out the laws; the Executive, that acts in the execution of programs or performing public services; and the Judiciary, that solves conflicts among citizens, entities and the state.

Brazil has a multiparty political system, in other words, one that admits the legal formation of several parties. The political party is a spontaneous association of people that share the same ideas, interests, objectives, and political doctrines, trying to influence and be part of the political power.

### 4. Types of companies

#### 4.1 Simple company

A company is considered simple when its social object results from intellectual profession, of a scientific, literary, or artistic nature.

This company has a contractual nature, not being characterized as business company. The private assets of the partners may be executed for debts of the company, but only after the social assets have been executed, if these are not sufficient to pay the debts. In this case, the partners respond with their social equity at the proportion of their shares in social losses, except if on the social contract there is a clause stipulating the supportive responsibility.

To change the articles of association, voting and unanimity are necessary when the contract determines a different quorum.

#### 4.2 General partnership

In a general partnership the partners jointly and severally respond for the supportive obligations in an unlimited form. This means that the creditors may demand what is due to them by any of the partners, who may respond using their personal equity. In spite of that, as the contract may establish that the partners are the managers, the same contract may establish the responsibility of each partner.

#### 4.3 Limited partnership

The limited partnership is formed by partners of two categories: the general partners, individuals, having supportive and unlimited responsibility for the social obligations; and the limited partners, obliged only for the value of their stake.

The limited partnerships are additionally ruled by the norms of the general partnership, so that the general partners have the same rights and obligations.

Even if not having affected his right to participate in the deliberations of the company and inspect its operations, the limited partner is entitled neither to practice any management action nor have the name of the social firm, on condition to be subject to the responsibilities of the general partner.

In this case, the contract has to discriminate the general partners and the limited partners.

#### 4.4 Brazilian limited liability company

In this company, the responsibility of each partner is restricted to the value of its shares, but all respond supportively for the subscription of the capital stock.

This type of company will have a consolidated basis in just one legal diploma, as the existing company called company of shares of limited responsibility, had its legal basis fixed by the Decree n° 3.708/1919, revoked, and additionally by the Law of Business Corporations (Law n° 6.404/1976). The subsidiary application of the law of joint stock companies continues being possible, as long as there is an express provision on the articles of the association.

#### 4.5 Share companies

There are two types of share companies: the joint stock company and the limited partnership with share capital.

##### 4.5.1 Joint stock company

In a joint stock company, the capital is divided into shares, each partner or shareholder being responsible only for the issue price for the shares that he subscribes or purchases. The joint stock company is ruled by a special law (Law n° 6.404/1976 and further legal determinations), and on the omitted cases

will be applied the legal determinations of the New Civil Code (articles 1.088 and 1.089).

##### 4.5.2 Limited partnership with share capital

This company has the capital divided in shares, being ruled by norms referring to the joint stock company. However, in this type of company only the shareholder has the right to manage the company and, as director, responds in a subsidiary and unlimited way for the obligations of the company (articles 1.090 to 1.092 of the New Civil Code).

#### 4.6 Cooperative company

It is a simple company, ruled by the Law 5.764/1971; it must be registered in the Commercial Registry. It is characterized by: variability or exemption from capital stock; a minimum number of partners is necessary to the composition of the board. However, there is no restriction on maximum number of members; limitation of the share of capital stock for each partner; capital shares are not supposed to be transferred to third parties unknown to the cooperative members, even as heritage; quorum of installation and deliberation of the assembly of the cooperative members, established according to the number of partners present to the social meeting and not based on the represented capital; each cooperative member is entitled to one vote only; distribution of the result in a direct proportion to the value of the operations effected by the cooperative partner with the company; the reserve fund cannot be divided among the partners, even in the case of dissolution of the company responsibility of the partners in a limited or unlimited way regarding the debts.

#### 4.7 Individual Entrepreneur

The individual entrepreneur (formerly called individual firm) is just a person performing in his name a business activity.

It is a company with only one person as holder who subscribes his own assets to run his business; in other words, here the separation of the assets is not in force.

#### 4.8 Individual limited liability enterprise ("EIRELI")

Since January 9, 2012, an individual limited liability enterprise can be formed, after publication of the Law 12.441/2011.

A "EIRELI" shall be formed by a single person who owns all of its capital, duly paid, amounting to not less than a 100 times the highest minimum salary in force in Brazil. The corporate name shall be composed of the expression "EIRELI" following the name of the individual limited liability company. Any natural person who forms an individual limited liability company can be part of only one company of this type.

## 5. Labor system – Consolidation of Labor Laws (CLT)

The Consolidation of the Labor Laws (CLT) combined to the Federal Constitution of 1988 are the main diplomas that rule the labor laws in the country. It follows a summary of the main points the legislation deals with:

### 5.1 Terms for registration/ recruitment

The employees have the right to own a Labor and Social Insurance Book (CTPS). This document is signed by the employer and contains information, as performed position, remuneration, and working day, forming the summary of the qualifications that are part of the working contract signed by the parties. Special employment terms or special contracts also must be mentioned in that Book. The recruitment of foreign employees is guaranteed as long as their international identity card (RNE) (issued by Brazilian authorities) is shown. Beyond the signature of the CTPS, it is necessary the employer keeps an updated registration of all employees on the Registration Book of the Company. Every year the Ministry of Labor must be informed about the total number of employees working for the company, specifying the number of foreigners and minors.

Currently, a public digital bookkeeping system bookkeeping – the E-Social - which unifies all of a company's fiscal, social security, and labor obligations is at the implementation stage.

### 5.2 Labor conditions

The labor legislation assures the right to a decent and healthy labor environment. In order to assure the comfort and convenience of the workers, adequate meal facilities or meal tickets must be supplied at the place, in companies with more than 300 employees.

For companies engaged in potentially dangerous and/or unhealthy activities, before they start operations there must be a previous inspection by the Ministry of Labor approving the offered working conditions.

### 5.3 Labor time

The Brazilian worker uses to work eight hours a day and the standard week is of forty hours. The workers are entitled to have a weekly rest time of 24 consecutive hours and regular intervals for the meals. Specific professional categories are subject to different working hours.

### 5.4 Transfer of employees

The legislation allows only one geographic transfer of the employee whose need has to be proved by the company. The temporary transfers require the paying of additional salary not less than 25% and the travel expenses have to be paid by the employer.

### 5.5 Experience period

The employees can be admitted for an experience period not exceeding 45 days, not extendable but once for a further 45 days, totaling 90 days at the most. During the experience period, the so-called experience contract between employer and employee will be in force. At the end of that time, if the labor link is not ended, the contract becomes definitive.

### 5.6 End of the job

The dismissal without a fair reason requires from the employer the payment of a fine equivalent to 50% of the value deposited on the account of the Guarantee Fund of Working Time (FGTS) of the employee. The employer will receive 40% of this value and the other 10% go to the government. If the employee has been dismissed for a fair reason, the employer is not supposed to pay a fine. If the dismissal occurs during the experience period time, these fines do not apply.

### 5.7 Litigation

The rigidity of the labor legislation should be considered seriously, as compared to the norms of other countries. The labor litigation culture and the absence of flexibility of the norms ruling the labor contracts are factors to be observed as the labor claims may represent expenses for the companies involved.

The Brazilian labor legislation allows entering the court up to a maximum of 2 years from the end of the labor contract, and the employee can plead the payment of sums referring to the last five worked years.

### 5.8 Remuneration

The remuneration is periodical and the general rule says it to be paid monthly in national currency. The salary is to be paid 13 times during the year, in view of the 13th salary, awarded to the employees at the end of every calendar year.

### 5.9 Associated benefits

Associated benefits are those that are not part of the remunerated salary and usually are related to tax incentive programs promoted by the Federal Government, that grants law benefits to the companies that pay meals, transport and/or education for their workers.

The big companies also offer pension plans and policies of life insurance, these being considered associated benefits as well, due to its no-salary nature.

### 5.10 Additional salary

The legislation established the possibilities in which additional values are due to the remuneration salary of the worker. The payment of any additional is linked to the intensification of the physical and mental stress to which the employee is submitted in the situation in which the additional is due, as follows:

- Extra hours: it is the additional due to the work exceeding the working day of 8 hours. The value of the additional must be at least 50% more than the value of the regular worked hour, although higher percentages may be established thru agreements and collective conventions between workers and employers.
- Night additional: is due to the work performed in the night period, and remuneration has to be at least 25% higher than the normal worked hour during the day.
- Dangerous additional: is due to the workers submitted to activities considered dangerous by the legislation, and in this case it is not supposed to be less than 35% of the salary of the employee.
- Unhealthy additional: is due to the workers submitted to working conditions considered unhealthy by the legislation, and it can vary from 10 to 40% of the salary of the employee, in view of the risk of a potential damage to the health or to the well being of the employee.

### 5.11 Minimum salary

Minimum salary is the monthly minimum payment established by law to be paid to the worker. No remuneration under the minimum salary is allowed. The minimum salary is R\$ 954,00 in force in 2018, but variations may be established by categories or geographical regions.

### 5.12 Deductions and reductions

In view of the labor rights be so inflexible in Brazil, it is not possible to the employer to effect any deductions from the compensations paid or credited to the employees, except to the commissioned functions or deductions prescribed by law or collective agreements, such as tax withholding, social and labor unions.

### 5.13 Equality of opportunities

The Brazilian criminal legislation considers the discrimination as a crime, including the working environment. The labor laws consider that every kind of work of the same function must be remunerated equally, independently of the nationality, age, sex, or marital status of the worker.

The Federal Government promotes many programs of directed action for the integration in the labor market for disabled, former prisoners and apprentices, among others.

However, differences in working times can be considered on the calculations to justify different salary levels. Companies having career plans can afford differences in salary levels, according to the merit or maturity; however, any career plans must be registered at the Ministry of Labor.

## 5.14 Labor rights

### 5.14.1 Holidays

The employees have the right to remunerated holidays up to thirty days for every period of 12 worked months, as well as receiving a holiday bonus equivalent to 1/3 of the monthly salary of the worker. The legislation establishes the possibility for the employer to purchase up to 10 days of the holidays of the worker, as long as the worker agrees with it.

### 5.14.2 Thirteenth-month salary (Christmas bonus)

The worker has the right to receive the Christmas bonus corresponding to the 13<sup>th</sup>-month salary, equivalent to 1/3 of the salary received on the month of December for every month worked during the civil year. This bonus must be included on the calculation basis of the social or social insurance taxes. The legislation establishes the possibility of paying the bonus in two separated parcels during the calendar year.

### 5.14.3 Family aid

For every child under 14 years of age or dependents, the worker has assured a supplementary monthly benefit for each dependent, variable according to the salary received. This supplement will not be considered on the calculation of the social insurance and other due taxes.

### 5.14.4 Profit distribution

The companies may establish conditions for the distribution of profits and results obtained among the workers. Although initially there is no obligation for the employer to do that, once the benefit has been granted, it is submitted to the legal current rules, according to the formalities considered on the Law 10.101/2000. As long as the provided conditions by the legislation are fulfilled, the company considers the payments as deductible expenses.

### 5.14.5 Previous notice

The termination of the labor contract is optional both for the employee and for the employer, as long as informed 30 days before (previous notice). If one of the parties interrupts the labor contract without observing the previous notice, the 30 days will have to be compensated by the other party, as they would have been worked.

Should termination occur by common consent, the previous notice, if indemnified, will be cut to half, i.e., only 15 days.

### 5.14.6 General considerations

As it was pointed out previously, the Federal Constitution and the Consolidation of the Labor Laws are the main diplomas that rule the labor right in the

country, however, other norms can be established thru federal laws and agreements and collective working conventions of professional categories. We do not include these details in this publication, but the considerations made here are those causing more impact on the day-to-day routine of the company.

## 5.15 Tax on salaries

### 5.15.1 Fund of Guarantee for Worked Time ("FGTS")

The company has to pay monthly the equivalent to 8% of the total salary of every worker to the FGTS, depositing this amount on a proper account of a government bank in name of the worker.

The use of that Fund is made available to the employee under special conditions, such as the retirement, dismissal without fair reason, purchase of the home owning house and severe disease.

For employment contracts signed in accordance with Law 11.180/05 (Apprenticeship Contract), this percentage is reduced to 2%. In the case of domestic worker, the deposit corresponds to 11.2%, of which 8% is made on a monthly basis and 3.2% as an advance on termination payment.

## 5.15.2 National Institute of Social Insurance (INSS)

### 5.15.2.1 Contribution of the employer

The contributions for the social insurance have to be paid monthly by the company to the INSS, at a rate of 20% charged on the gross salaries of the employees and adding minority charges (insurance of the compensation of the worker, educational contribution and contributions for other governmental institutions, as "S" system, Senac, Sesc, Senai and Sebrae).

Payments to individual or honorary employees without a job link are also subject to the payment to INSS at a rate of 20%.

As from 2012, with the enforcement of Law 12.546/11, some economic sectors began to benefit from the "payroll exemption", which consists of a change from a 20% payroll tax rate to one varying between 1% and 2% on gross revenues (except export revenues) earned by companies. Below, some of the sectors benefiting from this exemption (not a complete list):

Sectors	Tax rate
Textile	1,5%
Apparel	1,5%
Leather and footwear	1,5%
Plastic	1,0%
Electric material	1,0%
Capital goods – Mechanic	1,0%
Bus	1,5%
Auto parts	1,0%
Naval	1,5%
Air	1,5 % To 2,5%
Furniture	2,5 %
IT	4,5%
Hotels	4,5%
Call Centers	3,0%

### 5.15.2.2 Contribution of the employee

The contribution of the employee is subject to a minimum tax, collected monthly by the employer, based on a specific progressive table varying from 8% to 11% according to the salary level of the worker.

The company is responsible for charging and therefore it must keep the percentage due from the workers.

The contributions have to be paid monthly to the respective agencies of the government. The delay in the payment of the contributions to the social insurance causes the banning of the distribution of bonus, dividends to the shareholders or distribution of the sharing of profits to partners, shareholders, or directors. Besides, companies are also prevented to make contracts with the government, among other penalties.

## 5.16 Domestic Workers

The PEC (Proposed Constitutional Amendment), 478/10, also known as "PEC das Domésticas", enacted on April 2, 2013 as Constitutional Amendment no. 72 has expanded the rights of domestic workers thus making them equal with those of other urban and rural workers.

On June 1, 2015, with the promulgation of the Supplementary Law 150/2015, which regulates the hiring of domestic workers, the following rights have been established: registration in the "Carteira de Trabalho Social e Segurança – CTPS", the personal job card; minimum salary guaranteed; salary protection with criminalization of deliberate deduction; working hours not

exceeding 8 hours a day and 44 hours a week; payment of overtime at least 50% higher than that of regular hours; compliance with hygiene, health and safety standards; compliance with collective agreements and conventions; prohibition of salary, function and admission discriminatory criteria; prohibition of discrimination against disabled persons; prohibition of night, unhealthy or hazardous work for people under 16 of age; unemployment insurance; "Fundo de Garantia por Tempo de Serviço - FGTS", the Severance Indemnity Guarantee Fund; family allowance; payment for night work at least 20% higher than that for day work; occupational accident insurance; day-care and pre-school aid for children and dependents of up to 5 years of age; remunerated weekly rest preferably on Sundays; unfair dismissal indemnity; transportation allowance; 13<sup>th</sup>-month salary; vacation pay plus 1/3 as legally established; maternity leave; job stability due to pregnancy; "banco de horas"; compensation for hours worked during travel; meal and/or rest break; previous notice of contract rescission.

A further innovation is the "Simples Doméstico" a unified system for payment of taxes, contributions and employers' charges, whereby a single document is used for collection of monthly contributions at the following rates: a) from 8% to 11% - social security contribution paid by insured domestic workers; b) 8% - social security contribution paid by employers; c) 0.8% - contribution to finance accident insurance; d) 8% - contribution to the "FGTS"; e) 3.2% - funding of unfair dismissal or reciprocal guilt indemnity; f) withholding income tax, if any. Besides, in the event of unfair dismissal, employers are also required to deposit in the employee's secured account a 40% fine on the amount of deposits made during the employment contract, duly restated, plus 10% of contribution to the "FGTS", although the latter is deemed illegal since 2012.

## 6. Tax system

The Brazilian tax system is based on the principle of strict legality and its fundamental principles are fixed by the Federal Tax Code of 1966 and by the Brazilian National Constitution of 1988. There are three jurisdictions and levels of charging taxes fixed by the tax legislation: federal, state, and municipal.

### 6.1 Federal tax

The main federal taxes charged by the companies installed in Brazil are: Income Tax of Corporation (IRPJ); and the Social Contribution on the Net Profit (CSLL), that are calculated in a similar way.

There are not distinctions regarding the origin of the invested capital (be the investors foreign or national).

The subsidiaries of foreign companies, although seldom, are taxed in the same form as the autonomous

subsidiaries. In principle, the company is considered to be seated in Brazil as long as it has been established according to the Brazilian corporate law and have its address in Brazil. Besides, the Brazilian law requires that the management of the company be effectively in Brazil.

The Brazilian fiscal year corresponds to the calendar year, independently of the corporate year.

#### 6.1.1 Income Tax of Corporation (IRPJ)

The rules of the IRPJ, consolidated according to Decree n° 3.000, of March 26, 1999, apply to all tax payers. Only the federal government is entitled to charge income tax, but part of it after the charge is transferred to states and municipalities.

It should be pointed out that, with the new accounting methods and criteria adopted by law n° 11.638, (December 28, 2007); the neutrality for tax purposes by law n° 11.941/09 was defined, this is, the alterations that modify the recognition criteria of incomes, costs and expenses computed on the finding of the net profit of the fiscal year will have no effects on finding the real profit of the corporation subject to Transition Tax Basis, consequently for tax purposes should be considered the current accounting methods and criteria of December 31, 2007.

As from 2014, companies may opt for definitive IRPJ, CSLL, PIS and COFINS levying rules defined through the Law 12.973/2014, having in mind the accounting rules introduced by Law 11.638/07. And in 2015 the definitive taxation rules will be mandatory for all companies, and accordingly, as from January 1, 2015, the Transition Taxation Regime (RTT) instituted by the Law 11.941/2009 and in force from 2008 to 2004 will be revoked.

The IRPJ is charged on the taxable net profit, being applied the basic percentage of 15%, plus an additional of 10% on the parcel of annual income exceeding R\$240.000.00 per year or R\$ 20.000.00 (twenty thousand Reais) per month.

Lastly, it is worth stressing that with the enactment of the Provisional Measure 627 of 2013, IRPJ and CSLL (the later outlined in the next sub-topic), will begin to be determined by digital bookkeeping means (Sped), the records of which are made at the "ECF – Escrituração Contábil Fiscal" (Accounting – Fiscal Bookkeeping). By defaulting on this regulation and failing to submit or submitting incorrect information, a taxpayer will be liable to fine calculated based on their company's ability to pay taxes.

The annual corporate income tax return must be

filed on the date set by the “Receita Federal do Brasil – RFB”, the Federal Income Tax Authority, usually the last business day in June, together with information on any special events such as mergers, acquisitions and splits.

As regards events occurred from January 1, 2014 onwards, companies are released from keeping the “Livro de Apuração do Lucro Real – LALUR”, the Tax Accounting Ledger, using a physical medium, and the “Declaração de Informações Econômico-Fiscais da Pessoa Jurídica DIPJ” – the Corporate Income Tax Return. However, they are required to provide the “Escrituração Contábil Fiscal – ECF”, the Accounting and Fiscal Bookkeeping.

The “ECF” must be annually filed with the “SPED” by the last business day of July in the year following the calendar year to which it refers.

The obligation to file the “ECF” does not apply to companies who opted for the “Simples Nacional” and inactive companies (i.e., those who have had no operational, equity or financial activity, including investments in the capital market throughout the calendar year and are required to meet additional obligations under specific legislation) because they are required to file a “Declaração de Inatividade” – Declaration of Inactivity.

### 6.1.2 Social contribution on profits (CSLL)

This tax was introduced to cover the costs of social and welfare programs and is a tax charged additionally to IRPJ.

CSLL is charged on the taxable net profit at a percentage of 9% and is not deductible from the IRPJ. The calculation basis is similar to the IRPJ, although some specific adjustments apply to one but not to the other one.

The CSLL percentage is 15% for financial institutions, private insurance companies and capitalization applicable to providing facts occurred from May 1, 2008 on.

### 6.1.3 Taxation methods

The legislation offers three methods to calculate IRPJ and CSLL that fall upon the profits: the real profit, the estimated profit, and the arbitrated profit:

#### 6.1.3.1 Real profit

According to the system of real profit, the taxable net profit corresponds to the accounting net profit of the company, calculated following the Brazilian accounting practices and adjusted through additions and exclusions, in compliance with the Brazilian

legislation.

In this sense, according to the system of real profit, the companies are required to keep appropriate accounting registers, a book of Income Tax and documents of the calculation to confirm the demonstration of due taxes.

According to the system of real profit, the taxpayers have an option to calculate the taxes every three months or yearly. The option has to be made at the beginning of the calendar year and is valid for the whole fiscal year. Besides, the taxable profit is calculated yearly, although an anticipated monthly payment is required; (a) estimated basis; or (b) on real basis. The estimated corresponds to the basis of the tax on the estimated profit.

Among the main exclusions of the taxable profit are dividends received from other Brazilian entities, referring profits provided from 1996 onwards, and equity incomes of relevant investments in other companies. Moreover, the main additions refer to non-deductible account provisions and non-deductible expenses.

The deductible expenses usually are all the items referring to regular business of a company, correctly documented in a capable form and necessary to keep its income source. Now follow some examples of rules about how expenses for Income Tax purposes can be deducted:

- The depreciation can be debited based on the useful life of the referred asset. There is a detailed list of asset items published by the Tax Authorities containing accepted depreciation taxes. Higher taxes can also be accepted when they accomplish some requirements. When the company operates in two or three shifts, these taxes maybe increased in 50% or 100% respectively. Besides, the asset purchased according with approved or eligible projects for certain fiscal incentive programs can be depreciated on higher taxes.
- Technical assistance and payments of royalties are deductible, depending on the specific conditions and limits established by law, which requires, among other things, the approval of the National Institute of Intellectual Property (INPI).
- Fines coming thru notifications from the Tax Authorities and fines not related to taxes are not deductible. Fines due for delay in the payment of taxes are deductible.

#### Tax losses:

- Tax losses can be compensated indefinitely without a time limit for prescription.

- The compensation is limited to 30% of the taxable profit.
- Tax losses get lost if between the time of its provision and that of its use, cumulatively, occurs a change on the control and on the type of activity of the tax payer.

A few changes introduced by Law 12.973/2014 are worth stressing, because the amount of compensation for services rendered by employees or similar entities, as agreed, must be added to the net income for calculation of real income in the period to which costs and expenses are appropriated.

A further change, also introduced by Law 12.973/2014 refers to compensation paid to employees or associates based on shares, which must be added to the net income.

#### 6.1.3.2 Estimated profit

The Brazilian companies have the option to calculate their taxes based on the estimated profit as long as, on the previous fiscal year there were no total incomes of more than \$ 48 million; and neither be financial institutions or similar, nor factoring companies: have no profit, incomes or values coming from abroad, directly or thru the foreign subsidiaries; and not be qualified for exemption or reduction of the IRPJ.

The choice, both for the IRPJ and for the CSLL, is made yearly at the beginning of the year and can be renewed every year. On this basis of estimated profit, the taxes have to be calculated and paid every three months.

The estimated profit is calculated by applying a prefixed estimated percentage on the total sales, which is variable according to the activity. The total of capital gains, financial income and of other income must be added directly to the basis of the estimated profit in order to calculate the corporation taxes, subject to percentages of 15% and 10% (additional, if due).

For example, for the IRPJ, the tax for incomes resulting from the sale of products is 8%, but the tax resulting from services is 32%. For the CSLL, the taxes are 12% and 32%, respectively.

#### Illustrative calculation:

Percentage IRPJ	\$
Gross Sales	1.000
Estimated profit for Income Tax (8%)	80
Financial income	500
Total Estimated for Income Tax	580
Income Tax due (approx. - 25%)	145

Percentage CSLL	\$
Gross Sales	1.000
Estimated profit for Social Contribution (12%)	120
Financial income	500
Total Estimated Profit for Social Contribution	620
Social Contribution due (9%)	55.80

It should be pointed out that by the system of estimated profit, the compensation of the losses is not supposed to be used to reduce the profit.

The decision to pay the taxes on the income (profit) by the estimated system does not prevent the Brazilian entities to pay dividends corresponding to the amount of its account profit, if it exceeds the estimated profit.

However, it is required that the company keeps appropriate accounting registers and balance sheets to demonstrate the account profits.

#### 6.1.3.3 Arbitrated profit

Under certain circumstances, such as keeping non-convenient or not trustworthy registers, the Tax Authorities can arbitrate the profits. In this sense the method consists of a kind of punishment applicable in situations provided by law.

The income tax paid about the arbitrated profit is definitive and cannot be compensated with future payments.

The system of arbitrated profit is similar to that of the estimated profit, but having higher percentages to be applied to the gross sales. Besides, the Tax Authorities can impose penalties.

The management resources against decisions or official notifications must be required within 30 days after becoming aware of it. If that is maintained, the tax payer can appeal to an administrative court and, even so, if the decision is maintained, can be appealed to a court of justice.

#### 6.1.4 Penalties and fines

The penalty for delay in payment of federal taxes is 0.33% a day, up to the maximum of 20%, depending to the delay period. The interest rates on delayed federal taxes are charged at a fluctuating rate (SELIC) plus 1%.

The launching by letter for the non-payment of the tax or the contribution usually is subject to a fine of 75%, which can be reduced to 37.5% when paid within the time limit of 30 days. In the case of non-

payment or less payment of the monthly advances of IRPJ and CSLL, the fine applicable is of 50%, even when there have been identified tax losses in the yearly calculations of taxes. If fraudulent intentions were proved, then the fine goes up to 150%.

When there is a delay in the payment of federal taxes or social contributions, the company entities are not allowed to distribute bonus in shares to its shareholders or pay any participation on the results to the "quota holders," partners, directors or members of the management council. The non-observation of these restrictions cause penalties.

#### 6.1.5 Income Tax Withheld at the Source ("IRF")

The income tax withheld at the source applies in certain transactions made in Brazil, such as payment of fees to certain service providers, payment of salary and financial income resulting from bank investments (applications). In the majority of the cases, the IRF means an anticipated payment of the income tax on the final income tax statement of an individual or a corporation. However, in some cases it is considered a final tax.

The IRF is also due in most cases of non-residents that have a Brazilian income source (for example royalties, fees for services provided, capital earnings, interests, etc). According to the Brazilian tax legislation, the IRF is due on payment, credit, delivery, utilization, or remittance of funds; from these possibilities, what occurs first.

The percentages depend from the nature of the payment, from the residence of the beneficiary and the existence of treaties between Brazil and the country where the beneficiary has his seat. The most common percentages vary from 15 to 25%. Generally, the income paid to beneficiaries seated in jurisdictions with low taxes is subject to be withheld 25% at the source.

#### 6.1.6 Program of Social Integration (PIS) and Contribution for the Financing of the Social Security (COFINS)

PIS and COFINS are federal contributions charged monthly on incomes, under two basis the cumulative and the non-cumulative.

Before, PIS and COFINS were charged at a percentage of 0.65 and 3%, respectively, from the majority of the companies, causing a harmful ripple effect, due to the lack of a credit mechanism and, consequently, increasing the tax incidence and the cost of products and services in Brazil.

The new legal provisions about PIS and COFINS, providing the non-cumulating, took effect on De-

cember 2002 (Law 10.637/2002) and December 2003 (Law 10.833/2003) with effects produced from December 1, 2002 and February 1, 2004, respectively. Because of these rules, the percentages of PIS and COFINS went up from 0.65% to 1.65% and from 3% to 7.6%, respectively, with the introduction of a credit mechanism.

According to this non-cumulative mechanism, the tax payers can, generally, recognize credits of PIS and COFINS corresponding to 1.65% and 7.6% of certain costs and expenses that are essential for a company's activities. These credits can be used to compensate PIS and COFINS due on its taxable income.

So, the tax payers that adopt the non-cumulative system are subject to an incidence of PIS at a percentage of 1.65% and COFINS at a percentage of 7.6%, being permitted to recognize tax credits of PIS and COFINS charged on certain inputs. Among these inputs are: products purchased for resale; goods and services used as inputs when offering services or manufacture; consumption of electric energy; property rental and fixed assets applied in the activities; purchase of fixed assets; and returned goods, if the corresponding income was included on the basis of taxable PIS and COFINS in the previous period.

The non-cumulative basis of PIS and COFINS is obligatory for companies that adopt the method of real profit to calculate the IRPJ.

The previous system of cumulative PIS and COFINS continues applicable to certain entities, such as financial institutions and companies that adopt the system of estimated profit, among other, and for certain income resulting from services of telecommunications, transport and development of software, which usually are taxed at a percentage of 0.65% for PIS and 3% for COFINS, without available credits. The financial institutions are taxed for COFINS at a percentage of 4%.

The companies whose incomes are subject to the cumulative system and other incomes are subject to the non-cumulative system and will have to calculate PIS and COFINS separately, in both systems. On incomes referring to export transactions and to the sale of permanent assets, in general, these taxes do not fall upon.

There is special basis of PIS and COFINS for companies of certain types of industry, such as the automotive, car parts, cosmetics, pharmaceutical, oil, beverages, packing materials, energy, property, among other. Besides, from 1st May 2004 on the

import of assets and services is also subject to the payment of PIS and COFINS at a combined percentage of 9.25%, as a general rule. In some cases, the tax payers can recognize credits of PIS and COFINS on imports.

#### 6.1.7 Tax on Industrialized Products ("IPI")

IPI is a federal tax falling upon the import and manufacture of goods. In many aspects, it works as a value added tax, charged on the added value to the final good. Generally, IPI paid on a previous transaction can be used to compensate the IPI obligation that comes up on subsequent taxed operations.

The applicable percentage depends of the product and its classification on a table of IPI percentages.

The IPI also has a normative nature, in other words, the executive power can increase its percentage at any moment, by decree, as a form to implement financial and economic policies. Further, the percentages can be higher in the case of non-essential products, as cigarettes, perfumes, etc.

Every installation (subsidiary) is considered a separate tax payer for IPI purposes.

In the case of imported products, the providing fact is the customs release, as well as the first time the product leaves the installations of the importer (in general, at a sale).

In most of the import products IPI is charged on the CIF value, plus certain custom tariffs and the import tax.

In most transactions in the country, the providing fact is when the manufactured product leaves the installation where it was manufactured. Normally IPI is charged on the transaction value plus the ICMS (a state tax).

The Brazilian tax legislation defines as manufacture every process that modifies the nature, the operation, the finishing, the presentation, or the purpose of a product, or that turns a product better for consumption.

The IPI payers have the right to an IPI credit equivalent to the tax paid on the purchase of inputs to be used in the manufacturing process. This credit can be compensated by IPI charged on subsequent transactions. In certain circumstances the excess of IPI credits that cannot be compensated with IPI due in subsequent transactions, can be used to compensate other federal taxes. IPI does not fall upon the sale of fixed assets, but for that certain requirements have to be fulfilled.

#### 6.1.8 Contribution on Economic Activities ("CIDE")

CIDE, instituted by Law 10.168/2000, is a contribution of 10% due on payments to non-residents as royalties, technical and administrative services, and technical assistance, among others. It should be pointed out that, differently from the tax withheld at the source, CIDE is charged on those paying fees in Brazil and therefore, cannot be reduced because of taxation treaties and does not provide a credit abroad.

There is a limited tax credit given to the Brazilian referring to the CIDE paid on royalties for the use of registered trademarks or commercial marks, which reduces the effective percentage of the tax. Law 11.452, which came into force on February 27, 2007 established that the royalties due to licenses of software are not subject anymore to this tax. The provision goes back to 1 January 2006, enabling the recognition of tax credits of CIDE for payments of software licenses.

CIDE Fuel is another contribution charged on the import and sale of oil and products related to petrol, including ethanol. The manufacturer, the formulator and the importer have to pay the CIDE Fuel, according to Law 10.336/2001.

According to Decree nº 8.395/2015 (which amended the Decree 5.060/2004), the percentages of CIDE on the import and trading of oil and its derivatives, natural gas and its derivatives, and fuel ethyl alcohol – CIDE were reduced to zero for certain products.

#### 6.1.9 Tax on Financial Operations ("IOF")

IOF is a federal tax charged on transactions involving credit, Exchange, insurance and securities made thru financial institutions. The tax is also applied on loan transactions between companies.

Now IOF is based on Decree nº 6.306/2007 with further alterations.

IOF percentages can be raised by decree of the federal government and come into force immediately. The calculation basis varies according to the providing fact and the kind of financial operation.

IOF is charged at variable percentages, depending on the expiration date and the kind of transaction. In the case of loan transactions (credit operations) in Brazilian currency, the general rule says that IOF falls upon the daily average balance, or based on the transaction, at a percentage of 0.0041% plus the additional of 0.38%. There are situations provided that reduces the percentage to zero. On the sub-

ject, the discussion settled in mid-2013 by the Câmara Superior do CARF" (CARF's Superior Chamber) is worth mentioning. The argument was that no IOF should be levied on activity of a current account between an assessed company and its parent company.

In the case of operations of exchange, insurance, transactions with securities, gold, financial asset, or exchange instrument there are also specific percentages, according to the situations and conditions provided on the referred decree.

#### 6.1.10 Tax on Territorial Rural Property ("ITR")

ITR is a federal tax charged on property located outside the urban areas. The tax basis varies, according to its value, size and location and the percentage according to the use of the land.

#### 6.1.11 Contribution for the Development of the National Cinematographic Industry ("CONDECINE")

"CONDECINE" is a contribution falling upon the diffusion, production, licensing and distribution of cinematographic and video works for commercial purposes.

### 6.2 State taxes

#### 6.2.1 Value-added Tax on Services and Circulation of Goods ("ICMS")

ICMS falls upon operations related to the circulation of goods and on providing services of interstate and inter-municipal transport and communication.

It is a kind of value-added tax falling upon the import of products and certain transactions involving goods (including electricity), services of inter-municipal, and interstate transport and communication services.

In general, when the transactions involve two different states of the federation, the percentage is 7% (when the buyer has his seat at states located in the north, northeast and center-west regions or in the state of Espírito Santo) or 12% (for buyers headquartered in the south and southeast regions). For transactions made in the same state or in the case of imports, the percentages can be 17, 18, or 19%. The percentage of 19% is applied in the state of Rio de Janeiro; 18%, in the states of São Paulo, Paraná and Minas Gerais; and 17% in the remaining states.

In the state of São Paulo, sales of cars, communication services, and electricity are subject to the payment of, respectively: 18%, 25% and 25% (art. 52, I, 55 and 52, V, "b" of the Decree 45.490/2000).

In the state of Minas Gerais, the percentages are 12%, 27% and from 25% to 30% (art. 42, "B.4", "j", and "A.12" NS "C").

In the case of imports, in general, the calculation basis of ICMS is the same as the CIF value, plus the applicable import tax, IPI, certain custom tariffs, the ICMS itself and PIS and COFINS due on the import.

It should be pointed out that the Commission of Economic Matters (CAE) of the Senate, approved the Resolution of the Federal Senate nº 13/2012, unifying the percentage of ICMS to 4% on the interstate operations with assets or goods imported from abroad, as provided on its Article 1º, § 1º.

ICMS also falls upon when a product is dealt in the domestic market or when it is physically removed from an installation of the manufacturer. The taxed basis is equal to the transaction value, including the ICMS itself ("inside calculation"), insurance, freight, and conditional discounts. To the calculation basis of ICMS also has to be added the IPI when the transaction is between tax payers that do not pay ICMS or when a product is involved that will neither be submitted to another manufacturing process nor will be dealt, as fixed asset.

As occurs with IPI, each subsidiary of the company is considered a separate taxpayer for ICMS purposes.

Also, with the enactment of the Constitutional Amendment" 87/2015 (which amended art. Par. 2, sec. VII, of the Federal Constitution of 1988), in force since 3/31/2016, the ICMS on interstate operations is now paid by a new system.

For supply of assets and services to non-taxpayer end-consumers headquartered in a different state, and related transactions, the ICMS corresponding to the difference between the internal and the interstate tax rates (which can be 4%, 7% or 12%), shall be divided by the states of origin and destination as follows: I – 2015: 20% to the state of destination and 80% to the state of origin; II – 2016: 40% to the state of destination and 60% to the state of origin; III – 2017: 60% to the state of destination and 40% to the state of origin; IV – 2018: 80% to the state of destination and 20% to the state of origin; and V – from 2019 onwards: 100% to the state of destination.

In general, those paying ICMS have the right to a credit on the amount of the tax paid on the previous transaction with the same asset (inputs), as long as the buyer also pays ICMS on that product, mean-

ing that as long as the subsequent transactions involving the purchased product also be subject to the payment of ICMS. The tax credit can be compensated by future obligations of payable ICMS. If the purchaser does not pay ICMS, and depending on his sales being or not subject to this tax, ICMS can become a cost and not be recoverable under the form of credit.

### 6.2.2 Tax on Causa Mortis Transmission and Donation of any Properties or Rights ("ITCMD")

The "ITCMD" is a state tax applied to the transfer of the properties and rights due to death (succession) and donations. The percentages vary according to the legislation of every state.

### 6.2.3 Tax on Automotive Vehicles ("IPVA")

The "IPVA" is a state tax charged on the property of motorized vehicles (cars, trucks, etc.).

The calculation basis is the value of the vehicle and the percentages are variable according to the legislation of every state.

## 6.3 Municipal Taxes

### 6.3.1 Tax on Services ("ISS")

The "ISS" is a municipal tax charged on income resulting from services providing. Although this is a municipal tax, the services on which it falls upon are on a list of a federal Law (Complementary Law 116/2003).

The calculation basis is the price of the service and the percentages vary from 2 to 5%, according to the municipality where the service provider is seated and the kind of service provided. In most of the cases there is a strong discussion if the ISS should be paid at the municipality where the provider has its seat or where the service is provided.

In principle, the taxpayer is the service provider. However, the municipal tax legislation can impose the responsibility of withholding the tax to the company that contracts the services.

Since January 2004, ISS is also applied to the import of services. The Brazilian companies that receive the services are supposed to withhold the tax on the payment of the services to non-residents.

Further, as provided on the Complementary Law 116/2003, the tax does not fall upon the export of services abroad.

When services providing involves also the supply of goods, ISS is applied on the total price of the service, except when there is a specific provision confirming that the ICMS falls upon the value of the

goods.

### 6.3.2 Tax on Urban Territorial Property ("IPTU")

"IPTU" is a tax on urban territorial property charged yearly by the municipalities, based on the value given to the property (which cannot correspond to its fair value on the market). The percentages vary according to the municipality and the location of the property.

The IPTU is supposed to be paid by the owner of the property or who leases / rents the asset when it is leased or rent and the contract provides its payment by whom is its indirect owner (art. 34 of the Brazilian Taxation Code).

### 6.3.3 Tax on Property Transfer ("ITBI")

"ITBI" is a tax on the transfer of properties, charged at variable percentages (from 2% to 6%). This tax is not normally charged if the property is transferred within a reorganization process of a company (fusion, separation, payment of capital in cash, etc.).

## 6.4 Rules to avoid non-payment

The Brazilian tax legislation (National Tax Code) provides that the Tax Authorities can have the power for tax reduction of actions or transactions to reduce the amount of tax due, avoid or postpone the payment of a tax or hide aspects of a providing fact or the real nature of elements that cause this fact.

However, under the legal point of view, these provisions are still dependent of a regulation thru ordinary law and administrative entities to come fully into force.

## 6.5 Tax incentives

There is a wide variety of governmental incentives for projects of installations of companies in Brazil. In general, the international investor has the same access to these incentives than the local investors.

The use of governmental incentives is a relevant aspect of the Brazilian business environment.

Normally the incentives are rather subsidized and exemptions or reductions of taxes instead of money granting.

### 6.5.1 Federal, state and municipal incentives

The incentive programs of the federal government want to promote the objectives of internal Brazilian policies, including the increase of exports and capitalization of the national private industry, while the state and municipal incentive programs have specific objectives, such as the expansion of the opportunities of local jobs. The state and municipal governments generally use the exemption or postpone of taxes on properties they have the right to

charge, giving assistance to potential investors to be able to access the available federal programs. Therefore the company that decides to establish a new factory, whose production will be exported, and is qualified to participate in federal programs, will look for the best package of local incentives before deciding about the location of its factory.

Some of the main fiscal incentives are “Lei Rouanet” (Rouanet Law), “Lei do Audiovisual” (Audiovisual Law), “Fundo para Infância e do Adolescente (FIA)” (Childhood and Adolescence Fund), donation for “OSCIP- Organizações da Sociedade Civil de Interesse Público” (Civil Public Interest Organizations); donation for “Entidades de Ensino e Pesquisa, Lei Federal de Incentivo ao Esporte” (Federal Law of Sports Incentive) and “Fundo para Pessoas com Idade Avançada” (Aged People Fund).

However, there are certain limitations on the enjoyment of tax benefits. For example, micro and small businesses who have opted for the “Simples Nacional” cannot support or make donations to cultural and social projects using income tax incentives, nor can companies opting for the assumed-profit or arbitrated-profit taxation regime, or a donor or sponsor linked to an individual, institution or company responsible for the proposal, except in case of not-for-profit institution formed by the one responsible for the incentive. Only companies who opted for the taxable-income taxation regime may opt for income tax incentives within a given calendar year.

#### 6.5.1.1 Frequency of revisions

The incentive programs of the Brazilian government are subject to frequent revisions regarding both to the basic approach as well to the specific categories and levels of granted tax incentives. Therefore, the companies that want to get benefits from these programs should consider essential to get good information about it.

#### 6.5.1.2 Subventions of capital

The governments do not grant available sums of money to reduce the initial expense with industrial constructions and equipments. The exception is the subvention of capital as land, obtained by municipal governments, frequently granted through state development agencies.

#### 6.5.1.3 Financing at low cost

Several governmental incentive programs grant financing at low cost. In the past Brazil suffered under a chronic inflation and until today the bank interest rates continue very high. Under these circumstances, the financing at subsidized rates has

been very important to certain areas of the Brazilian economy.

### 6.6 International tax aspects

#### 6.6.1 Permanent establishment

Only the companies founded in Brazil are, in general, taxed as residents. In principle, the Brazilian companies have to register for tax purposes.

The companies that exercise taxable activities in the country without the due registers are also subject to the payment of taxes.

Unlike the international practices, the Brazilian tax law neither embodies the concept of permanent establishment nor gives a clear orientation about the potential impact, in terms of taxes, about the fact that foreign entities are Doing Business in Brazil.

There is no orientation of the Tax Authorities and we only know about some few administrative precedents (tax notification) about the issue. That may be due, in certain cases, that the tax charge on the income of non-residents continues to be higher than the final taxation of residents, what the characterization of an establishment as permanent would generate. For example, although the profits of a non-resident corporation be taxed at a combined percentage of 34%, while the gross honoraries for services of non-residents, in general, are taxed in 25% (tax withheld at the source and CIDE, if applicable).

Besides, the New Brazilian Civil Code (NBCC) bans foreign entities to operate in Brazil without authorization, which, in principle, is obtained by establishing a subsidiary, that is taxable in Brazil in the same way as a legal Brazilian entity.

However, the following situations can provide taxation in Brazil and therefore it is recommended to check the specific activities to be exercised in the country in order to evaluate the eventual risk:

- Subsidiary in fact: the foreign company has a non-registered subsidiary or office.
- Consignation: Sales are made by consignation, without keeping appropriate account registers by the addressee in Brazil.
- Link agent: Sales are made in Brazil thru an agent or contracted company and, normally, he does it.

#### 6.6.2 Rules of sub capitalization

Thin capitalization rules were introduced in Brazil pursuant to Law 12.249/2010, limiting the deductibility of interest paid or credited by a Brazilian entity

to a related party (individual or legal entity) or to an individual or legal entity (whether related or not) that is resident or domiciled in a tax haven jurisdiction.

Soon after the enactment of Law 12.249/10, the Regulatory Instruction RFB 1.154/11 stipulated that interest paid/credited by a Brazilian-based source to a related individual or company abroad, not organized in a country with privileged tax regime, or operating thereunder, will be deductible only for purposes of taxable income and CSLL calculation basis determination, whenever it is evidenced that they represent necessary expenses for operations in the base period, and on the condition that certain requirements mentioned in art. 2 of the Regulatory Instruction referred to above are met.

### 6.6.3 Taxation treaties

To avoid a double taxation Brazil signed treaties with several countries. The main method of tax relief, according to the treaties, is the tax credit abroad. The existing treaties offer very few opportunities of reduction or elimination of tax withheld at source about payments to other countries. Besides, many treaties in force contain clauses of estimated credit.

Brazil has treaties with following countries to avoid a double taxation: Argentina, Austria, Belgium, Canada, Chile, China, Czech Republic, Denmark, Ecuador, Finland, France, Hungary, India, Israel, Italy, Japan, Luxemburg, Mexico, Norway, The Netherlands, Peru, Portugal, Russia Sweden, Trinidad y Tobago, Turkey, Ukraine and Venezuela.

A treaty has been signed with Paraguay, which is still pending approval by the Congress. Brazil had a treaty with Germany, which was reported by that country in 2006. The official reason for its cancellation, alleged by Germany, was the existence of many provisions that would only work one-sidedly and that were not corresponding anymore to the German policy and practices, even regarding developing countries. The treaty also would not be providing the necessary legal protection to the German economy.

In fact, there are many discussions about two issues referring to treaties: if the Brazilian rules of transfer prices, that are not based on OECD, would act against the provisions about "Associated Enterprises", contained in the treaty; and if the interpretation given by the Brazilian Tax Authorities regarding the withholding of income at the source, can be applied to honoraries for services, as these would fit into "Other Results" and not in "Business Profits".

### 6.6.4 Transfer prices

On the Brazilian transfer price regulations, the Law 12.766/2012, art. 5 (which amended the Law 9.430/1996) establishes that interest paid or credited to a related party will only be deductible for determination of actual benefit, if it does not exceed the amount calculated at the rate determined in accordance with this article, plus a margin such as diffusion, to be defined by the Ministry of Finance, based on the market average, apportioned in accordance with the period to which the interest refers. In this sense, early in the Regulatory Instructions RFB no. 1.321 and 1.322 came into force, whereby the deductibility of interest paid, credited or received under agreements with related parties abroad until December 2012 and registered with the Brazilian Central Bank by that date is not subject to transfer price regulations.

Any contracts signed subsequently, i.e., as from January 1, 2013, will be subject to the Law 12.766/12, which establishes interest rates based on the currency of the transaction, and provides for an annual spread to be defined by the Ministry of Finance according to the rates prevailing in the market.

### 6.6.5 Percentages of taxes withheld at the source

The main applicable percentages to payments to non-residents are the following:

- Interest – 15%
- Interest on equity capital – 15%
- Royalties – 15%
- Fees for technical services 15%
- Fees for non-technical services – 25%
- Lease and rental taxes – 15%

Below, what is not subject to the withholding of tax at the source (restricted to certain requirements):

- Interest and commission on export financing – 0%
- Interest and commission on export notes – 0%
- Export rates – 0%
- Interest on certain public securities – 0%
- Rental taxes of aircrafts and vessels – 0%
- Chartering sea and air vehicles, stay of the boat at the port,
- Payments of container and freight to foreign companies – 0%
- International hedge – 0%
- Taxes for the register and keeping of patents, registered marks and plant varieties.

### 6.6.6 Jurisdictions with low taxation

In most cases remittances to beneficiaries seated in jurisdictions with low taxation are subject to withholding the tax at the source at a percentage of 25% .

They are the following: Andorra, Alderney (Channel Islands), American Samoa and West Samoa, American Virgin Islands, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Campione d'Italia, Cayman Islands, Cook Islands, Cyprus, Djibouti, Dominica, East Samoa, Guernsey, Gibraltar, Grenada, Grenadines, Hong Kong, Isle of Man, Jersey, Lebanon, Liberia, Liechtenstein, Luxemburg (referring to 1929 Holdings), Macau, Maldives, Malta, Marshall Islands, Mauritius, Montserrat, Monaco, Nauru, Nevis, Dutch Antilles, Niue, Oman, Panama, Saint Kitts, Saint Vincent, San Marino, Saint Lucia, Sark, Seychelles, Singapore, Tonga, Turks and Caicos Islands, United Arab Emirates, Curacao, Saint Martin. Ireland, Ascension Islands, Brunei, Kiribati, Norfolk Island, Pitcairn Island, French Polynesia, Queshm Island, Island of Saint Helena, Saint Pierre et Miquelon Island, Solomon Island, Swaziland, Sultanate of Oman, Tristão da Cunha Island, Ilhas Turks and Caicos Islands. At any moment new jurisdictions may be added to this list.

#### 6.6.7 Interest on equity capital

According to the Brazilian law, besides the dividends, the subsidiaries can also pay interests on the equity capital and its shareholders.

This interest is a mixed instrument as it is deductible for Brazilian tax purposes and, at the same time, be considered remuneration for the investor, based on the value of the shareholders.

In general terms, the interests on the equity capital are calculated by applying the daily variation "pro rata" of the long term governmental interest rate (TJLP) to the adjusted equity capital of the Brazilian entity, considering all the variations occurred during the year.

The interest on the equity capital is limited to what is higher between 50% of the profits withheld of the payer (accumulated) and 50% of its current profits, with some adjustments. However, although clearly provided by law, the Central Bank of Brazil is not accepting remittances of interests on equity capital based on the current profits, when the company has accumulated losses on the balance sheet of the previous fiscal year (on December 31). Normally it is necessary and essential to compensate the accumulated losses.

The interest on equity capital is subject to 15% be withheld at the source, at the date of its payment or credit to whom gets them (it could also fall upon a withholding of 25% if the receiver is seated in a jurisdiction with low taxation - favored). On the other side, the local taxpayer can deduct the interests on equity capital paid to residents or non-

residents shareholders as a remuneration on the invested capital – IRPJ and CSLL.

Besides, when the shareholder is a resident entity, the tax withheld at the source becomes a tax credit (and in this case, more tax consequences could come up, considering that other Brazilian taxes could fall upon it).

Therefore, it should also be considered the applicable tax treatment to the interests on the equity capital in the jurisdiction where lives the foreign beneficiary (either be the income taxable or the Brazilian tax at the source creditable, etc.) as the payment of interests on the equity capital may offer tax opportunities.

The promulgation of the Law 12.973/2014 has changed the federal tax legislation, by establishing a new basis of calculation of interest on equity reserve. Accordingly, from 2015 on, for calculating interest on equity reserve for income tax and social contribution determination purposes, only the following shareholders' equity accounts will be taken into consideration: capital, capital reserves, revenue reserves, treasury stock and accumulated losses. Under previous legislation, the interest on equity reserve would be calculated on the whole shareholders' equity, except for the revaluation reserve.

#### 6.6.8 Royalties

The tax withheld at the source is charged on the payment of royalties at the standard percentage of 15% or to that applicable, according to the treaty.

The payments of royalties are also subject to the payment of CIDE at a percentage of 10%. CIDE is not a tax withheld at the source. It falls upon the entity that pays royalties. CIDE generates a partial tax credit, in the case of royalties paid by trademarks and patents.

There are also discussions if the royalties are subject to the payment of PIS and COFINS, as well as ISS tax.

The royalties on trademarks, patents and know-how, as well as other agreements involving technology transfer (specialized technical services and technical assistance) are subject to specific requirements both for remittances to be sent abroad as for being deductible. The agreements have to be registered at the Central Bank and at the National Institute of Intellectual Property (INPI).

On the royalties fall certain global and individual limits based on the net income. For example, the royalties on trademarks are limited on 1% of the

net income and the royalties on patents at a percentage of the net income varying according to the type of industry (from 1% to 5%).

Collectively, it is not supposed to exceed 5%. However, as there are specific limitations of tax deductions, they are not subject to transfer rules of valid prices in Brazil.

#### 6.6.9 Fees for services

The taxation of fees for services is different depending on the provided services be considered technical or non-technical. In the Brazilian legislation there is not a clear definition of technical and non-technical services. However in a recent regulation of withholding taxes at the source, the Tax Authorities described technical services as works or companies whose performance requires specialized technical knowledge and is made by liberal professionals or artists.

The non-technical services are taxed at the source at 25%, while the technical services at 15% and fit into CIDE at a percentage of 10%. Both the technical as the non-technical services are subject to the payment of PIS and COFINS, as well as ISS. The percentages of PIS and COFINS are respectively 1.65% and 7.6%, while the ISS taxes may vary from 2% to 5%, depending on the regulation of each municipality.

The rules on transfer prices are supposed to be accomplished if the honoraries are to be paid to related parties, as well as should be observed the general requirements of being deductible, namely, evidence the work has been really made, formal agreements, etc.

In the case the services involve technology transfer, can be made specific requirements for remittances to be sent abroad and regarding the possibility of tax deductions, as mentioned on the previous paragraph about royalties.

#### 6.6.10 Capital gains

When a non-resident sells an asset located in Brazil, including shares of the Brazilian company, the capital gains are taxed at the source at 15% (25% if the seller be in a country listed of the jurisdictions of low taxation).

The transactions between two non-residents used to be exempt of taxes in Brazil.

However, since 2001 these transactions are also taxed in Brazil, whenever they involve assets located in the country. The representative of a non-resident buyer is responsible for the withholding and pay-

ment of the Brazilian tax on capital gains.

The capital gains correspond to the difference between the value of the transaction (for example, Sales price) and the cost of the investment. However, there are two possible method for computing the cost of the shares, which many times result on the fixation of different purchase costs and, consequently, to a different amount of capital gains.

One of these methods considers as purchase cost the historical value of the investment made in local currency (Reais), duly adjusted by the inflation of December 31, 1995. The other method considers the cost equal to the foreign capital registered at the Central Bank (RDE-IED).

There is a strong discussion which of these methods is correct and therefore it is recommended to discuss and check the issue properly before the sale or purchase of shares of the Brazilian company.

#### 6.6.11 Taxation of foreign profits (rules of Federal Accounting Council -CFC)

The Brazilian rules about foreign subsidiaries companies are relatively new, with some provisions distant from the concepts and provisions that are on the CFC legislation of other countries.

The profits produced by foreign subsidiary or branch offices are supposed to be part of the financial statements on December 31 of the fiscal year in which the profits were made, independently of a distribution of dividends or profits. The profits would be considered taxable in Brazil, before December 31, under other circumstances, for example, liquidation of the Brazilian company.

The Brazilian tax legislation says that the financial statements of the subsidiary be made according to the local commercial legislation and converted in Brazilian currency (Reais).

In principle, the consolidation of profits and losses of foreign companies is not permitted in Brazil for tax purposes (except in the case of branch offices of the same entity, located in the same jurisdiction, as long as certain conditions be observed).

The foreign profits gained by the Brazilian entity, thru its subsidiaries, should be considered according to each subsidiary. However, the foreign subsidiary has to consolidate on the financial statements the results of its foreign subsidiaries. (from second step onwards).

On the other side, the losses suffered by the Brazilian entity by means of the foreign company may not serve to compensate Brazilian profits, alt-

though the rules allow the compensation of these losses with future profits of the same subsidiary, without quantitative or qualitative limitations.

Finally, it is important to mention that in case of foreign profits be subject to the payment of income tax in the country of the foreign company, the Brazilian controller would have the right to a tax credit in Brazil. However, this credit and the corresponding compensation are subject to certain restrictions.

For Brazilian companies that have investments abroad it is obligatory the use of the method of real profit to calculate the corporation taxes.

As regards the taxation in Brazil, the investments of non-residents in financial and capital markets and the incomes earned by foreign investors, in investments on the financial market are subject to the income tax at the source, at the following percentages:

- 10% for investments in stock funds, swap operations and operations on the future market, made outside of the stock markets or commodity exchange
- 15% in the other cases, including investments in fixed income.
- 0% for capital gains, defined as gains obtained with stocks, commodities, other similar transactions on the commodity Exchange, and for gold dealt outside of the market of commodities earned and distributed by these foreign investment funds; for income obtained with Brazilian public securities purchased from February 16, 2006 on, except in case of income provided by bonds dealt with a resale clause assumed by the purchaser (locally, this operation is called Repo, or repurchase operation); for mutual funds, in cases when the portfolio of the fund is composed by at least 98% of public securities; and for investments in investment funds in partnership (and for investments in emerging companies) and funds that invest in quotes of these funds (zero tax is applied only if the investor and the funds observe certain rules).

If the foreign investor is not investing according to the provisions of Resolution 2.690/00, or if the investor is seated in jurisdictions with low taxation, the income resulting from investments made in the Brazilian financial market is subject to taxation, in the same way as the investments for residents.

And finally the tax impact of IOF must be pointed out, as its percentages, as the providing facts can be instituted or changed by the government, by decree, and come into force immediately.

The foreign investments in financial and capital markets, except those of variable income (for example, shares dealt in stock exchange) are subject to IOF at a percentage of 1.5% in the liquidation of the exchange operations.

#### 6.6.12 Register as tax payer (CNPJ)

All non – resident entities that have shares, financial investments, assets or rights in Brazil must get a number of register as corporate tax payer (CNPJ) at the Secretary of the Federal Revenue of Brazil (SRF).



# Republic of Chile

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## Country Profile

Chile is a country located in the southwestern corner of South America and Santiago is its capital city. It has an immense geographical and topographical diversity that includes deserts, mountains, forests, glaciers, islands and a coastline that stretches more than 4,270 km in its continental section.

Considering its continental and insular areas and the Chilean Antarctic territory, Chile has an area of approximately 2,006,096 km<sup>2</sup>. It has a population of about 17,819,054. On average, the quality of life, economic growth, human development, globalization and GDP per capita indexes are among the highest in Latin America. It is politically organized as a unitary, democratic and presidential state with a clear separation of the executive, legislative and judiciary branches. Chile is recognized as one of the best-evaluated emerging economies of Latin America and worldwide.

During 2010 it became the first South American country to join the Organization for Economic Cooperation and Development (OECD).

Chile has an economy characterized by the exploitation and export of raw materials, strongly emphasizing the export of copper, fruits, fish products, paper and wine. In addition, Chile is now viewed as a foreign investment platform by other Latin American countries because of its economic, political and legal stability. The Chilean economy is one of the most open in the world, particularly considering the large number of ongoing trade agreements – strategic agreements, free trade agreements, economic complementation agreements and limited scope agreements – with countries that



represent 60% of world population. Its main trading partners are the European Union, the United States, South Korea, China and the P4 Agreement. Chile is also a member of diverse economic forums such as APEC and is an associate member of the Andean Community and Mercosur. Also part of the Pacific Alliance since 2011.

## 1. Main taxes in Chile

The taxes most widely applied in Chile are:

- Income Tax to businesses and individuals
- Value Added Tax (VAT)
- Stamp Tax
- Capital Gains Tax
- Municipal Licenses

In addition, the tax regime includes property taxes, inheritances and donations taxes, and other minor taxes. Except for municipal licenses, all taxes are applied nationwide.

## 2. Tax Enforcement

The entity responsible for the control of taxes in Chile is the Internal Revenue Service (hereinafter the "SII"). In addition, the SII is the entity responsible for issuing instructions, administrative rulings and tax law interpretations.

In case of a dispute between the taxpayer and the SII, there is an administrative (not judicial) review by the same SII, which is optional for the taxpayer. If the judicial avenue is followed, the taxpayer may file a complaint with the Tax Court, whose first instance is the SII's Regional Director. CTDs are specialized and independent of the SII and the National Customs Service courts of first instance. Dedicated to resolving the tax and customs claims that individuals or companies have against administrative decisions.

Afterwards, there is the possibility of appealing to the Court of Appeals and, finally, the taxpayer may reach

the Supreme Court to settle legal issues. As a rule, the statute of limitations is three years from the respective tax payment due date. In special cases, the statute of limitations period is extended to six years. Law 20,322 published in the Official Gazette on January 27, 2009 created the Tax and Customs Courts, which will settle controversies between taxpayers and the SII. These courts are currently operating in several regions of the country. However, they will start operating in Santiago in the year 2013.

### 3. Income Taxes

#### General

In general, individuals or legal entities resident or domiciled in Chile are subject to taxes on income from their global sources. This includes income received from activities pursued in Chile or abroad. In the case of non-residents, they will find themselves subject to taxes only on income they obtain from a Chilean source.

Exceptionally, foreign individuals will pay taxes only on income earned in Chile during the first three years of their residence in the country, a period that can be extended. Importantly, revenues of Chilean companies will always be considered as a Chilean source income. Also considered Chilean income sources are those that generate income from the disposal of shares or rights representing the capital of a legal entity incorporated abroad, made to a person domiciled, resident or incorporated in the country, whose acquisition would allow, directly or indirectly, holding more than a 10% ownership or profits of another company incorporated in Chile.

The Income Tax Law contains several categories of taxes depending on the taxpayer activity, namely:

- **The First Category Tax:** affects income from industry, commerce, mining, real estate and other activities involving the use of capital.
- **Global Complementary Tax:** affects income derived by individuals domiciled or resident in Chile, on the sum total of their income, whether the source is Chilean or foreign.
- **The Second Category Tax:** applies to income from personal services provided by employees.
- **Additional Tax:** affects Chilean source income received or accrued by individuals or legal entities not domiciled or resident in Chile.

#### Integrated Taxation

Income taxes are structured as an integrated taxation system with two levels. A first taxation level corresponds to the First Category Tax levied on main line business activities. In the second taxation level we find the Global Complementary Tax and the Additional Tax, also known as final taxes. This second taxation level is triggered once the income generated by the company is attributed to its members or shareholders. If the distribution is to a natural person domiciled or resident in Chile, the Global Complementary Tax is triggered with rates ranging from a 0% rate on an exempt income bracket up to a 40% rate. If the distribution is made to a nonresident, whether an individual or a juridical person, the Additional Tax is triggered, which generally reaches a 35% rate. Once company profits are distributed to partners or shareholders, the First Category tax paid by the company (24%) can be used as a credit against the partners' or shareholders' Global Complementary Tax or Additional Tax.



Below is a summary of the main tax rates found in the Income Tax Law:

TAX	RATE
<b>First category</b>	27%
<b>Second Category</b>	Exempt to 40%
<b>Global complementary</b>	Exempt to 40%
<b>Additional (non resident in Chile)</b>	35%
Royalties paid abroad	30%
Royalties for the use, enjoyment, development of computer software and others	15%
Royalties paid abroad for films and videos	20%
Royalties paid abroad for copyright and publishing	15%
Technical and engineering jobs	15%
Professional and technical services	15%
Other services paid abroad	35%
Interest paid to foreign companies	35%
Interest paid to financial and banking institutions	4%
Sea freight	5%
Insurance premiums paid to foreign insurers	22%
Reinsurance premiums paid to foreign reinsurers	2%
<b>Taxes of a unique character</b>	
Rejected expenses Art. 21 in Corporations	35%
Capital gains taxes on the sale of shares	20%

**Payment of income tax:** Every taxpayer must file an annual income tax return and pay any tax due during the month of April following the closure of the financial year.

An employee who receives income only from remunerations does not need to pay an annual tax in April. In this case, the Second Category Tax is withheld and paid monthly to the Treasury by the employer.

The First Category tax or corporate tax is payable on income earned annually.

In most cases, provisional estimated payments must be made on account of First and Second Category, Additional and Global Complementary taxes.

#### 4. Specific tax on mining activities

Given the importance of the mining industry for the Chilean economy, the "Specific Tax on Mining Activities" was established in 2006, also known as the "Mining Royalty Tax". This tax affects the operating income of metallic mining operators. Mining operators include all individuals or corporations who extract minerals of grantable character and who sell them in any of their production stages. Applicable tax rates range from 5% to 14% depending on the operating margin as defined in the law.

#### 5. Stamp tax

This tax is levied on the issuance of documents containing money loan operations defined by the law. In the case of forward transactions, the rate is 0.033% per month or fraction of a month between the issuance of

the document and the date of expiration of the same with a maximum of 0.8 %. (beginning January 1, 2016). In the case of documents containing on demand money loan transactions or transactions with no expiration date, or foreign loans, the pertinent rate will be 0.166%.

External loans are subject to the Stamp Tax irrespective of whether they are formalized in a document or not.

## 6. Municipal licenses

The Municipal License is an annual tax on the activity carried out by a taxpayer in the territory of a particular borough. The fee is calculated on the taxpayer's assets at a rate set by each Municipality, with a minimum of 0.25% and a maximum of 0.5%. The annual fee cannot exceed 8,000 Monthly Tax Units (aprox US\$640,000).

## 7. Value added tax, VAT

VAT primarily levies sales and other contracts covering material goods and the provision of certain services. In both cases the taxable event is generally triggered when the sale or service is carried out routinely by a vendor or service provider, both concepts defined by the VAT Law itself.

The VAT operates on the basis of a Tax Credits and Debits system. That is, the taxpayer may take advantage of the VAT tax charged when he purchases a product or receives a service, against the VAT charged by the taxpayer when he sells his product or provides a service. Thus, the payable tax is determined by subtracting from the Tax Debit the Tax Credit accumulated by the taxpayer.

The VAT Law also contains some specific taxes such as the luxury tax and the alcoholic beverages tax, and other taxes that vary according to the type of item being sold.

## 8. International Taxation Considerations Credit for taxes paid abroad

Foreign incomes are taxed in Chile on the basis of the net amounts received (except agencies taxed on an accrual basis). Provided they meet certain conditions established in the Income Tax Law, investors are entitled to a credit against the First Category Tax and Final Tax based on the income tax withheld abroad on profits remittances dividends and on revenues derived from permanent establishments. The credit is capped at 30% in the case of dividends and 20% for profits derived from a branch. In calculating taxable income, taxes paid abroad are added to the tax base. Taxes paid abroad that exceed the limit and therefore cannot be used as a credit, are allowed as deduction from taxable income.

Notwithstanding the foregoing, the cap is 30% with countries with which Chile has signed double taxation treaties. The foreign withholding tax with a maximum of up to 20% may be used as a credit against the 20% First Category Tax, and the balance may be applied against the Additional or Complementary taxes of the local company's shareholders or partners.

Without detriment to the above, credits are capped at 30% of net revenues from foreign sources, net revenue meaning foreign source income less expenses that were incurred to generate the same.

## 9. Treaties to prevent double taxation

Chile has signed several general and specific double taxation treaties. The following treaties are currently in force: Argentina, Australia, Belgium, Brazil, Canada, Colombia, South Korea, China, Croatia, Denmark, Ecuador, Spain, France, Ireland, Italy, Japan, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, United Kingdom, Czech Republic, Russia, South Africa, Sweden, Switzerland and Thailand.

All these treaties are based on the OECD model.

In addition, Chile has subscribed double taxation treaties with, the United States, which have not yet become effective.

In addition, Chile has signed bilateral agreements with several countries to avoid double taxation in international cargo and passenger sea and air transport services.

## Article 41D of the Income Tax Law

Law No. 19,840, published in the Official Gazette on November 23, 2002, allows foreign investors to set up in Chile a base for their investments in other countries.

Under this Law, the open joint stock companies and the closed joint companies governed by the rules of the former, which are established in Chile in accordance with Chilean law where their foreign capital must be maintained at all times in the full ownership and possession of partners or shareholders not domiciled or resident in Chile or in countries or territories considered as tax heavens or harmful preferential tax regimes, shall qualify (with the exception of specific provisions in the Law) for Article 41D of the Income Tax Law instead of the general provisions of the same.

According to Article 41D, for Income Tax Law purposes the above companies will not be considered domiciled in Chile and they will only be taxed in Chile on their Chilean source income.

Article 41D allows the participation of shareholders domiciled or resident in Chile, but limiting their holdings.

Among other requirements, the aforementioned companies must have the sole purpose of making investments in the country and abroad. The capital contributed by the foreign investor must have a foreign source and bank secrecy rules will not apply to them.

#### 10. Customs duties

Customs duties on imports of virtually all goods and products amount to 6% of their value. There are regional and bilateral reductions for some products, in the context of ALADI (Latin American Integration Association).

Chile has signed free trade agreements with Australia, Canada, Mexico, United States, European Free Trade Association (EFTA), Central America, European Union, South Korea, Panama, Japan, China and Turkey. These agreements tend to eliminate customs duties between member countries within the deadlines set out in each treaty.

There are also bilateral and economic complementation agreements. Among others, with Bolivia, India, Colombia, Brazil, Cuba, Venezuela, Peru, Argentina, Ecuador, all of them leading to the elimination of customs duties.

Chile is an associate member of MERCOSUR and has negotiated customs duties' reductions for some products as well as immediate or gradual eliminations for others.

The 20.780 29/09/2014 Law on "Tax Reform" was published in Chile, which envisages a gradual implementation, with fully effect by January 1, 2017. The main objectives of the Tax Reform are; Increase the tax burden to finance permanent expenditure and income fund the current fiscal deficit; Advance tax equity, improving income distribution; Introducing new and more efficient mechanisms for encouraging savings, investment and establishing new measures to curb tax evasion and avoidance.

Among the main changes, it highlights the Income Tax Reform, considering a gradual increase in the first category tax of enterprises, 22.5% in 2015, 24% in 2016 to reach 25% from 2017, according the tax regime adopted by the company.

In this regard, the tax reform contains two new alternative tax regimes, starting on January 1, 2017; Income Attributed regime, which will affect a rate of 25% income derived by enterprises in each tax year, which will be immediately attributed to the partners or shareholders.

Partial integration scheme will affect a rate of 27% from 2018, income derived by companies. Under which it will be allowed to defer payment of final taxes affecting the partners or shareholders to cash withdrawal or distribution of profits of the company, but only allows use as a credit 65% of the taxes paid by the company, unless the shareholder is domiciled in a country with an agreement, in which case 100% is given.



# Republic of Colombia

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### 3. Country Profile

Colombia is the fourth country in South America by its territory and the only country in the continent with coasts in the Pacific Ocean and the Caribbean Sea. It limits with Panama to the northeast, Venezuela and Brazil to the east, and Ecuador and Peru to the South. Its government is a Democracy, a Presidential Unitary Republic with two Legislative Chambers.

Capital: Bogotá D.C.

Language: Spanish

Currency: Colombian peso

President: Iván Duque Márquez

Population: Approximately 49 million people<sup>1</sup>

### 4. Corporate Regime

#### 4.1. Permanent activities in Colombia - Obligation to settle

In conformity with the Colombian commercial legislation<sup>2</sup>, in order for a foreign company to develop permanent business activities in Colombia it shall be legally incorporated in the country, thus creating a legal relationship. Permanent activities are understood as follows:

- To open commercial stores or business offices in the country.
- To act as a contractor for the performance of works or the provision of services.



- To be part of activities of management, use or investment of private savings funds.
- To be dedicated to the extraction industry.
- To obtain or be part of a concession by the Colombian government.
- The operation of assemblies, boards of directors, management or administration in the country.

#### 4.2. Means for the development of permanent activities

In order to develop permanent activities in the country, an investor may settle in Colombia through a branch of a foreign company or a commercial partnership.

##### 4.2.1. Branches of foreign companies

The branches of foreign companies do not have a legal standing different from the legal standing of the foreign company that incorporate them in Colombia (Home Office).

Their incorporation requires a public deed and the legalization of some documents like those related to the creation, existence and representation of the company abroad, its bylaws, and those that include the decision to incorporate the branch in Colombia with the formalities required by the Colombian Law. The capital allocated to the branch shall be channeled through the authorized intermediaries in the Colombian exchange market, or through offsetting accounts, and register it as a foreign investment at the Central Bank (Banco de la República).

##### 4.2.2. Commercial Partnerships

The commercial partnerships in Colombia may adopt the following types: Joint Stock Company (S.A.S. as per its acronym in Spanish), Corporation (S.A. as per its acronym in Spanish), Limited Partnership, and Limited Joint Stock Partnership. The most common types of companies in Colombia are the first three ones.

<sup>1</sup>Statistics by the National Statistics Department (DANE as per its acronym in Spanish) (December 2017).

<sup>2</sup>Articles 471 and 474 of the Code of Commerce

The incorporation of a commercial partnership is carried out by means of a public deed or a private document, depending on the partnership type chosen.

Each one of the partnership types has special rules in regards to its incorporation, structure, liability by the partners or shareholders, management and internal control.

### 4.3. General Requirements

#### 4.3.1. Accounting Standards

Branches and partnerships incorporated in Colombia are required to carry accounting books in Colombian pesos and in Spanish, as well as to comply with the regulations and reports required by the control entities and tax authorities.

The International Financial Reporting Standards (IFRS)<sup>3</sup> are applied in Colombia since the year 2015. The entities that meet the requirements indicated by the law (SME's) started applying the IFRS in the year 2016.

As from 2017, the accounting books are carried under the Colombian Financial Information Standards to determine the taxable basis for the income tax.

#### 4.3.2. Statutory Auditor

The appointment of a Statutory Auditor is mandatory for the corporations and branches of foreign companies. All other partnerships must appoint a Statutory Auditor if their gross revenues in the preceding year are equal or higher than 3,000 monthly minimum legal wages in force (SMMLV as per its acronym in Spanish)<sup>4</sup> (approx. USD\$781,000)<sup>5</sup> and/or if its gross assets are equal or higher than 5,000 SMMLV (approx. USD\$1,3 million).

#### 4.3.3. State Surveillance and control

Commercial partnerships and branches of foreign companies are subject to the supervision by the Superintendency of Companies, provided that their revenues or assets are higher than 30,000 SMMLV at the cutoff date of their financial statements (approx. USD\$7,8 millions). Depending on the activity carried out, other Superintendencies may exercise such control.

#### 4.3.4. Mandatory Registrations

Commercial partnerships and branches of foreign companies must register before the Mercantile Registrar managed by the Chambers of Commerce, which allows their public accreditation as business entities. A registry before the Single Registry of Offerors (RUP as per its acronym in Spanish) is required

for the purpose of contracting with state entities, which takes place at the Chambers of Commerce. The identification before the tax authorities, they must process their registration to the Single Tax Registry (RUT as per its acronym in Spanish) before the National Direction of Taxes and Customs (DIAN as per its acronym in Spanish), based on which a Tax Identification Number (NIT as per its acronym in Spanish) will be assigned, and depending on the municipality or district of operation they shall register before the territorial tax authority to obtain the Tax Information Registry (RIT as per its acronym in Spanish).

All foreign investments must be recorded at the Central Bank; its entrance to the country must take place through the regular exchange channel with the compliance with the applicable exchange regulations regarding the foreign investment.

### 5. Labor Regime

Colombian labor legislation conforms to the dispositions of the International Labor Organization. Foreign employees have the same rights and obligations as local employees, except for some diplomatic privileges. Colombian laws apply to all employees from the moment they celebrate a work contract.

The modalities of work contracts are: i) Fixed Term: its term may not be over three (3) years; however, the parties may extend it; ii) For the term of a work or labor contracted: it has the same term as the activity commissioned; iii) Occasional, accidental or transitory: its term is not higher than one (1) month and addresses activities different for the regular company activities; and iv) Long-term: no contract's term is stipulated.

#### 5.1 Minimum Wage

Colombia has a minimum payment that the employees must earn as a remuneration for performing their activities, called Monthly Minimum Legal Wage in Force (SMMLV as per its acronym in Spanish). The SMMLV for the year 2018 is COP\$781,842 (approx. USD\$260).

In addition, a monthly Transportation Aid is recognized, which in 2018 amounts to COP\$88,211 (approx. USD\$29), which must be paid to the employees that earn up to two (2) SMMLV.

#### 5.2 Work Hours

The work hours are up to 48 hours per week. The daytime hours are from 6:00 a.m. to 10:00 p.m., and the nighttime hours are from 10:00 p.m. to 6:00 a.m. Nighttime hours include the payment of a 35% surcharge on the value of the daytime hour. Overtime in daytime and nighttime hours include the payment of a 25% and 75% surcharge, respectively, on the value of the daytime hour.

<sup>3</sup> Law 1314 of 1009 regulates the accounting principles and standards and the financial and assurance information accepted in Colombia.

<sup>4</sup> The monthly minimum legal wage in force for the year 2018 is COP\$781,242 (approx. USD\$260).

<sup>5</sup> The figures in dollars herein have been calculated based on an estimated exchange rate of COP\$3,000 per USD\$1.

### 5.3. Fringe Benefits and Legal Obligations

Fringe benefits correspond to: i) Severance payment: 30 days of salary per year worked, or its proportion; ii) Interests on severance payment: 12% per annum on the severance payment; iii) Holidays: 15 salary days in time or in some cases in cash; iv) Legal bonus: 15 salary days paid on June 30 and 15 salary days paid on December 20, at the latest; v) Work clothes: Employees that earn up to two (2) SMMLV must receive a pair of shoes and the appropriate clothes from the employer three (3) times per year on April 30, August 31 and December 20.

### 5.4 Other payments

Contributions to retirement pension: 16% of the salary (12% in charge of the employer and 4% in charge of the employee); contributions to Health (EPS): 12.5% of the salary (8.5% in charge of the employer and 4% in charge of the employee); payroll taxes to the family welfare funds, the Colombian Institute of Family Welfare (ICBF as per its acronym in Spanish) and the National Learning Service (SENA as per its acronym in Spanish): 9% entirely in charge of the employer.

The partnerships and legal entities and similar ones that are taxpayers of the income tax, corresponding to the employees that individually earn less than ten (10) SMMLV, are exempt from the payment of payroll taxes in favor of SENA and ICBF and the contributions to Health (EPS) (8.5% in charge of the employer).

### 5.5 Integral Salary

There is a remuneration method called integral salary which minimum amount is equivalent to 10 SMMLV plus 30% equivalent to the fringe benefits. The employees that receive this salary are also entitled to 15 days of salary for holidays.

## 6. Migratory Regime

Colombian migration regime is regulated in order to control the entrance of foreigners to the country, whether as investors or employees. The following are among the pertinent visas category: Business Visa, Temporary Visa, and Resident Visa. In addition to the visa applications of foreigners that enter the country and the companies that hire them, they must meet the requirement to register before 'Migración Colombia' (Colombian Migration Office) and report the activities he/she performs.

## 7. Tax Regime

The main taxes in Colombia are as follows:

### 7.1. Income tax

#### 7.1.1 Income from local sources and foreign sources

Colombian legislation indicates that Colombian income sources are those from the exploitation of

material or immaterial goods in the country, those derived from the provision of services in the Colombian territory, and those obtained from the disposal of material and immaterial goods located in the country in the moment they are disposed of. Colombian income sources include:

- Income for the provision of technical services, technical assistance and consulting services in favor of a resident in Colombia, regardless they are provided in Colombia or abroad.
- Financial yield from external indebtedness granted to residents in the country and the financial cost of lease amounts generated from international lease contracts.
- Profit from the manufacture or industrial transformation of goods or raw materials in the country, regardless of the place of sale or disposal.
- For the contractor, the total amount of the respective contract in the case of the so-called "Turn-key" contracts and other contracts for the manufacture of material works.



Colombian legislation expressly indicates the income not considered as from a local source.

#### 7.1.2 Local partnerships and permanent stores of foreign partnerships

The general income tax rate applicable to local companies and similar ones, including the permanent stores of foreign entities and foreign legal entities or without residence required to file the annual income tax return, is 33% as from 2018.

Legal entities that are users of a free trade zone (except for the commercial users) have a 20% tariff.

Entities called "small entities" due to their assets volume and number of employees, that have incorporated by December 31, 2016, at the latest, have a special income tax rate, as follows: i) 9% during the first two years; ii)  $9\% + (\text{general tariff} - 9\%) \times 0.25$

during the third year; iii) 9% + (general tariff - 9%) \*0.50 during the fourth year; and iv) 9% + (general tariff - 9%)\*0.75 for the fifth year. These companies shall be subject to the general tariff as from the sixth year of operation.

The Colombian companies calculate their taxes on their income from local and foreign sources, and must the equity owned in and out of Colombia.

Foreign companies, branches and permanent stores of foreign companies calculate their taxes on their income from Colombian sources and must declare their income owned in Colombia.

The income tax is determined on the income that is higher between the net ordinary income and the presumptive income. The net ordinary income is the result of separating the costs and deductions authorized by the tax legislation from the taxable income.

The presumptive income corresponds to a minimum income estimated to be obtained by the taxpayer, equivalent to 3.5% of the net equity in the preceding year. If the entity determines tax losses, it shall calculate its taxes through the presumptive income system.

The taxpayers may offset from net income from the tax losses obtained, as well as the excess of presumptive income.

Local entities may deduct, based on the limitations set out by law, the taxes paid abroad on income from foreign sources they may have earned.

### 7.1.3. Individuals

Individuals resident in Colombia calculate their income tax at progressive rates. In order to determine the taxable net income, a schedules income system is applied, so that the applicable rate for work income and pension income oscillates from 19% to 29% for income higher than 1,090 and up to 4,100 Tax Value Units (UVT as per its acronym in Spanish); income over 4,100 UVT are subject to a 33% rate<sup>6</sup>.

In the case of capital income and non-work income, other rates apply that oscillate from 10% to 33% for income higher than 600 and up to 4,000 UVT; income over 4,000 UVT are subject to tax at a 35% rate.

Income for dividends from profits that have paid taxes in Colombia in charge of the distributing company are subject to a 5% rate if higher than 600 and up to 1,000 UVT, and those over such limit shall be subject to a 10% rate. If the dividend distributed

is from profits that have not paid taxes in Colombia in charge of the distributing company, a 35% rate shall be applied, and the afore described rates from 5% to 10% must be later applied.

Individuals residents in Colombia are subject to taxes on their income and occasional gains from world sources and must report their equity owned in Colombia and abroad. Individuals no resident in Colombia calculate taxes on their income from Colombian sources and report their equity owned in Colombia.

### 7.1.4. Regime of Entities Controlled Abroad (ECE as per its acronym in Spanish)

An ECE is an investment means with no residence in the country, that is controlled by a Colombian tax resident. If the Colombian tax resident owns, whether directly or indirectly, an interest equal or higher than 10% of the ECE's capital or its results, and at least 80% of the ECE's total income is from passive income, the Colombian tax resident shall obtain passive income, according to its interest in the ECE that he/she must include in his/her income tax return.

### 7.2. Income Tax Surcharge

This surcharge applies to the taxpayers that have a taxable basis on the income tax equal or higher than COP\$800 million (approx. USD\$267,000). The first COP\$800 million in the taxable basis are not subject to such surcharge.

The surcharge rate shall be 6% for 2017 and 4% for 2018%.

### 7.3. Tax on Occasional Gains

Tax on occasional Gains applies to the income from certain operations expressly listed by the law, among which are the income obtained from the disposal of fixed assets owned for more than two years and the income from inheritances, legacies, donations, and similar acts, as well as the income earned from the spousal portion.

This tax rate is 10%.

### 7.4. Value Added Tax (VAT)

This is national tax that mainly applies to the sale of corporate furniture and real estate that are not assets and that are not excluded, the sale or assignment of rights on intangibles related to the industrial property, the provision of services in the national territory and abroad, and the importation of corporate furniture that are not expressly not excluded.

The party required by the tax authority to collect and pay the tax is whoever performed any of the generating

<sup>6</sup>A Tax Value Unit (UVT) is equivalent to COP\$33,156 (USD\$11.05).

facts, despite whoever financially supports this tax is the final consumer. It has three differential rates of 0%, 5% and 19%.

Exportation of goods and services is VAT exempt. Some specific goods and services are excluded, such as transportation services, education services, utilities, and interests, among others.

### **7.5 Tax on Financial Movements (GMF)**

GMF applies to the financial transactions that include funds deposited in current or savings accounts and deposit accounts at the Central Bank, as well as cashier checks.

The tax rate is 0.4% of the total financial transaction amount through which the funds are disposed of.

### **7.6. Consumption Tax**

The consumption tax applies mainly to the food services provided by restaurants, cafeterias, self-service restaurants (8%), mobile phones (4%), and used taxable vehicles (8% or 18%), depending on the FOB value, among others.

### **7.7. Real Estate Tax**

It is a tax that applies to the real estate owned, in charge of the owners, keepers or users, at each municipal jurisdiction. The rate oscillates from 0.3% and 3.3%, approx., and applies to the real estate appraisal in force or to the self-appraisal.

### **7.8. Industry and Commerce Tax (ICA as per its acronym in Spanish) and the Complementary Tax on Signs and Boards**

It is a municipal tax that applies to the revenues applied by the performance of industrial, commercial and service activities, that are performed or carried out, whether directly or indirectly, individuals, legal entities or de facto companies in the respective municipal jurisdictions. The rate varies at each municipality, but it oscillates around 1%.

### **8. Agreements to Avoid Double Taxation**

Colombia has celebrated agreements to avoid double taxation in the sea and air transportation with Argentina, Germany, Italy, Brazil, the United States and Panama.

In addition, it has subscribed several agreements to avoid double taxation and prevent tax evasion (CDI), which in general cover the income and equity tax, with Ecuador, Peru, Bolivia, Spain, Portugal, Canada, Chile, Switzerland, Mexico, India, the Czech Republic, and South Korea.

### **9. Transfer Prices**

Colombian regulations regarding Transfer Prices has

been prepared based on the guidelines by the Organization for Economic Co-operation and Development - OECD.

In light of that regime, income tax payers who perform operations with related parties abroad must determine their ordinary and extra-ordinary income, costs and deductions, and their assets and liabilities, considering the prices and profit margins used in operations comparable with or between independent parties.

Special consideration must be given to the related parties located abroad, in free trade zones and/or to individuals located or residents in non-cooperating jurisdictions, with a low or null taxation, and with preferential tax regimes.

## **10. Foreign Investment and Exchange Aspects**

### **10.1. General and Control Aspects**

The exchange market is free, with specific exceptions that determine the operations that must be mandatorily channeled through the exchange market.

The transactions that must be channeled through the exchange market, with a stockbroker of the foreign market and/or through an clearing account (bank account in foreign currency), are: foreign investment and the wire transfer of profit, investment, Colombian investments abroad and their profit, importation and exportation of goods, external indebtedness of Colombian residents and their financial costs, operations from financial derivatives and endorsements and warranties in foreign currency.

### **10.2. General Exchange Regime**

It applies to the companies incorporated under the Colombian legislation and the branches of foreign companies not dedicated to the oil and mining sector (coal, uranium and ferronickel).

Under this modality, Colombian residents, with some exceptions, may not pay their liabilities with other residents in a foreign currency.

Access to the exchange market is allowed in order to obtain the funds in a foreign currency to pay his/her liabilities to non-residents. Importation and exportation of goods are managed through this regime and access is granted to internal and external indebtedness.

### **10.3 Special Exchange Regime**

Applicable to branches of foreign companies dedicated to the exploration and exploitation of hydrocarbons, coal, uranium, and ferronickel, and the branches that provide services to the oil sector, exclusively.

Under this modality, branches are authorized to receive

and make payments in a foreign currency in the country, provided the foreign currency is from funds obtained as a result of its operation, not being required to reintegrate the funds from their sales in a foreign currency to the local exchange market.

#### 10.4 Foreign Investment

The investment of foreign capital is allowed, even for the purchase of real estate property. The investment in national security and defense is not allowed, along with the processing and disposal of toxic, hazardous and radioactive waste produced abroad.

The foreign investment classes are called direct and portfolio investment.

Direct investment is understood as the purchase of shares, interests, social quotas, capital contributions or bonds mandatorily convertible into shares; the acquisition of stand-alone trusts created by means of trust contracts for the development of a company, supplementary investment of capital allocated to the branches in Colombia; the purchase of real estate properties and stock certificates derived from a real estate securitization process and the acquisition of interests in private capital funds.

Portfolio investment is understood as the acquisition of shares, bonds mandatorily convertible into shares, and other securities registered in the National Securities Registry; this investment is considered as speculative and not with a long-term investment purpose.

#### 11. Contracts with the Government

The regulations to contract with the government are listed in the General Contracting Statute for Public Administration, applicable to all public entities in accordance with the Laws 80 of 1993, 816 of 2003, 1150 of 2007, 1450 of 2011, 1474 of 2011, 1508 of 2012, Decree 19 of 2012, Decree 1510 of 2012, among others; however, there are entities which contractual activity is subject to private contracting regimes.

The contractor's selection process may take place through any of the following modalities: tender, short-term or abbreviated selection, direct contracting, merits contest, or contracting for a minimum amount.

#### 12. Environmental Aspects

The Code of Renewable Resources, a law enacted in 1974, determines the requirements to obtain the environmental license to develop projects, civil works or activities that affect the renewable resources or the landscape; requirements for the prevention, mitigation, correction, compensation and management of environmental effects may be imposed in respect to the activities that must be undertaken as part of the project.

A license is required to carry out hydrocarbons, mining, electrical, hydrological, maritime, port, land, and air projects, and for nuclear energy, railroads, irrigation and public fluvial works, and at national natural reserves.

#### 13. Intellectual Property

Intellectual property rights are divided into two categories:

- a) Industrial property related to inventions, patents, Industrial designs, layout design of integrated circuits, industrial secrets, and distinctive signs, like slogans, brands, names and commercial emblems.
- b) Copyright related to the protection granted to scientific, artistic and literary works susceptible of reproduction or distribution in any way, including to the rights of artists, interpreters, and producers of sound recordings, and holders of copyrights of computing software.

The Superintendency of Industry and Commerce is the Government regulating entity in charge of the control and registry of the industrial property and copyright.

#### 14. Financial Sector

The sector is under the supervision of the Superintendency of Finance, the state entity competent to inspect, supervise and control.

Other regulating entities are the Central Bank (Banco de la República) and the National Direction of Taxes and Customs (DIAN). The financial activity is considered as public interest and it may only be exercised previous authorization by the Government.



# Republic of Costa Rica

## 1. Company Information

Servicios Profesionales MS Costa Rica S.A.

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## 3. Country Profile

Costa Rica is known for its stable democratic tradition. The current constitution was enacted in November of 1949. Its political structure is based on a republican, representative system with three branches:

**Executive Branch:** it is headed by the President and two Vice Presidents, elected by direct popular vote for a 4-year non-renewable term. Other members of the Executive Branch include 18 ministers appointed by the President.

**Legislative Branch:** this unicameral power is represented by the Legislative Assembly, with 57 members, elected by direct popular vote for a 4-year term. The Assembly is the first power of the Republic.

**Judicial Branch:** it includes the Supreme Court of Justice, which has 22 magistrates elected by the Legislative Assembly for an 8-year term, the civil and criminal courts, labor courts and the electoral court (the latter is independent of political powers).

### 3.1 Geography

Situated in the geographic center of the Americas, Costa Rica is bordered by Nicaragua to the North, by Panama to the South, by the Pacific Ocean to the West and



the Caribbean Sea to the East. Three mountain ranges define Costa Rica, forming five distinct regions: the tropical lowlands on the Pacific and Caribbean coasts, the North Central tropical plains, the Central Valley highlands, and the broad mostly low Northwestern region.

The Central Valley's easy access and temperate climate, with an average temperature of 20 degrees Celsius (68 degrees Fahrenheit), have attracted two-thirds of the country's population, and an even greater proportion of the industrial sector. It is also the site of the capital city, San José, with an extension of 9.47 sq. km. (3.66 sq. miles) and an elevation of 1,150 meters (3,773 feet) above sea level.

### 3.2 Road system

Costa Rica has one of the best-developed road systems in Central America. There are more than 7,000 km of main highways and roads and some 16,000 km of rural roads. There are good taxi and public transportation services in the San José area.

### 3.3 Air Travel

The main international airport, Juan Santamaría, is serviced by 17 international passenger airlines and 10 international cargo airlines. A new terminal is now operational that has increased the airport's capacity and enhanced a variety of services.

The Daniel Oduber Quiros Airport serves tourists coming to visit Costa Rica's beautiful beaches in the Guanacaste area. The airport was re-inaugurated in October 1995. In addition, there are approximately 31 small airfields in rural areas of the country.

### 3.4 Shipping

Several shipping companies offer regular and frequent cargo service for containers from both coasts to the United States, Europe, Japan and Latin America. The largest of all ports, Limón, handles almost 80% of all cargo. On the Pacific Coast, Puntarenas, a new pier

was recently completed with funding from Taiwan, which will also receive visiting tourist cruise ships.

Another port located 90-miles from San Jose, Puerto Caldera, was built in 1982 to replace the aging Puntarenas port. Caldera has ample storage space, three berths, and a passenger terminal. Caldera is a busy port handling approximately 30 to 40 ships per month. All three ports can service containers and roll on/roll off cargo.

In early 2018, the company APM Terminal expects to initiate the operation of a modern mega port, with an investment of approximately 1,000 million dollars, an area of 80 hectares, a pier of 1,500 meters, five docking stations, a breakwater and an 18-meter deep-access channel, which will serve as shipping center for the Caribbean and Central America.

### 3.5 Communications

The Costa Rican telephone system is excellent, offering direct dial access to most countries. Public telephones are found throughout major cities. Costa Rica has a fully automated telecommunications system of high excellence both at national and international level, including facsimile facilities and e-mail. Cellular telephones were introduced in 1994 by both government and private operators, and there is currently coverage throughout the country.

### 3.6 Political History

For a century and a half, Costa Rica has been building a stable society with benefits shared by all.

The country's commitment to socioeconomic development is evident in present-date Costa Rica: the nation with the most equitable distribution of wealth, highest health standards, and longest life expectancy in Central America. In 1990, the United Nations cited Costa Rica as having the best human development indexes among developing nations.

In 1996, Costa Rica again tops the list of Central America in terms of human development. For years, this small republic's democratic traditions and peaceful business climate have encouraged and successfully attracted foreign investment. This is underscored by the Costa Rican Political Constitution, which, except for participation in political affairs, guarantees foreign investors the same legal rights as Costa Rican citizens.

All this translates into an ideal place to conduct business. The country's industrial base is strong; the highly educated labor force is easy to train; production infrastructure is available; and a modern, efficient communications system ensures easy access to the global marketplace. In addition, the country has signed several

multilateral and bilateral trade agreements with other nations, allowing for preferential access to foreign markets. The business environment is second in importance in the region. A quick analysis and comparison of Costa Rica's social, political and economic policies with those of its neighboring countries make Costa Rica the best choice for international investors seeking good opportunities for their technology and know-how.

The colon is the official currency, divided into 100 cents. For local and international transactions, the US Dollar and Euro are the foreign currencies mostly used.

### 3.7 Population

The majority of Costa Rica's almost 5 million inhabitants are descendants of Spanish and other European families. Costa Rica's population growth rate has been relatively stable over the last four years, reaching 1.4 percent in 2013. The Central Valley is the main area of concentration, which will continue to absorb about 60% of this growth, and is expected to become one giant metropolitan area comprising San Jose, Alajuela, Heredia, and Cartago. Promotion of family planning over the last 20 years has lowered the birth rate and altered demographic trends. In 1960, about half of the population was 15 years of age, in the late 70s, that figure was 20%, meaning that the productive population (ages 15-64) has increased from 49 to 67 % as of today.

### 3.8 Language

The country's official language is Spanish. English is the most widely spoken foreign language, and the most commonly used within the business community.

## 4. The Economy

Costa Rica has a market economy with major government participation in several sectors: insurance, refineries and major service industries. They are dominated by public corporations, although family-owned companies are also common. Electricity, telephone, water, insurance as well as other important industries are semi-autonomous or state monopolies. However, there are currently private energy-generating companies, private telephone and data transmission (broadband Internet) service providers and private insurance companies.

Both the public and private sectors recognize that foreign private investment is essential to increase exports and employment in the country. This is especially relevant in light of decreased U.S. aid to the country over the last several years. Import authorizations or licenses have been virtually eliminated and the tariffs have been reduced from nearly 80 to 20% for most non-durable goods, and to 10% for capital goods. Import taxes have decreased substantially for raw materials; since 1999, taxes on capital goods are 1% and 15% for finished products.

#### 4.1 Free Trade Zones Regime

The Free Zones Regime was created by the Law of Free Zones No. 7210. The law establishes a group of incentives and benefits granted by the country to companies making important investments in the country and the requirements they need to meet under the law to have access to the regime.

Companies benefitting from this regime are supervised by a governmental office called PROCOMER (Foreign Trade Promoter), which is attached to the Ministry of Foreign Trade of Costa Rica.

The law establishes categories of companies that may qualify for the regime, such as manufacturing, production, repair and maintenance of goods, merchandise redistribution and provision of services for export or re-export.

Most incentives provided under the law are of a fiscal nature, particularly exoneration of certain taxes.

#### 4.2. Investments and export incentives

The failed protectionism model of the 1960s and 1970s forced manufacturers to seek new markets outside Central America and improve their production, pricing, and quality of their products. Because of increased world production and competition, the country's traditional, mostly agricultural, products commanded low prices. In order to promote both domestic and foreign investment in non-traditional exports, the government streamlined import and export procedures and implemented a structural adjustment program to carry out economic reforms.

Today, fiscal incentives are available for reforestation and tourist oriented projects.

#### 4.3. Aims of Government Policy with regard to the Economy

Government policy is directed toward stimulating economic growth, especially in distant non-urban areas, and toward privatizing as much as possible state-owned industries and services currently under state monopoly. Industrial decentralization is a major objective of government economic planning and regional incentives are available.

#### 4.4 Trade Agreement and Treaties

Costa Rica has signed trade agreements with Central America, Canada, Caricom, Chile, China, United States, Dominican Republic, Mexico, Panama, Colombia, Peru, Singapore and the European Free Trade Association. It also has bilateral investment agreements with Germany, Argentina, Canada, Chile, Taiwan, Korea, Spain, France, Netherlands, Paraguay, Czech Republic, Venezuela, Switzerland, Qatar, and China. In addition, it has signed a multilateral agreement with the World Trade

Organization (WTO).

Likewise, Costa Rica has made agreements on Information Exchange on Tax Matters with Argentina, Canada, Ecuador, El Salvador, Spain, United States, Finland, France, Guatemala, Netherlands, Honduras, Mexico, Nicaragua, Norway, Sweden and South Africa. There are also two current agreements to avoid Double Taxation with regard to income and equity taxes with Spain and Germany. A third agreement of this nature with Mexico is current up for legislative review.

A Tax Information and Exchange Agreement (TIEA) with the United States became effective in 1991. Under this agreement, Costa Rica is now eligible for Section 936 funds. These are profits earned by U.S. companies in Puerto Rico that are tax exempt in the United States if such profits are invested in any Caribbean Basin country. In addition, the TIEA enables U.S. companies to hold conferences or seminars in Costa Rica and deduct those expenses on their U.S. income tax returns.

In addition, Costa Rica subscribed in 2013 an inter-governmental agreement with the United States to implement "The Foreign Account Tax Compliance Act" of FATCA, which seeks to obtain information about U.S. taxpayer accounts in other countries to fight tax evasion abroad and promote transparency.

#### 4.5 Currency Exchange Controls

The Central Bank of Costa Rica is responsible for formulating the monetary and currency exchange policy in the country. It is also responsible for promoting favorable conditions to strengthen, ensure liquidity and solvency, and proper functioning of the financial system.

#### 4.6 Capital repatriation

Although it is no longer necessary to register foreign capital with the Central Bank to ensure capital repatriation, investors are advised to convert their foreign currency through the national banking system.

#### 5. Business entities

All matters relating to commercial enterprises are governed by the Code of Commerce. Foreigners are granted full freedom to acquire and operate businesses in Costa Rica with some exceptions in the area of communications. One important provision, however, is that foreigners cannot carry out business in their personal capacity unless he or she has accumulated ten years of legal residency. The most widely chosen alternative is to carry out business through a legally constituted and registered corporation in Costa Rica.

##### 5.1 Types of companies

Costa Rican law allows five types of companies:

- Stock Corporation (Sociedad Anónima)

- Limited Liability Company (Sociedad de Responsabilidad Limitada)
- Collective companies (Empresa Colectiva)
- Limited Liability Partnership (Empresa de Responsabilidad Limitada)
- Individual enterprise with limited liability (Empresa individual de Responsabilidad Limitada) (this option is the only one regarded as an individual rather than corporate figure).

Of these five, the first two are the most common.

### 5.1.1 Stock Corporations

By far the most popular form of commercial company, the stock corporation is a public entity whose members are liable only to the extent of their own contributions. Alike the case of limited liability companies, a minimum of two shareholders (partners) is required. A basic difference is that the administration of a Stock corporation is more sophisticated. The company is constituted through duly registered shares. Share titles are recorded only in the company's shareholder register, a private record whose access is restricted to shareholders and/or administrators. Third parties may have access only by means of judicial resolutions.

Shareholders are not necessarily the people constituting the corporation; instead, members or employees of the legal agents organizing the incorporation usually act as incorporators in a formal capacity, and once the corporation is registered, the shares are delivered to legitimate shareholders. There must be a board of directors with at least three directors and an overseer, all of whom may be foreigners if desired. The name of the corporation must be registered (and be different to those already registered) and followed by the words *Sociedad Anónima*, or the abbreviation S.A.

### 5.1.2 Limited Liability Company.

The limited liability company is a stock-held corporation, with a minimum of two shareholders (partners) required for its constitution; each is only liable for their own contribution. The share capital is represented by nominal shares, which can only be transferred by assignment and with the prior consent of shareholders.

This type of company requires an administrator, and therefore, is suitable for medium-sized enterprises, where the basic needs pertain to the limitation of liability/risk and simple administration. It is the only required position, which acts as a manager with a general power of attorney, though other positions may be included. The company name must include either the phrase *Sociedad de Responsabilidad Li-*

*mitada* (Limited Liability Company) or the abbreviation S.R.L. or Ltda. and it must appear on all forms of publicity, invoices, publications, and other documents. A limited liability company is not dissolved automatically upon the death, interdiction, or bankruptcy of a partner unless otherwise provided for in its charter. Bankruptcy of the company does not extend to its partners. They are only liable to the extent of their contributions to the capital. With the exception of stock corporations, this is the next most common figure used to constitute a company.

### 5.1.3. Foreign companies

Foreign companies may operate branch offices or transfer their headquarters to Costa Rica. Branch offices are subject to Costa Rican Law. They must submit to the Commercial Registry a certificate or statement issued by the Costa Rican consul or other friendly nation's consulate stating that the prospective branch office has been authorized by its headquarters, to operate in Costa Rica. Foreign companies headquartered in Costa Rica continue to be governed by the laws of the country of origin with regard to their constitution, but they are bound by Costa Rica public law and obligated to pay income tax on the income generated in Costa Rica. Foreign enterprises may also operate in Costa Rica through a representative who is granted a power of attorney to act as such. This power has to be registered at the National Public Registry.

## 6. Specific information on legal ways of doing business

Powers of Attorney, guarantees, as well as trusts, can be useful for doing business. The different types used in Costa Rican are described and explained in this section, as well as pertinent aspects of business-related legislation.

### 6.1 Powers of Attorney

The document that gives certain rights to act in the name of and on behalf of another person is known as a Power of Attorney. A power of attorney is a rather common legal instrument that allows foreign investors to delegate the handling of certain business matters to their attorneys or other trusted representative. The person granting the power of attorney is known as the "grantor". The person or entity who receives the power is known as the representative or proxy ("*apoderado*"). There are four types of power of attorney, which allows the power delegated to be adjusted to the nature of the task or type of actions needed.

#### 6.1.1 Special Power of Attorney

A special power of attorney is granted for a given action in or out of court. Once this action is completed, the power of attorney ceases.

### 6.1.2 Very Special Power of Attorney

The law requires a very special power of attorney (especialísimo) to perform very concrete actions established by law, for example, to engage in marriage or make a donation through a proxy.

### 6.1.3 General Power of Attorney

The characteristic of this power is to grant ample authority for the management of one or several businesses as specified in the power, such as, for example, to enter into agreements or perform actions to maintain or exploit assets of the business, demand payment of credits in judicial or extra-judicial proceedings and give the corresponding receipts, in addition to performing all legal actions required by the nature of the business as part of company operations.

### 6.1.4 Very General Power of Attorney

Through this type of power of attorney, the representative or proxy may, for all the actions listed by the grantor, sell, mortgage or in any other way transfer or encumber any type of property; accept or relinquish inheritances, arrange for the execution of any type of contract in court or any other action that the grantor may require, as may be determined in the power.

### 6.2 Trusts

The Code of Commerce contains provisions allowing the establishment of trusts. A trust is a contract through which a legal or physical person (called "trustor") transfers goods, money or right of ownership to another legal person or entity, called "trustee", and the responsibility to manage them according to the terms of the contract. Any person or legal entity having the legal capacity to acquire rights and contract obligations may serve as a trustee.

The original instrument designates the beneficiary (or trustee) who is to receive the assets of the trust. If no designation exists, then the assets are returned to the trustor or heirs. A business can be the object of a trust and become a separate or independent asset for the purposes of the trust.

The following trusts are prohibited by law:

1. A trust made for secret purposes.
2. Trusts having a duration of more than thirty years if the trustee or beneficiary is a charitable, cultural, scientific or artistic entity.
3. A trust in which the trustee is allotted earnings, commissions, premiums, or advantages other than the remuneration indicated in the original instrument or determined in a judicial action.

## 7. Accounting Requirements

### 7.1 Accounting

Public and private companies are required to maintain accounting records as established in the Code of Commerce and the Income Tax Law, which also requires that the annual financial statements be prepared in accordance with International Financial Reporting Standards (IFRS), as well as other requirements for annual statements. Costa Rica adopted the IFRS in 2001.

### 7.2 Auditing

According to the Law for the Professional Association of Public Accountants, only registered members are qualified to perform audits. External audits are mandatory for banks, pension funds and other financial institutions only. The accounting and auditing standards are laid down by the Professional Association of Public Accountants and are based on the International Auditing Standards.

## 8. Labor Relations

Though labor costs are somewhat higher in Costa Rica than in neighboring countries, the labor force also has a higher level of education and generally a higher level of productivity. The U.S. Embassy, in its "General Business Information on Costa Rica" states, "the Costa Rican labor force can be characterized as relatively well-educated, skilled and easy to train. The average worker has demonstrated a willingness to seek and an ability to absorb specialized training". Labor regulations have their legal base in the Costa Rican Labor Code; additionally, as of the year 2000 the Law on Protection of Workers expanded certain labor rights.

Since its enactment in 1943, the Labor Code has been the country's principal law concerning labor relationships, establishing the rights and responsibilities for both workers and employers.

A law approved by the Legislative Assembly in December 2015 will come into force in July of 2017 called Labor Procedure Reform. This law modifies essential aspects of judicial and extra-judicial procedures in terms of labor law. In addition, it establishes the prohibition of all forms of discrimination in the workplace, whether for age, ethnic origin, sex, religion, race, sexual orientation, civil status, public opinion, national extraction, social origin, affiliation, disability, labor union affiliation, or financial situation.

As a recommendation, potential investors should consult with a lawyer specializing in labor law to understand this law in depth and comply with all its requirements.

### 8.1 Foreign employees

All foreign workers require a work permit. The employer has to submit a request to Immigration Office, which, in turn, will present its opinion to the Ministry of Labor and Social Security.

### 8.2 Working hours

The law establishes three different shifts within the workday. The day shift is between 5:00 a.m. and 7:00 p.m., 8 hours per day, not to exceed 48 hours weekly. The night shift is any six hours between 7:00 p.m. and 5:00 a.m., not to exceed 36 hours weekly. Finally, a mixed shift is up to seven hours of both day and night hours, not to exceed 42 hours weekly.

Overtime is paid at time and one-half the normal hourly rate (50% additional). The workday including overtime may not exceed twelve hours per day. No overtime is allowed when working conditions are dangerous or unhealthy. Employers must pay double time for work on holidays.

### 8.3 Holidays and Annual Leave

Costa Ricans receive remuneration for all mandatory holidays listed in the Labor Code. Religious or civic holidays are not paid by law, and the decision to give time off varies according to the employer. If a company needs to work on a holiday, it can do so by letting employees know in advance and paying double rate as established by law.

In addition to these holidays listed in the Labor code, a worker is entitled to two weeks of paid annual leave for every 50 weeks of continuous employment with the same employer. Employees terminated before the 50-week period is completed are entitled to receive pay for one day of annual leave for every month of employment. In practice, additional annual leave is a common benefit offered by employers, especially as part of executive packages.

### 8.4 Sick leave

According to the labor Code, the employer is required to pay 50% of an employee's salary during the first three days of sick leave. As of the fourth day, the social security system (*Caja Costarricense de Seguro Social*) pays 60% of the worker's salary with no further obligation from the employer except to allow the employee to return to work after the sick leave period. It is customary, however, for big companies to pay the employee's salary in full for those first three days. Sick leave per person averages approximately four days per year.

### 8.5 Maternity leave

Expectant mothers enjoy special protection specifically regulated in the Labor Code. As part of this protection, women in a state of pregnancy are entitled to up to

four months of maternity leave, one month before and three months after the expected delivery date. The law establishes that while on maternity leave, the employer is required to pay 50% of the employee's salary and the Social Security Office covers the remaining 50%.

### 8.6 Leave for work-related injuries

The Occupational Risk Insurance of the National Insurance Institute (INS), as determined by the relevant legislation, is a mandatory requirement for employers. This insurance covers temporary or permanent leave, resulting from job-related accidents or illnesses which occur during the workday, or even when the employee is commuting to the workplace.

During the first three days of leave, the employer must cover the employee's salary. As of the 4<sup>th</sup> day and up to 45<sup>th</sup> day of absence on leave, the occupational risks insurance policy covers 60% of the salary reported over the previous three months prior to the accident. After these 45 days of leave, the policy covers 100% of the minimum legal wage for the employee's job category, plus 60% over the surplus between the minimum and normal wage, based on the average reported salary over the last three months prior to the accident.

The cost of the occupational risks insurance to be paid by the employer on behalf of its employees depends on the risk category determined for each activity and ranges from 1% to 7% of the annual payroll. The policy may be paid on a quarter, semester or annual basis.

### 8.7 Wages and salaries

Minimum wages are established considering increases in the cost-of-living and productivity in the country. In October 2016, a new methodology was approved, and the wage review is now performed on an annual instead of semester basis. This methodology became effective in January 2017. Employees generally work 48 hours a week and are paid weekly or by half-month periods. Salaries of white collar and domestic employees are based on working hours of approximately 200 to 220 hours per month and are generally paid on a half-monthly basis. Costa Rica has a very competitive labor force, which motivates employers to pay above the minimum wage if they want to maintain a reasonable turnover rate.

Salaries can be paid by bank check; however, companies usually use banking services to transfer salaries into personal employee accounts.

#### 8.7.1 Mandatory payroll deductions and bonuses Social Security

The social security system operates through the Costa Rican Social Security Office and covers health, compensation and pensions for retirement, disability, old age and death. The system has three-fold

financing: state, employer and employee contributions. These contributions are proportional to the gross salary of the insured employee. The employer contribution is currently 26.33% of the salary of each employee. On the other hand, the employee contribution is 9.34% and is deducted from the monthly salary.

### Christmas Bonus (13-month salary)

All workers are entitled to receive a Christmas bonus equivalent to one-twelfth of their annual income within the first twenty days of December. The employee does not pay taxes on this bonus, and the employer may deduct the amount paid as Christmas bonus from the tax base for income tax purposes.

### Fringe Benefits

Costa Rican companies often grant workers benefits over and above those mandated by law. Such benefits vary widely, but commonly include subsidized food, uniforms, transportation, company medical services, and education and scholarship programs.

## 9. Taxes

### 9.1. The Costa Rican Tax System

Tax regulations in Costa Rica are based on territoriality criteria. In this sense, the Law on Income Tax states that the income subject to taxation is that which is considered to be of Costa Rican source. To these effects, the law considers the income originating from services rendered, assets located in Costa Rica, and capital used within the national territory as Costa Rican income sources.

In addition to the above, the Costa Rican tax system is characterized by the use of income/product criteria and a scheduler system. With respect to income/product, the law states that only the income derived from income-generating activities or normal commercial business of taxpayers will be considered for income tax purposes.

Finally, the scheduler model of income tax consists of a division of income tax into schedules, depending on their origin. Each schedule has its own rules to calculate the taxable base and differentiated rates. There are five schedules under the law: profit tax, tax on dividends, tax on financial market returns, tax on wages and tax on foreign remittances.

#### 9.1.1. Profit Taxes

The law states that all public and private companies involved in profitable activities or business within Costa Rica are subject to the payment of income tax, regardless of their nationality, domicile, place of constitution of the company or the place where board meetings or contracts are held. This applies to

all companies legally constituted in the country, as well as branch offices, agencies and other permanent establishments operating in Costa of non-resident persons.

With respect to physical persons, the law states that any person undertaking profitable activities in the country, regardless of their nationality, is subject to this tax, including liberal professionals.

### Fiscal Year

The fiscal year runs from October 1 to September 30 of the following year. Nonetheless, in the case of corporate branches that prepare consolidated financial statements in conjunction with their headquarters, the law gives companies the possibility of requesting authorization from the Tax Office to adjust their fiscal year to the calendar year (January 1-December 31).

### Rates

With the exception of free trade zones, exports of reforestation products and tourist-oriented activities, the net tax rate for corporations subject to profit taxes based on their annual gross income, is as follows:

#### a. Corporate Rates

Legal Entities	30% Rate
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**Small businesses:** Companies whose annual gross income does not exceed ₡106,835,000.0

Gross Income in Colones	Gross Income in dollars*	Rate
Up to ₡ 53,113,000.00	\$95,844.00	10%
Up to ₡ 106,872,000.00	\$190,777.00	20%

#### b. Rates for physical persons with profitable activities

Annual Net Income in Colones	Annual Net Income in Dollars*	Rate
Up to ₡3,549,000.0	\$6,337.00	Exempt
Over the excess of ₡ 3,549,000.00 up to ₡ 5,299,000.00	Over the excess of \$6,337.00 up to \$9,463.00	10%
Over the excess of ₡ 5,299,000.00 up to ₡ 8,840,000.00	Over the excess of \$9,463.00 up to \$15,786.00	15%
Over the excess of ₡ 8,840,000.0 up to ₡ 17,716,000.00	Over the excess of \$15,786.00 up to \$31,635.00	20%
Over the excess of ₡ 17,716,000.00	Over the excess of \$31,635.00	25%

\*The rate of exchange used in this case was ₡560.00 for each U.S. Dollar

The above rates are applied to the taxpayer's net income. The net income is the result of deducting all the necessary and pertinent costs and expenses used to generate that income from the gross income.

### **Deductible Expenses**

For expenses to be considered deductible, they must be useful and necessary to produce the taxable income. Additionally, there must be proof of payment with vouchers that comply with the requirements and authorization of the General Tax Office, including any retentions required by the Income Tax Law, if applicable.

The General Tax Law provides an example of expenses that can be considered deductible, as long as they comply with the above-mentioned requirements.

The following is a summary of deductions that corporations may apply in calculating the profit tax:

- The costs of goods and services sold, such as the purchase of goods and services for the object of company activities, including raw materials, parts, components and services needed to produce taxable income.
- Wages of the people with whom the company has an employment relationship, as long as the income tax on wages and social contributions of the Social Security Office have been withheld.
- Taxes and fees levied against the goods, services and transactions carried out in the normal course of business or activities undertaken by physical persons, with the exceptions outlined in the law.
- Insurance premiums for policies covering fire, theft or robbery and similar risks, paid to the National Insurance Office or another authorized insurance provider.
- Interests and financial expenses paid or incurred by the taxpayer during the fiscal year, directly related to company operations and the generation of income.
- Evident bad debts if related to transactions in the ordinary course of business and only when all legal efforts have been exhausted to collect the debt.
- Depreciation to compensate wear and tear, or financial obsolescence of tangible goods used to produce company income.
- Social Security contributions (employer share) established by law.
- Payments to persons not domiciled in Costa Rica for royalties, the use of formulas, trademarks, technical, financial or other assistance, franchise and similar fees, as long as the company has made the corresponding tax withholding.
- Organization, publicity and promotion expenses, among others.

### **Depreciation**

Unless authorized by the Tax Administration, depreciation rates cannot be higher than the amounts established under the Income Tax Law and its Regulations. Companies may choose either the straight line or the sum-of-digits methods of depreciation. Once the method has been chosen, it must continue to be used consistently.

Likewise, the Tax Administration may authorize accelerated depreciation methods in very specific cases such as for companies dedicated to activities requiring constant technological upgrades, which have to purchase new assets in order to maintain and strengthen their comparative advantages.

### **Nondeductible Expenses**

Expenses that cannot be deducted from the gross income are those that are not useful or necessary to generate taxable income or that fail to comply with the deduction requirements established under the Income Tax Law such as: being excessive, not reasonable or that belong to another tax period. Some examples of non-deductible expenses are the following:

- Income taxes, general sales taxes, selective consumer taxes at the established rates when such taxes have been paid by either the legal or physical person as a taxpayer; the same applies to surcharges, late fees and interest paid in respect of any tax.
- Profits, social participations or dividends paid or credited to partners of a legal entity.
- Expenses relating to luxury investments or personal recreation.
- Remunerations not subject to the Social Security regime.
- Subsistence costs of the taxpayer and family, among others.

#### **9.1.2 Taxes on dividends**

Dividends have a tax rate of 15% over the amount credited or paid to a partner or shareholder. This rate does not apply in the following cases: i. if payment is made through shares of the company making the distribution of dividends, and ii. if the payment is made to another Costa Rican corporation. If the entity paying the dividends is registered in a local stock exchange and the shareholder acquires the shares through said stock exchange, the tax rate decreases to 5%.

#### **9.1.3 Taxes on Salaries**

Physical persons residing in Costa Rica who earn income from sources of dependent employment, retirement, pension or other personal services are required to pay income tax. Employers are responsible for withholding the tax each month, which is

calculated as a progression of brackets based on the following table:

Gross Income in Colones	Gross Income in Dollars*	Rate
Up to ₡ 799,000.00	\$1,427	<b>Exempt bracket</b>
Over the excess of ₡ 799,000.00 and up to ₡ 1,199,000.00	Over the excess of \$1,427 and up to \$2,140	<b>10%</b>
Over the excess of ₡ 1,199,000.00	Over the excess of \$2,140	<b>15%</b>

\*The rate of exchange used in this case was ₡560.00 for each U.S. Dollar

#### 9.1.4 Tax on Foreign Remittances

Tax on foreign remittances applies to any income or benefit from a Costa Rican source that is paid, credited or made available in any way to persons residing abroad. For the purposes of this tax, the Law establishes which income shall be considered to be of Costa Rican source, as well as special cases.

The physical or legal person resident in the country making the remittance is responsible for withholding the corresponding tax, based on the following table of rates:

Type of remittance	Rate
Transportation and communications	<b>8.5%</b>
Pensions, retirements, salaries and any other remuneration paid for personal work performed as dependent employment	<b>10%</b>
Fees, commissions, per diem, and other allowances for personal services performed without dependent employment	<b>15%</b>
Reinsurance and premiums	<b>5.5%</b>
Dividends	<b>15%</b>
Interests, commissions, and other financial expenses and commercial leasing	<b>15%</b>
Royalties, fees, technical/financial assistance	<b>25%</b>
Other concepts (non-defined)	<b>30%</b>

Payments or credits made by subsidiaries or branches to parent companies for royalties, franchises, trademarks, etc., are limited to a maximum of 10% of gross sales.

The Law establishes a general withholding tax rate of

15% applicable to the payment or credit of interests, commissions, and other retributions of a financial nature, in favor of financial institutions registered with the National Council for Supervision of the Financial System (CONASSIF) and banks classified as first-tier banks.

#### 9.2 Municipal taxes

The Municipal Code of Costa Rica stipulates that every company engaging in profitable activities must pay a patent tax to the local government or municipality of the administrative district (canton) where the activity is taking place. The company must obtain a commercial license from the municipality. The tax rate varies depending on the type of gainful activity and, in general, is calculated based on gross income, gross sales or taxable net income.

#### 9.3 Real estate tax

This tax is applicable to real estate, land, buildings and permanent structures. The tax is collected and managed by local governments (Municipalities) of the administrative district where the property is located. The responsibility for payment lies with the owners, concessionaires and occupants or holders with rightful legal title. The basis to determine this tax is related to the value of the property registered at the Municipality. The annual rate is 0.25%.

#### 9.4 General Sales tax

The current approved sales tax rate is 13%, which is applied to the net selling price. According to the General Sales Tax Law, this tax is only applicable to the sale or import of goods and services specifically mentioned in the Law. This tax is therefore considered an imperfect value added tax.

The sales tax is reported and payable on a monthly basis over previous month sales, less the amount paid within that month to suppliers.

In the case of imports, sales tax is paid as part of the import duties required for the release from customs of the goods. However, some import goods are exempt from sales tax. The end consumer is the person assuming the tax, and businesses have the responsibility of collecting, reporting and transferring those taxes to the Tax Administration.

##### 9.4.1 Import Tariffs

When Costa Rica entered the GATT (General Agreement on Tariffs and Trade) in 1990, the country had a 55% tax on imports. Under the GATT this percentage decreased in June 1993 to a maximum of 20% and a minimum of 5% with a few exceptions. However, luxury items such as cars are subject to tariffs and taxes that combined can reach 100%,

including selective consumer tax, among others.

#### 9.4.2 Tax reform

In this year a tax reform is planned, which will be carried out both in Income Tax and Sales Tax, therefore the data placed in this report may vary.



# Republic of Ecuador

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## 3. Country Profile

The Republic of Ecuador is a constitutional State of rights and social justice, democratic, sovereign, independent, unitary, plurinational and secular intercultural. It is organized in the form of a Republic and governs in a decentralized manner. The country has an extension of 283,561 km<sup>2</sup> and an estimated population of 17'023,408. The State is organized territorially in regions, provinces, cantons and rural parishes.

In Ecuador there are 24 provinces. The powers of the state are divided into five functions, Executive Function, Legislative Function, Judicial Function, Function of Transparency and Social Control and Electoral Function.

## 4. Investment

### 4.1 National Investment Regulations

With the issuance of the Organic Code of Production, Trade and Investment, it is intended to regulate the production process in the stages of production, distribution, exchange, trade, consumption, handling of externalities and productive investments oriented to the realization of Good Living.



Ecuador also has the Organic Law of Regulation and Control of Market Power that seeks to prevent, prevent, correct, eliminate and sanction the abuse of economic operators with market power.

Additionally, the entry into force of the Organic Law of Incentives for Public-Private Partnerships provides tax benefits to investment projects carried out under the public-private partnership modality. This consists of a strategic alliance between private companies and the Ecuadorian State. Within the benefits, they find exemptions from the Income Tax, from the Exit of Foreign Exchange Tax and foreign trade taxes; among other additional benefits defined in the tax law.

### 4.2 Public-sector contracts

In order to become a state supplier, natural and legal persons must be qualified as such in the National Institute of Public Procurement, by registering in the RUP Suppliers Registry.

In Ecuador, most public procurement procedures are carried out through the web portal "Public Purchases".

### 4.3 Corporate Norms

There are several corporate legal entities that allow economic operations in Ecuador, either through national companies, branches and subsidiaries of foreign companies, holding companies, consortiums, among others.

#### 4.3.1 Ecuadorian Companies

The corporate regime is regulated in Ecuador by the Companies Law and the Commercial Code.

The Commercial Companies are those that are formed by two or more natural or legal persons and are subject to the control of the Superintendence of Companies, Securities and Insurance. These societies are of several kinds: Company in collective name; Company limited simple and divided by shares; Lim-

Description	Joint-stock corporations	Limited-liability companies
<b>Constitution</b>	Submit documents for approval of the Mercantile Registry.	Submit documents for approval of the Mercantile Registry.
<b>Administrative Bodies</b>	General meeting of shareholders.	General meeting of partners.
<b>Legal Representative (1)</b>	General Manager or President of the Company. The legal representative is appointed pursuant to the company's by-laws.	General Manager or President of the Company. The legal representative is appointed pursuant to the company's by-laws.
<b>Partners (2)</b>	A minimum of 2 shareholders.	A minimum of 2 partners, up to a maximum of 15.
<b>Corporate stock (3)</b>	At least US\$ 800.	At least US\$ 400.
<b>Shares / Holdings</b>	Shares are in the name of the holder and may be freely traded on and outside the securities market,	Sale of partners' holdings requires the unanimous consent of all partners.
<b>Other Obligations</b>	Keep a corporate book of minutes of the General Meeting of Shareholders	Keep a corporate book of Minutes of the General Meeting of Partners.
	Keep a corporate book of Shares and Shareholders.	Keep a corporate book of Partners and their Holdings.
	Entitled to optionally join any of the Chambers and pay the respective dues.	Entitled to optionally join any of the Chambers and pay the respective dues.
	Submit financial balance sheets report on payroll listing, report by manager and by legal overseer to the Sup. of Companies.	Submit financial balance sheets report on payroll listing, report by manager and by legal overseer to the Sup. of Companies.
	Submit a listing of shareholders or partners of the company to the Superintendence, and if any shareholders are corporate bodies submit a listing of the shareholders, partners or members thereof.	Submit a listing of shareholders or partners of the company to the Superintendence, and if any shareholders are corporate bodies submit a listing of the shareholders, partners or members thereof.
<b>Notes:</b>		
1. If the Legal Representative (for an Ecuadorian company) or Agent (for a foreign branch) of a company is a foreign citizen, they may obtain a 12-VI or 9-VI visa.		
2. Shareholders in Ecuadorian companies may be individuals or corporate bodies. Ecuadorian or foreign. Foreign individuals and companies may be partners in a limited - liability company, with the exception of Banks, insurance companies, capitalization and savings and foreign joint-stock corporations. The Law on Companies forbids Ecuadorian companies from having foreign shareholders or partners whose shares or holdings are to the bearer (not in their name).		
3. When constituting the company, a minimum amount of the capital stock must be paid: 50% for limited-liability companies and 25% for joint stock corporations. The remainder must be paid up within no longer than twelve months.		

Source: Ecuadorians Companies Norm

ited liability company; Anonymous company; and, Mixed economy company.

In Ecuador, it is usual to establish two classes of commercial companies, public limited companies and limited companies, in consideration of the fact that the responsibility of its members is limited to the contributions given by these.

When the capital of one of these companies comes from foreign investors, they are called subsidiaries, and must register in the Central Bank of Ecuador the type of investment that is made, that is, national, direct, sub-regional or neutral foreign.

In the event that an Ecuadorian company has for-

foreign companies as shareholders or partners, it must inform the Superintendency of Companies, Securities and Insurance, who are the shareholders or partners of these foreign companies, until the natural person is identified.

Thus, the names of those who are the shareholders in the last instance, that is, until the natural persons are identified, must also be disclosed to the Internal Revenue Service.

#### 4.3.2 Foreign companies

In order for a company established abroad to be able to exercise its activities in Ecuador, it must have a permanent representative in Ecuador with broad powers to carry out all the legal acts and

businesses that are to be held and take effect in the national territory and, especially, to that can answer the demands and fulfill the contracted obligations.

But if the activities that a foreign company is going to carry out in Ecuador involve the execution of public works, the rendering of public services or the exploitation of the country's natural resources, it must be domiciled in Ecuador before the conclusion of the corresponding contract.

To establish a branch of a foreign company in Ecuador, a permanent proxy must be appointed with general power and a minimum capital of two thousand United States dollars. This value may be increased if the General Representative representing it is a foreigner ( USD 25,000 for each Representative that has the Branch and the Parent assets greater than USD 100,000).

There are other legal entities for which you can operate in the country, such as through consortia or joint ventures, joint ventures or a holding company or holding of shares.

## 5. Audits and accounting

The accounting will be carried by the double entry system, in Spanish and in United States dollars, taking into account the generally accepted accounting principles.

For the companies subject to the control and surveillance of the Superintendency of Companies, Securities and Insurance or of the Superintendency of Banks, the accounting will be carried out in accordance with the International Financial Reporting Standards (IFRS) adopted for the preparation and preparation of financial statements. as of January 1, 2009.

Ecuadorian regulations require external auditing of national mixed-economy and anonymous companies with the participation of legal entities under public law or private law with a social or public purpose, and branches of foreign companies or companies whose assets exceed 100,000, 00 dollars of the United States of America; and to the national limited liability companies, limited by shares and limited liability, whose amounts of assets exceed the 500,000 dollars of the United States of America.

To be an external auditor of companies, the qualification as such must be obtained before the Superintendency of Companies, Securities and Insurance. In the same way, to be an auditor of financial institutions (banks, cooperatives, mutuals, etc.), the qualification must be carried out as an auditor before the Superintendency of Banks.

## 6. Work-related standards

According to the legislation, work is a right and a social duty. The purpose of the employment relationship is the provision of legal and personal services in favor of the employer under his command. The employment relationship must comply with current legislation in Ecuador and collective bargaining agreements.

Within the Ecuadorian legislation it is envisaged that the employment contracts are both written and verbal, that is to say, although there is no instrument or contract, the employment relationship can be proven. However, the law provides for certain cases the mandatory written contract. Additionally, several work modalities are contemplated, among which the most important are:

**Indefinite term:** Ecuadorian legislation establishes the individual work contract indefinitely. This is the typical modality of permanent or permanent hiring and does not have a termination period.

**Test:** In the aforementioned contracts, when they are celebrated for the first time, a test time of a maximum duration of ninety days may be indicated. Upon expiration of this term, it will automatically be understood as an indefinite period.

### 6.1 Types of labor contract and employment conditions

Under Ecuadorian legislation, labor contracts may be either written or verbal. That is, even if there is no instrument or contract, the labor relationship can be proven. However, the law provides for certain cases in which a written contract is mandatory. Additionally, there are several modalities of work, and the most important are:

- **Indefinite term contracts:** Ecuadorian legislation establishes indefinite-duration contracts. This is the standard figure for permanent or stable employment and it does not have a defined termination period.
- **Trial period contracts:** In the above contracts, when signed for the first time, a trial period can be stipulated, lasting no longer than ninety days. After that time, the labor relationship effects are the same as an indefinite term contract.

### 6.2 Remuneration

A wage is the stipend that an employer pays a worker according to a work contract. A salary is the remuneration that employees receive for their work. A worker's remuneration cannot be lower than the monthly minimum wage, which is USD 386, 00 since January 2018.

Additionally, there are other extraordinary remunerations, such as:

- **Thirteenth salary (Christmas bonus):** This remuneration is paid up to December 24 of each year or in a monthly way. This bonus is equivalent to one-twelfth of the compensation one has received during the calendar year.
- **Fourteenth remuneration:** This annual bonus is equivalent to a minimum wage which is USD 375,00, paid up to March 15th in the Coast and Island regions and by August 15th in the Highlands and Amazon regions. It may be paid in a monthly way as well.

If a worker, for any reason, leaves or is separated from his or her job before the above dates, he/she will receive the proportional part of the 14th remuneration at the time of leaving or separation.

### 6.3 Worker's benefits

- **Vacations:** An uninterrupted period of 15 days of rest, including non-working days such as weekends and holidays. Workers who have provided services for over five years in the same company or for the same employer will be entitled to an additional day of vacation for each succeeding year, or will receive the money corresponding to the remuneration for these extra days. These additional days shall not exceed 15 unless the parties, through individual or collective agreement, agree to extend such benefit.
- **Profit-sharing:** The employer or company shall pay its workers fifteen percent (15%) of its liquid profit, distributed as follows:
  - Ten percent (10%) divided among the company's workers.
  - Five percent (5%) given in equal proportions directly to the employees with family dependents (spouse or partner, children under age 18 and handicapped children of any age).

### 6.4 Other work-related aspects

- **Payment for unjustified layoff:** Up to three years of employment, an amount of three years of the worker remuneration. After working for over three years, the worker has the right to receive one-month remuneration for each year of service, up to a maximum of twenty-five years. Special regulations apply when a worker is pregnant, being in some cases ineffective the layoff.
- **Bonus for dismissal:** twenty-five percent of the equivalent of the last month remuneration per year

of employment with the same company or employer.

- **Employer retirement:** Workers, who have provided services for twenty-five years or longer, continually and uninterruptedly with the same employer, have the right to be retired by their employer in addition to the social security retirement benefits (IESS). (A monthly pension paid through the IESS or payment of a lump sum to the worker).

### 6.5 Social Security

- **Social Security Contributions (IESS):** All workers engaged as employees or independent (self-employed) must affiliate to the Ecuadorian Institute of Social Security. If employed, it is the employer's obligation to pay a monthly contribution equivalent to 21.60% of the worker remuneration, distributed as follows: 12.15% has to be paid by the employer, and employees have to contribute with the remaining 9.45%.

In the case of self-employed workers or independent professionals, they can affiliate themselves to the Ecuadorian Social Security, but it is not mandatory. If they do, the obligation to affiliate applies to the total income received according to their personal activity and the affiliation rate is 17,5% to 20,60%.

- **Reserve Fund:** All workers who provide their services for over a year are entitled to receive a month's salary, from their employer, for each full year after the first year of work.

## 7. Currency Exchange Oversight

### 7.1 Incoming Foreign Exchange

All foreign investment must be registered at the Central Bank of Ecuador (BCE) for statistical purposes. This registration may be done by the foreign investor, by someone on their behalf, or by the Legal Representative of the company in which the investment was made. The Central Bank of Ecuador will register these investments as direct, subregional or neutral foreign investment at the prevailing rate on the open exchange market on the registration date.

The BCE also registers foreign loans in foreign currency between individuals or corporate bodies with legal domicile in Ecuador and financial entities, head offices and other residents outside our national territory. Overdrafts in checking accounts are not required to be registered.

### 7.2 Sending Foreign Currency

There is a tax on Outgoing Foreign Currency, which we will explain in detail below.

## 8. Tax system

Ecuadorian tax structure comprises taxes, fees and contributions. Taxes can be national, provincial and municipal. The main taxes are outlined below:

### 8.1 National taxes:

#### 8.1.1 Income tax (IR)

This tax is levied over the total income obtained by Ecuadorian or foreign corporate bodies, individuals and undivided estates. Taxpayers are all individuals, undivided successions, and corporate bodies with taxable income.

There is no differentiated treatment between domestic and foreign companies.

Overall income is understood as all income the taxpayer has received. For the purpose of income tax, this income includes:

- Income from an Ecuadorian source obtained for free or for a cost, resulting from work, from capital or from both sources, consisting of money, in kind and services.
- Income obtained abroad by individuals with legal domicile in Ecuador or by Ecuadorian corporate bodies.

The taxable base income for this tax is the total taxable income minus the costs and expenses that, according to Ecuadorian norms, are deductible. Some activities are exempt from income tax in order to promote investment, for social reasons, and for other reasons exonerating taxpayers from paying taxes.

According to the legal norms, there is income considered exempt from income tax, such as dividends distributed to shareholders and partners who are individuals or corporate bodies domiciled abroad (but not in a "tax heaven, preferred regime") or Ecuadorian corporate bodies, income obtained under international agreements, among others.

According to the law, the public-private partnerships, which invest and develop projects in Ecuador, are exempt to pay income tax. This kind of associations will enjoy an exemption from payment of income tax for a period of ten years from its first fiscal year in which they generate operating income.

- Income tax for Individuals. Individuals and one-owned businesses pay income tax proportionally to their income, at a rate varying according to the income received, up to a maximum of 35%.

Expenses that individuals may deduct for income tax purposes include "personal expenses", which cover: health, education (art and culture), clothing and food, which are deductible up to an overall maximum in 50% of total taxable income, as long as this is not higher than the equivalent of 1.3 times the basic un-taxed base amount for income tax for individuals (USD 11,270.00 since 2018).

Individuals must liquidate and declare income tax, and present any deductions, in March for the operations done between January 1 and December 31 the previous year.

Additionally, individuals must also submit a sworn statement per year of their assets when it exceeds an amount USD 225.400 as individuals or USD 450.800 as connubial partnership between spouses.

- Corporate Income tax. There is a differentiated tax rate for companies of 25% or 28% (depending on its shareholders have fiscal residence in a tax haven, preferred tax regime or minor tax jurisdiction) on a taxable amount calculated through the process called "tax reconciliation", explained below. The Tax Administration grants a discount of ten percent points in the tax rate 15% for companies that decide to reinvest their Available Profits, providing that this reinvested amount is used to purchase new machinery or new equipment, assets for irrigation, vegetative material, seedlings and all plant inputs for agricultural, forestry, livestock and flower-growing production, used for their productive activity, as well as to purchase goods related to research and technology to improve productivity, diversify production and increase employment. As a requirement to take advantage of this tax benefit, the company must formalize the reinvestment (by Capital Increase) at the Mercantile Registry by the following year.

Additionally, other types of special deductions may be granted.

Further, individuals must liquidate and declare this tax in April for the operations done between January 1 and December 31 the previous year.

- Tax Credit for Income Tax: Tax credit comprises those amounts prepaid and those withheld in the course of a year, which constitute a right for the company to discount them from their final income tax payment. This credit includes:
  - Advance income tax payment: Individuals, undivided successions, corporate bodies, companies that have signed or will sign hydrocarbon exploration and extraction contracts under any contractual modality

and public companies subject to income tax payment must determine, in their declaration for the preceding fiscal year, the advance payment to be made for the current fiscal year.

- a. Individuals and undivided successions that are not obliged to keep accounting and companies that have signed or will sign hydrocarbon exploration and extraction contracts under any contractual modality: A sum equivalent to 50% of the income tax determined in the previous fiscal year, minus income tax withholding at the source.
- b. Individuals and undivided successions obliged to keep accounting and corporate bodies: An amount equivalent to the mathematical summation of the following items:
  - Zero point two percent (0.2%) of total equity.
  - Zero point two percent (0.2%) of total costs and expenses that are deductible for income tax purposes.
  - Zero point four percent (0.4%) of total assets.
  - Zero point four percent (0.4%) of total taxable income for income tax purposes.

The calculated advance payment must be made in two equal amounts in July and September.

There are special regulations regarding fuel dealers and distributors in the automotive sector, taxpayers whose economic activity is exclusively related to agricultural production projects with agroforestry and silviculture of forest species, and taxpayers whose economic activity is exclusively related to developing software or technology projects.

Similarly, for private financial institutions and companies issuing and administering credit cards, subject to oversight by the Superintendence of Banks and Insurance (except for building / savings and loan associations) there is an advance payment for income tax of 3% of taxable income from the previous fiscal year.

Further, newly constituted companies and newly recognized investments under the Production Code, individuals obliged to keep accounting and undivided successions obliged to keep accounting, that begin activities, will be subject to make this advance payment after their fifth year of operations.

- Withholding at the source for Income Tax: Individuals obliged to keep accounting and corporate bodies must perform withholding for income tax from payments that they make locally or abroad which are taxable for the payee. Percentages of withholding may range from 1% to 10% for local payments, and 25% for payments abroad or 35% if the beneficiar-

ies have fiscal residence in a tax heaven, preferred tax regime or a minor tax jurisdiction. If withholding at the source plus advance payments are higher than the tax payable after liquidating Income tax, a rebate may be requested for the overpayment, or that credit may be used for following years (but only if the balance is due to over-withholding at the source).

- ISD paid to import inputs, raw materials and capital goods: Tax credit for the purposes of declaring, liquidating and paying income tax, also includes payments for the Tax on Outgoing Foreign Currency (ISD) on payments to import raw materials, capital goods and inputs for the purpose of incorporating them into production processes that are on the list made by the Tax Policy Committee.

Additionally, as of 1 January 2013, Ecuadorian legislation allows the ISD tax paid (tax credit for income tax) and not offset during the year when it was generated or in the following four fiscal years to be returned by the SRI under the following considerations:

- Apply to the fiscal authority once the income tax declaration has been made,
- Not having been able to offset or use the ISD tax paid as a deductible expense for income tax,
- The rebate will be made by a credit note, which is negotiable and can be used to pay income tax for the same five-year period in which the ISD tax paid could have been used as tax credit.
- Tax reconciliation  
This off-the-books process consists of determining taxable income, out of the overall total income received by the company or individual, and subtracting all expenses that can be deducted from this tax that are related to the taxable income, to obtain the taxable base income and apply the corresponding tax rate. The amount of tax payable, minus any tax credit (advance payment of income tax, minus withholding for income tax), times the respective rate, gives the income tax to be paid.
- Regulation of Transfer Prices and Full Competition  
In 2005, Ecuador incorporated OECD guidelines in our legislation on regulating transfer prices, to regulate those transactions done between related companies when the sales are at or below cost. This regulates prices so they will not be lower than those current on foreign markets at the time of the sale; whereas for imports it will make sure they are not higher than international prices.

According to local regulations, related parties are when an individual or company, with domicile in

Ecuador or abroad, participates directly or indirectly in the management, administration, control, or stock of the other company; or when a third party (an individual or company, with domicile in Ecuador or abroad) participates directly or indirectly in the management, administration, control, or stock of these companies.

The norms oblige certain taxpayers to present studies and information on their transactions with related parties to the Tax Administration, along with their income tax declaration.

It is important to clarify that local norms have imposed the obligation for the information presented to cover both operations with local related parties and those domiciled abroad.

### 8.1.2 Value-added tax (VAT)

Value-added tax (VAT) is an indirect tax levied on consumption whenever a taxpayer takes an action or signs a contract for the purpose of transferring or importing physical chattel goods, transferring copyright or horizontal property, at all stages of the selling; and provision of services (local and imported). Rates for VAT are normally 12% or 0%.

This tax can be transferred by the taxpayer to another taxpayer, because the intention is for the tax burden to be paid by the final consumer, if producing goods and services subject to the 12% tax rate. Otherwise, a proportional part of this tax credit can be used.

The taxable base amount for VAT is the value of the goods transferred or the services provided. In the case of imports, the taxable base amount is the sum of the CIF (cost, freight and insurance) amount, taxes, customs tariffs, fees, charges, surcharges and other expenses appearing on importation documents.

VAT taxpayers must present a monthly declaration for their operations during the preceding calendar month.

### 8.1.3 Tax on Foreign Currency Payments (ISD)

The Tax on Outgoing Foreign Currency is levied on all monetary transactions that are done abroad, with or without the intervention of the institutions comprising the financial system. The taxable action for this tax is the transfer or movement of foreign currency abroad as cash or by drawing checks, transfers, sending, withdrawing or paying in any way. The tax rate on Outgoing Foreign Exchange is 5%.

Additionally, to the above taxable actions, it will be legally presumed that there has been outgoing for-

foreign currency in the following cases:

- In all payments made abroad by Ecuadorian or foreign individuals or corporate entities domiciled or resident in Ecuador.
- In the case of exports of goods or services generated in Ecuador, done by individuals or corporate entities domiciled in Ecuador, who engage in economic activities of exportation, when the foreign exchange to pay for those exports does not enter Ecuador within 180 days' time.

This ISD is declared annually and may be discounted from the ISD payable on the basis of an estimate for imports.

These circumstances are exempt from tax on foreign exchange outflows:

- According to the law, the public-private partnerships that fulfill legal requirements are exempt from tax on foreign exchange outflows for payments made for project implementation.
- Cash currencies carried by Ecuadorian and foreign nationals, who leave the country or minors who do not travel with an adult, up to three unified basic wages of the general worker (USD 1,158.00 for 2018) are not taxed with ISD.
- An annual amount equivalent to five thousand (USD 5,000.00) dollars If the ISD chargeable event occurs with the use of credit or debit cards for consumptions or withdrawals made from abroad.
- If payments made abroad are equivalent to the value of the capital entered into the country and remain in it for at least two years, for productive investments.

### 8.1.4 Tax on Extra Income

This tax is levied on extra income obtained by companies that have signed contracts with the National Government for exploration and extraction of non-renewable resources.

The taxable base amount is the total extra income, i.e., the difference between the selling price and the base price established in the contract, multiplied by the number of units sold at that price. This tax rate is 70%.

### 8.1.5 Tax on special consumption

This tax is levied on cigarettes, alcoholic beverages, soft drinks, perfumes and toilette waters, video games, firearms, sports weapons and ammunition, motor vehicles and hybrid or electric vehicles, paid television services, dues, shares or subscriptions to social clubs, whether from Ecuador or imported.

The taxable base amount is the sales price to the public suggested by the manufacturer or importer, minus the VAT and the ICE (as long as this amount is not lower than the result of adding 25% to the presumptive minimum marketing margin to the ex-factory or ex-customs price, as the case may be) or on the basis of the reference prices established by a Resolution annually by the Director-General of the Ecuadorian Internal Revenue Service.

### 8.1.6 Tax on holding assets abroad

The monthly tax on funds available and investments held abroad by private entities regulated by the Superintendence of Banks and Insurance and the Intendancies of the Securities Market in the Superintendence of Companies is based on holding any certificate for funds available in entities domiciled outside Ecuadorian territory, whether directly or through affiliated subsidiaries or offices of the taxpayer abroad; and investments abroad by entities regulated by the National Securities Council.

Taxpayers must pay the equivalent of 0.25% monthly of the average monthly balance of funds available in foreign entities and investments issued by entities domiciled outside national territory.

When the funds are received or the investments held or made through subsidiaries located in fiscal paradises or preferential fiscal systems or through affiliates or offices abroad of the taxpayer, the applicable rate will be 0.35% monthly of the taxable base income.

### 8.1.7 Environmental Taxes

#### 8.1.7.1 Environmental Tax on Vehicular Pollution

This tax is levied on environmental pollution from the use of motor vehicles for overland transport. The taxpayers are the owners of such motor vehicles for overland transport.

This tax is paid prior to registering vehicles, along with the annual tax on ownership of motor vehicles.

The taxable base amount for this tax is the engine displacement of the vehicle, expressed in cubic centimeters. To establish the amount of the tax, the calculation formula considers, in addition to the taxable base amount (i.e., the vehicle's engine displacement in cubic centimeters) the vehicle's age, using an adjustment factor.

### 8.1.8 Customs Duty

The customs system is governed by the Code of Production, designed for strategic international interaction, facilitating foreign trade, customs control

and cooperation and information exchange through trade policy, with a modern, transparent, efficient customs system.

Taxes on foreign trade are:

- a. Customs duty
- b. Taxes established in general and regular laws
- c. Fees for customs services

Customs duty is charge on foreign goods entering or merchandise leaving the customs territory under the customs authority's control. The taxable base amount for customs duty is the value of the imported merchandise in the customs.

According to the public-private law, the projects carried out under this modality shall enjoy the same benefits, which are enjoyed by the public entities in customs imports.

#### 8.1.8.1 Customs Modalities

Common customs modalities are final export (the merchandise is exempt from all taxes) and import for consumption (the merchandise is subject to certain taxes, including customs duty).

Additionally, importing merchandise involves paying value-added tax (VAT) and the tax on special consumption (ICE) if applicable. In certain specific cases, merchandise can be subject to compensatory duty (anti-dumping) and an additional safeguarding fee. These measures are to prevent unfair trade practices pursuant to WTO and CAN norms.

There are other import modalities, such as: Temporary admission for re-export in the same condition, temporary admission for asset improvement, replacement of merchandise free of customs duty, transformation under customs control, customs deposit, and re-import in the same condition.

### 8.2 Municipal Taxes

Our legislation, in addition to the above taxes, provides for other taxes on a series of transactions done by taxpayers. Here we are referring to municipal taxes to finance sub-national government. Among the main consist:

- Tax on Urban Property
- Tax on Rural Property
- Municipal Excise Tax
- Municipal Business License
- Tax on Public Shows
- Tax on the extraordinary Profit or Capital Gain on the Sale Urban and Rural real estate.
- One Point Five (1.5) Per Thousand Over Total Assets

## 9. International treaties

### 9.1 Bilateral Agreements on Investment

Ecuador has signed bilateral treaties on investment with the following countries: Germany, Argentina, Bolivia, Bulgaria, Canada, Chile, China, Costa Rica, Denmark, El Salvador, Spain, United States, Finland, France, Honduras, Nicaragua, Paraguay, Peru, Netherlands, United Kingdom, Sweden, Switzerland, Dominican Republic and Venezuela.

### 9.2 Agreements to Avoid Dual Taxation

Ecuador has treaties to avoid dual taxation, for income tax, with: Belgium, Belarus, Canada, Chile, China, France, Italy, Rumania, Switzerland, Spain, Germany, Brazil, Mexico, South Korea, Singapore, Qatar, Rusia and Uruguay.

Additionally, Ecuador has signed Decision 578: system to avoid dual taxation and prevent tax evasion among the countries of the Andean Community (Ecuador, Colombia, Perú, Bolivia). This Treaty uses the overriding principle of taxation in the source country instead of the residence principle. A treaty with Argentina (applicable only for air transport) has also be signed.

Since June 2016, International Tax Treaties to Avoid Double Taxation will not be applied immediately in operations that exceed twenty basics tax-free amount for income tax for individuals (USD 225.400). On those cases, common income tax withholdings will be applied and it will be necessary to fill a formal devolution request to Ecuadorian tax authority.

To verify payments abroad for agreements on dual taxation for transactions done in a given fiscal year, totaling more than ten basic tax-free amount for income tax for individuals (USD 112.700) requires a certification by Independent auditors. Ecuadorian tax authority has set tax regulations, which establish this certification will not be necessary when tax treaties are not applicable directly.

A certificate of fiscal residence, issued by the relevant authority of the other country, with a translation into Spanish, if necessary, and authenticated by the respective Ecuadorian Consul, is also required.



## Republic of EL Salvador

### 1. Identification of contact firm

Audit & Consulting Financial Tax, S.A. de C.V.  
Moore Stephens International Limited.

#### 1.1 Office, address and telephone

11 Calle Pte. Y 79 Av. Nte. #741,  
Col. Escalón, San Salvador  
**T** + (503) 2522-6500  
**F** +(503) 2522-6565

### 2. Specialized professionals

#### Pedro David Hernández Fuentes

Managing Partner

[pedro.hernandez@acft.sv](mailto:pedro.hernandez@acft.sv)

### 3. Country profile

El Salvador is located in Central America, between Guatemala in the West, and by Honduras in the North, bordering the Pacific Ocean in the South.

#### 3.1 Population

6.3 million (2016, estimate).  
66% urban population.

#### 3.2 Language

Spanish: English is also understood by many members of the business community in the capital and larger cities.

#### 3.3 Currency

US Dollar.

#### 3.4 Geography and climate

Total area of 21,040 square kilometers.

El Salvador has a tropical climate with two seasons; the rainy season (May to October) and the dry season (November to April).

#### 3.5 Economy

GDP Nominal (2016) \$25,850 (Mil)  
GDP Per capita (2016) \$4,273

The economic activities in El Salvador grew by 2.4% during 2016; principally due to external factors including a significant decrease in the cost of petroleum, which decreased by US\$262 million, between 2015 and 2016, and family remittances that totaled US\$4,576 million in 2016, (equivalent to 17.1% of the GDP), US\$306 million higher than 2015.

The demand resulting from the different economic factors, caused an impact in the following economic sectors:



An increase in household consumption and a decrease in the deficit of the balance of goods and services, resulted an increase in the Gross Domestic Product (GDP), which reached 2.4% during the year 2016; together with the performance achieved in the agricultural, commercial, restaurants and hotel sectors, and also reflected in the construction and manufacturing industries. Certain external factors that contributed to the growth during 2016, included a lower level of unemployment of the Latin community in the United States, a higher level of direct foreign investment (IED), an increase in remittances received, lower international interest rates, and an increase in economic growth in Central America.

#### 3.5.1 Principal industries

Agriculture, chemicals, electricity, fishing, food processing, footwear, forestry, petroleum products, textiles and clothing.

#### 3.5.2 Principal business partners

The country's principal business partners are: the Central America area, the United States of America, the European Union and Japan.

#### 3.6 Political system

Democratic Republic (integrated by 14 Departments). The President of the Republic is in power for a term of five years.

### 4. Legal presence

A legal presence in El Salvador, generally, implies a substantial investment for foreign investors. A legal entity in El Salvador, must comply with different legal, fiscal and accounting requirements; this compliance may result in significant expenses.

In this sense, the forming of a corporate presence in El Salvador, should be carefully studied, taking into account the following: a legal presence is necessary? is it

recommendable? And what type of society?

Commercial acts including the different forms of business enterprise are governed by the Salvadorian Commercial Code that became effective in 1970, and has been modified and supplemented by certain legislation.

Business may be undertaken in the name of individuals and in the name of entities that are granted existence by law as legal person. The companies in El Salvador are divided into partnership companies and stock companies, both can be of variable capital (C.V.).

#### 4.1 Types of legal structures

Limited company (S.A.)

Limited responsibility society (S.R.L.)

##### 4.1.1 Requirements

- The company is incorporated before a Salvadoran Notary Public by means of a Deed of Incorporation. In order to grant the Public Deed of Incorporation a minimum two (2) people should appear as founder shareholders, these can be either individuals or companies.
- The Public Deed must be registered at the Registry of Commerce in order to obtain a legal status (juridical person).
- The stock capital of the company shall be at least US \$2,000.00. At incorporation, at least 5% of the capital must be paid.
- The company's administration shall be performed by a Board of Directors or by a Sole Administrator. The Directors or Sole Administrator may last in their position from 1 to 7 years, and may be reelected by the members of the board.
- It is also necessary that the company registers in the Registry of Commerce its Business and Commercial License. This License must be renewed each year, paying duties during the same month the company was originally incorporated.
- The initial balance sheet must be registered in the Commercial registration Office; the entity must be registered with the Municipal City Hall, where it will operate; furthermore, the entity must be registered with the Department of Statistics and Census (DIGESTYC).
- There are no limitations regarding the nationality of the founder shareholders. If the shareholders are foreigners, they may grant a Special Power of Attorney to other persons (authorized by a Notary Public and bear the Seal of Apostille where applicable) to avoid traveling to El Salvador, to register the Public

Deed of Incorporation, and perform the other legal activities that are necessary in el Salvador.

#### 4.2 Branch and/or permanent establishment

For tax and commercial purposes a branch has the same rights and obligations as local companies. The legislation that applies to a branch of a foreign company is the Salvadoran law.

In terms of the capital required by law to establish a branch in El Salvador, the minimum capital should be US\$12,000.00 dollars, such investment is initially registered at the National Investments Office (ONI) of the Ministry of Economy before filing the registration of the entity in the Commercial Registration Office.

In addition, the branch must be registered in El Salvador with the following local authorities:

- Internal Revenue Office (DGII).
- Department of Statistics and Census (DIGESTYC).
- Ministry of Labor.
- The local Municipal City Hall
- Salvadoran Institute of Social Security (ISSS).
- Pension Fund Administrator (AFP).

#### 4.3 Registrations

A branch in El Salvador must be inscribed with the Commercial Registration Office. The following documentation must be filed in this country:

- Certified copy of Articles of Incorporation (By-laws) of the foreign company that desires to establish the branch; everything must be translated into Spanish.
- The agreement issued by the Administration of the company (i.e. Shareholders Meeting, Board of Directors) approving: (i) the establishment/opening of the branch in El Salvador, and (ii) the designation of the legal representative.
- Power of Attorney granted by the company to a domiciled local person or to a foreigner residing permanently in El Salvador, to act as the legal representative of the branch and to follow the registration process at the competent authorities.
- The minimum capital must enter the country through a transference of funds to a bank of the local financial system in order to obtain the respective document in support of the remittance received, this investment must be registered with the National Investment office ONI.

#### 4.4 De facto societies

In El Salvador, de facto societies are considered to be unions between 2 or more people with the same objective or interest in starting a commercial activity.

## 5. Banking system

### 5.1 Central Reserve Bank

El Salvador's financial sector is regulated by the Central Reserve Bank of El Salvador (BCR), which is supported by the Superintendence of the Financial System and the Institute of Guarantees and Deposits (IGD).

The Central Reserve Bank of El Salvador is the authority responsible for the activities performed in foreign currencies; in conformity with Law No. 746, dated April 12, 1991, the Central Reserve Bank is empowered to promote and maintain the monetary, exchange and financial conditions that most benefit the stability of the national economy.

### 5.2 Commercial banks

Due to various reforms in the financial sector, El Salvador has established a strong banking community, with positive tax laws that attract foreign investment.

To develop the Salvadoran banking sector in line with international standards, the Superintendence of Banks; (an independent regulatory body that supervises the banking sector according to the Basle Committee recommendations, was established in 1990). During the past years, the legal framework under which the banking system operates has been enforced with the introduction of legislation such as the following:

A regulatory Body, which supervises the banking sector in accordance with the recommendations of the Basel Committee (1990); the Regulatory Body has established the legal framework under which the financial system operates, and is controlled by the following legislation:

- Law against Money and Assets Laundry No. 498, dated December 2, 1998. The present Law has the objective of preventing, detecting, sanctioning and eradicating the crime of money and assets laundry, as well as the withholding of information.
- Law for Insurance Companies No. 844, dated October 10, 1996. This Law has the objective of regulating the constitution and functioning of insurance companies, as well as, the participation of insurance intermediaries, in order to ensure the public rights and facilitate the development of insurance activities.
- Banking Law No. 697, dated September 2, 1999, reformed during 2000, 2001, 2002, 2004 and 2005. The banking Law has the objective of regulating the functioning of financial intermediation and other bank operations, propitiating that these entities give transparent, reliable and agile service, which contribute to the development of the nation.
- Monetary Integration Law No. 201, dated November 30, 2000. This Law establishes that the legal exchange rate between the "Colon" and the United States Dollar shall be fixed and unalterable starting from the validity of this Law at 8.75 Colons per U.S. Dollar.
- Law No. 856, dated April 21, 1994, for the Creation of a Multi-sectorial Investment Bank. This Law created the Multi-sector Bank of Investments, (BMI), as a public credit institution. The bank's objective is to promote the development of investment projects in the private sector in order to:
  - Promote growth and development in the productive sectors;
  - Promote the development and level of competition between different businesses;
  - Promote the development and growth of micro and small businesses;
  - Generate employment
  - Improve health and educational services.

Foreign Banks: According to Article 31 of the Banks Law No. 697, a foreign bank operating in El Salvador shall have the same rights and obligations as Salvadorian banks. Foreign banks will operate in the country through branches, which must obtain a previous authorization by the Superintendence of the Financial System (SSF). In addition, they will be subject to the same laws and regulations as national banks, and under the supervision of the above-mentioned Superintendence.

### 5.3 Banks in El Salvador

#### 5.3.1 Central Bank

Central Reserve Bank of El Salvador

#### 5.3.2 State banks

Banco de Fomento Agropecuario  
Banco Hipotecario de El Salvador, S.A.

#### 5.3.3 Private banks

Banco Agrícola, S.A.  
Banco Cuscatlan de El Salvador, S.A.  
Banco Davivienda Salvadoreño, S.A.  
Banco G&T Continental El Salvador, S.A.  
Banco Promérica, S.A.  
Scotiabank El Salvador, S.A.  
Banco de América Central, S.A.  
Banco Atlantida S.A.  
Banco Azteca El Salvador, S.A.  
Banco Industrial El Salvador, S.A.  
Banco Azul de El Salvador, S.A.

## 6. Labor and Social Security

### 6.1 Requirements established by labor laws

These are contained in the Labor Code of El Salvador.

### 6.2 Wages and salaries

The Government has the power to establish the different salary levels. During December, 2016, an agreement to increase the minimum monthly salaries, was approved, coming into force in 2017; establishing the following amounts: commercial and service sectors US\$304.00; Agricultural sector US\$227.00, clothing and textile sectors US\$299.00.

### 6.3 Profit sharing

Is not mandatory; however, a bonus may be payable according to agreements with the employer and/or goals achieved by the employee.

### 6.4 Christmas bonus

This bonus applies in different categories:

- With more than 1 year but less than 3 years working for the same company, employees receive 15 days of basic salary;
- Workers with more than 3 years but less than 10 years of employment with a company, receive 19 days of basic salary; and
- For workers with more than 10 years of employment with the same company, the bonus is of 21 days of basic salary.

### 6.5 Employee benefits

Non-cash compensations given to employees (benefits in-kind) for the services rendered in the country, are considered as taxable income for the employee.

### 6.6 Labor hours

The maximum labor hours that are permitted by law are 8 hours daily, and should not exceed 44 hours a week; the workweek has to end at noon on Saturday. Any modification at the end of a workweek at different hour has to be approved by Ministry of Labor.

### 6.7 After each continuously worked year employees are entitled to receive fifteen work-days of paid vacation.

### 6.8 Termination of the labor relationship

Section 48 through Section 54 in the Salvadorian Labor Code establishes the causes for termination of contracts.

A Labor contract can terminate with or without legal liability for the parties and can be done with or without legal intervention.

Termination of the contract without legal liability and without legal intervention can be done by means of mutual consent, or by the resignation of the employee.

### 6.9 Payment of severance

Generally, the severance payment is payable in case of unjustified dismissal; the payment is equivalent to one month's salary for each, uninterrupted, year of service. The law specifies the causes of "just" dismissal.

### 6.10 Economic benefits for voluntary retirement

On January 1, 2015 the Law Regulating the Economic Benefits for Voluntary Resignation came into force, which has the objective of regulating the conditions under which the permanent employees working in the private sector and autonomous entities that generate income, and whose labor relations are subject to the obligations contained in the labor code, even though these are not mentioned in this Law, including the Salvadoran Institute of Social Security and the Comisión Ejecutiva Hidroeléctrica del Río Lempa (CEL), employees are entitled to an economic benefit when they resign from their work on a voluntary basis, always assuming they have completed a minimum of two years' service on a voluntary basis.

The economic benefit for voluntary resignation by permanent employees who have more than two years of service, will consist of the economic equivalent of fifteen days basic salary for each year of service.

For the purposes of the calculation of the economic benefit referred to in the previous paragraph, the salary cannot exceed twice the current legal minimum daily salary in the sector in which is applicable to the employer's economic activities.

### 6.11 Technical education tax

A payroll based contribution is imposed on employees that have more than 10 employees. Furthermore, in terms of financing the program for the technical instruction and employee training, managed by a specific institution (INSAFORP), the contribution required for employers is 1% of total monthly payroll.

INSAFORP, (the National Institution for Professional Training) ensures that the Salvadorian workforce remains a high quality asset within the region by offering training and courses for employees.

## 7. Social Security System in El Salvador

Law No. 1263 of the social security system in El Salvador, was enacted December 3, 1953, and was last reformed in 1994. The Law is also complemented by several regulations on the social security interest. The Salvadorian Constitution in its Article 186 establishes the obligatory social security as an institution of public.

## 7.1 The Social Security system contemplates

- Health/Maternity Benefits: In cases of disability the employer pays the first 3 days, after the third day social security covers 75% of salary. In case of maternity social security covers 100% of the monthly salary and the employer grants a 16-week period for maternity care.
- Disability: If an employee is disabled for, at least, one year, a percentage of the salary is paid by the social security, for over a year pension funds will recognize a percentage of the salary depending on the level of disability.
- Old Age: Retirement- men aged sixty (60) years and women aged fifty-five (55) years can retire after 30 years of labor service.
- Death: Pension funds will pay the family of the deceased an allowance depending on the amount of savings of the deceased.
- Pension Fund (AFP): Savings are obligatory through pension funds managed by private Pension Fund Administrators.

## 8. Accounting and auditing requirements

### 8.1 Accounting

The Supervisory Board of the Public Accounting and Auditing Professions issued Resolution 113 /2009, which establishes “the adoption of the International Financial Reporting Standard for Small and Medium Sized entities, official Spanish language version, issued by the International Accounting Standards Board (IASB), as a requirement in the preparation of general purpose financial statements and other financial information, for all of the entities that are not quoted in the stock exchange, except for the entities that, on a voluntary basis have adopted the full version of the International Financial Reporting Standards. Entities must present their first financial statements on the basis of this standard for the period commencing January 1, 2011. The early adoption of this standard is permitted”.

The entities that are not quoted on a stock exchange or that do not have public accountability, may adopt, on a voluntary basis, the full version of the International Financial Reporting Standards (IASB), the entity must disclose this fact in the notes to their financial statements.

### 8.2 Statutory audit requirements

In El Salvador, all local companies and branches operating in the country are required by law to appoint an External Auditor. Financial Statements prepared for companies and partnerships engaged on commercial, services or industrial businesses are also required to be audited by public accountants licensed in El Salvador, which must be appointed by the entity as the External Auditor for a 1 year period that can be renewed for equal periods.

Regarding Tax Auditors, according to the Salvadoran Tax Code, the appointment of a tax auditor is mandatory for:

- Entities that have total assets in excess of US\$1,142,857.14,
- Entities that obtain income in excess of de US\$571,428.57,
- Entities that result from a fusion or transformation process; and
- Entities in the process of liquidation.

In conformity with the Laws of El Salvador, commencing from the 2017 tax year, the same person or entity may not provide external audit and tax audit services.

### 8.3 Books and records

Both the Commercial Code and the Tax Code prescribe the principal books of accounting to be maintained by business enterprises. The books and records normally required are: Ledger and Major, Financial Statements, purchase book for VAT purposes, book of operations with final consumers and detail of exports, book of operations with VAT registered contributors, as well as the other special records and files required for the control of VAT.

These books are authorized by the external auditor, and each page must be numbered and then stamped with the seal of the public accountant.

According to the Commercial Code, all records must be in Spanish, and all accounts recorded in Colones or US Dollars. The accounting records books must be located, and maintained, in El Salvador, even for branches, agencies or subsidiaries of foreign companies.

### 9. Aspects relating to corporate taxes

In El Salvador, national taxes, duties and other special contributions on all types of goods, services and income are created by the Salvadoran Congress, while local governments (Municipalities) may elaborate and submit to the Congress for their approval taxes and contributions.

#### 9.1 Taxes over corporate income

Applying a tax rate of thirty percent (30% over the taxable income, except for the taxpayers' who have obtained income equal to, or less than, one hundred and fifty thousand Dollars (US\$150,000), to which a tax rate of twenty five percent (25%) will be applied.

Taxable income is net of the costs and expenses considered necessary for generating and maintaining the related source of income, and other deductions allowed by law. Gross income, on the other hand, comprises income or profits collected or accrued, either in cash or in kind, from any sources such as business, capital and

all types of products, gains, benefits or profits, whatever their origin might be.

Juridical entities are required to follow the accrual method of accounting, which means that income is reported although not collected, and costs and expenses are reported when incurred and not when paid for.

For tax purposes, income is computed for 12-monthly periods, also known as taxable periods, and the tax period for judicial entities begins on 1 January and ends on 31 December of each year.

## 9.2 Advance income tax payments

A 1.75% tax rate is applied over the gross monthly revenues obtained, this is paid during the following month and represents an advance tax payments, which are applied against the Corporate Income Tax at the end of the year.

## 9.3 Tax over branch income

In El Salvador, tax rates on branch profits are the same as for domestic corporations. No tax is withheld on transfer of profits to the head office provided the entity distributing them reports and pays the corresponding income tax thereon.

Administrative offices: the law does not provide a separate treatment to administrative offices located in El Salvador. The general regulations in this respect indicate that branches, agencies and/or permanent establishments operating in the country, with owned or leased installed infrastructure, employing domestic staff, and performing their economic activities in a material and perceptible manner in the country are subject to the same taxes as duly incorporated local companies.

## 9.4 Value added tax (VAT)

VAT is levied at a rate of 13% over the taxable amount. As a general rule, the taxable amount is the price or remuneration agreed upon by the parties. For imports, the taxable amount is the custom value.

The following transactions are subject to VAT when performed within the Salvadorian territory:

1. Transfer/sale of intangible assets;
2. Withdrawal of tangible assets from the inventory made by the company for self-consumption by its directors or personnel.
3. Imports of goods and/or services;
4. The supply of services of any type whether permanent, regular, continuous or periodic; technical advice and project designs; lease and sublease agreement over tangible goods; lease sublease agreements over real estate for commercial purposes;

lease of services in general; construction of real estate properties or building contracts; auctions; freight; whether inland; air or maritime; lease, sublease and any form of use regarding trademarks.

### 9.4.1 The following imports are exempt from VAT

- Imports made by diplomats and consulate representatives of foreign nations with presence in the country according to international agreements adopted by El Salvador.
- Imports made by international organizations to which El Salvador is a party.
- Travelers' luggage according to customs regulations.
- Donations to non-profit organizations. Imports made by municipalities, if the good imported are for the public benefit of the community.
- Imports of machinery by taxpayers duly registered for this purpose, which will be part of the taxpayer's fixed assets.
- Vehicles for public transportation, which can only be transferred after five years.

### 9.4.2 The following services are exempt from VAT

- Health services rendered by public institutions.
- Lease and sublease of real estate properties for housing.
- Services rendered under a labor relationship, and those rendered by public and municipal employer.
- Cultural public performances authorized by competent authorities.
- Educational services rendered by authorized entities, (i.e. the Ministry of Education).
- Interest on deposits and loans, provided by local financial institutions or entities registered with the Central Reserve Bank of El Salvador, (BCR).
- Interest on securities issued by the government and/or private entities traded through a stock exchange.
- Water supplied by public institutions.
- Public transportation.
- Insurance premiums covering individuals, and reinsurance in general.

Exports are subject to a 0% VAT tax rate; income from foreign sources is not subject to VAT.

VAT taxes paid by a registered taxpayer company on its purchases (tax credits) are credited against VAT taxes charged to its customers (tax debits), on a monthly basis.

## 9.5 Tax on simple or sweetened soft drinks

This is an ad valorem tax levied at 10% over the selling price to the public as suggested by the manufacturer, importer or distributor, excluding VAT and returnable bottle taxes.

### 9.6 Tax over the importing and production of alcohol and spirits

This tax is levied on domestic or imported alcohol spirit at rates ranging from 0.0825 to 0.15 over each 1% of alcohol volume per liter or in proportion thereof. At the beginning of 2010 spirits and alcohol also have an ad valorem tax levied at 5% over the suggested selling price to the public.

### 9.7 Tax over tobacco products

This tax is levied at USD 0.005 per cigarette, cigar, cigarettes or any other tobacco product. Also, an ad valorem tax is levied at 39% over the suggested consumer selling price reported, excluding items such as VAT taxes, the specific tax established by the law.

### 9.8 Municipal taxes

Municipal taxes are assessed according to a progressive tariff issued by each municipality applicable to the company's assets located in each municipality. Taxes are paid on monthly basis.

The tariff list is applied separately to commercial, industrial and financial sectors.

### 9.9 Tax over the transfer of real estate

Transfers on real estate property are taxed according to the value of the real estate, at a tax rate of 3% applicable over amounts exceeding USD 28,571.43.

### 9.10 Tax over financial operations Law

Establishes a tax of 0.25% (for amounts over one thousand Dollars), which is applied over the amount paid by check or electronic transfers made in the national territory, in the legal currency in circulation in the country, in accordance with the regulations contained in this Law.



Furthermore, a tax withholding of 0.25% must be made over the excess of \$5,000, which originates from deposits, and cash payments or withdrawals, whether in an individual or accumulated basis during the same month.

## 10. Other tax regimes

### 10.1 Simplified regime for casino and slot machines

No special regime exists for casino, slot machines or betting games. In fact, legal limitations have been issued by local authorities in various municipalities prohibiting the functioning of these activities.

## 11. Corporate deductions

### 11.1 Permitted deductions

All business expenses considered necessary to produce taxable income and/or maintain income source (freight, marketing, power, telecommunication, water, salaries, lease contracts, merchandise and transport insurance, fuel and interest paid on loans used by income generating sources, and other similar items) are deductible for income tax purposes.

### 11.2 Interest

If a loan is made by a foreign company or bank that is not registered by the Central Bank or if the loan is between related parties, income tax is withheld at 20%. If the foreign bank is registered by the Central Bank in 2010, then 0% income tax will be withheld.

### 11.3 Taxes

Other than penalties and interest charges on unpaid taxes, income, VAT and conveyance of real estate property taxes, and state and municipal taxes and duties on imports of goods and services rendered by the company are not deductible.

### 11.4 Depreciation

Depreciation allowances on fixed assets are determined by the declining balance method at the following rates:

Type of asset	%
<b>Buildings</b>	<b>5</b>
<b>Machinery</b>	<b>20</b>
<b>Vehicles</b>	<b>25</b>
<b>Other fixed assets</b>	<b>50</b>

### 11.5 Amortization

Amortization of new software is admitted at a constant and maximum 25% over purchases or production costs.

### 11.6 Payments to foreign affiliates

Remittance of royalties, interest income and services

fees to foreign affiliates are deductible provided proper contracts are in place and withholding tax of 20% is applied and if these services have actually been received. Payments to entities located in tax haven regimes, are subject to a withholding tax rate of 25%.

### 11.7 Other significant aspects

The deductibility of charitable donations is limited to 20% of the amount resulting from deducting the donation amount from the donors' net income of the

respective tax period. Amortization of goodwill, trademarks and other similar intangible assets are not deductible for income tax purposes.

### 11.8 Net operating losses

Operating losses cannot be carried forward to future years, and Salvadoran legislation does not permit the carry back of losses, for the purpose of being deducted for tax purposes.

### 11.9 Tax withholdings

Payments or amounts credited to non-residents arising from income obtained in El Salvador are subject to a 20% WHT. Income earned in El Salvador covers income from assets located in the country, and from any activities performed or capital invested in the land, and from services rendered or used in the national territory, regardless of whether they are provided or paid outside the country.

Income from services used in the country is income earned in El Salvador by the service provider, irrespective of whether the relevant income generating activities are performed abroad. Payments to foreign entities located in the tax haven regimes are subject to a withholding tax rate of 25%.

Payments to domiciled individuals with respect to services rendered other than under a labor relationship, are subject to a 10% income tax withholding.

The acquisition of intangible goods among domiciled entities in the country is subject to a 10% income tax withholding.

### 12. Tax incentives

6% over the free on board value (FOB) of the exports outside of the region.

This law was repealed during January, 2011, and substituted by a return mechanism that was approved, for the rights paid over raw materials and goods imported to be exported. El Salvador offers a wide range of incentives to attract foreign investments and drive new commercial and industrial developments. There are no restrictions on foreign ownership or on mergers, acquisitions or joint ventures.

There are three specific laws in El Salvador that seek to encourage foreign investment by improving the country's competitiveness in all areas involving the granting of tax incentives. These laws are the Industrial and Commercial Free Zone Law, Law of International Services and the Export Reactivation Law, which was replaced in 2011 by the Law of re-imbursement of tariffs over importations.

The industrial and Commercial Free Zone Law No. 405 dated September 3, 1998; grants companies the following incentives:

- Exemption from income tax.
- Exemption from VAT.
- Exemption from real estate transfer tax when the land is intended to be used for productive activities.
- Exemptions from duties for imports on machinery, raw material, equipment and intermediate goods used for production.
- Option to sell merchandise or services linked to international trade produced in the free zone in the Salvadorian market is permitted as long as companies pay the corresponding import tax, income tax, VAT, and municipal taxes on the finished goods sold.
- Any foreign company may establish and function in a free zone or bonded warehouse if they are engaged in: production, assembly, manufacturing, processing, transformation, or commercialization of goods and services; and/or rendering of services linked to international or regional trade, such as gathering, packaging and repackaging, cargo consolidation, distribution of merchandise and other activities connected or complementary to them.

The Law of International Services Law, No. 431, dated October 11, 2007; grants the same benefits as the Free Zone Law, but the beneficiaries are companies operating in Services Centers specially created according to this law and dedicated to international services as defined therein.

The Export Reactivation Law No. 460 dated March 15, 1990; establishes a definite reimbursement grants reimbursement.

### 13. Compliance with corporate taxes

National taxes, fees and other contributions on all type of goods, services and income in El Salvador are levied by the National Congress, with local government (municipalities) may suggest contribution rates and propose their approval to the National Congress by means of specific laws.

Ministry of Finance; the Ministry controls the State's finances and defines and guides the government's financial policy, and also harmonizes, directs and implements its policies on taxation, through the following agencies:

- Internal Revenue Service (DGII): was created by Law No. 451, dated February 22, 1990; replacing the former Direct Revenues Services, and is charged with managing and collecting the country's main internal revenues.
- Customs Authorities (DGA); the DGA was created by Law No. 903, dated December 14, 2005; replacing the former Customs Revenues Services, and its main function in the exercise of its customs powers, to facilitate and control international trade within its domain, and monitor and collect duties and taxes imposed upon merchandise entering and existing the territory.

### 13.1 Tax returns

VAT returns are filed on a monthly basis within the first ten (10) working days of each month following the period under taxation.

In addition, public and private juridical entities, domiciled in the country for tax purposes, other than farm and cattle concerns, are required to make income tax advance payments at 1.75% of gross revenues. These advance payments are due, together with the corresponding return, within ten (10) working days following the corresponding calendar month.

The annual corporate income tax returns must be filed each year no later than April 30, following the end of the tax year. In El Salvador the fiscal year is from January 1 to December 31.

## 14. Current tax and withholdings rate.

### 14.1 The monthly income tax withholdings table for employees is presented below

Income tax withholding table for employees	
Monthly salaries	Rate
Up to USD 472.00	Exempt
From USD 472.01 to USD 895.24	10% over USD 472.00 plus USD 17.67
From USD 895.25 to USD 2,038.10	20% over USD 895.84 plus USD 60.00
Over USD 2,038.11e	30% over USD 2,038.10 plus USD 288.57

14.2 The employee discounts and employer contributions to the Salvadoran Institute of Social Security (ISSS), Pension Fund Administrator (AFP), Social Prevision of the Armed Forces (IPSFA) and the Institute of Professional Formation (INSAFORP), are presented as follows:

Annual tax table for employees		
Institution	Rate	Minimum salary applicable
ISSS - health	Employee (3%); Employer (7.5%)	US\$ 1,000.00
AFP	Employee (7.25%); Employer (7.75%)	US\$ 5,354.52
IPSFA	Employee (6.00%); Employer (6.00%)	US\$ 2,193.05
INSAFORP	More than 10 employees	US\$ 685.71

## Republic of Guatemala

### 1. Identification of the contact firm

Moore Stephens Guatemala  
Moore Stephens Díaz Reyes & Asociados S.C.

#### 1.1 Office, address, phone

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### 2. Partners

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### 3. Country

Republic of Guatemala, is a country located in Central America, at its northwestern tip, with a wide native culture product of the Mayan inheritance and Spanish influence during the colonial era, for what is considered a multicultural, multilingual, multi-ethnic country.

Despite its relatively small territorial extension, Guatemala has a great climatic variety, product of its mountainous relief that goes from sea level to the 4.220 meters above. This leads to the existence of ecosystems in the country that range from the mangroves of the Pacific wetlands to the cloud forests of high mountains. It borders to the West and the North with Mexico, to the East with Belize and the Gulf of Honduras, to the Southeast with Honduras and El Salvador and to the South with the Pacific Ocean. The country has an area of 108,889 km<sup>2</sup>, which is organized into 8 Regions, 22 departments and 334 municipalities. Its capital is the City of Guatemala, officially called Nueva Guatemala de la Asunción. Its population is approximately 14 million habitants, the indigenous population makes up 51% of the country's population. The official language is spanish, it also has 23 Mayan languages, the Xinca and Garífuna languages, the latter spoken by the Afro population descendant in the caribbean department of Izabal.

Guatemala's is currently governed by the Political Constitution of the Republic of Guatemala of 1985 and reformed in 1994 in which Guatemala is established as a free, independent and sovereign State. republican, democratic and representative government system.



In the economic sphere, the currency is the quetzal.

Guatemalan exports in the year 2017 totaled 11 billion dollars. Its main export products expressed in US \$ and millions, according to the "Banco de Guatemala" (Bank of Guatemala) are:

	Millions	Of Total
• Artcles of clothing	1,340	(12.19%)
• Minerals	1,112	(10.12%)
• Sugar	825	(7.5%)
• Banana	788	(7.17%)
• Coffe	748	(6.8%)
• Edibles fats and oils	570	(5.18%)
• Cardamomo	367	(3.34%)
• Plastic Materials and their manufactures	329	(2.99%)
• Alcoholic beverages and vinegars	326	(2.97%)
• Fresh or Frozen Fruits except Banana	319	(2.90%)
• Manufactures of Paper and Cardboard	270	(2.45%)
• Iron and Steel	237	(2.16%)
• Pharmaceutical Products	231	(2.11%)

It is worth mentioning that tourism and remittances from Guatemalan workers abroad have become a more important foreign exchange income of the country with 8,338 million, equivalent to 76% of exports in the case of family remittances. Tourism represents a foreign exchange income of US \$ 1,565 million, equivalent to 14% of total exports. Both data for the year 2017 according to the Banco de Guatemala.

The main destinations of exports are:

United States	34%
México	12.3%
Eurozone	12.2%
Central América	3.18%

## 4. Investment

### 4.1 National Investment

Legally the establishment of a local company in Guatemala is a simple and fast procedure, taking approximately two weeks for provisional registration and a maximum of one month for final registration. A company can start its operations in the provisional register.

Registration requirements for a local company are as follows: A minimum of two persons, natural or legal persons, are obliged to form a company. To operate in most sectors of the economy, there is no requirement for local participation in a Guatemalan society. Likewise, no restrictions are imposed on foreign participation. The company's charter must be executed in a public document and in the presence of a Lawyer.

### Types of Guatemalan companies

- **Sociedad General (Sociedad Colectiva):** The owners are personally liable for the legal actions and the debts of the company, their personal assets are subject to seizure and liquidation to pay the creditors.
- **Sociedad de Responsabilidad Limitada:** a maximum of twenty members, in which each partner is personally responsible for the amount of the capital paid.
- **Sociedad Limitada (Sociedad en Comandita Simple):** formed by two types of partners: one or more general partners that in direct insurance and are jointly and severally liable for the debts, and one or more limited partners whose liability is limited to the amount of capital paid. Limited partners cannot have control of management in the operation of the company.
- **Sociedad en Comandita por acciones:** A limited company is a hybrid between an association and a limited liability company. The capital and the ownership of the company are divided between the shareholders who have a limited liability and one or more partners who have full responsibility for the rest of the debts of the company. The general partner (s) directs the operations of the company, while the shareholders are passive investors.
- **Corporación (Sociedad Anónima):** Equity is divided and represented in shares of equal value. The liability of each shareholder is limited to the shares held. The company must have a board of directors, or a sole administrator, and must hold an annual meeting whose minutes must be notarized.

Registration in the Internal Revenue Service (Tax Agen-

cy "SAT") is necessary to obtain the tax identification number (NIT). The registration is issued at the same time that companies require it.

## 4.2 Foreign investment

It is usually carried out by establishing a local company or a branch of a foreign company.

### 4.2.1 Marco Legal para la Inversión Extranjera

Guatemalan laws explicitly promote investment and include provisions that recognize and guarantee private property rights equally to nationals or foreigners, there is no restriction on the possession or limitation on the acquisition of shares in any Guatemalan company.

## 5. Audit and Accounting

The laws of Guatemala require an audit of financial statements only for special and large taxpayers, which are a list of 2 thousand companies defined by the governmental entity in charge of tax collection, however, most companies have the policy of hiring an external auditor.

The Commercial Code requires the authorization of the books: Journal, General Ledger, financial statements and the inventory book.

## 6. Labor Regimen

### 6.1 Types of employment contract and conditions of employment

Within the Guatemalan legislation it is envisaged that the employment contracts are both written and verbal, that although there is no instrument or contract, it is enough for the employment relationship to begin so that the employment contract is established; Within the types of contracts that govern the Guatemalan labor legislation are the following:

- **Fixed term:** is that contract in which the exact time of the employment relationship is established, that is, both the employer and the worker knows the exact time in which the employment relationship ends, this type of contracts are not constant in the relationship Guatemalan labor, but it is recognized within the labor legislation.
- **Indefinite term:** This type of contract is the most used in the employment relationship, is the contract by which the employer and the employee establish a working relationship without time limit, the relationship lasts as long as the parties want it.
- **Feasible:** those that are made to meet the employer's circumstantial requirements, such as replacing personnel who are absent for vacation, leave, sickness, maternity, increased demand for production or services, etc.

- **By certain work:** Execution of a determined work for a remuneration that includes the whole of it, without taking into consideration the time that is invested in executing it.
- **Piecework:** The work is carried out by pieces, pieces, surface measurements and, in general, by work units, and the remuneration is agreed for each of them, without considering the time invested in the work.

There are other types of employment contracts according to laws that are not used in general practice.

## 6.2 Remuneration

It is one of the essential elements of the employment relationship, without remuneration the work becomes exploitation, the legislation allows payment or remuneration on a monthly, biweekly or weekly basis and can be as follows:

- Monetary
- Share in the profits of the employer's business
- Mixed: (salary or fixed salary + participation in the product of the employer's business)

Additionally, there are other additional remunerations such as:

- **Bono 14:** The annual bonus will be equivalent to one hundred percent (100%) of the salary or ordinary salary accrued by the worker in a month, for the workers who have worked at the employer's service, during an uninterrupted year and prior to the date of payment. If the duration of the employment relationship is less than one year, the benefit will be proportional to the time worked. To determine the amount of the benefit, the average salary or ordinary wages accrued by the worker in the year which ends in the month of June of each year will be taken as a basis. The bonus must be paid during the first half of the month of July of each year.
- **Aguinaldo:** This annual bonus will be equivalent to one hundred percent (100%) of the regular salary of the wages received by the worker in a month, for the workers who have worked in the employer's service, for one uninterrupted year and prior to the payment date. If the duration of the relationship that can work less than a year, the benefit will be proportional to the time worked. To determine the amount of the benefit will be based on the average of regular wages or wages earned by the worker in the year ending in June of each year. The bonus will be paid fifty percent in the first two weeks of December and the remaining fifty in the second half of next January.

If a worker, for any reason, leaves or was separated from his job before the dates mentioned, he will receive the proportional part of the Bono 14 and Aguinaldo remuneration at the time of retirement or separation.

## 6.3 Labor Benefits

- **Vacations:** Under Guatemalan law every worker without exception is entitled to a period of paid leave after each year of continuous work in the service of the same employer, whose minimum duration is fifteen working days. For the worker to have the right to vacation, even if the contract does not require him to work all the hours of the ordinary day or every day of the week, he must have a minimum of 150 days worked in the year. The days in which the worker does not provide services for having paid leave, established by this Work Code of Guatemala or by collective agreement, due to occupational disease, common illness or due to an accident at work, will be computed as worked.
- **Compensation:** Employees who are dismissed without just cause are entitled to a monthly salary, for each year or fraction that the employee has worked for the employer, which is calculated with the average of the wages of the last 6 months, including the proportional part of the Aguinaldo and Bono 14.

## 6.4 Social Security

- **Contribution to IGSS:** All workers are required to join the Guatemalan Social Security Institute. The obligation is for both the employer and the employees. The employer pays 10.67% on gross wages and employees 4.83% on the same basis.
- **Contribution IRTA and INTECAP:** (Instituto de Recreación para los trabajadores), Irtta, and the Instituto Técnico de Capacitación, (Intecap): It is a benefit for the employees to use the facilities of an amusement park for their recreation and can be trained in the second case, paying 1% of the workers' salary for each of them, with which the IGSS worksheet increases to 12.67% on ordinary and extraordinary salaries of the worker.

## 6.5 Change Control

In Guatemala, the income and expenditure of foreign currency is free. For the recording of foreign exchange losses in accounting books, the purchase and sale of foreign currency is required in an institution supervised by the Superintendency of Banks.

The exchange rate of one United States dollar has been from 7.35 to 7.50 Quetzals on average in recent years.

## 7. Tax System

### 7.1 Income Tax (ISR)

Income categories according to their origin; the following rents are taxed according to their origin:

	Category	Applicable Rate	Gross Income	Taxable Income
<b>1</b>	The incomes of the lucrative activities.	-	-	-
<b>1.1</b>	Regime: Profits of Lucrative Activities	25%	The set of income and benefits of any nature, taxed or exempt, customary or not, accrued or received in the liquidation period, coming from sales of goods or services and other lucrative activities. Likewise, income derived from foreign exchange gains originated in the sale of foreign currency constitutes gross income; and the benefits arising from the collection of compensation in the case of extraordinary losses suffered in fixed assets, when the amount of compensation exceeds the carrying amount of the assets	Gross income minus exempt income, plus deductible costs and expenses in accordance with this law and must add costs and expenses for the generation of exempt income
<b>1.2</b>	Simplified Optional Regime on Income from Lucrative Activities	Q0.01 to Q30,000 Monthly 5% of taxable income. Q30,000.01 onwards, Q1,500 as a fixed amount and 7% on the surplus of Q30,000	The taxable income is the total income of any nature.	Must deduct their exempt income from their gross income.
<b>2</b>	Salary Tax	Q0.01 to Q300,000 of Taxable Income 5% - Q300,000.01 of Income Taxable onwards Q15,000 as a fixed amount and 7% on the surplus of Q300,000	It is the sum of your taxable and exempt income, obtained in the annual liquidation period;	It is determined by deducting from the net income the applicable deductions (Q60,000 conditioned, Donations, Fees to the IGSS, IPM and to the state and its institutions for installments of social security schemes, and life insurance premiums to cover risks in cases of death)
<b>3</b>	Capital income and capital gains	-	-	-
<b>3.1</b>	Other Equity Capital Income	-	-	-
<b>3.1 a</b>	Dividends, Earnings and Profits.	5%	-	-
<b>3.1 b</b>	Other Equity Capital Income other than Dividends, Profits and Profits	10%	-	-
<b>3.2</b>	Real Estate Capital Income	10%	-	-
<b>3.3</b>	Capital gains	10%	-	-
<b>3.4</b>	Income from Lotteries, Raffles, Draws, Bingos or similar events	10%	-	-

### 7.2 Quarterly payments of income tax

Taxpayers must make quarterly payments as an advance payment of income tax, to determine the amount of quarterly payment the taxpayer may choose one of the following formulas:

1. Make partial accounting closures or a preliminary liquidation of their activities at the expiration of each quarter, to determine the taxable income; or,
2. On the basis of a taxable income estimated at eight percent (8%) of the total gross income obtained from activities that are taxed by this regime in the respective quarter, excluding exempt income.

### 7.3 Solidarity Tax

This tax is determined by the calculation of 1% on gross income or total assets, whichever is greater, based on the financial statements of the previous year.

- You can be credited with the Income Tax for next year.
- It is paid quarterly.
- It is considered a minimum tax that must be paid, regardless of whether it obtains profits or not.

### 7.4 Withholding System for non-residents without permanent establishment in the country

Activity	Applicable Rate
Activities of international transport of cargo and passengers -The value of the tickets sold in the country or abroad to be extended in Guatemala, regardless of the origin or destination of the passenger	5%
International cargo and passenger transport activities - The value of freight charges for cargo originating in Guatemala destined abroad, even when such freight is contracted or paid in any form, outside of Guatemala. In the case of cargo freight from abroad, when the value of the freight is paid in Guatemala-	5%
Activities of international transport of cargo and passengers - The amount that non-residents dedicated to transport, as well as their representatives in Guatemala, charge transport users as part of the service they provide, including fuel, storage, delays, use of offices in the port, use of electricity or penalties-	5%
Insurance premiums, surety bonuses, reinsurance, retrocessions, and refinancing, obtained by non-residents	5%
Telephony, data transmission and international communications of any nature and by any means, coming from the communications service of any nature, between Guatemala and other countries. In all cases, regardless of the place of incorporation or domicile of the companies that provide the service	5%
Utilization of electric power supplied from outside the country	5%
Dividends, distribution of profits, profits and other benefits, as well as any transfer or crediting in account to their parent companies abroad, without consideration from permanent establishments of non-resident entities	5%
The supply of international news to user companies in the country, whatever the form of retribution and for the use in Guatemala of cinematographic films, strips of comics, fotonovelas, musical and auditory recordings and any other projection, transmission or similar diffusion of images or sounds in the Republic, whatever the means used	3%
Interest derived from: i) deposits of money; ii) the investment of money in financial instruments; iii) credit operations and contracts, such as credit opening, discount, documentary credit or money loans; iv) the holding of credit instruments such as promissory notes, bills of exchange, bonds or debentures or the holding of other securities, in any case issued physically or through book entries; v) the price differentials in repurchase transactions, regardless of the denomination given by the parties, or other income obtained from the transfer of own capital; vi) financial leasing, factoring, securitization of assets. vii) any type of credit operations, financing, capital investment or savings. Paid or credited to non-residents. Except for the tax referred to in this numeral, the payments for crediting in interest account for loans granted by banking and financial institutions to entities duly authorized and regulated in their country of origin, according to the Law of Banks and Financial Groups, as well as those that the latter and multilateral institutions grant, to persons domiciled in the national territory.	10%
The royalties: For payments for the use, or the concession of use of: i. Copyright and related rights, on literary, artistic or scientific works, including films cinematographic video tapes, radio soap operas, phonograph records, musical and audio recordings, strips of comics, fotonovelas and any other similar means of projection, transmission or diffusion of images or sounds, including those coming from television broadcasts by cable or satellite and multimedia. ii. Trademarks, expressions or advertising signs, trade names, emblems, geographical indications and designations of origin, patents, industrial designs, drawings or utility models, plans, supplies of secret formulas or procedures, privileges or franchises iii. Rights or licenses on computer programs or their updating. iv. Information related to industrial, commercial or scientific knowledge or experiences. v. Personal rights susceptible to assignment, such as image rights, names, nicknames and artistic names. saw. Rights over other intangible assets.	15%
Salaries, allowances, commissions, bonuses and other remunerations that do not imply reimbursement of expenses	15%
Payments or accreditation in bank account to athletes and artists of theater, television and other public or performance shows	15%
Professional Fees	15%
Scientific, economic, technical or financial advice	15%
Other taxable income not specified in the above numerals	25%

## 7.5 Special Norms of Valuation between Related Parties

### Area of application:

The scope of application according to what is established in article 57 of the law 10-2012, reaches any operation that is carried out between the person resident in Guatemala with the resident abroad and has effects in the determination of the tax base of the period in which the operation and in the following periods.

### Related Parties:

Related parties are considered, between a person residing in Guatemala and a resident abroad, when the following cases occur:

- When one of them directs or controls the other, or owns, directly or indirectly, at least twenty-five percent (25%) of its share capital or voting rights, either in the national entity or in the foreign entity.
- When five or less persons direct or control both related parties, or have, as a whole, directly or indirectly, at least twenty-five percent (25%) of participation in the capital stock or the voting rights of both persons.

They are also considered related parties when:

- A person residing in Guatemala and a distributor or exclusive agent of the same resident abroad.
- A distributor or exclusive agent resident in Guatemala of an entity residing abroad.
- A person residing in Guatemala and its permanent establishments abroad.
- A permanent establishment located in Guatemala and its parent company residing abroad, another permanent establishment of the same or a related person.

## 7.6 Value added tax (IVA)

The Value Added Tax (VAT) is applied to a uniform rate of 12% and the following applies, among others:

- Sale of personal property and rights over assets
- Services performed in Guatemala
- Items imported into Guatemala
- Sale or rental of real estate

The exporting companies can request the refund of any remaining credit to the Superintendency of Tax Administration (Guatemala IRS).

## 7.7 Stamp Tax

Some of the legal documents require a three percent tax on the value of the transaction being documented. Transactions subject to Value Added Tax (IVA) are not subject to the Tax on Documented Legal Acts.

## 7.8 Import Taxes

With the exception of articles covered by special free trade agreements, incentives or purchased directly by government agencies, imports from outside the Central American region are subject to a tariff ranging between 0 and 20 percent of the value CIF. The Value Added Tax (VAT) is also paid to imports, unless the import corresponds to special exemptions.

## 7.9 Internationals deals

Guatemala does not have international treaties of a tax nature. If there are free trade agreements with the United States, Chile, Colombia, Mexico, Panama, the Dominican Republic and Taiwan.

## 7.10 Free Trade Zone (Decree 65-89)

A free trade zone is defined as a specially designated area of land, subject to a tariff classification, in which persons and goods of manufacturing or merchandise companies for export or re-export, or participate in foreign trade services. A free trade zone can be established anywhere in the country by private, as well as public companies. Private companies need approval by the Ministry of Economy. These apply only to clothing, technology and others. It does NOT apply to agricultural activities.

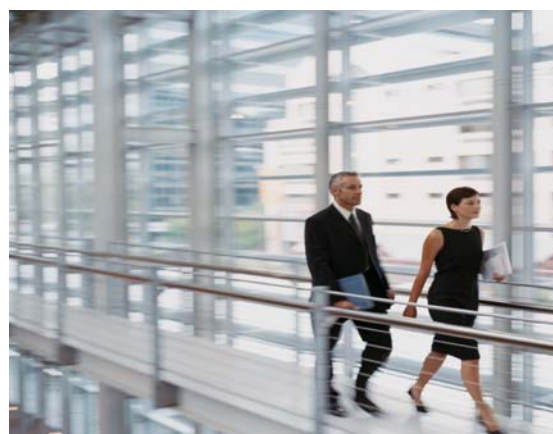
Moore Stephens Guatemala

Moore Stephens Diaz Reyes & Asociados, S.C.

## Our Services

The firm offers a wide range of services, supervised by a quality manager.

- Internal and External Audits
- Fiscal Consulting and Auditing
- Transfer Pricing Studies
- Accounting Outsourcing
- Legal advice
- Human Resources Services
- Financial administration
- Corporate Finance
- Valuation of companies
- Due diligence processes



## Republic of Honduras

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### 3. Country Profile

The Republic of Honduras is located in Central America, with a large indigenous culture of the Mayan heritage and the Spanish influence during the colonial era. Honduras for its location in the hemisphere is a Sub-Tropical country. The climate is hot and humid on the coast and cooler in the mountains. It is bordered on the northern coast by the Caribbean Sea and the Pacific Ocean and to the south by the Gulf of Fonseca. It shares borders with Guatemala to the northwest, El Salvador to the south and southeast by Nicaragua. The country has an area of 112,492 km<sup>2</sup>. Its capital is Tegucigalpa, Department of Francisco Morazán. Its population is 9,112,867 million and its official language is Spanish. Honduras also has other aboriginal languages such as Garifuna. Its system of government is republican, democratic and representative. It is exercised by three branches: Legislative, Executive and Judicial: complementary, independent and without subordination.

On the economic front, the currency is the Lempira. Its main exports are:

- Coffee (30% del Agricultural GDP)
- Tilapia
- Cultivated Shrimp
- Bananas



- Fruits
- Woodwork
- African Palm crude oil
- Tobacco

### 4. Investments

#### 4.1 National Investment

For the legal establishment of a company in Honduras a period of more than two months is required for the entry of the records of the Municipality, and the Revenue Management Services (**Servicio de Administración de Rentas – SAR**).

#### Types of Commercial Companies:

- General Partnership.
- Limited partnership.
- Limited Liability Company (LLCs).
- Public Limited Company/Corporation
- Company limited by shares.
- Cooperative.

#### Municipal Tax Records

For the registration of a legal entity in the records of the Revenue Management **Services (Servicio de Administración de Rentas – SAR)**, who is the body responsible for the country's tax administration, it is required to provide all documentation of identity, copies of the public deed to apply for and obtain the National Tax Registration Number (Registro Tributario Nacional, RTN), which identifies it as a taxpayer. Before starting commercial activity, an operating permit must be requested in the Mayor's office where the Company is established.

## 4.2 Foreign Investment

Any company that has an interest in operating in Honduras must register locally or possibly proceed to establish a branch office through formalities with the Ministry of Finance.

### 4.2.1 Legal Framework for Foreign Investment

The laws of Honduras promote foreign investment and include provisions guaranteeing private property rights on an equal basis to both domestic and foreign investors.

#### Accounting

Starting 2012, the laws of Honduras require the preparation of the financial statements under the International Financial Reporting Standards for Small and Medium Entities (IFRS for SME).

## 5. Labor Regime

### 5.1 Employment Contracts and Conditions

The Labor Code establishes that employment contracts shall be oral and written. However, the law provides for certain cases the mandatory written contract.

### 5.2 Remuneration

Remuneration can be agreed in the following ways:

- Per unit of time.
- Per work or assignment
- For participation in the profit, sales or collections.
- Mixed: a fixed part and a variable part.

There are other obligatory remunerations:

- **Seventh Day:** the employee will enjoy one day of rest, preferably on Sunday for every six days of work.
- **Thirteenth Month Salary:** as an additional salary. It will be paid to permanent employees and retirees during the month of December of each year based on the last salary.
- **Fourteenth Month Salary:** as a social compensation. It will be paid to all the permanent employees as 100% of their fixed salary if they have worked for a complete year to June 30 or the proportion according to the time worked.

### 5.3 Work Benefits

**Vacation Time:** vacation time will be paid after one year of continuous work in a range of 10 to 20 days maximum according to the Labor Code Law.

### 5.4 The law under the system of social protection

**Legal Basis:** On May 14, 2015, the National Congress approved the Law under the System of Social Protection, through Decree No. 56-2015 published in the official journal dated July 2, 2015. (Gazette No.

33,771). Entered into force on September 04, 2015.

The Law under the System of Social Protection includes a system of social protection with a multi-pillar structure that grants cover contingencies arising from the major risks associated with the course of people's lives.

**Object:** This law aims to create the legal framework of public policies in the field of social protection, in the context of conventions, principles and best international and national practices that govern the matter, in order to allow residents, to achieve progressive and sustainable financially, decent coverage, through social promotion, prevention and management of risks that it involves people's lives ensuring medical care, livelihood protection and other social rights necessary for the achievement of individual and collective well-being.

#### Social Security: Year 2016

- **Contributions to the Honduran Social Security Instituto (Instituto Hondureño de Seguridad Social – IHSS):** the employer is required to enroll their employees to the IHSS. Under the new Law of the System of Social Protection from September 4, 2015 the contributions for the year 2015 are as follows: disability, old age and death: employer 3.5%; worker 2.5%, on a wage ceiling of L8,882.30. Health care insurance scheme: employer 5.0%, worker 2.5%, on a wage ceiling of L7,350.00; The Labor coverage insurance scheme: employer 0.66%; The Social protection insurance scheme: employer 2.5%, worker 1.5% payable monthly, above a wage ceiling of L8,882.30.

#### Contribution to Private Contributions Regime (Regimen de Aportaciones Privadas, RAP):

- Starting from the entry in force of the Law of Social Protection, (Decree legislative 56-2015) and its reform (Decree 77-2016), in their articles 53 and 59-to, empowers Private Contributions Regime (RAP) to capture and manage the accounts of individual capitalization, starting from the date in which RAP was authorized by the National Commission of Banks and Insurance Companies (Comisión Nacional de Bancos y Seguros - CNBS) on August 30, 2016, according to resolution SS No. 659/12-08-2016.
- To finance the Social welfare insurance regime, the Executive Agreement No. STSS-390-2015 sets a rate of contribution and compulsory monthly contributions from employers and workers respectively, equivalent to 1.5% by each of the contributors on the surplus of the top contribution of the capitalization (IVM).
- **Contribution to the Professional Development Institute (Instituto Nacional de Formación Profesional, INFOP):** The Companies that have five

employees or more or whose capital stock is higher than L20,000 and have less than five employees shall contribute with a monthly 1% of the total salaries and wages.

## 6. Currency Exchange Control

The currency of the Republic of Honduras is the Lempira (L) and the exchange rate is in relation to the Dollar of the United States of America (US\$). In July 2011 the Board of the Central Bank of Honduras stated that the basic price of the currency will be reviewed monthly taking into account the inflation rate differential, the evolution of the exchange rates of partner commercial countries applying an adjustment to the result of the above factors, however, the exchange rate as of July 25, 2011 is L18.8951. Under this system, the purchase price of the foreign currencies is in constant change; closing 2017 with an average of L23.5580 for US\$1.

### 6.1 Regulation of the billing regime, other tax documents and registration tax of printers:

**Legal basis:** Agreement No. 189-2014. Published in the official newspaper "Gazette" No. 33,407 on April 21, 2014.

**Objeto:** This regulation aims to develop the provisions contained in article 57 of Decree No. 17-2010 containing the law of strengthening of income, Social equity and rationalization of public expenditure, published in the official newspaper "Gazette" on April 22, 2010; as well as the provisions of articles 28, 29 and 30 of the Decree No.51-2003, law of tax equity.

#### Scope of Application:

This regulation regulates the following:

- 1) The documents prosecutors and modalities of printing that should be used in the generation and spread of these documents. de Rentas – SAR).
- 2) The inherent aspects of the registration, operation and control of printers and auto-printers in the tax registration of printers for generation, printing, and extension of tax documents, duly authorized by the Revenue Management Services (Servicio de Administracion de Rentas – SAR).
- 3) Requirements that must comply with tax documents so that they can be used as tax credit, expenses or cost accounting support and sustenance of the internal transfer of goods.
- 4) Records of control that should be made by taxpayers, as well as the requirements and formalities to be met by these to be validated by the Revenue Management Services (Servicio de Administracion de Rentas – SAR).
- 5) Tax special treatment for cases which by their nature or conditions not possible to apply the general treatment.

- 6) Formal obligations related to this regulation and its sanctions in case of non-compliance.

#### a. New Tax Code

Adoption of the new tax code, which entered into force January 1, 2017 through its publication on December 28, 2016, in the official journal La Gaceta No. 34,224 through Decree No. 170 - 2016. Such Code, among other important aspects, includes that Honduras is governed under the principle of "Territorial income", which favors capital-importing countries, since tax payers are obliged to tribute exclusively for revenues generated within the territory of a country. It also includes the determination of the monotax or one-time only tax, which is based staged aliquots, according to the parameters set out in the law; as well as, the creation of an administrative court called Tax Management empowered to dictate general administrative acts that contain the procedures and technical criteria necessary for the application of those regulations in tax matters. This new code regulates the granting and enforcement of tax exemptions. It is composed of 214 items and establishes the basic principles and fundamental standards which constitute the legal regime of the tax system and its applicability to all taxes.

### 6.2 New Minimum wage 2017 and 2018

Approval of the tripartite agreement of Minimum Wage for years 2017 and 2018 effective since January 1, 2017. Representatives of the employer, employee and public sector whom integrated the Minimum Wage Commission, agreed on the new minimum wage that would be in force in the country during years 2017 and 2018 starting January 1<sup>st</sup>, 2017 in agreement to the economic activities and size of the companies in relation to the number of employees, resulting in the following percentages:

Percentage Adjustment of the Minimum Wage		
Category	Year	
	2017	2018
From 1 to 10 Employees	3.31	3.90
From 11 to 50 Employees	3.31	3.90
From 51 to 150 Employees	5.00	5.50
From 151 and on	6.00	6.15

#### Average Minimum Wage 2017 for tax purposes

The Revenue Management Services (Servicio de Administracion de Rentas – SAR), according to agreement No. STSS-007-2017 published on January 13, 2017 in the Official Gazette No. 34,238, notifies *that only for fiscal purposes*, the average minimum wage that will govern in the country as of January 1, 2017 amounts to **L8,448.40**.

### 6.3 Creation of the Revenue Administration Service (Servicio de Administracion de Rentas – SAR)

Through executive decree No. PCM-084-2015 published on February 27, 2016 in the official newspaper La Gaceta No. 33,971, the **Revenue Administration Service (Servicio de Administracion de Rentas – SAR)** was created as a decentralized entity attached to the Presidency of the Republic with functional, technical, administrative autonomy and national security, with legal personality, responsible for tax administration, authority and competence in national territory and residing in the Capital. The SAR acquired the functions of the DEI which was suppressed and liquidated through Decree No. PCM 083-2015 from November 26, 2015.

### 6.4 Income Tax and Sales Tax

Tax Category	Description	Tax or Applicable Rate	Income or taxable base
<b>Over Income: Companies</b>	Taxes the income that comes from capital, work or a combination of both. The fiscal period is from January to December 31 of every year.	25%	Gross income minus exempt more non-deductible expenses according to the Income Tax Law.
<b>Solidary Contribution</b>	Legal entities pay a solidarity contribution (5%) applicable on the excess of net taxable income of more than one million Lempiras (L1,000,000) permanently.	5%	This surcharge of the income tax is not deductible from the income tax.
<b>Net Asset</b>	Companies shall pay a Total Net Asset Tax of 1% over the total net assets. The amounts paid for this concept are considered a credit against the payable income tax.	1%	The total net asset minus a credit (by law) of L.3, 000,000 and other deductions by law.
<b>Income Tax over salaries: Salary Withholdings</b>	<p>The taxpayers (individuals, companies or independent employers) are required to withhold the income tax to its employees and executives that are liable to the payment of this tax in a progressive scale.</p> <p>According to Decree No. 20-2016 dated March 30, 2016 and published in the Official Gazette No. 33,995, Article 22 was amended as follows:</p> <p>ARTICLE 22.- The tax established by this Law shall be charged to natural or legal persons domiciled in the country, according to the following provisions:</p> <p>a) ... ; and,</p> <p>b) Natural persons domiciled in Honduras will pay for the 2017 Fiscal Year, in accordance with the scale of the following progressive rates::</p> <p>From L0.00 to L145,667.10 Exempt            From L145,667.11 to L222,116.50 15%            From L222,116.51 to L516,550.00 20%            From L516,550.01 onwards 25%</p> <p>This scale of progressive rates will be automatically adjusted annually starting in 2017.</p>	10% minimum 25% maximum	Total income earned less the deductions permitted by law

<b>Income Tax Withholding: Article No. 50 (12.5%)</b>	Taxpayers (entities or individual employers) are required to withhold the income tax to their employees and executives that are liable to the payment of this tax for professional fees, allowances, commissions, gratifications, bonus and remunerations for technical services.	12.5%	The total income received under this concept.
<b>Tax over capital gains</b>	The capital gains or any extraordinary income from the Individuals or legal entities domiciled or not in Honduras.	10%	Capital gains minus direct costs derived from those gains.
<b>Tax over Dividend Distribution in Cash</b>	Income perceived by individuals or legal persons, residents or domiciled in the country or that receive income or any other share or reserve participation as well as dividend distributed by companies protected by special systems. The capitalizations of reserves or profit are exempt from this tax payment.	10%	Dividends declared and not paid, prepaid dividends, accounts receivable partners or related companies that do not arise from a commercial operation period greater than 100 calendar days.
<b>Income Tax Payments on Account and Temporary Solidary Contribution</b>	Results while dividing the income tax from the previous years' tax return divided by four. Three equal payments due on June 30, September 30 and December 31.	Quarterly	Represents a pre-paid sum of the Income Tax of the year.
<b>Pre-paid withholding of 1% Income Tax</b>	Individuals with liabilities and companies with income higher than L15,000,000 per year are assigned as withholding agents of 1% income tax to their suppliers.	1%	For the purchase of goods and services.

Tax Category	Description	Tax or Applicable Rate	Income or taxable base
<b>One-Time Income tax to non-domiciled individuals in Honduras.</b>	1. Income from real estate or movables except for the ones included in numeral 5 and 7 of Article No. 5	25%	Gross income from Honduran sources by individuals or legal entities not resident or non-domiciled in the country, will pay tax according to the percentage detailed by this chart.
	2. Royalties from the operations of mines, quarries or other natural resources.	25%	
	3. Salaries, wages, commissions or any other compensation for local or overseas' services.	10%	
	4. Income or profit earned by foreign companies through their branches, subsidiaries, agencies, legal representatives among others that operate in the country.	10%	
	5. Income, profit, dividends or any other form of participation in the profit or reserves of individuals or legal entities.	25%	
	6. Royalties and any other amount paid for the use of patents, designs, procedures and secret formulas, factory brands and author rights, except for those included in numeral 12.	10%	
	7. Interest over commercial operations, bonuses, securities and any other class of obligations.	10%	
	8. Income for the operation of aircrafts, ships and automotive.	10%	
	9. Income from operations of telecommunication companies, use of software, IT solutions, telematics and other areas of telecommunications.	10%	
		25%	
	10. Insurance premiums and deposits of any policy hired.	25%	
	11. Income derived from public shows.	10%	
	12. Movies and video tapes for cinemas, television, video clubs and cable TV rights.		
	13. Any other income not mentioned in the previous items.		

Tax Category	Description	Tax or Applicable Rate	Income or taxable base
<b>Sales Tax</b>	Calculated over the sales of taxable goods and services in national territory; it is applied in a non-cumulative basis during the import and in the sale over the value of the good or service.	15% for sale of goods and services in the national territory 18 % specifically for liquors and cigarettes	Over imports and sales of goods and services liable to the Sales Tax Law.
<b>Sales tax over airline tickets</b>	15% for national and international aircraft transportation and 18% for first and business class aircraft transportation.	15% economy class 18% business class	Over aircraft and service charges and the payment is monthly in the first ten days of the month
<b>Sales Tax Withholdings</b>	Major taxpayers are assigned as sales tax withholding agents of services indicated in the Law.	15% Monthly	Sales tax of the controlled service.
<b>Advance payments, reform to Article 22-A, Law of income tax</b>	1.5% over net income declared as advance payments of income tax when the taxpayer has net income of ten (10) million Lempiras onwards.	1.5%	Sales or net income of ten million lempiras onwards.

#### 6.4.1 Municipal Taxes

Tax Category	Description	Tax or Applicable Rate	Income or taxable base
<b>Tax over Industry, Trade and Services (Sales Volume)</b>	Monthly tax over annual income from manufacturing activities or services.	Charge per every thousand according to the scale of the Municipality Law.	The total income of the fiscal period.
<b>Personal Tax (Impuesto Vecinal)</b>	Tax over the annual income that individuals receive in the Municipality.	Charge per every thousand according to the scale of the Municipality Law.	All the income earned by individuals.
<b>Over Real Estate</b>	Tax over the property equity in the Municipality.	Annual	The payment of this tax is due on August 31 of every year.

## 6.4.2 Security Charge (Decree No. 17-2010, Law for Population Security)

Tax Category	Description	Tax or Applicable Rate	Income or taxable base
<b>Law for Population Security</b> <b>Financial Transactions</b>	Financial transactions for population security. Transitional measure that will be in force for five (5) years.	<p>Debits (withdrawals), demand deposits to checking accounts performed in financial institutions, in savings account of legal entities, payments or transfers to third parties, transfer or money orders overseas or in the interior of the country. The applicable rate is L2 per every thousand.</p> <p>Cashier check emission, certified checks, traveler's checks and any other financial instrument existent will pay L1.50 per every thousand.</p> <p>Annual credit card membership renovation (applicable only to the cardholder) in agreement with the credit line between a payment range between L500 and a maximum of L1,000.</p>	The taxable amount is the total value of the transaction performed in a financial institution with the exception of the accounts of the Central Bank of Honduras, debits or withdrawals in savings deposits in local currency, with a monthly average of L.120,000; debits or withdrawals of savings deposits in foreign currency with an average balance of US\$6,000; remittances and others included in the Law for Population Security.
<b>Mobile Telephones</b>	Taxes mobile telephone services.	1%	Total Monthly Gross Income
<b>Mining Sector</b>	Taxes the exploitation and selling of minerals.	The special transitory rate of the mining sector is 2%.	FOB (Free On Board) of the export.
<b>Environment protection</b>	Taxes the exploitation and selling of minerals in the country.	5%	FOB (Free on Board) of the export registered in the merchandise declaration.
<b>Food and Beverage Sector</b>	Taxes the selling of food and beverages under a special regime	0.5%	Total Monthly Gross Income
<b>Casino and Slot Machine Sector</b>	Taxes the income of casinos and slot machines.	1%	Monthly Income
<b>Cooperative Sector</b>	Requires a special contribution	An obligatory payment of 3.6% of the annual net profit.	Annual net profit

### Special Assessment Norms between related parts

In Honduras, the Law on Transfer Pricing Regulation became effective as of December 10, 2010 and shall be applied effectively for fiscal year 2014. Its scope extends to any operation performed by individuals or legal entities domiciled or resident in Honduras, with individuals or companies linked or related overseas.

**Transfer Pricing:** Are the prices at which commercial or financial operations are registered between related parties.

### Reforms in the New Tax Code

With the new Tax Code and through Decree 170-2016, a new regulation in Transfer Prices published in the Official Diary the Gazette No. 34, 224 on December 28, 2016.

Article No. 113 from the Tax Code, establishes the following:

So that the Tax Administration or Customs Administration determine the tax obligations according to the Law of Transfer Pricing should verify the existence of transfer prices in the operations held among natural o legal persons domiciled or resident in Honduras with their related, linked or associated parts and those that are part of special regimes that enjoy tax benefits.

All operations among local related parts are exempt from the obligation of the presentation of the transfer pricing study.

- According to the established in the Article 113, the natural or legal persons that have related linked or associated parts in national territory are not subject to the presentation of the study of transfer pricing.
- Nevertheless, this regulation is not applicable to natural o legal persons related or linked to special regimes that enjoy fiscal benefits.

### 7 International Treaties

Honduras has no tax treaties. There are free trade agreements with Chile, Mexico, Panama, Dominican Republic and Taiwan, and the Free Trade Agreement CAFTA, between the United States, Central America and the Dominican Republic.

### 8. Free Trade Zone

The whole country has been designated as a Free Zone. Largely, the companies are located in these areas and in areas of Export Processing.

The factories in these zones enjoy the following benefits among others: duty free import of machinery, raw materials, supplies and everything required in the operation of the plant; dispatch of incoming and outgoing shipments in less than a day with minimal documentation; foreign ownership permit in a 100% sales tax exemption and unrestricted repatriation of profits and capital at any time.

The profits accruing from operations in the Free Zone are exempt from payment of income tax.

### Free Tourist Zone (Zona libre Turistica, ZOLITUR):

The benefits to this law were abolished, so that there is controversy and claims from the sectors affected requesting their restitution, due that they considered unconstitutional such abrogation.



## United States of Mexico

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### 2. Country profile

Mexico is a country located at the North America's southern region: at north with the United States of America USA, south with Belize and Guatemala, east with the Gulf of Mexico and west with the Pacific Ocean. It is the fourteenth country with the widest surface nearly to 2 million square km and the eleventh most populated with approximately 132 million people as of December 2017. Spanish is the native language that government has recognized as the national language along with 67 indigenous languages.

### 3. Foreign Investment Regime

Due to its extreme economy importance Mexico has rules to encourage the growth of foreign capital through the Foreign Investment Law, which is flexible and establishes important advantages for investors, since in addition to saving time in the establishment of companies, it provides them with legal certainty necessary for foreign investors.

Mexico is one of the most attractive countries for foreign investment in the Latin American region considering advantages of the Mexican market, the borderline with the United States of America, the North American Free Trade Agreement (NAFTA) among Mexico, United States of America and Canada, the possibilities of the Latin America Integration Association (LAIA), the lack of restrictions to repatriate capital or to pay profits to foreign owners, as well as Mexico's politics stability, above all.



Likewise, within the more important general foreign investment resolutions, related to the criteria to apply article 17 of mentioned Law entered in force as from August 9th, 2012 whereby it is mainly established that based on Free Commerce Trade Agreements entered by Mexico and the United States of America, Canada, Chile, Costa Rica, Colombia, Nicaragua, El Salvador, Guatemala, Honduras, Uruguay, Japan and Peru, Mexico is engaged to grant investors, coming from these countries, the same treatment as it is provided to national investors.

On the other hand, it is important to remark that the following is considered as a foreign investment:

- Participation of foreign investors at any proportion in Mexican company's capital stock;
- Mexican companies with investment mainly from foreigners and
- Foreign investment participation in activities and acts classified as such by the Foreign Investment Law.

#### 3.1 Direct Foreign Investment

Foreign investors are allowed to directly participate in most of economic sectors without complying with excessive requirements. Nevertheless, an authorization will be required if foreign investment is likely to be more than 49% and its total assets value is higher than the determined amount by the authorities.

#### 3.2 Indirect Foreign Investment

Indirect investment grants limited rights and obligations to foreigners by legal special procedures such as trust and non-share right investment (neutral investment).

#### 3.3 Neutral investment

It is the investment that can be executed in Mexican companies or authorized trustees and will not be considered as direct foreign investment.

### 3.4 CNIE (National Commission of Foreign Investment)

This Commission is in charge of granting the authorization related to foreign investments in Mexico that shall be whether accepted or rejected in a term no longer than 45 days.

### 3.5 RNIE (National Registry of Foreign Investment)

The Registry is directed by the Secretary of Economy (SE) in charge of controlling and registering all foreign investment transactions.

### 3.6 Energy reform

Foreign investment in energy is welcomed with well-established rules derived from the recent reform at constitutional level and from which the secondary laws rules and adjustments have been issued since 2016 for immediate implementation. The sectors whose productivity will be benefiting and increasing with energy reform and foreign investment are oil and its derivatives, as well as electricity, mainly.

## 4. Trading Corporations

In our country there are different types of capital or persons societies and predominate the following:

- Anonymous Corporations (SA)
- Limited Liability Company (S de RL)
- Civil Society SC
- Civil Association AC

The two first mainly (than can also be of Variable Credit "CV") carry a social trade objective for mercantile purposes and last two a social purpose (however under certain rules they are also able to carry a mercantile objective total or partial). In the corporate provisions to incorporate a company the following opportunities can be observed:

- The indefinite duration of the mercantile societies
- For S de RL de CV minimum capital stock companies, value shall be set forth in the articles of incorporation, and appointed by shareholders;
- Likewise in the Anonymous Corporations (SA de CV) shareholders are free to establish the minimum capital stock;
- More flexibility to publish notifications and call for meetings.
- More protection to interests of minor shareholders.

## 5. Unipersonal Society or Simplified Stock Company SAS

With the aim of encouraging and resurgence of micro and small companies, as from September 14, 2016 the

creation of a new sort of company with various flexibilities to develop a business is allowed: the Simplified Stock Company (SAS). Its main characteristics are: only individuals are admitted as partners with only one partner as minimum; its income may not exceed \$5,000,000 Mexican pesos (approximately \$250,000 dollars); Its creation may not be carried out before a public notary, but by electronic means before the Ministry of Economy and the Public Registry of Commerce, within a period of approximately fifteen days; partners cannot simultaneously be shareholders of other companies; and the SAS will have a cash flow tax scheme on income and expenses.

## 6. Accounting registries

The Certified Public Accountants of Mexico College is the main institution governing the rules or guidelines regarding accounting registries matters adjusting them into the Financial Information Standards frame. Corporations listed in the National Stock Market shall apply the International Financial Information Standards. Likewise, said College keeps updated the accounting, financial, tax and legal community in relation to main information for business undertaking.



## 7. Wages and salaries

This is a main topic in the Mexican legal and tax system since it represents an important financial burden for companies. The Federal Labor Law, the Social Security Law and the Income Tax Law are the set of norms to be followed. The legal burdens pertaining to this concept are as follows:

- Income Tax (ISR) (Acronym in Spanish)
- Social Security Contributions (IMSS)
- Housing Funds Contributions (INFONAVIT)
- Retirement funds (SAR)
- Local payroll tax of each State.

Mentioned concepts increase the employees' income and company's fixed expenses.

## 8. Federal Labor Law

In December 2012 our labor matters legislation was strongly amended in order to obtain an adequate equilibrium of the working relationship between employer and employee.

With these amendments it is accomplished an important safe protection to employers, highlighting the new regulation of subcontracting (outsourcing), an annual limit for accrued and salaries (by settlements), new type of testing or training contracts, payment of salaries by electronic means and a better control and supervision of unions. Labor amendments benefit foreign investment allowing to having a better certainty and labor environment clarification that affect employers and employees directly.

## 9. Mexican Taxing System (MTS)

It is a set of laws and legal-taxing norms arisen from the United States Mexican Political Constitution, where by it is established the liability to contribute in order to defray the States, Federation and Municipality expenses along our country. The main objective is to collect the obligatory resources from taxpayers by applying jurisdictional faculties from the State as tax authority.

Contribution classification:

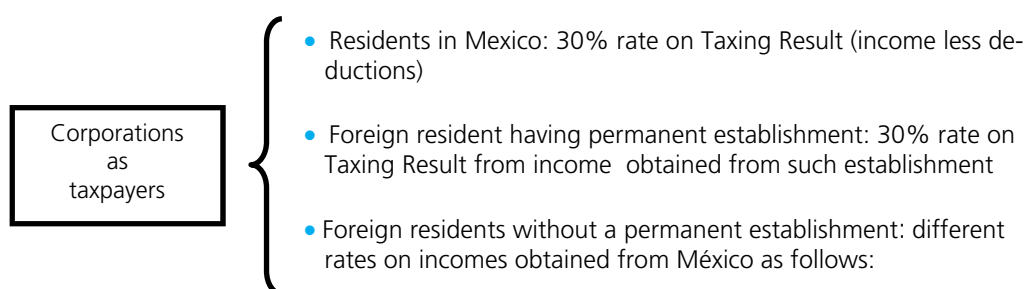
1. Taxes.
2. Social Security Contributions.
3. Improvements Contribution.
4. Rights.
5. Use of public services contributions.

### 9.1 Taxes

They are divided as following:

#### 9.1.1 Income Tax (ISR)

This tax assesses corporations and individual's income that modifies their patrimonies, and it is classified as follows:



Main Concepts of incomes from foreign without permanent establishment coming from Mexico

- I. **Salaries and wages:**
  - It is exempt by the first \$125,900 (\$6,295 dollars approximately)
  - 15% on income between \$125,900 and \$1,000,000 (\$50,000 dollars approximately)
  - 30% on income exceeding \$1,000,000.00
- II. **Fees income for the rendering of independent professional services:** 25% on total income without any deduction.
- III. **Temporal use or enjoyment of real state properties:** 25% on total income without any deduction.
- IV. **Temporal use or enjoyment of goods or assets:** 25% on total income without any deduction.
- V. **Alienation of Real State:** 25% on income without any deduction
- VI. **Alienation of Shares:** 25% on sales price without any deduction.
- VII. **Interests:** different rates from 4.9% up to 30% depending on each type of interest.
- VIII. **Royalties and technical assistance:** Different rates from 5% up to 30% depending on the operation.
- IX. **Artists, show business, sportiest:** 25% without deduction on income.

Along the chapter of resources from México obtained by abroad residents, when it is mentioned the applicability of the maximum income tax rate for individuals, 35% will be such rate, otherwise the tax rate mentioned therefore will be the applicable one.

### 9.1.2 Individuals living in Mexico

Tax Regimes. Individuals pay taxes according to their type of income:

- I. Wages and salaries.
- II. Business activities and professional services.
- III. Temporal use and enjoyment of goods.
- IV. Alienation of goods.
- V. Acquisition of goods.
- VI. Dividends.
- VII. Interests.
- VIII. Other incomes.

Payable tax for individuals is obtained assessing a progressive rate. For 2017 (same as 2016) 30% rate will be applied on income up to \$750,000 Mexican pesos (\$37,500 dollars approximately), 32% rate on income superior to the previous amount and up to \$1'000,000 (\$50,000 dollars approximately), 34% will be applied on income exceeding the previous amount and up to \$3'000,000 Mexican pesos (\$150,000 dollars approximately) and 35% rate on income superior to the last mentioned amount.

### 9.2 Tax Incorporation Regime RIF

With the expectation of weakening the informal trade, it is allowed to tax in the RIF's regime to natural persons with business activities that do not require a professional title to carry out their businesses. They must earn income less than \$2'000,000 Mexican pesos (approximately \$100,000 dollars). One of the main advantages is to tax on cash flow.

### 9.3 Value Added Tax

The following acts or activities are VAT taxed:

- Alienation of goods.
- Rendering of independent services.
- Granting the temporal use and enjoyment of goods.
- Importation of goods.

The applicable rates are as following:

- 16% general rate
- 0% some certain acts or activities (such as exportation and sale of good and medicine)

Likewise some acts and activities can be exempted or considered VAT free.

### 9.4 Cash Deposit Tax Law (IDE)

This tax was abolished as from 2014 that main objective was to assess the informal economy by taxing cash deposits higher than \$15,000 Mexican pesos (\$750 dollars approximately) in the financial institutions at a rate of 3%. Nevertheless, banks will continue inform-

ing to tax authorities about those taxpayers who receive deposits in cash higher than such amount.

### 9.5 Taxes on Products and Services (IEPS)

Its purpose is to tax special operations such as telecommunications, tobacco and alcohol, among others. This tax rate varies with respect to each activity performed. Since 2014, this tax has been imposed on products with a caloric content of more than 275 kilocalories (soft drinks, desserts) in order to avoid high rates of obesity in the country. Likewise, the rates of some purely energy products and some special services increased.

As from 2016, the adoption of a fixed rate IEPS scheme for automotive fuels is established, instead of the one currently applied and corresponding to variable rates. In turn, it is stipulating the differentiation of fossil fuels from non-fossil fuels, establishing the levy for the latter and defining which are considered as such.

It is also envisaged that a maximum and minimum bands scheme will be established for maximum consumer prices as from 2016 with the aim of protecting the consumer from price volatility during those two years; Such a scheme is in line with the existing proposal, to advance the liberalization of fuel prices from 2016, thereby leading to a gradual and orderly transition to the full opening of the automotive fuel market in 2018.

### 9.6 Social Security Contribution

These are contributions for the employee's social well-being mainly in charge of employers; however these contributions are granted in three parts: Employer, Employee and Government. The workers and their economical dependent families are the beneficiaries, considering also hospital medical attention, medicines, economical support, retirement funds and mortgage credits (pertaining to INFONAVIT).

### 9.7 Improvement Contribution

This contribution shall be paid when taxpayer obtains a direct benefit from Federal public infrastructure.

### 9.8 Rights

They are contributions for the use or enjoyment of Nation public domain properties.

### 9.9. Use of public services contributions

These are incomes collected by the State for its public and legal functions and duties.

### 9.10 Electronic invoicing

In 2010 Mexico started a tax technological process (by internet means) and as from 2014 electronic invoicing of sales and purchases is mandatory to support any business transaction. One of the most controversial

subjects was the liability of issuing electronic invoices to support the payroll payments.

### 9.11 Dividends

As from 2014, dividends generated as from such year will be taxed with a definitive 10% income tax only for Mexican individuals and foreign corporations

### 9.12 Nondeductible exempt wages

Since 2014 the salaries deduction was reduced in the part exempt for employees. Employer will only deduct (i) 53% of the exempt part or (ii) 47% in case the wages items were reduced in the previous tax year.

### 9.13 Sending the accounting registries by internet

Another new liability for taxpayers, companies and individuals, is to submit by electronic means part of the accounting registries (e-conta), to be received and reviewed discretionally by the authority. The items to send are (1) chart of accountants, (2) monthly balance and (3) accounting registries, in different moments and under different rules for each tem. The Tax E-Mailbox "Buzón Tributario" is the suitable application to send this information.

### 9.14 Tax domicile visits, reviewing of accounting registries and electronic audits

With the same approach to the use of computerized means, the tax authorities' faculties to review and verify facts or omissions that result from the non-compliance of contributions payment will be applied through the use of the Tax E-Mailbox "Buzón Tributario". It is intended to reduce the duration of the reviews carried out by tax authorities.

With this platform, taxpayers will be informed of their rights to know the facts or omissions detected by the authority in tax domicile visits, reviewing of accounting registries and electronic audits.

Therefore, taxpayers must check daily the contents of their tax e-mailbox in order to be able to exercise their rights within legal deadlines.

### 9.15 Personal data

The protection of individuals' personal information is one of the two most important administrative tasks that companies must cover as a result of their business operations (which are regulated by the Federal Law on the Protection of Personal Data held by Particulars). Its object is to regulate and legitimate the controlled and informed treatment of personal data in order to guarantee the privacy and the right to self-determination of persons. The territorial scope of this Law will address: i) the establishment of the responsible person that treats personal data and that is located in Mexican territory; ii) personal data that are treated by a manager regardless

of its location in the name of a responsible in Mexican territory; iii) to the person who is not established in Mexican territory but who is applicable to Mexican law, derived from the conclusion of a contract or in terms of international law, and iv) to the person who is not established in Mexican territory and uses National territory. The sanctions established to ensure proper compliance with this Law are extremely onerous for offenders, without leaving aside that in some cases will face imprisonment, if the offense constitutes a crime.

### 9.16 Anti-Money Laundering Law

The second major administrative task for organizations in Mexico relates to the Money Laundering Act. In order to achieve greater compliance with the international requirements recommended by the GAFI (International Financial Action Task Force on Money Laundering Group), the Federal Law for the Prevention and Identification of Operations with Resources of Illicit Origin was created. It is in force as from July 17, 2013 and is intended to protect the financial system and the national economy. This norm establishes a series of measures and procedures to prevent and detect acts or operations that involve resources of illicit origin through an inter-institutional coordination (Tax – Judicial Powers). Its purpose is to gather useful elements to investigate and prosecute crimes related to operations involving sources of illicit provenance related to them, the financial structures of criminal organizations and avoiding the use of resources for their funding.

### 9.17 Stimulus for the immediate deduction of investments

Certain new investments in fixed assets can be deducted in the tax year of acquisition by applying attractive deduction percentages, such as: Building 74% in 2016 and 57% in 2017; machinery in general 85% in 2016 and 74% by 2017. Beneficiaries must meet various tax requirements.

### 9.18 Repatriation of capital

A tax stimulus was enacted during 2016 for natural and legal persons who had obtained income from direct or indirect investments they had maintained abroad. The facility was represented in the possibility of paying the income tax at the rate of 35% or 30% provided that such investments were returned to México. Despite several limitations, this facility was also presented equally in 2017 and surely will be applied in future years.

## 10. Auditing and tax opinion

As of 2013 it had been set forth the tax liability for taxpayers to audit their financial statements for tax purposes when they were within grounds whether income higher to \$39'140,520 Mexican pesos (\$1'957,026 dollars approximately), assets with a higher value of \$78'281,070 (\$3'914,054 dollars approxi-

mately) or having a monthly average of more than 300 workers during the year to be audited. Auditing main objectives had been to provide credibility to financial numbers and to the correct compliance of an entity's tax obligations. The revision and evaluation has been only performed by a Certified Public Accountant (CPA) who issues a tax opinion at the end of his work. The tax audit had been representing a protection to taxpayers who had audited their financial figures as a liability or as option, as long as in case of practicing a direct revision, the authority would request the CPA paper works firstly.

As from 2014 the tax audit as liability was abolished and it is only exercised as an option for those whose income gets to be higher than \$100'000,000 Mexican pesos (\$5'000,000 dollars approximately), average of assets higher than \$79'000,000 (\$3'950,000 dollars approximately) or had had an average of 300 employees on monthly basis.

## 11. International Treaties to avoid Double Taxation

Internationally Mexico has played a main role in tax evasion in the world by entering different international treaties to avoid double taxation as well as agreements with wide interchange of financial and tax information. At the end of 2017, Mexico has entered into more than 80 agreements to avoid double taxation, to interchange information, others related to international transportation, plus those in process to be agreed. In Latin American region Mexico has entered agreements with the following countries:

- Argentina: international transportation.
- Argentina: Double taxation in force as from 2018.
- Belize: information interchange.
- Brazil: to avoid double taxation.
- Colombia: to avoid double taxation.
- Costa Rica: information interchange and for penal matters.
- Costa Rica: to avoid double taxation in negotiation
- Chile: avoid double taxation.
- Ecuador: to avoid double taxation.
- Jamaica: to avoid double taxation in negotiation
- Nicaragua: Double taxation in negotiation.
- Panamá: to avoid double taxation.
- Peru: to avoid double taxation
- Uruguay: to avoid double taxation.
- Venezuela: Double taxation in negotiation.

## 12. Foreign Commerce

A relevant progress in this item is the VUCEM (acronym in Spanish) Single Window Web Page of Foreign Commerce. This application has the aim to connect the different Federal Public Administration entities in order to ease the administrative paper work regarding customs. The use of this Web Page is obligatory for all individuals

and company's entities performing imports and/or exports with the following benefits:

- Delivering electronic information in one single contact point.
- Permanent attention from any place.
- Less cost and time.
- Better logistics.
- More transparency.
- More legal certainty.
- Elimination of hard paper formats.
- Better information safety.

Regarding Free Commerce Agreements, Mexico has had good advances in South and Central America, such as the case with Peru (Mexico Peru Trade Integration Agreement), and the Unique Free Trade Agreement Mexico Central America (Guatemala, El Salvador Honduras, Costa Rica and Nicaragua) that unifies the commitments and areas applied to commerce between the parties. Besides, this last agreement deepens the countries' integration and updates the customs and commercial situation. Same purposes are reflected in the Economic Complementarity Agreement (ACE 55) with Argentina in the automotive field.

The Free Trade Agreements Mexico has entered into with the countries of the zone are the following:

Central and South America Free Trade Agreements	In force since
Costa Rica	Jan 1, 1995
Colombia. Trade with Venezuela stopped operating on Nov 19, 2006	Jan 1, 1995
Nicaragua	Jul 1, 1998
Chile	Aug 1, 1999
North Triangle	Salvador and Guatemala, Mar 15, 2001; and Honduras as from Jun 1, 2001
Uruguay	Jul 15, 2004
Central America	El Salvador and Nicaragua Sep 1, 2013. (Costa Rica, Guatemala and Honduras in force subsequently)

### 12.1 Certification of companies

The IMMEX companies (permanent importing and exporting activities), the automobile and auto transport industries, the tax strategy place (storage), and to elaboration, transformation and repairing in taxes place, are obliged to pay the value added tax VAT and in case the Special Tax on Products and Services IEPS by the time of temporary importations of goods destined to their productive processes.

In order to avoid paying such contributions VAT and IEPS, the corresponding rules establish that taxpayers shall be certified; nevertheless if they do not wish to do it, they shall guarantee such contributions for each temporary importation practiced.

Companies interested to be certified must prove the accomplishment of their tax liabilities, their social security schemes obligations, that they have maquila and investment-in-México agreements in force, as well as that they accomplish with all their corresponding obligations derived from trade operations authorizations.

The certification protection is subject to its type (A, AA, AAA) that might be for one, two or three years with an automatic renewal as long as they credit that remain continue fulfilling with all of the certification requisites.

### 13. Related Parties

Based on Income Tax Law, transactions among related parties (corporations or individuals) take place when one party participates directly or indirectly in the other party or parties' management, control or share stock.

Among other cases, related parties are present in:

- One party participates direct or indirectly in the administration, control or stock of another or other parties.
- An Association in Participation (Joint Venture) with respect to its members.
- The corporate headquarters of a permanent establishment or other establishments of the same one.

The operations performed between the Related Parties (intercompany transactions) required to be analyzed by a Transfer Price Study except for the following cases:

- Companies aimed to business activities obtaining income in the previous year up to \$13'000,000 (\$650,000 dollars approximately).
- Companies aimed to render services obtaining incomes in the previously year up to \$3'000,000 (\$150,000 dollars approximately).

In Mexico this concept has rapidly gained importance due to the opening of the multinational companies' market and the growth of domestic entities towards abroad, and also nowadays the permanency and feasibility in company's operations can be easily reached. In view of above mentioned, in the audit the CPA shall provide the information of the transactions among related parties in order to provide his opinion about the reasonableness of the income prices and deductions on market's values.

## 14. Transfer Pricing

### 14.1 Legal frame

Generally, the main obligations from taxpayers that perform operation with related parties are:

- To obtain and keeping supporting documentation (Transfer Price Study) of said operations with related parties.
- Jointly present the annual return and the operations informative report with foreign related parties (both of them based on the transfer price study information).
- To demonstrate that accrual income and authorized deductions were agreed on market values through the application of any Income Tax Law method.

Requisites that supporting documentation shall include regarding transfer price studio matter:

- Related parties names, trade names, addresses, and tax locations;
- Documentation to demonstrate the direct or indirect participation between related parties;
- Information related to activities or functions carried on, assets used and taken risks by the taxpayer in each type of operation;
- Information and documents about operations with related parties and their amounts for the related party involved and by each type of operation;
- The applied methodology to be analyzed.

### 14.2 Authority faculties regarding transfer pricing study.

Some of the authority powers regarding transfer pricing are as following:

- Verifying processes
- To perform adjustments
- To use confidential operations to determine the payments between related parties.
- To solve APA's (anticipated pricing agreements with the authority)

### 14.3 Consequences of not having supportive documentation of Transfer Pricing

- The Independent Auditor shall report it in his tax opinion.
- The benefit of fines reduction is lost.
- Classification and computation of prices by the authority estimating process.
- In case Transfer Pricing Informative Tax Report is not submitted, payments made abroad shall not be deductible.

### 14.4 Additional benefits of the transfer price study

Some of the additional benefits by elaborating the

transfer price study are as following:

- Improvement market analysis where the company is acting;
- Improvement of the group corporate structure;
- Allowing the proper taking of decisions regarding the internal control of different areas;
- Developing of strategic alliances;
- Defining competence strategies and the organizational structure, sales and marketing.

Based on the aforementioned, it is imperative that national taxpayers carry on the fulfillment of the aforementioned liabilities when enter into transactions between related parties located in México or abroad.

## 15. Related parties. Additional information returns

In order to follow up the BEPS Erosion and Profit Shifting recommendations of the Organization for Economic Cooperation and Development (OECD), in particular number 13, whose purpose is to weaken bad business practices of some taxpayers with international operations that erode contributions, as well as weaken the abusive use of the gaps, frictions and inconsistencies of the tax rules, in 2016 Mexico included in the Income Tax Law the obligation to submit at the latest December 31, 2017 three informative declarations related to transfer prices:

- Master Information Statement of related parties of the multinational business group.
- Local informative statement of related parties.
- Country by country information statement of the multifunctional business group.

Obligors are (subject to certain exceptions):

- I. The legal persons that are taxed under Title II Income Tax Law with income equal to or greater than \$ 644,599.005 Mexican pesos (approximately \$32,229,950 dollars) in the last year or, in that year have placed shares in a stock exchange;
- II. Companies that belong to the Optional Tax Regime for Groups of Companies (formerly called "tax consolidation");
- III. The State entities ("Empresas Paraestatales") of the Federal Public Administration; and
- IV. Companies residing abroad who have a permanent establishment in the México.

In the same sense of this commitment of Mexico with the OECD, the mechanism that financial institutions resident in Mexico or abroad with a branch in Mexico has been incorporated into the Fiscal Code of the Federation that should be complied with the generation of a Common Reporting Standard, which involves the identification and automatically exchanging of information on new and preexisting high and low value

financial accounts.

#### **16. FATCA**

Following the international commitments as mentioned in the previous point, the Mexican tax authority will be able to know the financial information regarding investments that Mexican citizens maintain in the US and will verify if they have paid taxes correctly on the profits generated by those investments, In accordance with the Foreign Account Tax Compliance Act (FATCA), which entered into force in October 2015.

As a consequence of the above, Mexican authority is granted to carry out audits derived from the information received under the aforementioned FATCA to taxpayers suspected of having failed to properly comply with the payment of interest and exchange rate taxes generated by the mentioned investments.

#### **17. Unlinked of the Minimum Wage.**

After an arduous analysis during 2016 it was established that from the year 2017 the minimum wage will be unlinked as unit of account, index, base, measure or reference to establish prices that use federal, state and Mexico City laws. For this reason, the Unit of Measure and Update "UMA" is created. It is hoped to contribute to establishing a policy to recover the purchasing power of the minimum wage.



# Republic of Nicaragua

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## 2. Country profile

### 2.1 Overview

The Republic of Nicaragua is a country constituted as a free and independent unitary state that is located in the center of the Central American isthmus. It is bordered on the north by Honduras, on the south by Costa Rica, on the west by the Pacific Ocean, and on the east by the Caribbean Sea. Its northernmost part is the Cabo Gracias a Dios.

Nicaragua has a territorial extension of 130,373.4 square kilometers and a population of 6.3 million inhabitants (according to information in 2016). It is the only country in the world that has an archipelago of 276 square kilometers inside a lake (with an area of 8,264 square kilometers). The country participated in the contest "Seven Natural Wonders of the World", according to the approval of the United Nations Educational, Scientific and Cultural Organization, abbreviated internationally as UNESCO.

The political system of Nicaragua is democratic, organized by four governing bodies, to be called: Legislative Power, Executive Power, Judicial Power and Electoral Power.

- **Capital:** Managua
- **Language:** The official language is Spanish, but,



due to the British colonization of the Atlantic Coast, English is common alongside natural languages such as Miskito, Rama and Sumo, and other indigenous languages.

- **Currency:** Córdoba
- **President:** Daniel Ortega Saavedra

### 2.2 The economic activities present in the economy of the last three years, have been:

- Commerce, hotels and restaurants.
- Manufacturing industries.
- Agriculture, livestock, forestry and fishing.
- Transport and communications.
- Home ownership.
- Financial intermediation services.
- Construction.
- Health.
- Exploitation of mines and quarries.

### 3. Investment legal framework

The legal framework for investment has different legal norms, among them, the Civil Code and the Commercial Code (as general norms). In addition, the Law for the Promotion of Foreign Investments, Law No. 344, achieves legal certainty towards foreign investors; who will enjoy the same rights and means to exercise them under equal conditions with national investors. Likewise, the foreign investor is granted full exercise of the right to enjoyment, use and ownership of the property related to their investment without any limitations other than those established by the Political Constitution. The foreign investor enjoys free access to the purchase and sale of available foreign currency and the free convertibility of the currency; meaning, there are no restrictions with respect to the translation or transfer of funds related to investments. Also, there is freedom of transfer of profits, dividends and profits, after payment of taxes and freedom to pay remittance abroad of payments for debts contracted abroad, interest: royalties; rents and technical assistance. The Law on Media-

tion and Arbitration, Law No. 540, regulates alternative methods to solve any type of dispute that results from contractual relationships; its scope of application is national and international, without prejudice to treaties, agreements, pacts or any other instrument of International Law of which Nicaragua is a party.

The country has also signed several bilateral and multi-lateral agreements with different countries and regions of the world, such as CAFTA-DR, the Association Agreement with the European Union, the Free Trade Agreement of Central America and Mexico, the Free Trade Agreement between the Republic of Nicaragua and the Republic of China (Taiwan), the Free Trade Agreement with Panama, the Free Trade Agreement between Central America and Chile, the Partial Scope Agreements signed with Colombia, Ecuador and the Bolivarian Republic of Venezuela and others that are in the process of negotiation. Nicaragua is inserted in the world market through the different organisms of which it is part, such as WTO, SICA, COMIECO, SIECA, CAUCA, CEIE and the BCIE.

It is also part of the ICSID, OMGI, OPIC, UNCITRAL, the New York Convention and the Inter-American Convention on Commercial Arbitration, and the agreements concluded with the Multilateral Investment Guarantee Agency of the World Bank (MIGA). All this broad international normative body regulates Nicaragua's trade relations with the world, constituting a favorable destination for investment and economic development.

#### **4. Legal Environment related to the investment**

##### **I. Generous fiscal incentives.**

The "Ley de Concertación Tributaria", Law No. 822, establishes various tax benefits for certain productive sectors of the economy with the aim of promoting their growth and / or development. The tax exemptions and waivers granted by this Law are established without prejudice to those granted by the legal provisions established in art. 287 of the same.

##### **II. Export benefit.**

Exports of goods of national production or services rendered abroad will be subject to a rate of 0% of Value Added Tax (VAT), the same applies for the Selective Excise Tax (SET). A tax credit can be applied to advances or annual IR without the need for prior authorization by the tax administration in an amount equivalent to 1.5% of the FOB value of exports.

##### **III. Benefit to producers.**

Article 127 of the "Ley de Concertación Tributaria" raises a list of objective exemptions, regarding the transfer of VAT, on disposals, some of them related to the agricultural sector.

Additionally, article 274 exempts from VAT and SET the disposals of raw materials, intermediate goods, capital goods, spare parts, parts and accessories for machinery and equipment to agricultural producers and micro, small and medium-sized industrial and fishing companies, through an exhaustive list.

##### **IV. Benefits to the Forestry Sector.**

The "Ley de Concertación Tributaria", extends until 2023, the benefits granted to the forestry sector in the Law of Conservation, Promotion and Sustainable Development of the Forestry Sector (Law No. 462). Investors will enjoy the exemption of the payment of fifty percent (50%) of the Municipal Tax on Sales and of fifty percent (50%) on the Income Product of the Use, with respect to those plantations registered before the regulatory entity.

The payment of the Real Estate Property Tax is exempted from the areas of the properties where forest plantations are established and to the areas where forest management is carried out through a Forest Management Plan.

The companies of any line of business that invests in forest plantations, may deduct 50% of the amount invested for income tax purposes as an expense.

Second and third transformation companies that import machinery, equipment and accessories that improve their technological level in the processing of wood, excluding sawmills, are exempt from the payment of duties and import tax.

##### **V. Temporary Admission Regime.**

Law No. 382, Temporary Admission Law for the Active Improvement of Export Facilitation, is the tax system that allows both the entry of goods into the national customs territory and the local purchase of them without payment of any kind of rights and taxes, companies that export directly or indirectly, at least 25% of their total sales and with an exported value of not less than US \$ 50,000 per year, can benefit from this regime, the goods that can be covered under this regime are the following:

- Intermediate goods and raw materials such as: inputs, semi-finished products, containers, packaging, any merchandise that is incorporated into the final export product, samples, models and patterns essential for the production and instruction of personnel.
- Capital assets that directly intervene in the production process, its spare parts and accessories, such as: machinery, equipment, parts, molds, matrices and utensils that serve as a complement to said capital assets.
- Materials and equipment that will form an integral and indispensable part of the necessary facilities for

the productive process.

## **VI. Industrial Free Trade Zones for Export.**

Nicaragua offers important fiscal incentives under the free zone regime for companies interested in establishing export-oriented operations in the Textiles and Clothing, Manufacturing and Agro-Industry. These benefits are granted to all export activities of international services, such as Business Process Outsourcing (BPO), Knowledge Process Outsourcing (KPO), Information Technology Services (ITO), etc.

Exemption of 100% of the income tax payment generated by your activities in the Zone during the first fifteen years of operation if you are an Operator and during the first ten years if you are a User. Said period of exemption can be extended by another equal, with previous authorization of the National Commission of Free Zones, ruling entity of this regime, for both type of free zone. Nevertheless, if being extendable or not the term of exemption, once expired, the User Free Zone will continue to enjoy the 60% exemption from income tax and the Operating Free Zone will be required to pay the income tax in full, without any exemption.

The exemption from income tax does not include taxes on personal income, wages and salaries paid to Nicaraguan or foreign personnel working in the company established in the Free Zone.

Exemption from the payment of Taxes on alienation of real estate property in any way, including the Capital Gains Tax, provided that the company is closing its operations in the Free Zone, and the real estate property continues to be subject to the Free Zone regime.

Exemption from the payment of Taxes for the incorporation, transformation, merger and reform of the company, as well as Stamp Tax. Exemption of all taxes and customs and consumption duties related to imports, applicable to the introduction to the country of raw materials, inputs, equipment, machinery, matrices, parts or spare parts, samples, molds and accessories intended to enable the Company for its operations in the Free Zone; as well as taxes applicable to the equipment necessary for the installation and operation of economic dining rooms, health services, medical assistance, day-care centers, recreational centers, and any other type of goods that tend to meet the needs of the company's personnel that work in the Free Zone.

Exemption from customs taxes on transport equipment, that are cargo vehicles, passenger or service vehicles, intended for the normal use of the company in the Free Zone. In case of the disposals of these vehicles to purchasers outside the Free Zone, the Customs Taxes will be charged, with the discounts that are applied

due to the time of use, to the similar disposals made by Diplomatic Missions or International Organizations.

Total exemption of indirect taxes, on sales or on selective excise taxes. Total exemption from municipal taxes. Total exemption from export taxes on products manufactured in the Free Zone. Exemption from tax and municipal taxes on local purchases.

## **VII. Law for the Promotion of Electric Generation through Renewable Sources.**

Electricity generation projects with renewable sources have the following tax and tariff benefits in accordance with Law 532, Law for the Promotion of Electric Generation through Renewable Sources. These tax and tariff benefits cover new projects and those that extend their installed capacity.

Exemption from the payment of Import Tariffs on machinery, equipment, materials and supplies exclusively for pre-investment work and construction work.

Exemption from the payment of the Value Added Tax (VAT), on machinery, equipment, materials and supplies used exclusively for pre-investment work and construction works.

Exoneration of all current Municipal Taxes on real estate property, sales and registration fees during the construction of the Project, for a period of 10 years and 5 years in the case of geothermal energy projects, from the entry into commercial operation of the project. The exoneration will be applied as follows: 75% exemption in the first three years; 50% in the next five years and 25% in the last two years. Fixed investments in machinery, equipment and hydroelectric dams will be exempt from all types of taxes, levies, municipal taxes, for a period of 10 years from its entry into commercial operation.

Exoneration of all taxes that may exist for the exploitation of natural resources for a maximum period of 5 years after the start of operation. In the case of hydroelectric projects, the construction or operation of a project is exempted under the Water Administration Permit for a maximum of ten years. Exemption from Stamp Tax that may cause the construction or operation of the project or extension of the same for a period of 10 years.

## **VIII. Special Law on Exploration and Exploitation of Mines.**

The activities related to the exploration and exploitation of mineral resources are regulated by Law 387 and its Bylaws, Decree 11-2001.

In accordance with the aforementioned law, the holders of mining concessions are obliged to pay:

- Surface rights, consisting of a progressive payment per concessioned hectare over the duration of the mining concession.
- Extraction right, established in three percent (3%) for all minerals, which is deductible from the income tax applicable to the mining industry.
- In accordance with the General Law on the Exploitation of Our Natural Resources (Law No. 316), concessionaires are entitled, through prior indemnification of the case, within or outside the limits of the lands included in the mining concession, and provided that they were not national lands, to obtain the superficial easements necessary to carry out the exploration or exploitation granted. The mining authority will support the concessionaire in the constitution of the easement, in cases that it is not possible to reach a direct agreement with the owner of the real estate property.
- In accordance with the aforementioned Law No. 316, in cases where a concessionaire considers that, for the development of the works corresponding to its concession, or for the execution of the necessary works, installations or buildings were not enough to establish easement on private or municipal property, or it would be uneconomical to pay the corresponding compensation, the expropriation of property in favor of the State may be required.

Given the importance of the mining sector for the economic development of the country, the State guarantees fiscal stability for domestic and foreign investment related to mining activity, applying the following benefits:

- a. Temporary admission regime, which, in accordance with Law No. 382, (Temporary Admission Law for the Active Improvement of Export Facilitation), allows the entry of merchandise into the national customs territory, such as the local purchase of goods or raw material without paying any kind of tax or tariff, as long as the merchandise is re-exported or exonerated in its case, after being submitted to a process of transformation, elaboration, repair or other contemplated under the applicable legislation.
- b. In accordance with this law, if it is not possible to apply the prior suspension of duties and taxes for tax administration reasons, the benefit will be applied under the procedure of subsequent refund of taxes paid.
- c. Exemption from the payment of taxes levied on the company's property within the perimeter of the mining concession.

- d. Zero percent rate (0%) for exports, applicable to exports in general.

### **IX. Tourism Incentives Law**

Law No. 306, Tourism Incentives Law of Nicaragua offers several tax incentives for investments in this sector and is considered the most generous and competitive in the region. This provides incentives and benefits for investment in accommodation, food and beverages, travel agencies, tourist transport, airlines, among others. The incentives are:

- a. 80% to 100% exemption from Income Tax, for a term of ten years.
- b. Exemption from Real Estate Property Tax, for ten years.
- c. Exemption from Value Added Tax (VAT) applicable to design / engineering and construction services.
- d. Exoneration of import duties and taxes and / or Value Added Tax (VAT) on the local purchase of furniture, equipment, ships, motor vehicles of twelve (12) passengers or more, and cargo, which are declared by the INTUR necessary to establish and operate the tourist activity, and in the purchase of equipment that contributes to the saving of water and energy, and of those necessary for the safety of the project.
- e. Exemption from import taxes and Value Added Tax (VAT) in the purchase of non-sumptuous construction goods, of fixed accessories for building.

In case of reinvestment, if at the end of the incentive regime for ten years, the investor decides to reinvest at least 35 percent of the value of the initially approved investment, they can receive all the benefits for an additional ten years.

### **X. General Law of Ports of Nicaragua**

In May 2013, Nicaragua approved a port legislation to encourage the construction of new ports in the country.

According to article 128 of this law: "The approved investment projects, during the period of construction, improvement, expansion or development of port infrastructures shall be considered exempt from import duties and taxes, local purchases and municipal taxes and shall enjoy the following fiscal benefits: import of machinery, equipment, materials, spare parts and implements required for the construction, improvement, expansion or development of port infrastructures, ports and terminals, state-owned, for public use, under public administration or concessioned, enabled for domestic and foreign trade".

### **XI. Organic Law of the Institute of Urban and Rural Housing.**

The Government of Nicaragua has aimed to encourage

and promote the construction of households, with an emphasis on social interest housing. Based on this, it granted powers to the Institute of Urban and Rural Housing, to establish rules and regulations that facilitate and stimulate the optimization of investment in the production of housing and urban land. Also, Organic Law of the Institute of Urban and Rural Housing in its article 39 provides direct incentives to people who invest in the construction of housing of a social nature.

The incentives for this type of investment are:

- Exemption from the payment of taxes for operations, acts, construction permits, formalization and registration of acts, contracts, deeds, processing and authorization of plans.
- Exemption from the payment of all types of taxes for the purchase of construction materials, tools and minor equipment related to social interest housing and related civil works of urbanization, qualified and approved by the Institute of Urban and Rural Housing.

The certifications to enjoy these benefits will be issued by Institute of Urban and Rural Housing and the Ministry of Finance and Public Credit, in addition, they will be used for VAT exemption for the purchase of construction materials, tools and equipment.

## **5. Corporate Regime (fiscal, labor and social security).**

### **5.1 Tax Regime**

The tax regulations in Nicaragua are under the Law No. 822 "Ley de Concertación Tributaria," beginning its effectiveness as of January 1, 2013, which main objective was the modernization of the tax system at a general level through the introduction of the DUAL system, which segregates the application of tax rates depending on the type of income obtained. It also introduced new concepts of international taxation and expanded the regulations on issues of exemptions and exonerations. Likewise, on June 30, 2017, the transfer pricing regulation applicable to transactions between persons and / or related entities entered into force; this regulation intends to ensure that such transactions are made at the corresponding market value.

The taxes contained in Law 822 are identified below:

#### **5.1.1 Income Tax**

The Income Tax, whose ordinary fiscal year comprises from January 1 to December 31 of each year, is a direct and personal tax levied on the income of Nicaraguan sources obtained by taxpayers, residents or non-residents. It is classified as follows:

- Income from work.
- Income from economic activities
- Income from capital and capital gains and losses

Likewise, the income tax is levied on any unjustified increase in equity and income that is not expressly exempted by law. The law contains a particularity in relation to the tax residence of nationals and foreigners who come from abroad, as long as they remain in the national territory for more than 180 days during a fiscal year, even if they are not continuously, they obtain a retention rate of 10% and not 15%, for the status of fiscal resident. This law contains a clear definition of the place where a non-resident person (natural or legal) performs all or part of their economic activity, which is considered a Permanent Establishment, this tax can be found with the forms indicated below:

#### **a. Income from work**

Income from work is obtained from all kinds of consideration, compensation or earnings, whatever their denomination or nature, in money or in kind, that derive from personal work provided by another person. Some examples of income from work include fixed and variable salaries, seniority, bonuses, wages, performance recognition and any other form of additional remuneration. The tax base for the income tax of the income from work, is the net income, resulting from the gross income not exempt less the deductions authorized by the same law.

#### **b. Income from economic activities**

Income from economic activities is income accrued or received in money or in kind by a taxpayer that supplies goods and services, including income from capital and capital gains and losses when these together are equal to or greater than forty percent (40%) of the taxable income of economic activities and are constituted or integrated as income from economic activities, as established in article 38 of Law 822.

The income from economic activities originates in the economic sectors of: agriculture, livestock, forestry, fishing, mining, quarrying, manufacturing, electricity, water, sewage, construction, housing, commerce, hotels, restaurants, transportation, communications, financial intermediation services, home ownership, government services, personal and business services, other activities and services. Other economic activities subject to the payment of taxes are established in Article 14 of Law 822. The tax base of the annual income tax for the income from economic activities is the net income, resulting from the gross income minus the deductible costs and expenses.

### c. Income from capital and capital gains and losses

Capital Income is the income accrued or received in money or in kind, arising from the exploitation of assets or transfer of rights. It is classified as real estate capital income and furniture capital income; likewise, capital gains and losses are changes in the value of the assets of the taxpayer, as a result of the disposal of assets, or transfer or grant of rights; even when the sale or transfer of securities or rights under any legal form is made outside of Nicaragua and has effects in Nicaragua. In addition, capital gains derived from games, bets, donations, inheritances and legacies, and any other similar income; the aliquot of income taxes payable on capital income and capital gains and losses will be 10%, 15% and 17% depending on the concept and condition of the payment made.

#### 5.1.2 Value Added Tax

The Value Added Tax (VAT) levies acts performed in the Nicaraguan territory on the following activities:

- Disposal of property
- Import and internment of goods
- Export of goods and services; and
- Provision of services and use or enjoyment of goods.

The VAT rate corresponds to 15% on the value of the product or cost of the activity carried out except for the exports of goods of national production and services provided abroad, which have a rate of 0%.

The Law establishes lists of services and goods exempt from VAT, among others, goods related to academic studies, medicine and human health, agricultural goods, basic foods, etc.; as well as services of the medical sector, financial markets, sports events, religious, etc. Exempt goods and services are defined in a tax lists issued by the Ministry of Finance and Public Credit.

#### 5.1.3 Selective Excise Tax

The selective excise tax is an indirect tax that affects the value of the transfer and imports of goods or merchandise in accordance with Annexes I, II and III of the Law 822. Exports are taxed at a rate of 0%.

### 5.2 Labor Regime

The minimum guarantees of the Nicaraguan Labor Law enjoy constitutional protection and include the right to:

- I. Equal salary for equal work in identical conditions, without discrimination for political, religious, social, sex or any other kind;
- II. 8-hour working day, weekly rest, vacations, remuneration for national holidays and salary for the thir-

teenth month in accordance with the law; and

- III. Social security for integral protection and means of subsistence in cases of disability, old age, occupational risks, illness and maternity; and their families in cases of death, in the manner and conditions determined by law.

The Labor Code is mandatory for all natural or legal persons established in Nicaragua. The rights stipulated in favor of the workers are inalienable.

Employers are required to hire at least 90% of Nicaraguan workers, except in cases that for technical reasons, the employers are authorized by the Ministry of Labor to hire more foreigners. Foreigners who wish to work must obtain the corresponding authorization granted by the General Directorate of Immigration and Aliens.

The main characteristics contained in this regulation are the following:

#### 5.2.1 Types of work day

- I. Day: it takes place between 6:00 AM and 8:00 PM. The ordinary day work shift is 8 hours a day, completing 48 hours a week.
- II. Nocturnal: the night work is considered between 8:00 PM and 6:00 AM of the following day. The ordinary night shift is 7 hours a day, completing 42 hours a week.
- III. Mixed: the mixed work day is 7.5 hours per day, for a total of 45 hours per week.
- IV. Extraordinary Hours: the work that takes place outside the daily ordinary days constitutes overtime / extra hours and must be paid 100% more than agreed for the regular day. Overtime hours cannot exceed 3 hours per day, nor 9 hours per week

#### 5.2.2 Types of Labor Contracts due to their term

The individual work contract is presumed indefinite, unless the parties have agreed on a deadline.

However, if the term of a fixed-term contract expires and the worker continues to provide services for 30 more days, or if the term is extended for the third time, the contract will be considered for an indefinite period.

#### 5.2.3 Social Benefits

The total of the social benefits amounts to 49.0%. Sometimes, the parties agree to pay in cash for vacations and holidays not enjoyed, but the employer is not obliged to make those payments. According to consultations made to the Ministry of Labor, vacations must be rested, meaning that the obligation of the employer is to grant them in the form of rest.

- I. Paid vacations: all workers are entitled to 15 contin-

uous days of vacation with salary for every 6 months of continuous work for the same employer.

- II. Christmas bonus: for each year of continuous work, all workers are entitled to the thirteenth month of salary (bonus). If the worker does not have a year of continuous work, the thirteenth month is calculated proportionally to the months worked. The thirteenth month must be paid within the first 10 days of the month of December, otherwise, a penalty equivalent to one day of salary will be applied for each day of delay.
- III. Compensation for termination of contract: as a general rule, an employer can dismiss without any cause any worker, having to pay a Compensation according to article 45 of the Labor Code. The Compensation is also applicable when the termination occurs by mutual agreement or by resignation and consists of the payment of 1 month of salary for each year worked, during the first 3 years; and 20 days of salary for each additional year worked after the 4th year, up to a maximum of 5 months of salary.

**5.2.4** The list of National Holidays, with salary, is as follows: i) January 1 (new year), ii) Holy Thursday (Holy Week), iii) Holy Friday (Holy Week), iv) May 1 (international workers' day), v) July 19 (Triumph of the Sandinista Popular Revolution), vi) September 14 (Battle of San Jacinto), vii) September 15 (Independence of Central America), viii) December 8 (Day of the Immaculate Conception of Mary, catholic festival), ix) December 25 (Christmas), and x) patron festivities (2 days for the capital and 1 for other cities).

### 5.3 Social Security Regime

This regime is comprised of the contribution to social security, which contains the benefits of medical care and old-age pension, as well as the contribution to an institute that guarantees the training and professional updating of employees. The regime is further described as follows:

- 5.3.1** All the employees must be registered in the system of the Nicaraguan Institute of Social Security (INSS), within the first 3 days of having started

work. The employer must perform the withholding of the labor quota (6.25%) in the salary of its employees and pay the employer's contribution (19.0%) to the INSS monthly; together with the labor quota withheld, the tax base to apply the aliquots mentioned above, as of January 2018, is C\$88,005.78 (eighty-eight thousand five with 78/100 cordobas) monthly.

The benefits included in the security correspond to the following:

- I. Subsidy for maternity:  
Women are entitled to maternity allowance, which consists of a prenatal rest period of 4 weeks and a post-natal rest period of 8 weeks, both with full salary. Prenatal rest is scheduled according to the date of delivery predicted by the doctor. If the prenatal rest is not taken in its totality due to a premature delivery, the worker can add the days that she did not rest in her prenatal period to her postnatal rest period.
- II. Subsidy for illness:  
There is no limit to the number of days an employee can request due to illness. However, if an illness subsidy extends for more than 12 months, the worker must be submitted to the examination of an INSS Medical Committee to determine if his / her total disability is declared, the subsidies for health reasons can only be granted by the doctors authorized by the INSS.

The employee must present the INSS certificate to the employer stating the subsidy and its duration. During the period in which the subsidy lasts, the INSS pays the worker 60% of his ordinary salary. Employers are not required by law (corresponds to a custom) to supplement the remaining 40%.

- 5.3.2** In addition to social security, the employer pays 2% of its payroll to the National Technological Institute (INATEC), for a fund created to promote technical education. INATEC offers training in several disciplines at low prices. By law, this percentage of the salary is given to INATEC to be applied to the cost of the courses offered, or to be used in training seminars or courses offered by the employer.



## Panamá

### 1. Contact's signature Identification

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### 2. The country's profile

The Republic of Panama is a sovereign country with a democratic government with political, financial and economic stability. The Government of Panama is by constitution, unitary, republican democratic and representative. The public power emanates from the people and is exercised by the state through three organs:

1. Legislative, enacts the laws
2. Executive, is the ruler of the country, including the president and ministers of state
3. Judicial, administers justice.

Its capital is the City of Panama and the country is divided into 10 provinces, 3 indigenous regions and 2 indigenous municipalities. Panama is the isthmus linking Central and South America, bordered to the north by the Caribbean Sea, south by the Pacific Ocean, east of the Republic of Colombia, and the West with the Republic of Costa Rica. Panama is located in north-western South America and South-Central America and extension territory of 75,517 square kilometers.

Its population according to the last census of 2015 is 3,662,009 inhabitants, composed by age; 29.2% under 15 years, 63.4% between 15 and 64 years and 7.4% over 65 years.

The geographical position of Panama has become one of the most important logistical centers of world trade, mainly because the isthmus is located between North and South America, bordered by the Caribbean Sea and Pacific Ocean. This was one of the reasons why France, in 1881, then the United States, in 1904, decided to build the Panama Canal, which opened on



August 15, 1914. Today is the most important logistics point for the trade world, and transiting annually, are more than 14,000 ships bound for 144 sea routes.

Panama also has free zones for transit of goods, as the Colon Free Zone, which is today the largest in the Western Hemisphere, where more than 2,000 companies are established. In addition, there is the Special Economic Zone, for business establishments with special activities like house performances, regional corporations, and high-tech services or call center operators. Panama has a strong financial and banking structure with more than 78 banks and financial institutions established in the country.

The legal currency in Panama is the Balboa (B./.) which is at par with the US dollar (USD) and its use is legal since 1904 and an inflation rate for 2017 of 0.9%

The official language is Spanish, but English is commonly spoken because it is the commercial language. Other languages spoken in Panama are French, Italian, Portuguese and Mandarin.

The climate in Panama is tropical and has two stations in the year: dry season occurs between the months of January to April, this time of year the weather is sunny and the rainy season from the months of May to December. The average temperature throughout the year is between 20C to 27C or 68F to 80F.

### 3. Foreign Investment Regime

In Panama, according to Panamanian constitution, any foreigner can come to invest in the country, but must meet the basic requirements of starting a business and operating legally authorized business activities in the Republic. However, foreigners are restricted from operating retail activities and professions requiring suitability licenses for exercise.

The official list of restricted professions in Panama is:

- Nursing. Law 1, 1954
- Barbering and Cosmetology. Law 4, 1956
- Dentistry. Law 22, 1956
- Architecture. Law 15, 1959
- Agricultural Sciences. Law 22, 1961
- Pharmacy. Law 24, 1963
- Chiropractors. Decree 8, 1967
- Nutrition. Decree 362 of 1969
- Medicine. Decree 196 1970
- Psychology. Law 56, 1975
- Medical Assistant. Decree 32, 1975
- Accounting. Law 57, 1978
- Journalism. Law 67, 1978
- Laboratory Technicians. Law 74, 1978
- Public Relations. Law 37, 1980
- Speech Therapy, therapists and the like. Law 34, 1980
- Economics. Act 7, 1981
- Social Work. Law , 1981
- Veterinary Medicine. Act 3, 1983
- Physiotherapy. Law 47, 1984
- Medical Radiology. Law 42, 1980
- Advocacy and Law. Act 9, 1984
- Dental Assistant. Law 21 1994
- Sociology. Law 1, 1996
- Chemical. Law 45, 2001
- Education. Law 47 1946.

#### 4. Corporate regime

Today, more companies are incorporating are:

- Limited companies
- Limited Liability Companies and
- Private interest foundation

But there are also in our legislation the following entities:

- Trusts,
- Cooperatives,
- Civil Partnership, and
- Non Profit Association.
- The codes that govern the societies are
- Commercial Code, and
- Fiscal Code,
- Special Laws.

And government agencies are:

- General Directorate of Revenue, Ministry of
- Finance (DGI).
- Ministry of Trade and Industry (MICI).
- Public Registry.
- SMEs Authority

#### 4.1 Foreign Companies

According to the Commercial Code, foreign commercial companies that want to establish or create branches in the Republic, submitted to the Registrar for

registration, besides the testimony of the notarization of its statutes, contracts and other documents relating to its constitution, the final balance operations and a certificate to be incorporated and licensed under the laws of the respective country, issued by the Consul of the Republic in that country, and in his absence by a friendly nation. If the scriptures are in another language they must be translated into Spanish; They must also appoint a legal representative in Panama, which must be a lawyer (resident agent).

According to what is established in law 52, the obligation of foreign companies to have accounting books and supporting documentation available to the competent authorities in the Republic of Panama, eliminating the paragraph of the article 73 of the Commercial Code exceptioning the same, which includes a journal book , a major General a book of Minutes of shares . The accounting records shall be kept available to the authorities that request it for a period of not less than five (5) years counted from: (i) the last day of the calendar year within these records apply were completed ; Or; (ii) the last day of the calendar year in which the legal entity ceases operations .

The accounting records will be kept in the offices of the resident agent or in any other place inside or outside the national territory. In case they are kept in an office other than the resident agent, the companies will have the obligation to inform the resident agent in writing of the physical address and contact information of the person who keeps the accounting records and supporting documentation in custody. In the event that the resident agent is not the custodian of the accounting records, the Company must provide the following information to the latter.

- Physical address where the accounting records and supporting documentation are maintained
- Name and contact information of the person who keeps them in their custody.

The company must also notify the resident Agent within a period not exceeding fifteen (15) business days, the change of residence and contact information if any. At the request of the competent authority of the accounting records and in the case that these are kept outside Panamanian territory, the company must provide them to the resident agent within a period of fifteen (15 ) business days . If the company does not comply with the obligations described in Law 52 , "it will be sanctioned by the competent authority with a fine of one thousand balboas (B / .1,000.00 ) and one hundred balboas (B / .100.00 ) for each day in which it passes without remedying the irregularities that cause non-compliance

## 4.2 Types of Companies

### 4.2.1 Limited company

Law N° 32 of February 26, 1927, creates the Corporations (SA). This law applies equally to all Corporations incorporated in the Republic of Panama, either performing local businesses, within the Republic, or companies whose activities are carried out outside the territory.

To form a corporation is required to prepare the public deed and its registration with the Public Registry. By law three directors and three officers are needed, which will form the board of the company, taking the positions of President, Secretary and Treasurer, the President being the legal representative of the company, if not expressed about appointment is made.

In writing the purpose and business of the company, the activities detailed must be lawful or legally authorized in Panama. There is no minimum capital requirement and the shares may be par value or no par value and capital need not be paid. The document should also detail the period of existence of the society that is normally at perpetuity. Any change has to be done in relation to the company must be made through a public deed and register with the Public Registry. To clarify a question always made by an investor, one person can own a 100% of the shares constituting the entire share capital without the company losing its legal status.

As of October 2016, all Offshore Companies must maintain accounting records and the resident agent must be responsible for the holding of those accounting records. In the event that the accounting records are outside Panamanian territory, the Company must provide the Resident Agent with the following information:

- i. Physical address where accounting records and supporting documentation are maintained; Y
- ii. Name and contact details of the person who keeps them in their custody.

In the event of a request by the authorities, if the accounting records are outside Panamanian territory, they must be submitted to the Resident Agent, in no more than fifteen (15) business days. In case the resident agent does not receive the information, the information must be submitted within a period of no more than ten (10) days and face a fine of 500.00 USD. If the company does not provide the accounting records, it will incur a penalty of 1,000.00 USD and 100.00 USD for each day that passes without providing the records.

### 4.2.2 Limited liability company

Law 4 of January 9, 2009, is when the Limited Liability Companies (SRL) or Limited Partnerships (SL) in Panama are established. The SRL or SL companies may have commercial activities anywhere in the world. In Panama the SRL or SL are incorporated through a private document or also by a public deed both have to be registered in the Public Registry of Panama.

The incorporation of the company is carried out with a minimum of two partners. Besides its partners may be natural or legal persons. The authorized equity capital contribution has no minimum or maximum, but the amount must be written in the document of incorporation. Such companies do not have a time limit, since its lifetime can be defined or undefined.

The SRL or SL have an administrator who is responsible for the company and manages assets on behalf of the other partners and must be appointed in writing. A Social Shares book should be carried where the assets invested by each partner is recorded. The limited liability companies must have a resident agent who must be a lawyer or a Panamanian law firm.

### 4.2.3 Private interest Foundation

Law 25 of June 12, 1995, creates the Private interest Foundation companies. This company is registered with the Public Registry through a public deed. The purpose of the Private interest Foundation companies is to protect all assets registered in the company. Including the assets in the foundation, this protects the heritage, and help in estate planning. Under the legislation, the Private Interest Foundation cannot conduct business unless it is done sporadically and serving the accomplishment of the purposes of the foundation. This has no members or shareholders but is governed by a body that manages the assets on behalf of the beneficiaries and the administrative body it must be detailed in writing. The minimum capital to form the foundation is B / 10,000.00, and must have a resident agent who is a lawyer. Also, you must keep the register of goods, where the details of the goods you have in the foundation remains.

## 5. Audit and Accounting

The Law N° 57 of September 1, 1978, is the one that regulates the profession of the certified public accountant. This law states that the Technical Board of Accountancy; which is under the Ministry of Trade and Industry (MTI) is responsible for ensuring that the meter complies with the law and with the regulations in the private sector, on this last point, the public sector is the responsibility of the Office of the Comptroller General

of the Republic.

Since 2005, legally accounting standards adopted in Panama, they are the International Financial Reporting Standards (IFRS). Other entities may also establish rules and different to IFRS accounting practices, and are accepted in Panama, are the Superintendency of Securities, the Superintendency of Banks and Insurance and Reinsurance, and is allowed because of the kind of business They are depending on their relationship with the international market. Also, the generally accepted accounting principles (GAAP / USGAAP) are used because there are subsidiaries of US companies that need to consolidate, but you have to use the IFRS for the official books.

The required accounting records that all merchant should bear are: A Journal and Mayor. Commercial companies must also keep records of Minutes and a register of shares and shareholders, and a Record of quotas or contributions from proprietary interest or Social Participation. These can be in the form of books or folios can be in the form of accounting system, provided it is authorized by the Directorate General of Revenue, Ministry of Finance (DGI).

Legal entities that do not perform transactions that are perfected, consummated or have effect in the Republic of Panama are not obliged to keep its accounting records necessary unless domiciled and operating in the Republic of Panama. Any merchant that has a commercial establishment in the Republic of Panama, without exception in terms of location, shall be obliged to bring their accounting records in Spanish and in the legal or trade currency in the Republic of Panama. The documents supporting transactions and correspondence may be in the language in which it originates and, if a translation is required by any competent authority, the trader must deliver within a reasonable time and cost, a translation of the same.

### 5.1 Employment regime

Anyone over 18 may work in the Republic of Panama. Foreigners who wish to work in the Republic must have a residence visa and their respective work permit. There are different ways to obtain residency, but if a foreigner wants to work abroad in the Republic of Panama can get your resident visa as an investor or through a foreign or local company, which is responsible to help you get your resident visa and work permit, if agreed by both parties. In both cases, you must have an immigrant visa either permanently or for the period that he will be working in Panama. The resident visa is granted by the National Immigration Service (DGM) and the work permit is granted by the Ministry of Labor and Workforce Development.

In the Labour Code it is defined and established that the employment relationship is equated with the existence of an employment contract and has the same effects and sets out criteria to establish that legal subordination and economic dependence. The employment relationship may be of definite or indefinite or permanent.



Employment benefits are detailed below:

Description	Bajo Relación de Dependencia		
<b>Regulation</b>	Labour code		
<b>Governmental Authority</b>	Ministry of labour and the Caja de Seguro Social		
<b>Relation</b>	Employer-Employee o Patron-Worker		
<b>Sustenance</b>	<b>Work contract</b>		
	<b>1.Indefinite</b>	<b>2.Fixed period/ definite</b>	
<b>Liability</b>	The contract is an agreement for the provision by lawful services of the worker in exchange for payment. The worker is legally subordinated to the employer's orders, with fixed schedule.		
	<b>Personnel Costs</b>	<b>Dependence relationship</b>	
	<b>Wage or Salary</b>	Minimum wage in Panama is established by hour, region and economic activity which ranges from 1.53 to 3.47 USD	
		The company's business and its operating location.	
	<b>Thirteenth month</b>	Additional payment made in 3 installments, April 15, August 15 and December 15, and corresponds to a month of additional salary divided into three parts	
		August and December and corresponds to one month's salary further divided into three parts.	
	<b>CSS contribution</b>	For employees lies a contribution in respect of future retirement, disability and applied to 100% of salary. Employee contribution is 9.75% and 12.25% for the employer. For independent concept lies a contribution for pension and disability that is discounted over 52% of their gross annual income	
	<b>Vacations</b>	A day of rest for every eleven days of the employment relationship, which equals thirty (30) days annual paid	

Cese de relación laboral		Pagos	
<b>Unjustified</b>		Thirteenth proportional month, proportional leave, notice in case of having less than two years of work, seniority premium, compensation.	
<b>Justified or resignation</b>		Proportional thirteen month, proportional vacations, seniority premium.	

The Labor Code governs the protection and safety of the employee, establishing the day breaks, holidays, contracts, and obligations of the worker, employer obligations, employee health and safety. In addition, other laws have been established as the law 59 of 2005, which protects people with chronic, involuntary and / or degenerative diseases when they are not included in the labor code.

The Caja de Seguro Social (CSS) is the entity in charge of being the collecting agency of the income tax of natural persons, so at the end of each fiscal year, a report, Form 03 is prepared in which It detailed per employee proceeds and presented to the DGI for this entity to collect taxes from the CSS.

According to the Organic Law of the Social Security Fund, a compulsory membership is required for all nationals or foreign workers who provide services within the Republic of Panama, including employees and self-employed.

Therefore, whether or not there is a work permit and appropriate visa, the employer is obliged to register their foreign employees on the same terms and conditions as national employees.

Once affiliates, the company is obliged to calculate, withhold and pay to the state corresponding labor-management fees, as established by the law itself.

## 6. Exchange controls and regulations

The monetary unit of the Republic of Panama is the Balboa. The current dollar of the United States and its multiples and divisions will be legal tender in the Republic for his equally to the respective nominal value Panamanian currency.

This has been one of the determining factors for the economic stability of the country and therefore has no foreign exchange regulations.

## 7. Tax system

The tax system is established under the Constitution of the Republic of Panama. Taxes and national contributions, as well as tariffs and customs duties are set to become law by the Legislature. The law ensures that any tax or charge on the taxpayer is in direct proportion to their economic capacity.

In the Republic of Panama there are two sub-systems tributaries:

1. National and
2. Local,

The national system is administered by the Directorate General of Revenue (DGI) of the Ministry of Economy 126

and Finance. Instead the local system is managed by the respective municipality.

The Panamanian tax system is essentially territorial, in the sense that is considered taxed at the income tax only those operations and assets located within Panamanian territory.

### 7.1.1 Tax import

The Tax import is applied on any product entering the country which has to pay tax according to tariff table.

This table contains detail, class, equipment, use and disclosure, indicating the tariff to be applied to products being imported on the territory.

### 7.1.2 Income taxes for natural persons and their related

The taxes paid by individuals are on their taxable income, which are the result of all revenues generated during the fiscal period less expenses and costs authorized by the tax code. The tax rate is described below:

- From B/. 0.0 to B / 11,000.00 annual taxable income is exempt, (first stage)
- From B/. 11001.00 to B/.50000.00 pays a rate of 15% ( second stage)
- From B/. 50,001.00 onwards, pays a rate of 25% (third stage)

Payment is made through a Sworn Statement of Tax Income for Natural person and his presentation is until 15 March following the fiscal year end. There is an extension period of one-month, which expires on April 15 and this prevents a fine of B/.100.00 for late filing, but not the surcharges and interest for the payment of tribute.

### 7.1.3. Income taxes for legal persons

Income tax of legal persons is applied to the net income, from taxable income generated in the country.

The income tax rate is 25%. The tax assessment is done by a Sworn Statement of Income tax for legal persons and should be submitted by 31 March following the fiscal year end, with an extension of one month which expires on April 30.

The Tax Code provides that legal persons pay income tax to 25% of the greater of:

- The net taxable income calculated by the method called Traditional; or

- The net taxable income resulting from applying the 4.67% to the total taxable income, as long the taxable income excess the amount of one million five thousand dollars, during it fiscal year ( 1.500.00 USD).

If by reason of payment of income tax, the legal person were to be in losses, he may request to the Directorate General of Revenue, the non-application of paragraph 2 of this article. Same application may request the taxpayer whose effective rate of income tax exceeds twenty-five (25%).

Sworn Statement of Revenue excluding natural persons, or legal with taxable income less than B / 250,000.00 should prepare its tax return on the basis of the International Financial Reporting Standards (IFRS).

Micro, small and medium sized enterprises (SMEs) pay the tax according to the rate of natural persons on that portion of its net taxable income attributable to their annual gross income not exceeding B / 100,000.00 and according to the normal rates applicable to legal persons on the part of the net income exceeding the annual gross income of B/.100,000.00 without exceeding the amount of B/.200,000.00.

The period of fiscal closing of taxpayers is 12 months and usually is from January 1 to December 31. However, if the company requires another fiscal year or what is known as special periods, you can get permission from the DGI. Taxpayers need to file your Affidavit of Income Tax, and have up to three months after the fiscal closing. An extension ordered can be of one (1) month to submit the same, so that B/.500.00 fine for late filing can be avoided, but not, of surcharges and interests should pay the tax.

Taxpayers must file and pay their taxes by payslips, although you can pay online, it is preferable to ensure which will be credited and the use of ballots is advised.

These ballots are identified according to the tax they have to pay. If the tax generates interest, surcharges and fines are to be paid at the same time.

Tax returns and tax reports are prepared and sent electronically via the internet. There may also be special cases in which the presentation of the same via diskette, CD or portable memory that engages USB will be requested.

The tax is levied on taxable income less costs and

expenses that are deductible in accordance with established regulations. Deductions for expenses incurred must comply with the provisions of the Tax Code in force.

#### 7.1.4. Accumulated losses

Accumulated losses may be amortized over five years, at a rate of 20% per year, and up to 50% of taxable income. Unused amounts are lost.

#### 7.1.5. Carry-forward tax credit

Carry-forward tax credit is made up of the amounts paid to the Treasury for estimated tax in the next year based on the amount paid in the previous period and any amount that has been overpaid. This credit can be applied for the payment of income tax you have to pay in the next fiscal period.

#### 7.1.6 Complementary and Dividend tax

According to Article 733 of the Tax Code, the applicable tax rates on dividends are:

- 10% if dividends are derived from local operations or Panamanian source;
- 5% in the case of foreign dividends, foreign source or exempt.

If dividends are not distributed or if the distribution is less than 40%, you must pay a supplementary tax rate of 4%.

The rate is 20% for bearer shares. Branches of foreign legal entities in Panama will pay 10% for 100% of their taxable income obtained in Panama, minus taxes paid by the same income in the country. In this case when you pay the tax is a flat fee.

Whenever dividends are distributed must first exhaust the incomes of Panamanian source before distributing dividends exempt income, foreign or export operations.

#### 7.1.7 Capital gains tax

The capital gain on any sale of bonds, securities, stocks, real estate, when the latter is not part of the ordinary course of business of the company. These transactions are taxed at 10% on the gain on the sale. When it comes to selling securities, it is required to pay 5% of the total sales price as advance tax. This can be claimed if the result of this tax is more than 10% of the profit or you can opt for this advance as a final payment of tax. In the case of real estate the same process is followed on the gain value, with the difference that the percentage is 3%.

#### 7.1.8 Tax on Transfer of Personal Property and Services (I. T. B. M. S.)

This tax is applicable to the ultimate consumer and in other countries is known as the IVA or VAT. In Pana-

ma the rate is 7%, being the lowest in Latin America.

It is a land tax to specific transactions listed in the tax base and its scope are the economic activities within Panamanian territory. It is not decisive:

- The place where the contract is concluded;
- The residence or nationality of the parties;
- The place where payment is made;
- The place where payment is received

This tax considers food, school supplies, health services, medicines, educational services, ships and aircraft, among others, as an exemption from it

### 7.1.9 Tax credit for the Transfer of Movable Property and Services tax (I.T.B.M.S.)

In sworn statements-liquidations, the taxpayer determines the tax difference between the debt and the tax credit. The tax debit shall consist of the sum of the tax payable on taxable transactions of the calendar month. The tax credit will consist of:

1. The sum of the tax included in the purchase invoices on the domestic market for goods and services corresponding to the same period, provided they meet the requirements for documentation.
2. The tax paid during said period as a result of the importation of goods.

As of January 1, 2016, an ITBMS retention regime will come into force for those who, whether or not they are ITBMS taxpayers, and comply with the criterion of annual purchases of goods and services, the same or in the immediately preceding fiscal period. over five million balboas (B / .5,000,000.00).

The amount to be withheld will be fifty percent (50%) of the ITBMS included in the invoice or equivalent document that is presented to the provider by the withholding agent.

In case of professional services, the retention will be applied to 100% of the ITBMS included in the invoice or equivalent document. Exclusions: Payments made through petty cash are excluded according to the regulations of the General Revenue Directorate.

The companies in this obligation will be published in an official list by the DGI every year.

### 7.1.10 Remittances abroad

It is considered taxable and therefore subject of Income Tax by Withholding, the income received by natural or legal persons whose domicile is outside the Republic of Panama product of any service or act, documented or not, that benefit individuals or corporations, domestic or foreign, which are locat-

ed within the Republic of Panama.

For purposes of this provision the concept of minimum income equals to the concept of residual income. The concept of taxable income includes, but is not limited to fees and income from copyright royalties, key brands or trademarks, patents, "know-how", technological and scientific knowledge, trade or commercial secrets. It includes services rendered abroad.

Such income shall be the income tax over the income retention, to the extent that such services have an impact on the production of income from a Panamanian source or the conservation of this and the expenditure has been considered as expenses deductible by the person who received them.

The natural or legal person, national or foreign, located in the territory of the Republic of Panama who benefits from the service or act concerned shall apply the general tariffs laid down in Articles 699 and 700 of the Tax Code on the fifty percent (50%) of the amount to be remitted. In the case of a foreign legal entity, the effective holding will be 12.5% (25% over 50%). The retention of the Income Tax applies over the consignment or gross pay, ie regardless of any costs.

Every natural or legal person not resident in the Republic of Panama is obliged to withhold the income tax to, on any Panamanian source income paid or credited by:

- Public entities, be they the central government, semi-autonomous bodies, local governments, state enterprises or joint stock companies in which the state owns 51% or more of its shares;
- Entities which are not taxpayers of the income tax; and/or
- Taxpayers who are in loss.

If the services are rendered in Panama, the ITBMS retention should also be made by those who pay or credit retributions for taxable transactions made by resident individuals or incorporated entities abroad, in case they do not have a branch, agency or establishment in Panama.

The thus determined amount withheld will be a tax credit in case the taxpayer is a withholding agent. Such credit shall be included in the liquidation of the month in which the withholding is made.

It is applied to the entire bill, retention 0.065421 and no later than within 10 days from the date of the retention the payment of the ITBMS should be sent to the Tax office through a multiple payslip.

### 7.1.11 Transfer Price Regime

From 2012 onwards, is mandatory the documentation of transactions with related parties made by the taxpayers in Panama, with entities located outside of Panama, provided that these transactions generate taxable income or deductible costs or expenses.

Taxpayers are responsible for reporting to the DGI if they perform transactions with related entities established outside Panama that could be subject to the regulations of transfer pricing, provided that such transactions exist, they are accountable to the entity to present the Annual Report of the Transfer Pricing (Article 762-I of the Tax Code) and Study of Transfer Pricing (Article 762-J of the Tax Code) accordingly.

For the interpretation of the provisions contained in this field apply the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, adopted by the Council of the Organization for Economic Co-operation and Development in 1995, or those that replace them insofar as they are consistent with the provisions of the Tax Code.

### 7.1.12 Property Tax

The property tax is levied on all real estate and the tax is levied on property owners, depending on the value of the property which includes land and buildings or permanent structures that have been made over the territory. In 2017, through the law 66, the property tax is modified, exonerating the homes up to 120 thousand dollars (new or not) that are fiscally constituted as tax family property or main residence at the request of the taxpayer, modifying the table of Progressive property tax by reducing it as follows:

The application of the combined rate of this tax is as follows:

Amount	Rate
Up to B / .120,000.00	0%
From B / .120,000.00 to B / .700,000.00	0.5%
More than B / .700,000.00	0.7%

Also, as of January 1, 2019, the combined progressive rate for properties commercial and industrial, as well as other residences and land will be the following:

Value	Rate%
Up to B / .30,000.00	Exempt
From B / .30,000.00 to B / .250,000.00	0.6%
From B / .250,000.00 to B / .500,000.00	0.8%
More than B / .500,000.00	0.7%

The real estate that is exempted at the entry into force of this law, will pay 1% on the cadastral value of the land, until the expiration of the exemption, applying the tables described above.

### 7.1.13 Ship tax

At present, worldwide, registering ships in Panama remains the vessel registration number 1 in the world by tonnage, followed by Liberia, UK and Bahamas. Because of that, the Law No. 8 of 1925 adopted the open registration system and restrictions on nationality and residence were removed. Since then, the Ship Registration in Panama accepts vessels owned by nationals and foreigners alike. The condition is that they must comply with the provisions, especially those concerning the management of ships, safety standards for pollution control, technical standards and taxation.

- The Ship Registration in Panama offers owners the following advantages:
- An open register. Any person or company, regardless of their nationality or place of incorporation, is eligible to register ships under the flag of Panama.
- Registration fees are low compared to other countries.
- Total exemption from tax on income derived from the operations of ships engaged in international trade.
- Double registration, provided that the country that issued the original record of the ship still allows it..

### 7.1.14 Excise tax

It is a tax on consumption of soft drinks, spirits, wines, beers and cigarettes domestically produced and imported, hereinafter the encumbered assets and certain services, such as mobile phones and luxury goods and prizes in games of chance. The general rate is 5%.

## 7.2 International Taxation

### 7.2.1 International Taxation Agreements

Panama in compliance with international standards in order to avoid double taxation has signed based on Law 33 of 2010. Panama has signed a series of Double Taxation Agreements with seventeen (17) different jurisdictions like Mexico, Barbados, Qatar, Spain, Luxembourg, the Netherlands, Singapore, France, Italy, Korea, Portugal, Ireland, Czech Republic, United Arab Emirates, United Kingdom, Israel and Vietnam.

In addition to the above, Panama has signed Information Exchange Agreements with the United States, Iceland, Canada, Finland, Norway, Sweden, Greenland, Faroe Islands and Norway.

The use of the benefits contained in the Treaties to Avoid Double Taxation requires a Prior notification of the use of the treaty to the DGI.

In December 2017, Panama signs in Paris, the Multilateral Agreement between Competent Authorities (MCAA), which allows the automatic exchange of information, while Panama retains the power to de-

cide with which countries it will exchange automatic information, starting in 2018, considering that there is 50 countries interested in exchanging information.

### 7.2.2 FATCA Foreign Account Tax Compliance Act

Panama signs the IGA agreement through Decree 124 of 2017, which complements and internally regulates the FATCA, in order to establish the information and due diligence that must be sent by the Banks for tax purposes to exchange information with the Internal Revenue Office of the United States for those citizens, residents or legal entities of US origin, who carry out economic activities outside of this country.

The IGA reinforces the 2016 automatic exchange commitment through the agreement to the Common Reporting Standards (CRS) as of 2018, for the exchange of tax and financial information between Panama and other Administrations.

### 7.3. Municipal tax

Municipalities in Panama are the ones applying the local tax and each municipality in the country imposes the tax in their municipality. In the municipality of the city of Panama, you must submit the Affidavit of gross annual income during the month of January following the closing fiscal year. The tax is applied is based on a table prepared by the municipality according to business operations.

Currently it has two municipal taxes

- Label tax monthly according with the size measured in sqm, the charge is 2.00 USD per sqm, and the minimal charge is one (1) sqm.
- Municipal tax paid monthly depends on this table and according to their operations.

Through the municipal agreement 283, the main tables (1 and 2) of municipal tax on economic activities are modified, suffering an increase of up to 30%.

## 8. Additional information

### 8.1. Colon free Zone

The Colon Free Zone (ZLC), since its inception in 1948, is a secreted free trade wholesale operations located on the Atlantic coast, near the entrance to the Panama Canal area. This area is located in a unique international center for trade.

The goods coming into the ZLC can be imported, stored, re-packaged and re-exported without being subject to charges or import taxes. Companies operating in the ZLC require authorization from the Free Zone Administration to settle in the ZLC. The Free Zone Administration gives permission to be free from export taxes, capital gains or dividend payments of external operations, transfer or direct operations. Among the benefits there are no consular fees or any other charges on shipments

to or from the ZLC.

Customs authorities make a service charge on Surveillance custody of goods re-exported and this charge is applied as appropriate and Free Zone Administration does an annual fee of B/.200.00 by a key operation, this charge applies to all companies.

## 8.2. Special areas:

### 8.2.1 Panama Pacifico Special Economic Zone

The special economic zone of Panama Pacifico was established by law 41 of 2004. This zone grants tax benefits to business such as:

- Regional International corporations,
- Administrative Offices or representation
- Call or Operators centers
- Logistics Services
- Technological Institutions
- Maintenance and repairs of aircraft
- Any business related to aviation services
- Foreign companies Source (offshore)
- Film industry
- Scheduled Radio TV, audio and video transmission
- Transfer of inventory between companies
- Travel services; cruise ships, aircraft and passengers
- Export of products manufactured in countries outside of Panama.

Tax incentives that Panama Pacifico offers the legally established and release form companies in the special area are listed below:

Exemption from:

- Income taxes
- Transfer Taxes
- Exempt from any rate tax import tariff, on products, equipment, services and other equipment sent to Panama Pacifico.
- Exempt from paying Transfer Tax for Movable Property and Service (I.T.B.M.S.) this is a Value Added Tax, it is charged for each commercial transaction.
- Exempt from paying tariffs for imports, fuel storage and their derivatives.
- Exempt from paying tariffs on imports of any product, equipment or services,
- Exempt from paying taxes on loans, interest, commissions and royalties on any type of financing granted to entities established in Panama Pacifico that extend business operations.
- Furthermore, the institutions have payment as work incentives,
- Overtime is paid 25%
- Day festive weeks the surcharge is 50%
- An entity may ask for more foreign workers than the previous limit is 10%, ie for every 10 employees in January Panamanian abroad.

- Note: Any entity established in Panama Pacifico, is subject to pay direct taxes:
- Income tax,
- Dividends and additional taxes
- Transfer Tax

A waiver of the above and the respective permit exemption.

Through Decree Law 62 of April 2017, the requirements for the incorporation of companies in the free zones are modified and simplified.

### 9. Mandatory Invoicing Regime

It is mandatory to document all transactions concerning transfers, returns, discounts, sale of goods and provision of services by all persons resident in Panama for issuing invoices.

All invoices must be issued through fiscal printers purchased from suppliers duly authorized by the Ministry of Economy and Finance (MEF).

The program or software that will be used for handling and printing invoices must also be approved by the Ministry of Economy and Finance.

Requirements to be met with bills:

- The name that is appropriate for the type of document, whether invoice or receipt.
- The consecutive numbering and unique point of billing.
- The registration number of the fiscal printer.
- The name and surname or company name, address and number of Taxpayer Registration of invoicing.
- The date (in the format of day, month and year) of issue of the invoice or equivalent document.
- The description of the operation indicating quantity and amount. the amount may be omitted in operations which by their nature cannot be expressed.
- The breakdown of ITBMS, excise tax and any other applicable taxes.
- The individual value of the transfer, the sale of goods or the service, and the total amount of the invoice.
- The fiscal logo.
- Where they are loaded or incur additional concepts that discounts, refunds, cancellations, and any adjustment to the price paid or agreed, description and value they are made.

### 10. Agreements and Trade Agreements in Force

Panama has signed 21 free trades and agreements, which contain cooperation agreements and special duties, upon presentation to the certificate of origin.

- 1) Panama Trade Agreement - Cuba
- 2) Partial Scope Agreement between Panama and Colombia
- 3) Partial Scope Agreement Panama - Trinidad and Tobago
- 4) Association Agreement between Central America and the European Union (ADA)
- 5) Agreement on Economic and Commercial Cooperation Panama - Israel
- 6) Latin American Integration Association - ALADI
- 7) Protocol of incorporation into the Central American Integration System
- 8) FTA between the EFTA States and the Central American States (EFTA)
- 9) FTA Panamá - Canadá
- 10) FTA Panamá - Costa Rica
- 11) FTA Panamá - Chile
- 12) FTA Panamá - El Salvador
- 13) FTA Panamá - Guatemala
- 14) FTA Panamá - Honduras
- 15) FTA Panamá - Nicaragua
- 16) FTA Panamá - Perú
- 17) FTA Panamá - Singapore
- 18) Panamá FTA -México
- 19) Panama Trade Treaty - Dominican Republic
- 20) Trade Promotion Treaty between Panama and the United States
- 21) Central American Customs Union

In addition, in 2017, Panama begins its diplomatic relations with China, inaugurating two embassies in both countries and the signing of 19 agreements among the most relevant are:

- 1) MOU of Cooperation between Exim Bank and the MEF
- 2) FTA feasibility MOU
- 3) MOU of cooperation in productive capacity and investment
- 4) Agricultural Cooperation Memorandum of Understanding
- 5) Memorandum of Understanding of economic, commercial and investment cooperation
- 6) Memorandum of understanding for cooperation in economic and commercial zones
- 7) Air transport agreement
- 8) Agreement on maritime cooperation
- 9) Economic and technical cooperation agreement

### 11. Tax Update

Panama, signs in Paris, the OECD BEPS treaty, becoming part of the 78 signatory countries of this treaty.

The digital invoice begins in 2018, its trial stage with 43 voluntary companies. Its use is voluntary and its massive implementation is expected in August 2018.

## Republic of Paraguay

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### 3. Country profile

The Republic of Paraguay, located between Brazil, Bolivia and Argentina, whose territory is divided into seventeen departments, each with an independent Government. It has an area of 406,752 square km, with a population of 7,200,000 inhabitants. It has three branches: legislative, consisting of the Senate and Chamber of Deputies, the judiciary and the executive.

The powers of the state are divided into five functions:

- The Executive: It is exercised by a President and Vice President, both elected for a term of five years as well as the Ministries of State and other agencies and institutions to meet, within their competence.
- The Legislature: It is exercised by two chambers: the Senate and the House of Representatives. In both cases the number of representatives is based on the number of people available to each department of the Republic. Performs the functions of law making and enforcement, including the possibility of raising impeachment against the President, the Vice President and the Ministers of State, Ministers of the Supreme Court, and Magistrates in general
- The Judiciary: is exercised by: a) Court of nine ministers, who are responsible for the administration of justice, and is shaped by the Supreme Court, the Courts of Appeals and the Courts. b) The Supreme Electoral Tribunal, wielded by three Ministers Elec-



tion, who are responsible for administering justice Voters, along with their courts.

Currently the legal tender in the country is the Guarani. In Paraguay the annual change in consumer price index in 2013 stood at 3,68% .

### 4. Investments

#### 4.1 National Investment Regulations. Legal Framework of Investment in Paraguay

##### Legislation on foreign investment

Paraguay has a very liberal regime on the issue of foreign investment, which required no government authorization to conduct investment. The investment regime is based on four laws: Law 60/90 which establishes a system of tax incentives for investment by domestic and foreign capital. "Law 117/91 Investment, which gives foreign investors the same rights and the same obligations, required it to nationals.

Maquila Act, which allows foreign companies to settle in Paraguay as maquiladoras is introduced through the temporary admission into the country foreign raw materials with a series of fiscal and tax incentives, to assemble and manufacture their products using hand national force, and finally re-export it, adding to it the added value of the transformation process.

Law 2.421/04 July 2004, Fiscal Adjustment and Administrative Reorganization repealing some of the investment incentives established by Law 60/90. The entry into force of the Law on fiscal adjustment in 2005 has meant a decrease in the processing and approval of investment projects under the 60/90.

Overall investment activity in Paraguay presents business opportunities arising from both the maquila sys-

tem, modeled Mexican, and derived from membership of the Mercosur, a customs union once perfected, will allow access to a market of more than 230 million (25 million more if you include Venezuela, recently incorporated into the agreement as a full member, once you overcome the technical difficulties of access to the Customs Union). The main problem is the high level of legal uncertainty

## 4.2 Procurement

To become the provider of state natural and legal persons should be enabled as such in the National Public Procurement, registering in the Register of Providers.

## 4.3 Corporate regime

There are various legal forms that allow corporate economic operations in Paraguay, as AUNIPERSONALES SOCIETY, THE ANONYMOUS SOCIETY, THE LIMITED LIABILITY COMPANY, COOPERTAVIAS SOCIETIES. There also Consortia, Transnational Corporations, branches, subsidiaries, but there is still no regulations to enable Holdings.

### 4.3.1 National Companies

The corporate regime is regulated in Paraguay by the Civil Code and the Commercial Code. There are several classes of companies: AUNIPERSONALES SOCIETY, THE ANONYMOUS SOCIETY, THE LIMITED LIABILITY COMPANY, COOPERTAVIAS SOCIETIES. There also Consortia, Transnational Corporations, branches, subsidiaries, but there is still no regulations to enable Holdings.

- **Companies:** These are companies that are made up of two or more individuals or corporations and are subject to the rules of the Civil Code. They are called corporations.
- **Limited Liability:** Those that are made up of two and up to twenty-five people or corporations. They are called party companies by quotas.
- **Impersonal:** Those that are made up of a natural person. They are defined for professions or occupations that require tools or machinery for the provision of their services.

Description	Companies	Limited Liability
Constitution	Are presented documents for preparation before a notary public and then to the Department of Public Records and finally to the Tax Authority.	We present the documents to be made up before a notary public and then to the Department of Public Records and finally to the Tax Authority
Governing Bodies	Shareholders	Cuotapartistas Council
Legal Representative (1)	Directors or proxies or attorneys	Directors or proxies or attorneys
Partners (2)	Least two shareholders	2 partners minimum to a maximum of 25 members.
Social Capital (3)	No minimum	No minimum established set
Shares / Units	Are bearer shares, except where the financial system must be registered and free trading on the stock exchange and OTC.	To trade shares requires the consent of 75% of the partners.
Other Liabilities	Bring Social Book of the Acts of the General Assembly of Shareholders.	Bring Social Book of Minutes of General Meeting of Shareholders.
	Bring Social Book of Shares and Shareholders.	Bring Social Book of Shares and Partners.
	Optional enrollment in both House and pay fees.	Optional enrollment in both House and pay fees
	Presentation of Financial Statements.	Presentation of Financial Statements.
	For companies who bill annually Gs. 6,000 million or more (U.S. \$ 1,363,000. - A T / C of 4,400 Gs. Per U.S. \$) must report Tax Compliance prepared by its external auditors.	For companies who bill annually Gs. 6,000 million or more (U.S. \$ 1,363,000. - A T / C of 4,400 Gs. Per U.S. \$) must report Tax Compliance prepared by its external auditors.
<b>Notes:</b>		

1. If the Directors of the companies are foreign, they must be at least resident in Paraguay.

2. The shareholders of the companies may be individuals or corporations, domestic or foreign. Foreign legal and natural persons may be members of the limited company, with the exception of banks, insurance companies, capitalization and savings.

## 5. Audit and accounting

Accounts shall be kept by the double entry system, in Castilian and Guaraní language, taking into account the generally accepted accounting principles. Specific rules for financial, insurance, publicly traded companies and the cooperatives.

For companies who bill annually Gs. 6,000 million or more (U.S. \$ 1,363,000. - A T / C of 4,400 Gs. per U.S. \$) must report Tax Compliance prepared by its external auditors.

## 6. Labor system

According to the labor law is right and a social duty. The object of the employment relationship is the provision of personal and lawful for the employer under the command of this. The employment relationship must comply with labor legislation in Paraguay and collective bargaining agreements.

### Wages, employment contract rates and conditions of employment

**Minimum monthly wage:** US\$ 370

**Salary p / day monthly workers:** US\$ 12,50

#### Regular Labor Day:

Daytime: (06:00 to 20:00)

Night time: (20:00 to 06:00 hours)

**Maximum daytime business hours:** 8

(eight) hours per day or 48 (forty eight) hours.

### The maximum duration of the trial period is:

**30 (thirty) days** for domestic workers and unskilled workers.

**60 (Sixty) days** for skilled workers or apprentices, and For highly skilled technical workers, the parties may agree a different period as the modalities of work

### Social Charges by Employee

Contribution Social Security Institute (IPS) 9.00%

**Social charges paid by the employer Social Security** - Social Security Institute (IPS) 16,5%

### Employer obligations

#### Registration in the Employer

All employers in the Republic should proceed to registration in the Management Authority authorized by Labor - Labor Department - within 60 days from the beginning of the employment relationship by submitting the following documentation:

- Certified copy of Identity Card;
- RUC;
- Registration in the Social Security Institute;
- List of Employees;
- Writing S.R.L contract, S.A. and
- Corporations other documents, Act of Assembly, etc.
- Foreigners must also submit: Paraguayan identity card p / foreign
- Certificate of Filing and the country under penalty

of fines.

## 7. Exchange control

### 7.1 Join Currency

There is a currency revenue control exercised by the Department of Prevention of Money Laundering who has control of money laundering and terrorist financing. Also exporters must sell dollars, their export products on the open market and thus download the required changes that are generated when clearing his goods for export.

### 7.2 Exit Currencies

Actually there is a tax on profit remittances amounting to commercial 20% of them.

## 8. Tax system

The Paraguayan tax structure consists of taxes, fees and contributions. Regarding taxes can be national and municipal. Here are the main taxes:

### Government taxes:

**IRACIS:** The Income Tax to commercial, industrial or services other than personal.

Are taxed Paraguayan source income coming from commercial, industrial or services other than personal.

**Obligated:** Sole proprietorships, partnerships with or unincorporated, associations, corporations and other private entities of any nature. Public companies, autonomous bodies, decentralized and mixed companies. Person domiciled or entities incorporated abroad and its branches, agencies or establishments carrying out taxable activities in the country. The parent must pay tax on the net income than those you pay or credit. Cooperatives, with the scope established by Law No. 438/94 "From Cooperatives"

**Residence:** They are made by the tax only those activities within the country, regardless of nationality, domicile or residence of persons involved in the operations and venue contracts.

However, there are some exceptions to this general rule such as interest, commission, capital gains or income invested abroad and exchange differences, when the investing institution or beneficiary incorporated or established within the country.

### Determination of the taxable income or loss:

Gross Income is considered the difference between total revenue from commercial operations, industrial or service and the cost thereof. Within the taxable income is the sale of fixed assets or capital gain, except resulting from revaluations of fixed assets and capital contributions or activities from untaxed or exempt from tax.

**International Income Base:** Persons or entities located abroad, with or without Branch performing taxable activities in the country determine their income under the presumptive regime on the perceived, becoming the payer withholding agent.

**Base of imputed income:** Tax Administration is authorized to establish net income over alleged basis for those taxpayers who are not required to keep accounting records.

**Fees:** The overall rate is 10% on net income but dividends distributed. If it does, add an additional 5% (total 15%)

**Dividends or profits distributed:** For resident income taxpayers. The tax on dividends is (5%) five percent of the amount of profit to be distributed. For foreign income taxpayers: The tax on dividends when they are transferred abroad is given a further additional rate (15%) fifteen percent, which, in this case, the taxpayer paid a total (30%) Thirty percent.

**Tax incentives:** The law provides tax incentives for those making capital investments either domestic or foreign. Stimulus to create jobs: It has issued a special law to occupy the national workforce by Maquila law, which is achieved with a minimum tax rate (1%) percent. Tax treaties to avoid double taxation agreements have been signed to avoid double taxation with Argentina and Chile.

**IRAGRO:** Income Tax on Agricultural Activities: This tax is levied on the profits obtained by the carrying out of agricultural activities such as: the rearing or fattening of cattle, sheep, goats, buffalo and equines; Production of wool, hides, sows, semen and embryos; Agricultural, fruit, horticultural and fish farming; Milk production; The gains from sales of agricultural assets. Income from the rearing of pigs, rabbits, birds, flower production, silkworms, honey and logging shall also be taxed if they are made by the producer and do not exceed 30% of the total income Of the rural establishment.

**Rate:** The general tax rate will be 10% (ten percent, on the determined net income.

**Exemptions:** natural persons who exploit one or more properties as owners, tenants, tenants, owners or income earned from their agricultural activities does not exceed the equivalent of three monthly minimum wages or annually at 36 wages Monthly minimums.

**RPC:** Rental's Small Taxpayers Obligated: The gravel event also commercial, industrial or services other than personal and whose income does not exceed about (100,000) one hundred dollars a year.

**Taxable:** Determined on a real or perceived, at the option of the taxpayer. Net income will be considered as real positive difference between revenues and total expenses and net income is alleged 30% (thirty percent) of the gross annual turnover.

**Rate:** The tax rate is also the (10%) ten percent

**IRP:** Income Tax Personal Service: The tax rate is the (10%) ten percent

**Obligated parties:** They are taxed source income coming from Paraguay conducting personal income generating activities when the activity takes place within the country, regardless of nationality, residence or place of the contract.

**Be considered included among others:** The exercise of professional services, trades or occupations or the personal services of any kind independently or dependency relationship, whether in public or private, decentralized, autonomous, mixed economy, binational entities, whatever is the name of profit or remuneration. The 50% (fifty percent) on dividends. Interest, fees and other income from capital and income not subject to other taxes on income. Capital gains arising from the occasional sale of property, transfer of rights and income securities, equity shares and Corporations.

**Taxpayers:** a) Individuals b) simple societies.

**Determination of the taxable income or loss:** Presumption of Taxable Income: For any taxpayer, it is presumed, unless evidence to the contrary, that any enrichment or equity increase comes from income subject to the tax.

**Net Income:** For Individuals. All deductible personal expenses and investments of the taxpayer and his family, since the expenses relating to the maintenance, education, health, clothing, housing and recreation.

**For simple societies:** They are deductible expenditures and investments that relate to obtaining taxable income and font handling.

**Exemptions:** You are exempt from income tax for pensions and retirement, salaries of diplomats on a reciprocal basis, interest and fee income from investments in banks, etc.

**Rate:** The rate is (10%) Ten percent on net taxable income when income exceeds 120 annual wages and 8% when they are lower than them.

**VAT:** Value Added Tax: Tax the following acts:

a) The alienation of goods.

b) The provision of services, excluding those of a personal nature that are provided in a relationship of dependency.

c) The importation of goods:

- Rate: The tax rate will be: 5% for the lease and sale of real estate.

- 5% for the alienation of agricultural, fruit, natural vegetables and live animals from live and unprocessed hunting and fishing goods, virgin or degummed crude oil and the following articles of the Family basket: rice, noodles, edible oils, yerba mate, milk, eggs, uncooked meats, flour and iodized salt.

d) 5% for interest, commissions and surcharges on loans granted by financial intermediation entities regulated by Law No. 861/96.

e) 5% for the disposal of pharmaceutical products.

f) 10% for all other cases.

g) ISC: Selective Consumption Tax: Taxes the importation of the goods that are consigned in Art. 106 (produced in the country) and the first alienation to any title when they are of national production.

**Rate:** The rate is (10%) Ten percent on net taxable income when income exceeds 120 annual wages and 8% when they are lower than them.

**VAT:** Value Added Tax: Tax the following acts:

a) The alienation of goods.

b) The provision of services, excluding those of a personal nature that are provided in a relationship of dependency.

c) The importation of goods.

- Rate: The tax rate will be: 5% for the lease and sale of real estate.

- 5% for the alienation of agricultural, fruit, natural vegetables and live animals from live and unprocessed hunting and fishing goods, virgin or degummed crude oil and the following articles of the Family basket: rice, noodles, edible oils, yerba mate, milk, eggs, uncooked meats, flour and iodized salt.

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f) 10% for all other cases.

g) ISC: Selective Consumption Tax: Taxes the importation of the goods that are consigned in Art. 106 (produced in the country) and the first alienation to any title when they are of national production.

**Rate:** (Art. 106 modified by Law No. 4,045 / 2010) The Tax rate from 5% to 13% depending on the type of product.

**Real Estate Tax:** This tax City halls perceive.

**Determination of the taxable income or loss:** The

tax base is the assessed value of property established by the National Cadastre. Additional tax on vacant: The wastelands are additionally taxed with a rate of 4% (four thousand) in the capital and 1% (one per thousand) in the inland municipalities. Property tax in addition to very long and estates. As the tax base and appraisal of Property Tax is the percentage (0.5%) to 1% according to the amount of area and location of the property location. If whatever large estate, (there is a special law that clarifies the rules on large estates) tax is charged an additional fee of 50%.

**Rate:** The tax rate is 1% (one percent). For rural properties, under 5 hectares the tax rate is 0.50% (zero point fifty percent).

## 9. International Treaties:

### 9.1 Agreements to avoid double taxation

Paraguay holds treaties to avoid double taxation on income tax, with: Germany, Belgium and China. Argentina, Chile, and Uruguay (Applicable only to air transport), Switzerland, Spain, Germany, Brazil, Mexico, (not entered into force for lack of ratification).



# Republic of Perú

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## 3. Country Profile

Peru is a democratic, independent, and sovereign republic. The government is unitary, representative, and decentralized, and it is organized according to the principle of separation of powers. It is located in the South American Pacific region and has an area of 1.285.216km<sup>2</sup>, being the third largest country in the region and is characterized by a territory geographically divided into three regions: Coast, Highlands and Rain-forest

It is politically divided in 24 departments and has an estimated population of 31 million people, being its capital the city of Lima.

It also has several ports, of which the main one is the Port of Callao, which is strategically located in the middle of the Pacific coast of South America, being therefore an important point of exchange of goods and circulation of people for various countries in this region, especially those states that are on the Atlantic South American side. Thus, it is consolidation as a bridge of connection between markets of South America, Asia and the United States is expected.

Peru as an ancient country, collects within its population and native communities, the same ones that have their own native languages. These communities are derived from ancient cultures that inhabited Peru, specifically in Cuzco, the Inca culture remains as one of which has had more recognition worldwide.

In this sense, the Spanish are official languages, and in areas where they predominate, so are the quechua, Aymara, and other Aboriginal languages, according to law.



With respect to its strategic location, has the Inter-Oceanic Highway and the Amazon River to access the regions located in the Atlantic side of South America. Also through the Andes Peru is interconnected with five South American States.

Through the Pacific Ocean, Peru is interconnected with the APEC countries, the most important, rich and fastest growing market in the world, of which Peru is a member.

Since late 2014, the official currency is the SOL, and it is possible to use other currencies. The second most used currency is the U.S. Dollar; the currency exchange is tax free.

The last five years, Peru has made great progresses in its development, including high growth, low inflation, macroeconomic stability, and debt and poverty reduction. It is expected that the country will grow around 6.0%-6.5% during the period 2012-2015 and will remain the most stable economy in the region.

In Latin America, Peru is a member of the Andean Nations Community – CAN and the Latin American Integration Association - ALADI, also has signed an agreement of Economic Complementation (AEC) with MERCOSUR.

## 4. Foreign Investment Regime-Types of companies

In Peru there are no restrictions for the incorporation of companies and other local entities by foreigners, except certain exceptional cases provided by the respective regulations.

Law 26887, General Corporations Law, effective from January 1, 1998, governs Corporation's regime, without prejudice to special regimes governed by other rules. The General Corporations Law recognizes various types of companies; the most common and widely used

are the corporations, the Limited Liability Company and branches of foreign companies, and is also common to use joint ventures, consortiums and other business collaboration contracts and Partnerships.

#### 4.1 Common Corporation (S.A)

In the Corporation, the capital is represented by shares and is constituted by contributions from shareholders, who are not personally liable for corporate debts. The number of shareholders is at least two and no more than 725. No minimum capital is required.

Shares representing the capital must be fully subscribed and paid at least in 25%. The supreme governance body of the Corporation is the General Shareholders Meeting.

The Common Corporation has in the General Corporations Law three modalities: The ordinary that is which has been described, the private and open.

#### 4.2 Private Corporation (S.A.C)

Used for middle or small businesses with no more than 20 shareholders. Shareholders are not personally liable for corporate debts.

They must meet the same requirements of Constitution which is required for others Corporations regulated in the General Corporations Law, and in case of failure to comply with any of the requirements to be considered as such is you should change of regime and adapt to the Common Corporation or Open Corporation.

#### 4.3 Public Corporation (S.A.A).

Used for business that requires large capital, there is no limit to the number of shareholders s. It is open to the contribution of any person or entity through the Securities Market and is under the control of the Superintendence of Securities Market. Shareholders are not personally liable for corporate debts.

Is liable to control of the Superintendence of Securities Market - SMV and no restrictions on trading or transmission of shares he admits.

#### 4.4 Limited Liability Company (S.R.L)

The Limited Liability Company is the alternative to a Private Corporation for small and middle businesses. As the Private Corporation, there is a limit of 20 partners. Partners are not personally liable for company debts.

The capital is divided into participations, which may not be incorporated in certificates. The will of the Company does not need a General Shareholders Meeting to form it.

#### 4.5 Single Member Limited Liability Companies (E.I.R.L)

This type of company is regulated under a special re-

gime; it is a legal entity established by decision of an individual and for the purpose of conduct a small business. The liability of the company is limited to its assets. The initial capital of the company is formed by the contributions of the individual.

The company bodies are composed by the individual and the Management and its social capital may be constituted in money or movable or Immovable assets.

#### 4.6 Branches

Local and foreign corporations can freely establish branches in Peru. The branch must be registered within Legal Entities Record of the place of operation.

The branch has no legal individuality; however for tax purposes is considered as an independent taxpayer. The branch must have a permanent legal representative with appropriate powers and faculties to develop the business and activities of its parent.

The legal representative of the branch, must have sufficient powers to resolve any matter relating to the activities of the company, to bind the corporation by the operations that perform the branch and the general's procedures representation required by the law.

#### 4.7 Collaboration Agreements

The objective of Collaboration Agreements is to create and regulate the participation and integration of independent corporations or parties in a common business. The agreement does not create an independent legal entity from its parties and is not subject to registration in the Public Record.

The General Corporations Law recognizes three types of Collaboration Agreements: the "Asociacion en Participacion", the Consortium and the Joint Venture.

The resources destined to the contracts mentioned above, shall be considered as foreign direct investment when:

- Be granted to the foreign investor a form of participation in production capacity, without involving capital contribution.
- It corresponds to contractual commercial operations through which the foreign investor provides goods or services to the recipient company in exchange for a share in physical volume of production, the overall amount of sales or in net profits of the mentioned receiving Company.

#### 5. Audit and Accounting

The accounting profession in Peru is ruled by the provisions of the International Federation of Accountants - IFAC, which emits the International Accounting Standards.

Also, to the preparation and presentation of financial statements companies should be based on Peruvian Generally Accepted Accounting Principles, which involve the application of IFRS, internationally adopted as established by the International Accounting Standards Board - IASB.

Additionally, according to IAS 21 in force in Peru, companies are allowed to prepare their financial statements considering the functional currency prevailing in their operations.

## 6. Labor Regime

Peruvian labor legislation recognizes different types of employment contracts, including fixed-term contracts, contracts for sporadically activities and service contracts.

In relation to working hours, the general labor regime establishes a maximum of 8 hours per day or 48 hours per week, for people over 18 years old.

### 6.1 Contracts Subject to Special Conditions

For all labor contract subject to form, should be understood that an employment relationship exists, the mode may be contained in the duration of the contract, because it can be for definite or indefinite period, so that the employer may determine the time by which require the employee or, if it were indefinite, the worker works for as long as your account and if the conditions for this effect are given, except as may legitimately limit the duration of employment or termination of specific causes .

Under Article 53 ° of the Labor Law, employment contracts subject to special conditions may be entered in case of market needs or increase of production, both of them for a fixed term (in accordance with the nature of the activity to be performed). Contracts for intermittent or seasonal activities can be permanent.

#### 6.1.1 Contracts of Temporary Nature

- **The contract for new activities or a new business:** These contracts are caused by the start of a new business. The maximum term is three years.
- **The contract for market needs:** Entered to face temporary increases in production caused by substantial changes in the market demand. This contract may be renewed, not exceeding a total period of five years.
- **The contract for corporate restructuring:** entered to face the variation or increase of the activities developed in the corporation, and in general to face technological changes or the variation of internal procedures. The maximum term is two years.

### 6.1.2 Contracts of Accidental Nature

- **The occasional contract:** entered in order to face temporary needs not covered by the existing workers. Its maximum term is six months per year.
- **The substitution contract:** entered in order to temporary replace a stable worker whose employment relationship is suspended by any justified cause under the current legislation or by contractual provisions applicable in the workplace. Its duration depends of the circumstances
- **The emergency contract:** entered in order to face disaster or events occurred by force majeure. Its duration depends of the emergency

### 6.1.3 Construction contracts or Service contracts

- **The specific contract:** entered in order to perform a specific activity or service. They have an object previously established and a fixed duration.
- **The intermittent contract:** entered in order to perform permanent but discontinuous activities. In this contract there are not necessity of a new celebration or renovation.
- **The seasonal contract:** In order to apply specific needs of the business of the company or establishment, in an specific seasonal requirements

### 6.1.4 Hiring Foreign Staff

Peruvian companies can hire foreign staff not exceeding 20% of total employees. Remunerations of the foreign staff may not exceed 30% of the total payroll of the company.

The contracts of foreign employees must be concluded in writing and for a specified term, for a minimum of 12 months and maximum of 3 years renewable successively for similar periods.

The employer can be exempted of accomplishing the referred limit in case of specialized professionals or technical staff, as well as in the case of management and/or directional employees of a new business.

Employees from any country member of the Andean Community are not subject to the abovementioned limits, being considered as local employees.

## 6.2 Employment Benefits

- **Public Health Contribution (ESSALUD):** in charge of the employer and is equivalent to 9% of the employee's remuneration.
- **National Pension System (SNP) or Private Pension System (SPP):** in charge of the employee and is

equivalent to 13% - 12.75% of the employee's remuneration.

- Life Insurance: in charge of the employer and applicable to employees with more than 4 years.
- Compensation for unfair firing: 1 ½ remuneration per worked year with a maximum of 12 remunerations.
- Compensation for Time of Service (CTS): in charge of the employer and is equivalent to 1 remuneration each year. The employer must deposit the CTS in an especial bank account opened on behalf of the employee.
- Vacations: 30 days for each complete year of service.
- Two (2) legal rewards per year, one in July and one in December of each year, equivalent to a monthly remuneration.
- Distribution of the net income among employees: equivalent to a percentage that varies between 5% and 10% of net income, depending on the type of activity they perform. Companies with fewer than 20 employees are not required to distribute the net income.

The minimum remuneration in Peru is PEN 850 Soles (approximately USD 258).

### 6.3 Outsourcing

Companies established to perform specialized activities or services, at their own risk, using their own financial, technical and human resources, being responsible for the results of their activities.

### 7. Exchange Rate Regime

The Peruvian State guarantees the free possession, use, and disposition of the foreign currency. It also guarantees the free convertibility of the national currency to a single exchange rate. There is no tax on currency exchange.

### 8. Peruvian tax system

The Peruvian tax system is composed by the following taxes:

#### 8.1 Taxes for Central Government

- Income Tax
- Value Add Tax
- Excise Tax
- Financial Transaction Tax
- Temporary Tax on Net Assets
- Custom Duties

#### 8.2 Taxes for Local Governments

- Real Estate Transfer Tax

- Real Estate Tax
- Tax on Vehicles
- No Sports Public Entertainment Tax
- Tax on Games
- Tax on Gambling

### 8.3. Other taxes

- Tax of Garbage Disposal and Maintenance of Parks
- Special Contribution of Public Works
- Municipal Taxes
- Social Security Contributions, if applicable
- Housing Fund Tax -FONAVI.
- Technical Training– SENATI
- Construction Industry (SENCICO)

### 8.4 Income Tax-General Regime

Applicable on profits originated from the use of capitals, from the work and from business activities.

For tax purposes, income is divided into five categories:

- First Category: lease or sub lease of goods and real estate.
- Second Category: interests, royalties, patents, capital gains and others.
- Third Category: Business, industrial, and services activities.
- Fourth Category: fees for the development of any profession, science or art.
- Fifth Category: remunerations and salaries obtained within a labor relationship.

For jurisdictional purposes, there are two types of taxpayers, the resident and non-resident. The first ones are taxed on their worldwide income, while the second ones, including permanent establishments of foreign companies, are taxed on their Peruvian source income.

Residents are required to make monthly advance payments along the fiscal year. The payment performed by a non-resident via withholding is of immediate realization.

For the Income Tax purposes, a foreign individual will be considered as resident in case he stays in the country for more than 183 calendar days during any period of 12 months.

For the Income Tax purposes, a foreign individual will be considered as resident in case he stays in the country for more than 183 calendar days during any period of 12 months.

#### 8.4.1 Corporate Income Tax

In the general regime, the corporate income tax

applicable to residents is determined by applying the rate of 28% (2016), and since 2017: 29.5% on net income.

In the case of non-residents, different rates are applicable according to the source of income on gross income.

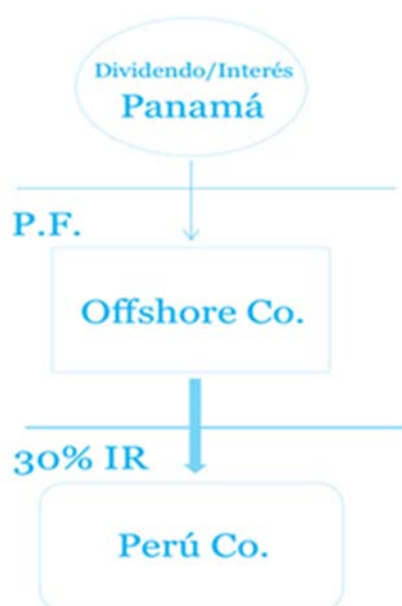
For services provided by non-resident entities that are classified as Technical Assistance, the applicable rate is 15% on the gross income and required of a report from an auditing firm certifying that technical assistance has been provided effectively if the consideration for the service is in excess of 140 UIT (\$/4,150 for the 2018).

This report can be elaborate by resident companies with current registration in the Audit Company Register in an Public Accountants School or other audit companies empowered according to the country where are established.

#### 8.4.2 International Fiscal Transparency System

Since the year 2013, Peruvian Income Tax introduced the International Fiscal Transparency System to avoid the reduction of the Income Tax taxable through the application of international tax planning.

This new section of the Peruvian Income Tax applies to Peruvian residents who own a controlled foreign corporation (CFC) located in a tax-haven jurisdiction or countries when the Income Tax rate is less than 22.5 %. They will be taxed in Peru by passive incomes (dividends, leases, royalties, capital gains and interests) obtained by CFC, attributing these incomes as their own.



#### 8.4.3 Mutual Funds and contributions for non-pension

Since the year 2013, the pension fund management companies and mutual fund management companies should have withholding the Income Tax when the participation fees will be sold or redeemed.

Therefore, the type of investment (shares, sovereign bonds, corporate bonds, bank interest and others) that performed the mutual fund is not considered to determinate the quality or source income of the sharer.

#### 8.4.4 Income Tax on Individuals

The income tax payable by resident individuals is determined by applying to the sums of labor net income and the following cumulative progressive scale to the total net income originated from work and foreign source income:

Sums total net income originated from work and foreign source income	Rate
Up to 5 UIT	8%
In excess of 5 UIT and up to 20 UIT	14%
In excess of 20 UIT and up to 35 UIT	17%
In excess of 35 UIT and up to 45 UIT	20%
In excess of 45 UIT	30%

**UIT: Reference Unit Tax, whose value for 2018 is \$/4,150.**

Dividends and other type of profit distribution received from legal entities are subject to withholding tax at a rate of 6.8% (2016) and 5% since 2017, which is a definitive payment.



In case of non-resident individuals, they will be subject to tax for their Peruvian source income according to the following rates:

Type of Income	Rat
Dividends and other type of profit distribution, except those listed in paragraph f) of Article 10 of the Law.	6,8% (2016), 5.0% (2017)
Income from the sale of real estate	30%
Interests. If the operation is involves related parties or the beneficiary is located in a tax haven, the applicable rate is 30%.	4,99%
Capital gains derived from the sale of securities held abroad.	30%
Other income derived from capital	5%
Income from business activities	30%
Remunerations and salaries	30%
Royalties	30%
Income of artists for shows performed in the country	15%
Other Incomes	30%

### 8.5 The Value Added Tax (VAT)

The value added tax is technically structured as a Value Added Tax, being applied to each stage of the production and commercialization of goods and services, being the final consumer, who finally takes the total tax burden, as befits the indirect taxation.

The applicable rate is 16% plus 2% for Municipal Promotion Tax, both by the total of 18% applicable to the incomes perceived to operations taxed by the VAT.

This tax applies to the following operations:

- The sale of goods located in the country.
- The use or rendering of services in the country.
- Construction contracts.
- The first sale of real estate made by the construction company.

- The import of goods.

From 01st August, 2012 the sale of “future goods” and sale transactions subject to a “suspensive condition” (whereby the payment is made prior to the existence of the good) have been included as transactions subject to VAT.

Likewise, earnest, deposits and guarantees that are delivered to the provider as a consequence of a sale, service or construction agreement, will also be subject to VAT if those exceed 3% of the purchase price agreed by the parties in the particular transaction.

The Peruvian VAT Law regulates the non-taxable transactions, for example the export of services, whose treatment is summarized in the following chart:

Transaction	From 08.01.12
Maintenance and repair of furniture to non-domiciled	VAT: 18%
Managing investment portfolios in the country to non-domiciled	VAT: 18%
Complementary services of international freight in primary zone to non-domiciled	Exportation: 0%
Services part of tour package in favor of the agencies tour operator or non-domiciled.	Exportation: 0%
Transaction	From 08.01.12
Data processing services	Exportation: 0%
Commercial commission to non domiciled for the sale in the country of goods from abroad.	VAT: 18%

The payable tax will be determined based on the difference between the VAT applicable on purchases and the VAT charged on sales.

### 8.6 Financial Transactions Tax (ITF)

This tax is applicable on any transaction or operation made within the banking system, in domestic or foreign currency. The rate is 0.005% and is a deduction from the Income Tax.

### 8.7 Temporary Tax on Net Assets (ITAN)

This tax is Applicable to business activities. Is applicable on the net assets at the December 31th of last year and the obligation arises on January 1st from each year. The tax is equivalent to 0.4% of the value of net assets exceeding US 1 million.

### 8.8 Mining Taxation

The Law 30230 published in July 02 th, 2014 modified the 82 Article of the General Mining Law. Also, the 82-A and 83-B Articles were incorporated.

A relevant modification is the 83-B Article, it was incorporated by the Law 30230 that determines the extent of tax stability to additional investments when they gave for not less than US \$ 250 million amount, among other requirements.

The Executive has consider that that amount is not appropriate since in trying to predict with certainty the amount of additional investment after initial investment; and also are associated with the investment project, it would be ignoring a large number of additional investments for smaller amounts that are essential for the development of the mining activity in the country.

For this reasons, it was agreed to change the minimum amount of the additional investment of US \$ 250 million to US \$ 25 million. In the Eight Complementary Provision the Law establishes the resignation of the companies that had signed stability agreements, they will require the resignation of the contracts or agreements that they had signed their shareholders or investors for investments in companies that choose to give up to the stability to benefit from the provisions identified.

## 9. Transfer Pricing

In order to adapt the existing national legislation to international standards and recommendations issued by the Organization for Economic Co-operation and Development (OECD), regarding the exchange of information for tax purposes, international taxation, erosion of tax bases, transfer pricing and the fight against tax evasion was published on December 31, 2016, Legislative Decree No. 1312, effective since 01.01.2017, in order to amend article 32-A of the Income Tax Law, in whose text establishes the guidelines for determining the market value of transactions between related parties.

- New guidelines are established for the application of the method of comparable non-controlled regulated

price, in item 1), item e), to export or import operations of goods and services whose prices are known in the local or destination market including derivative financial instruments.

- A new method to be used in the determination of prices regulated in number 7) of the aforementioned subsection e) is incorporated. This method will be applied, not because of the nature and characteristics of the activities or transactions, it is not appropriate to apply existing methods (provided for in paragraphs 1 to 6 of item e). Its regulation will be established in the Regulations of the Income Tax Law.
- A new subsection i) is added to article 32-A of the LIR, regulating the operations of services between related parties that had "low added value" according to the characteristics that are detailed. By means of regulation, the services that qualify as such and which are not.
- Regarding the informational affidavit of Transfer Pricing provided for in subparagraph g) of article 32-A of the LIR, the obligatory compliance with the presentation of the affidavit of transfer pricing information by the subjects is mandatory. Obligors, according to the amount of income accrued during the year.

Thus, it is planned to present two types of informative statements:

- Subjects whose income exceeds 2300 ITU: They are obliged to submit the Transactional Affidavit of Transfer Prices - Local Report and must consider transactions that generate taxable income and / or deductible costs or expenses. By Resolution of the Superintendence SUNAT may require the presentation of said statement regarding transactions exempted, unaffected and non-deductible costs or expenses for determining the IR. The presentation of this type of declaration will be obligatory from the year 2017.
- Subjects belonging to an economic group and whose income accrued in the taxable year exceeds 20,000 ITU: They are obliged to present the Affidavit Transfer Pricing - Master Report and should detail the organizational structure, business or business description and Transfer pricing policies on intangibles, group financing, financial position, and taxation. The presentation will be annual as indicated in the regulations. The presentation of this type of declaration will be obligatory from the year 2018.
- Subjects that are part of a multinational group: They are obliged to submit the Transfer Pricing Affidavit - Country Report by Country and must report the global distribution of income, taxes paid and business activities of each entity Belonging to the multi-

national group that develop their activity in a country or territory. The presentation of this type of declaration will be obligatory from the year 2018.

The information provided through these declarations will be used by SUNAT in the exercise of its functions and for the exchange of information according to the international treaties or decisions of the Andean Community, being bound to the rules of confidentiality and information security indicated in the same.

items	To 09.30.11		From 10.1. 2011	
Originative Income	1. Good Standing fee		1. Good Standing fee	
	2. Mining Royalties			Legal
		Legal	2. Mining Royalties	
		Contractual		Contractual
Income Derivatives (No related taxes)	1. Income Tax		1. Income Tax	
	2. Value Add Tax (VAT)		2. Value Add Tax (VAT)	
	3. Excise Tax (ISC)		3. Excise Tax (ISC)	
	4. Custom Duties		4. Custom Duties	
	5. Financial Transaction Tax (ITF)		5. Financial Transaction Tax (ITF)	
	6. Real State Tax		6. Temporary Tax on Net Assets (ITAN)	
	7. Real State Transfer Tax		7. Real State Tax	
	8. Tax on Vehicles		8. Real State Transfer Tax	
			9. Tax on Vehicles	
			10. The Special Mining Tax (SMT)	
			11. Complementary Retirement Fund for Mining, Metallurgic and Steel Activities	
Income Derivates (Related Taxes)	Contributions Municipal Taxes		1. Contributions 2. Municipal Taxes	

## 10. Agreements to avoid double taxation

Now, there are agreements to avoid double taxation signed with Chile, Canada, Brazil, México, Portugal, Switzerland and Korea. Also, the agreement signed with Spain is in the process of ratification by the Congress.

In addition, for investments performed between countries member of the Andean Community, it is applicable the agreement to avoid double taxation contained in Decision No. 578.

## 11. Legal and Tax Stability

Through the subscription of a contract, the State may grant legal and tax stability.

There is a system of general legal stability, including stability of the regime of income tax, which is accessible for investors, both domestic and foreign, and domestic companies receiving investments.

In order to promote the development of productive investments, there are other promotional regimes that include tax stability, such as mining, hydrocarbons and petrochemicals.

# Dominican Republic

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## 3. Country Profile

The Dominican Republic is located in the center of the Caribbean, sharing with Haiti the island of Hispaniola, with an area of 48,442 km<sup>2</sup>. It is the second largest nation in the Caribbean, occupying two thirds of the island.

Thanks to its geographical position, it enjoys a competitive advantage because of its easy access for North and South America, the Caribbean and the European continent. It's an independent and sovereign country, committed to the sustainable development of its people and its resources, geared toward globalization.

Santo Domingo is the capital of the country, founded in 1496. Dominican Republic is a country of young people discovered by the Spanish. Declared its independence on February 27th, 1844 and in 1966 began the process of democratic consolidation.

As of this date, the country has carried out twelve electoral periods, alternating power between the three main political parties.

The structure of the government system of the Dominican Republic is composed of three main state powers:

- **The Legislature:** Within the constitutional hierarchy, the legislature power is the first power of the



state. It is represented by the Senate and the House of Representatives.

- **The Executive:** The Constitution establishes that the Executive Power is exercised by the President of the country, elected every four years by direct vote. The President may opt for a second consecutive single constitutional term.
- **The Judiciary:** The third power of the state is, according to the Constitution and laws, the institution responsible for managing justice through special committees called "Supreme Court". Its function is to ensure the protection or guardianship rights that have been established in the norms or laws. The set of all these courts constitute the Judicial Branch.

## 4. Investments

Dominican Republic is a country with excellent investment opportunities due to political and social stability, offering multiple business opportunities. Statistics show that it is a country with a steady growth in the various business areas. Economic indicators show that growth is sustained by the dynamics of the Dominican economy.

The Dominican Republic has developed a physical infrastructure for the requirements of a company focused on the production and marketing of goods and services:

- Roads that link all destinations within the country.
- 8 international airports.
- 11 ports, in which the DP World Caucedo is located, world class terminal, located in Punta Caucedo, 25 kilometers from the city of Santo Domingo, capital of the Dominican Republic.
- Telecommunications systems provided by private suppliers, ranked among the most advanced and

efficient worldwide.

- In 2015, a port for deep-sea cruises was inaugurated

in the Tourist Zone of Puerto Plata.

#### 4.1 National Investment Regulations

For the past years, some laws have been reviewed or approved, as well as some institutions have been created to promote foreign investment and national competitiveness, under a favorable legal environment, including:

- Centro de Exportaciones e Inversión (Export and Investment Center ~ CEI-RD), whose mission is to promote the attraction of foreign capital by strengthening the overall investment atmosphere.
- Consejo Nacional de la Competitividad (National Council of Competitiveness), whose mission is to formulate, implement, and develop the competitive strategies of the main productive sectors of the economy.
- Adoption of the Law on Prácticas Desleales del Comercio y Medidas de Salvaguardas (Unfair Trade Practices and Safeguard Measures), which establishes the rules of behavior of economic agents to promote free competition and prevent distortions caused by unfair trade practices.
- A law, which declares national priority to the sectors belonging to the textile, clothing and accessories chain; skins and leather footwear manufacturing, creating a national regulatory regime for these industries.
- Adoption of the Ley General de Defensa de la Competencia (General Law on Protection for Competition), which confirms and recognizes the constitutional right for free enterprises, trade and industry, supporting the economic efficiency, effective competition, and good commercial faith.
- Ley de la Competitividad e Innovación Industrial (Competitiveness and Industrial Innovation Law), enacted in order to create a new institutional framework allowing the competitive development of the manufacturing industry, proposing policies and support programs that encourage the renewal and industrial innovation.
- Ley de Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada (Corporations and Individual Limited Liability Companies Law), proposing a modernization of the regulation on corporate matters in the country.
- Law 155-17 against money laundering and financing of terrorism, promoted to standardize the normative instruments for the prevention, detection and punishment of transnational criminal phenomena.

Among the main investment areas are:

- Telecommunications.
- Banking.
- Insurance.
- Duty-Free Zones.
- Tourism.
- Agriculture.
- Mining.
- Construction.
- Electricity.

#### 4.2 Procurement

The Ley de Contratación Pública (Public Procurement Law) is to establish the general principles and rules governing public procurement, related to the goods, works, services and concessions from the State, as well as detailed rules within each specialty that can be considered. The Sistema de Contratación Pública (Public Procurement System) consists of these principles, standards, and governing bodies used by government agencies to purchase goods and services, hire public works, and giving concessions with public funds.

The public sector agencies that comprise the following institutional aggregates are subject to the regulations provided under this Law and its rules. These are the Central Government; the autonomous decentralized institutions financial and non-financial; the public institutions of the social security; the municipalities and the National District; the non-financial and financial public enterprises, and any other entity that hires the acquisition of goods, services, works and grants from public funds.

#### 4.3 Corporate Regime

The Ley General de Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada (Corporations and Individual Limited Liability Companies General Law) number 479-08 which came into force on December 11, 2008 modernizing the corporate regime of the Dominican Republic mainly because it introduces three new vehicles in order to conduct business in the country:

- Societies in Collective Name;
- Limited Partnerships;
- Partnerships Limited by Shares;
- Limited Liability Companies (S.R.L., by its acronym in Spanish);
- Corporations Incorporated (S.A., by its acronym in Spanish);
- Simplified Corporations (S.A.S., by its acronym in Spanish);

They are recognized, in addition:

- Joint Venture;

- Individual Limited Liability Company (E.I.R.L., by its acronym in Spanish)

This legislation incorporates corporate practices of new corporate figures and business scheme, which makes it an ideal instrument for the organization and operation of businesses in the Dominican Republic, focused on adequate patrimonial planning and adequate development within the stock market.

**Societies in Collective Name:** those that exists under a corporate name and in which all partners have the quality of merchants and respond, in a subsidiary, unlimited and in solidarity with social obligations.

The creditors of the company can only pursue the payment of the social debts against an associate after having put the company in default by extrajudicial act.

**Limited Partnerships:** those that exists under a corporate name and is composed of one or several joint partners who are subsidiaries, unlimited and jointly responsible for social obligations, and each or several limited partners who are only indulged to pay their contributions.

**Partnerships Limited by Shares:** these societies consist of one or more general partners, who respond in a supportive, unlimited, and subsidiary way to social obligations, and three (3) or more limited partners, who have the quality of actions and as such, should only withstand the losses in the proportion of their contributions.

**Limited Liability Companies (S.R.L., by its acronym in Spanish):** these consists of two or more people under, a social denomination, through contributions from all partners (called social quotas), who do not personally respond to social debts and whose liability for losses is limited to the contributions of partners. The minimum capital for its formation is RD\$100,000.00 (One hundred thousand Dominican pesos). They have a more flexible and simple corporate regime, and are the vehicles of preference for the vast majority of businesses and commercial activities taking place inside the country, especially recommended for family businesses, employees and freelancers for any business that has a single organizational structure.

**Corporations Incorporated (S.A., by its acronym in Spanish):** these societies consist of two or more people under a company name and consists exclusively of partners whose liability for losses is limited to the contributions of the partners. Its capital will be represented by essentially negotiable securities called shares, which must be fully subscribed and paid before they are issued. The type of corporate governance defined by the law is oriented towards the transparency of fi-

nancial information, with the idea of boosting the stock market.

Corporations are recommended for large investments and businesses and is mandatory for companies (partnerships) to appeal to public resources for training or in order to increase capital. It is worth mentioning that almost all societies of the Dominican Republic were organized as Corporations Incorporated (S.A.) or companies for shares in the old legal regime. Nevertheless, since a few of them had a capital of thirty million Dominican pesos (RD\$30,000,000.00) or unwilling to submit to a much stricter regulation and meet additional requirements, many have had to go through a process of transformation into Limited Liability Companies (SRL) and some into Individual Limited Liability Companies (EIRL).

**Simplified Corporations (S.A.S., by its acronym in Spanish):** these are constituted by two or more people, who will be responsible to the creditors and for the losses up to the amount of their respective contributions. It will have legal personality, the words Simplified Corporation or the acronym SAS will be added to its corporate name. This type of company is designed for large companies that do not attract resources from the public. Its social capital must be set by the statutes, which must not be less than RD\$3,000,000.00.

The capital will be divided into negotiable instruments called shares, which must be paid in cash or through contributions, and which will have a value expressed in freely convertible national or foreign currency. Various classes and series of actions may be created, including, but not limited to, preferred shares, with or without the right to vote.

**Joint Venture:** They constitute a contract by which two or more people who have the quality of merchants take interest in one or several specific and transitory business operations. These must be executed by one of them in his or her own name and under his personal credit, with a charge of rendering an account and divide with its participants the gains or losses in the agreed proportion. These companies lack a corporate name, patrimony and address. They will not be subject to formal requirements or registration and may be approved.

**Individual Limited Liability Companies (E.I.R.L., by its acronym in Spanish)** that are not commercial companies but are entities with legal form with individual membership. These are advantageous to the extent that can separate the business' assets from the owner's personal assets.

This means that the owner's liability is limited to the assets of the EIRL and the individuals' personal property

can not be prosecuted in case of conflict resulting from the business conducted through the EIRL. This corporate vehicle is recommended for freelancers and businesses that tend to be more "informal" such as mini markets, etc. In addition, it does not have a minimum capital requirement but it is determined by the values or amounts that the owner decides to testify on behalf of the company.

#### 4.4 Foreign Companies

These are companies incorporated under the laws of a jurisdiction other than the Dominican Republic. Among the provisions of the Ley General de Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada (General Law of Corporations and Individual Limited Liability Companies) Number 479-08 dated December 11, 2008 that have generated major controversies are those contained in Article 11. This law states that any foreign companies performing legal acts or operates businesses in the Dominican Republic is obliged to make their entries in both the Registro Nacional de Contribuyentes (National Taxpayers Registry) within the Dirección General de Impuestos Internos (General Directorate of Internal Revenue – DGII, by its acronym in Spanish) as well as in the Registro Mercantil (Commercial Register) at the Cámara de Comercio y Producción (Chamber of Commerce and Production).

The issuance of bearer shares was forbidden, henceforth legal entities can only issue registered shares (article 103 of the law on money laundering amended and inserted article 305 and 305 bis Law of Companies 479-08);

#### 5. Audit and Accounting

The Law 479-08 "Ley de Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada" (General Law of Corporations and Individual Limited Liability Companies), provides that the operations of commercial companies must be recorded in accounting books in accordance with accounting principles and standards generally accepted nationally and internationally, in accordance with national regulations and therefore must generate information that allows the preparation of financial statements that reflect the situation financial, the results of operations, changes in equity and cash flows and disclosures that the notes to the financial statements should contain.

Said Law also provides that any commercial company that uses credit from financial intermediation entities, or issues obligations of any kind, or has gross annual incomes exceeding one hundred (100) minimum wages of the public sector, shall audit its financial statements in accordance with the law and norms recognized by national regulations. It is expressly understood that the reference to audited statutes in the law, will be applicable only when in accordance with this article a compa-

ny is obliged to audit its financial statements, although the Tax Code does not discriminate, indicating that all tax returns must be accompanied by their respective Audited Financial Statements.

The accounting system used is through double entry, generally in Spanish language. The functional currency used will depend directly on the volume of economic transactions of the societies, however, they are determined by the Dominican Peso (RD\$) or the U.S. dollar (US\$).

The Instituto de Contadores Públicos (The Institute of Public Accountants) of the Dominican Republic, is the entity that by law regulates the accounting profession in the country, and it has instituted the use of International Financial Reporting Standards (NIIF), the NIIF-PYMES, the NIC-SP and Clarity Auditing Standards. Each company according to their size and sector should choose which regulations it would abide by.

Societies governed by public interest: Superintendencia de Valores (SIV) (Securities Superintendente); Superintendencia de Bancos (SIB) (Banking Superintendencia); Superintendencia de Seguros (SS) (Insurance Superintendencia); Superintendencia de Salud y Riesgos Laborales (SISALRIL) (Health and Labor Risks Superintendencia); Superintendencia de Pensiones (SIPEN) (Pensions Funds Superintendencia) they are authorized to register their operations according to the dispositions dictated by said organisms.

Shall additionally comply with the guidelines, resolutions, regulations, and procedures required by these organizations. One of the requirements demanded of them is the presentation of the Audited Financial Statements at the end of each fiscal period. The issuance of the Audited Financial Statements is made under the rules set forth above and under the International Auditing Standards. Specialized firms that are registered and authorized to operate as such by ICPARD and the Association of Audit Firms carry out this function.

#### 6. Employment system

The employment relations in the Dominican Republic are governed by the Law number 16-92 dated May 29, 1992, commonly known as the Código de Trabajo de la República Dominicana (Labor Code of the Dominican Republic), and its amendments, as well as its Reglamento de Aplicación (Regulation Implementations) number 258 -93. The Ministerio de Trabajo (Labour Ministry) is the agency responsible for implementing the labor standards

##### 6.1 Employment Contract

Generally, any relation to a person obliging to provide a personal service to another, under the authority and immediate direction or delegation to this one, in ex-

change of a remuneration, is considered to be an employment contract (Article 1 in the Labor Code).

Not mattering if the relation is done by a written manner or as the product of a purely verbal agreement. The existence of an employment contract is presumed from the fact of service provision (Article 15).

Any of the parties to an employment contract may demand from the other that the verbally entered contract be formalized in writing (Article 19). The existence of a written agreement requires that any modification must be made in writing (Article 20). In order to establish clear rules governing the employment relationship, it is always advisable to establish the contract in writing.

## 6.2 Employees benefits

- **Christmas Salary:** The employer must pay to the employee during the month of December, the twelfth part of the ordinary salary earned by the employee during the calendar year, without prejudice to the uses and practices of the company.
- **Vacations:** Employers are required to give all workers a vacation period of fourteen days, annually, including a salary scaled as follows: Starting from the first to five years of service, fourteen days of ordinary salary, after five years or more, eighteen days. The employee obtains the right of take vacations each time a period of one year is accomplished regarding any interruption inside the company. The vacations may not be divided into periods less than one week and should not be replaced by additional payments of salary.
- **Sharing the Benefits of the Company with the Employees:** It is mandatory for every company to grant a share equal to ten percent (10%) of the annual net profits or benefits to all employees (Article 223). However, this participation should not exceed the equivalent of 45 days' wages for workers who have served for less than three years, and 60 days of salary for employees with more than three years. The ones exempt from this participation are: a) agricultural entities, industrials, forestry and mining, for the first three years of operation, b) agricultural companies whose capital doesn't exceed one million pesos, and c) the duty-free zone companies.
- **Work Periods:** The normal work week is of 44 hours, with a normal eight-hour a day work schedule. Common practice is to work from Monday to Friday and, in some companies, on Saturday. The work hours of part-time employees cannot exceed 29 hours.

## 6.3 Other labor aspects

### 6.3.1 Termination of Labor Contract

The employment contract may be terminated, among other reasons, in which is not necessary to plead a

cause; layoff, when there is a reasonable cause and by mutual consent. During the first three months of work, employees can be laid off without having to pay some sort of compensation. After this period, the employee is entitled severance depending on seniority. In case of dismissal for a cause in accordance with the causes and procedures under the Código de Trabajo (Labor Code), the employer does not have to pay any compensation to the worker, if the dismissal is declared unjustified; workers are entitled to compensation corresponding to the termination of the contract. The employer must give an advance notice of layoff to the worker in accordance with the deadlines established, in which they can be ignored almost always the employer pays to the worker the corresponding salary. These payments are not subject to income tax.

### 6.3.2 Income Tax

The employer has the obligation to act as a withholding agent of the income tax and pay said amount to the tax authorities. Currently, the employer should only act as withholding agent for workers who earn higher wages than RD\$416,220.01 per year or RD\$34,685.08 per month, as these are the minimum wages to pay income tax.

### 6.3.3 Social Security

The Law number 87-01 on Social Security requires employers and employees to contribute to the insurance scheme established by the Law, which provides for three types of assistance: a) health insurance, b) old-age insurance, disability and survival (Pension Funds), and c) insurance against labor hazards. The employer must finance 70% of the cost of all health pensions, while each employee must pay the remaining 30%. The employer must fund 100% of the labor risk insurance and 0.4% of the wages to contribute to the Fondo de Solidaridad Social (Social Solidarity Funds).

### 6.3.4 INFOTEP

All employers must contribute 1% of their monthly payroll to the Instituto de Formación Técnico Profesional (*Technical and Vocational Training Institute - INFOTEP*), which aims at the technical training of all Dominican employees. In the event that the employee receives the payment of the participation in the profits of the company, he or she must provide the 0.5 percent of such payment.

## 7. Exchange Regulations

The Exchange Regulation has been implemented under the provisions of the Monetary and Financial Law, in order to establish "rules, policies and procedures" governing foreign exchange transactions in our country, in order to maintain an environment of "competitiveness and efficiency" and to preserve price stability. This doc-

ument defines the entities authorized to conduct foreign exchange operations and the rules and laws to be followed by them. In addition, the following are highlighted notes:

- For statistical, countable and similar purposes, the dollar is the countable unit used to express all foreign currencies.
- The Banco Central (Central Bank) will publish a reference exchange rate of a purchase and a sales price based on the weighted average number of daily transactions by exchange intermediaries and financial institutions. This resulting type of reference exchange rate shall be applied for accounting, legal and reporting purposes.
- All foreign exchange transactions must be channeled through the exchange intermediaries and authorized financial institutions.
- The purchase of financial services by individuals or legal entities located in Dominican territory to financial service providers from abroad shall be subject to the foreign exchange regulations adopted or maintained by the Junta Monetaria (Monetary Board) under the current legislation. (Source: Exchange Regulation: General Provisions. Banco Central de la República Dominicana).

## 8. Dominican Republic's Tax System

The Código Tributario (Tax Code) Law 11-92 and its amendments govern taxes in the Dominican Republic. The Dirección General de Impuestos Internos (General Directorate of Internal Revenue – DGII) issue the rules, an independent body responsible for the collection and administration of taxes (Article 3 Law 227-06).

### 8.1 Income taxes on individuals

Tax the income of working in dependent or exercise of profession or trade liberal commercial activities and investment or financial gains abroad. It applies a progressive tax scale of 15%, 20% or 25% of the value of income earned during the year.

### 8.2 Income Tax legal person or company

Taxes net taxable income in a given fiscal period.

Corporate rate      27%

### 8.3 Advanced income tax

Individuals subject to the annual affidavit income tax, and those presenting commercial activities in their annual income tax affidavit must pay this income tax.

The calculation of the advanced payments for individuals or entities is determined from the effective tax rate ( $TET = \text{tax paid} \div \text{gross income}$ ). If the TET is greater than 1.5%, the liquidated tax is taken as a base; and if less than or equal to 1.5% the result of applying the 1.5% is taken as a base for the reported income in the

fiscal year. For individuals, single business owners, and undivided, the calculation of the advance payment is made from the liquidated tax paid in the income tax affidavit. The resulting amount must be paid in twelve equal and consecutive fees, which are a deductible tax credit of the tax paid in the next fiscal period.

### 8.4 Withholding Income Tax

Entities that act like withholding agents are public entities, commercial companies and other institutions mandated by the Law, which shall deduct from the amount payable to individuals and undivided successions, the amount of the appropriate tax, delivering to the Tax Administration within the prescribed period. Services subject to withholding tax and tax rates are:

- 27% on remittances abroad.
- 10% on interest paid or credited abroad.
- 10% on interest paid or credited to resident individuals.
- 10% on dividends paid in cash.
- 10% on fees, commissions, and rents paid to individuals not performing as an employee.
- 5% on prizes of RD \$ 100,001 up to RD \$ 500,000.00.
- 10% on prizes of RD \$ 500,001.00 up to RD \$ 1,000,000.00.
- 25% on prizes of RD \$ 1,000,001.00 and up.
- 10% on prizes slot machines.
- 5% on payments made by the State to individuals and legal entities.
- 10% on other income not expressly contemplated in the Tax Code.
- 2% on other withholding tax. (Norm 07-2007).
- 1% on capital gain when companies or entities acquire shares and stocks.
- 27% on donations (norm 7-10).
- 1% of the interest paid to legal entities (companies) by financial institutions (norm 13-11).

### 8.5 Additional Compensations or Supplementary Remunerations

Taxes are applied to all compensation or individualized benefits that an employer gives to their employees in addition to their salaries in cash. Within the compensation or payments made by companies that are subject to the payment of supplementary remuneration are:

- Education coverage.
- Life insurance, health, and pensions in addition to those stipulated by Law.
- Housing allocation.
- Food subsidy.
- Special discounts and bonuses on goods or services acquired in the same company.
- Vehicle allocations and fuel consumption.
- Maintenance staff. A 27% rate is applied on the value of the supplementary remuneration.

### 8.6 Tax on Assets

Taxes on the total value of assets, including properties listed on the balance sheet, not adjusted by inflation and applied after the deduction for depreciation, amortization and provisions for uncollectible accounts. Excluded from the taxable base of this tax are investments in shares in other companies, land in rural areas, real estate by nature of agricultural holdings and advanced taxes or advanced income taxes.

When the value of the income tax calculated (27% on the net taxable income) is less than 1% of the assets, the company must pay the difference as a complement to its annual sworn statement.

### 8.7 Tax on Industrialized Transferences of Goods and Services – ITBIS, by its acronym in Spanish

It is a general consumption tax rate, serving as an added value concept in the shape and manner prescribed by the Law, to the following operations:

- The transfer of industrialized properties.
- The import of manufactured properties.
- The provision and location of services.

Through the entry into force of Law 253-12, the rate that is applied is 18%. The Tax Administration can designate, as retention agents, the recipients of certain services or purchasers of certain goods, identifying precisely those services and goods. The 100% withholding of the invoiced ITBIS is established for the following services:

- Services offered by individuals.
- Rental of real estate and securities billed by individuals.
- Commission paid by airlines to the travel agents from the sale of airline tickets.

The 100% withholding tax is established for the following services:

- Commission paid by hotels to the travel agents, brokers and others, when they are billed for lodging, accommodations.
- Commission paid by insurance companies in favor of brokers, insurance agents and others, when they are billed for services brokerage.
- Companies engaged in providing security services.
- Property or services billed by companies that operate under the PST (method which helps with the tax compliance of the medium and small taxpayers, whether legal or natural, that can help settle the income tax based on purchases and/or income and pay the tax on the transfer of goods and services (ITBIS) based on the added gross value).

Companies of any nature are instituted as ITBIS with-

holder agents when they pay the liberal professional services to other companies or non-profit societies. The applicable withholding tax for these services will be 30% of the billed ITBIS. Among the services in which the withholding taxes apply are the following:

- Engineering services in all its branches, architecture, accounting, auditing, law, computing, management, design, consultancy and general consultancy.
- Rental on property goods.

### 8.8 Simplified Tax Procedure – PST, by its acronym in Spanish

It is a method that facilitates the tax compliance for medium and small individuals or legal taxpayers, allowing the income tax to liquidate based on purchases and/or income and pay tax on the transfer of industrialized goods and services based on the gross value added.

The ones eligible for this method are:

- Individual or legal persons that are tax payers in the commercial sector of detail and wholesale supplies and small industries, whose purchases round up to RD\$40,759,725.00 annually. Amount adjusted by the annual inflation.
- Individual taxpayers who provide professional services independently, non-salaried, with no organized accounting, whose income does not exceed RD\$8,771,771.50 annually. This amount is adjusted annually for inflation.

### 8.9 Tax on real estate, sumptuary housing and unbuilt urban plots – IPI, by its acronym in Spanish

- Taxes imposed on homes and business centers in urban or rural sites and urban sites not built property of individuals.
- A tax is established of 1% of total property assets which exceed RD\$7,138,384.80.

### 8.10 Selective consumption tax – ISC, by its acronym in Spanish

This tax is applied on transfers of certain national produced goods at the manufacturing level, and their importation, telecommunications, insurance and payments thru written checks. This tax will be paid with different rates depending on the goods or services to which it applies, among which we quote:

- Alcohol Products: Specific amounts depending on the number of liters of absolute alcohol.
- Tobacco Products: Specific amounts depending on cigarette packs and 130% for cigars.
- Telecommunication Services: 10%.
- Checks and Electronic Transfers: 1.5 x 1,000 (0.0015).
- General Insurance Services: 16%.
- Other goods established by Law: Specific amounts

depending on the good.

### 8.11 Successions and Donations

Any transfer of real or personal property by inheritance or donation is taxed. A rate of 3% is applied on the successors' amount and 27% on donations. The law increases by a 50% rate when the heirs are foreign or Dominicans living abroad, which means that this type of heirs pays 4.5% on the inherited wealth if they have this condition.

## 9. Other taxes managed by the General Directorate of Internal Revenue (DGII)

- Tax on Company Incorporations.
- Tax on casinos.
- Tax on lottery banks.
- Tax on sport betting banks.
- Tax on slot machines.
- Tax on telephone games.
- Tax on online games.
- Tax on Duty-Free Zones.
- Tax on Commercial Banks, Savings and Loan Associations, Savings Banks and Credit and Corporate Credit.
- Tax on motor vehicle.
- Tax on real estate transfers.
- Ad-valorem tax on fossil fuels and petroleum. Tourist Card.

## 10. International Treaties, Bilateral Investment Agreements

International trade plays an important role in the Dominican economy. For this reason, the government and the private sector have made efforts to strengthen it through regional integration, bilateral and multilateral agreements with various countries:

- Free Trade Agreement between the United States, Central America and the Dominican Republic (DR-CAFTA).
- Lomé and Cotonou for EU cooperation with the Dominican Republic, through the ACP countries (Africa, Caribbean and Pacific).
- Letter of intent for FTA with Taiwan.
- Economic Partnership Agreement between the CARIFORUM, States and the European Union and its member states.
- Bilateral Investment Promotion and Protection of the Kingdom of Spain, Ecuador, France, Republic of China, Argentina, Chile, CARICOM and Central America.

## 11. International Agreements

- Agreement between the Government of the Dominican Republic and the Government of the United States of America, for the exchange of tax information.
- Agreement with the United States on the FATCA

law.

- Agreement between the Dominican Republic and Canada to avoid double taxation and prevention of fiscal evasion with respect to taxes on income and capital.
- Agreement between the Dominican Republic and the Kingdom of Spain for the avoidance of double taxation and prevention of fiscal evasion (pending approval by the Senate of the Dominican Republic).

## 12. Transfer Price

Starting the fiscal year 2011, taxpayers reporting income taxes by operating with related or affiliated companies, must submit to the Dirección General de Impuestos Internos (DGII) an informative declaration of enabled operations with related or affiliated parties. The documentation and information forming part of the declaration will contain the details of each transaction and the identification of the related parties, according to the established format.

In addition, a report is submitted on the assessment process of the transfer prices agreed on with their related companies. If after applying the methods to determine the market price that fits the reported transaction, the price or amount declared or established differs from the market price, will be by either over-or undervaluation, the Dirección General de Impuestos Internos (DGII) shall proceed to challenge it, making the settlement for the acquirer and the transferor.

## 13. Special Regimes

With the entry of the Law 253-12, several benefits were eliminated under incentive laws.

- Law No. 158-01, eliminates the benefits established by this law granted to individuals or legal persons who invest directly with promoters or developers.
- Law No. 108-10 encourages Film and Cinematography activities, it is also established that the tax credit provided in this law, shall not be transferable and must be used exclusively by the producer.
- Law 57-07 on Renewable Energy incentives, eliminates income tax exemptions to renewable energy generators. It reduces the tax credit from a 75% to a 40% over the cost of investment in equipments.
- For Duty-Free Zones under Law 8-90, it is established a rate of 3.5% on its gross sales in the local market.
- For Trade Zones under the Law 397 as modified by the law 315, establishes a rate of 5% on gross sales.
- Classification of Special Zones are suspended according to the law 8-90.
- The refund of tax to the goods producers that are exempt, are eliminated. The self-producers. For the Commercial Free Zones covered by Law 4315, modified by 397, a rate of 5% is established on gross sales.

#### 14. Law 155-17 On Money Laundering and Financing of Terrorism

The enactment of the Law against Money Laundering and the Financing of Terrorism No. 155-17, was declared on June 1st of the year two thousand seventeen (2017), which repeals Law No. 72-02 on laundering of Assets Coming from Illicit Drug Trafficking, of the seven (7) day of June of the year two thousand two (2002).

This law brings new challenges for the whole society and especially for the financial intermediation entities and the so-called obligated subjects, bringing with it very serious consequences against all those who violate this law.

It is convenient to highlight that this new legislation constitutes an important advance for the Dominican Republic. It introduces to our legal system the new international standards on the fight against money laundering and the financing of terrorism, according to the recommendations of the International Financial Action Group (GAFI, by its acronym in Spanish), issued in the month of February of the year two thousand and twelve (2012) and updated in the year two thousand and sixteen (2016).

The purpose of Law No. 155-15 is to establish: (i) The acts that typify money laundering, the preceding or determining infractions and the financing of terrorism, as well as the criminal sanctions that are applicable; (ii) Special investigative techniques, cooperation mechanisms and international judicial assistance, and precautionary measures applicable to money laundering and financing of terrorism; (iii) The regime for the prevention and detection of money laundering operations, financing of terrorism and the financing of the proliferation of weapons of mass destruction, determining the obligated subjects, their obligations and prohibitions, as well as the administrative sanctions derived from their non-observance; and, (iv) Institutional organization aimed at avoiding the use of the national economic system in money laundering, financing of terrorism and financing the proliferation of weapons of destruction.

The Law Specifically determines, as money laundering (i) the conversion, transfer or transportation of goods, knowing that they are the product of any of the preceding offenses, with the purpose of hiding, concealing or concealing the nature, origin, the location, disposition, movement or real property of possessions or rights over possessions; (ii) hide, disguise, or conceal the nature, origin, location, disposition, movement or real property of goods or property rights, knowing that said property comes from any of the preceding offenses; (iii) acquire, possess, manage or use properties, knowing that they come from any of the preceding offenses (iv) assist, advise, support, facilitate, incite or collaborate with people who are involved in money laundering to avoid prosecution, submission or criminal convictions; and, (v) the participation, as an accomplice, in any of the activities mentioned in the above numerals, the association to commit this type of acts, the attempts to perpetuate them and the fact of helping their commission with an essential provision for perform them or facilitate their execution.

Another important modification is with respect to the Tax Code in its article 50, literal C, which indicates that taxpayers, responsible persons and third parties are obliged to register in the National Registry of Taxpayers and the pertinent special registers. This article has been modified to include that, for any legal entity or entity without resident legal personality, as well as non-resident, in the cases specified by the Law, the obligation to have updated information of its final beneficiaries is established.

Likewise, Article 64 of said law establishes that it "prohibits any person, physical or moral, from paying or liquidating, as well as accepting the settlement or payment of acts or operations through the use of cash, coins and banknotes, in national currency or any other, as well as through precious metals ". With this provision we will see limited all cash payment in transactions. The lawyers and the institutions that intervene must make sure that the payment was real and that it has been recorded by means established by law.



## The Republic of Suriname

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### 3. Country profile

Suriname, officially known as the Republic of Suriname, is a sovereign state on the northeastern Atlantic coast of South America. It is bordered by Guyana to the west, French Guyana to the east and Brazil to the south. The capital of Suriname is the city of Paramaribo.

As of January 1, 2017 the population of Suriname was estimated to be 573.311. As a result of the implemented colonial labor policy the population has a large ethnic diversity. The ethnic composition is as follows: Indians (27.4%), Maroons (21.7%), Creoles (15.7%), Javanese (13.7%) and other (Chinese, Brazilians, Europeans etc.). Suriname is also known as a country where various religions (Christianity, Hinduism, Islam, and Judaism) are being practiced in harmony.

In 1954 Suriname became one of the constituent countries of the Kingdom of the Netherlands. On November 25, 1975 Suriname became an independent state: the Republic of Suriname. Nevertheless, Suriname maintained most of the legal policies and principles of the Netherlands. The official language is Dutch.

The Republic of Suriname is a parliamentary democracy. The legislative power consists of a 51-member unicameral National Assembly, simultaneously and popularly elected for a five-year period. The President of Suriname is also elected for a five-year period by a two-third majority of the National Assembly; the Vice-



president is chosen by a simple majority. As a head of the government, the President appoints the cabinet of Ministers. Suriname is divided in ten districts and subdivided into 62 resorts. Each district is headed by a district commissioner appointed by the President.

Suriname is from the cultural side considered to be a Caribbean country and is a member of the Caribbean Community (CARICOM).

The currency of Suriname is the Surinamese Dollar (SRD). However, the US Dollar and Euro are also frequently applied on foreign transactions.

### 4. Foreign Investment Regime – Types of Companies

The types of business entities mostly used by foreign investors are the (Public) Limited Companies by Shares (Ltd.) and branches of foreign companies. Both the civil legislation (Civil Code) and the commercial legislation (Code of Commerce), as well as the different specific laws, must be taken into consideration when a company is established in Suriname.

The following types of companies are being recognized by the Chamber of Commerce and Industry:

- Sole Proprietorship;
- General Partnership;
- Limited Partnership;
- (Public) Limited Company by Shares (Ltd.);
- Foundation;
- (Cooperative) Association;
- Branch of a foreign company.

According to the Trade Register Act, every company established in Suriname must be registered in the Trade register at the Chamber of Commerce and Industry. The following companies are not obligated to register

in the Trade register: bodies governed by public law, companies belonging to minors (who are not married and do not have a release of pledge) and companies who are exclusively conducting activities in agriculture, horticulture, fishery or hunting (unless the activities are conducted through a corporation, foundation or association).

#### 4.1 Sole proprietorship

A sole proprietorship is a company that is conducted by a (resident) natural person who is also the owner of the company. The sole proprietorship is not regulated by law and therefore has no legal personality.

Only a resident of Suriname can establish a sole proprietorship. It is not compulsory to establish a sole proprietorship by notarial deed. The (resident) sole proprietor can start its business activities when the business permit has been granted and the company has been registered in the Trade register at the Chamber of Commerce and Industry. The sole proprietor holds the rights of and is liable for the obligations of the company with all his assets; creditors can recover their claims on both private and company assets.

#### 4.2 General partnership

The general partnership is a partnership for the conduction of business activities under a common name. The general partnership has no legal personality.

The purpose of a general partnership is to gain collective financial benefits by a collaboration of two or more persons.

The general partnership can be established through a co-operation/partnership agreement between two or more persons. The general partnership must also be registered in the Trade register at the Chamber of Commerce and Industry.

The partners of the general partnership can act on behalf of the company as long as the actions are in line with the purpose of the company. The partners are jointly and severally liable for all the obligations of the general partnership.

#### 4.3 Limited partnership

The limited partnership is a partnership between one or more general partners and limited partners. Limited partners participate in the limited partnership by a contribution in cash and/or kind; in principle they do not act on behalf of the company and they are in principle only liable for their contribution. The limited partnership has no legal personality.

The limited partnership can be established by a mutual agreement. The limited partnership must also be registered in the Trade register at the Chamber of Commerce and Industry.

General partners are jointly and severally liable for all the obligations of the limited partnership. As mentioned above, limited partners are in principle only liable for their contribution to the limited partnership. The limited partner can be held jointly and severally liable anyway in case he acts on behalf of the company and/or interferes with the conduction of the business activities.

#### 4.4 (Public) Limited Company by Shares (Ltd.)

The (Public) Limited Company by Shares (Ltd.) is a company with a capital divided in shares, held by its shareholders. The Ltd. has legal personality.

According to the amended Civil Code it is as of August 18, 2016 no longer mandatory to establish a Ltd. by multilateral legal action by notarial deed; the Ltd. can be established by one person using the standard deed of establishment as determined by the Ministry of Trade and Industry. The Ltd. must be registered in the Trade register at the Chamber of Commerce and Industry. Various documents (such as articles of association) must be filed at the Chamber.

With the implementation of the amended Civil Code there are no longer mandatory minimum requirements with regard to issued and/or paid capital.

As the Ltd. has legal personality, the Ltd. itself holds therefore the rights and is liable for the obligations of the company. In case of mismanagement the management of the Ltd. can also be held liable by both shareholders and third parties; in case of bankruptcy the burden of proof can be reversed to the management. Shareholders are in principle only liable for their paid-in capital in the Ltd., but according to the amended Civil Code shareholders can also conclude additional conditions and/or obligations in the articles of association and/or in a shareholder agreement.

#### 4.5 Foundation

The foundation is a legal entity that is established by notarial deed or will, in order to accomplish a certain purpose. The purpose is often social, cultural, charitable, scientific or for a general benefit. The purpose of the foundation cannot consist of the distribution of profit to its founders, directors or other persons connected with the foundation.

The foundation must be registered in the Public Foundation register at the Chamber of Commerce and Industry. The articles of association must also be filed at the Chamber. In case the foundation is conducting economic business activities, the foundation must also be filed at the Chamber. In case the foundation is conducting economic business activities, the foundation must also be registered in the Trade register at the Chamber of Commerce and Industry.

The foundation has legal personality and therefore the foundation itself holds the rights and is liable for the obligations arisen from the activities conducted by the foundation. The directors are only acting on behalf of the foundation to the extent of their authority in accordance with the articles of association.

The directors of the foundation are only jointly and severally liable for consequences related to the negligence of the registration requirements.

#### 4.6 (Cooperative) Association

The association is established by a multilateral legal action (by notarial deed). The association is a legal entity where the parties/ members/founders cooperate in order to accomplish a certain purpose. There are two types of associations: cooperative associations/mutual associations and all other associations. The purpose of the latter type of associations cannot be the distribution of profit.

The association must be registered at the Chamber of Commerce and Industry; the articles of association must also be filed at the Chamber.

The members of an association are not personally liable for the actions of the association. The association itself is liable for all its obligations arisen from the activities conducted by the association.

#### 4.7 Branch of a foreign company

In general a branch of a foreign company is conducting activities in Suriname under the name of the foreign parent company. A branch has no legal personality.

The foreign parent company must be established in accordance with the legal regulations of the foreign country and the branch must be registered in the Trade register at the Chamber of Commerce and Industry in Suriname. The articles of association, the extract of registration of the foreign parent company and the letter of employment of the branch manager must also be filed at the Chamber of Commerce and Industry.

The branch is subject to the legal regulations of Suriname and is also tax liable in Suriname. The branch manager is in charge of the activities conducted by the branch. The foreign parent company holds the rights of and is liable for the obligations of the branch.

#### 5. Audit and Accounting

As of October 6, 2017 the Act on Annual Accounts has been implemented. In summary, the Act on Annual Accounts states that the public interest entities (including entities listed on a stock exchange) are subject to certain accounting principles, depending on their size (large, medium or small). In order to determine as to whether the entity qualifies as large, medium or small, the following general criteria should be taken into account:

um or small, the following general criteria should be taken into account:

- The average number of full-time employees during the financial year;
- Net sales, assuming normal non-recurring operating activities for the financial year;
- The total value of assets according to the balance sheet at the end of the financial year.

Furthermore the Act on Annual Accounts states the following obligations:

- Drawing up the annual accounts and management report within 6 months after the end of the financial year;
- Publication of the annual accounts, the management report and the auditor's report within 8 working days of the adoption of the annual accounts;
- Mandatory audit of annual accounts by a certified accountant for public interest entities, large entities and medium-sized entities;

The applicable reporting standards for the preparation of the annual accounts in accordance with the Act on the Annual Accounts are:

- For large entities/ public interest entities: (Full) International Financial Reporting Standards (IFRS) or other internationally accepted accounting standards;
- For medium-sized entities: International Financial Reporting Standards for Small and Medium Sized Entities (IFRS for SME);
- For small-sized entities: Tax valuation principles in accordance with sound business practice.

The annual accounts of large entities must comply with the above mentioned reporting standards and obligations starting from the financial year 2020 and for medium and small-sized entities starting from the financial year 2021.

#### 6. Labour Regulations

In the Labour Act the general rights and obligations with regard to employers and employees are determined.

##### 6.1 The Labour Agreement

According to the Civil Code there are three essential elements which define a labour agreement:

- There should be a relationship of authority between the employer and the employee;
- The employee is performing labour;
- The employer is paying the employee a salary in return.

The labour agreement can be determined for a defined

period or for an indefinite period. In general there is a trial period of maximum two months before the labour agreement becomes enforceable.

It is prohibited to let the employee perform labour for longer than 8.5 hours per day or 48 hours per week.

For certain types of jobs (such as security) a higher maximum of working hours can be applied. For overtime to be performed by employees, the employer/ company must have a permit. Furthermore, it is mandatory by law that the employee who worked more than five hours should get a break for at least half an hour.

## 6.2 Payment

Starting from January 1, 2015 the Minimum Hourly Wage Law has been implemented. According to this Law the minimum hourly wage is SRD 6.14 in 2017. For certain types of companies (such as security companies) there is higher minimum hourly wage. The minimum hourly wage is raised every calendar year.

For overtime 1.5 times the wage must be paid in case the overtime was performed on working days. In case the overtime was performed on Sundays and/or holidays, 2 times the wage must be paid to the employee and in case the employee is not compensated with other rest days in replace for the days worked on Sundays and/or holidays, the employer is obligated to pay 3 times the wage to the employee.

There is no obligation by law to pay an annual bonus.

## 6.3 Vacations

According to the Vacation Law the employee is entitled to a minimum of twelve vacation days per calendar year (one day for each month worked) with preservation of the wages. In each subsequent year the number of vacation days will be raised with two days per calendar year with a "maximum" of 18 vacation days. Employers can provide more vacation days than prescribed by law.

The employee who is entitled to vacation days is also entitled to vacation allowance. The vacation allowance is minimal 50% of the wages over the period of the vacation days.

## 6.4 Social security and insurances

In general social security premiums are shared by the employees and the employer.

According to the Health Care Law every resident of Suriname is obligated to have a health insurance. In case of employment the employer is obligated to contribute a minimum of 50% of the health insurance premium. The other 50% of the health insurance premium is withheld by the employer on the wages of the employees and accordingly remitted to the health insur-

ance company. Foreign employees who can be considered to be residents of Suriname (such as expats) are also subject to the stipulations of the Health Care Law.

According to the General Pension Law every working resident of Suriname is obligated to participate in an approved Pension Plan in accordance with the stipulations of the General Pension Law. The employer is obligated to contribute a minimum of 50% of the pension premium. The other 50% must be withheld from the wages of the employees by the employer. The total pension premium must accordingly be remitted by the employer to a pension insurance company. Foreign employees working in Suriname who can be considered to be residents of Suriname are also subject to the stipulations of the General Pension Law. The (foreign) employee who reached the retirement age of 60 years and who contributed to the Pension Plan for at least 5 years, is entitled to the pension payment.

Besides the pension premium of the General Pension Law there is also an obligatory Old Age Premium (4% of the wages) due by the employee who is a resident of Suriname. The Old Age Premium is withheld from the wages by the employer and accordingly remitted to the Government. Residents of Suriname with a Surinamese nationality are entitled to the Old Age Premium when the retirement age of 60 years has been reached. Residents of Suriname with a foreign nationality are entitled to the Old Age payment when the retirement age of 60 years has been reached and they contributed for at least 10 years to the Old Age Fund.

Employers are also obligated to insure their employees for accidents related to labour. The premium for the accident insurance is determined based on the day salary of the employees and the function (office/ fieldworkers etc.).

## 6.5 Unions

The Collective Labour Agreement Act states that only labour unions and employers can conclude a collective labour agreement. In the collective labour agreement additional rights and obligations can be determined for the employees.

## 7. Exchange Controls

A foreign exchange commission is in charge of the foreign exchange control. In principle, permission from the foreign exchange commission ("FEC") is needed for the transfer abroad of capital (such as dividend distributions and interest payments on loans) and for providing loans by a resident to a non-resident and vice versa. For the import of capital, no permission is needed from the FEC. Payments abroad to foreign suppliers on goods, services etc. should take place through the commercial banks. Although certain conditions (administrative) should be met, no specific permission is needed from

the FEC. As a result of the various stipulations with regard to the prohibition of discriminatory restrictions under the CARICOM treaty, certain restrictions on the movement of capital in the CARICOM have been waived by Public Decree by the FEC.

The foregoing is not an exhaustive treatment of the foreign exchange control regulations, but deals with some relevant provisions. Because of the complexity of the foreign exchange control provisions, a more detailed outline of the relevant foreign exchange control regulations can be provided, if needed.

## 8. Tax System

In Suriname the following taxes are currently applicable:

- Corporate Income tax
- Personal Income tax
- Wage withholding tax
- Dividend withholding tax
- Net wealth tax
- Turnover tax
- Import, export and excise duty
- Stamp duty
- Rental value tax
- Various gambling taxes (raised corporate income tax, lottery tax, casino tax)

### 8.1 Corporate Income tax

Companies resident in Suriname are subject to corporate income tax which is levied on their worldwide income after deduction of business expenses and possible tax losses. The basis for assessment of a resident company's corporate tax liability is the amount of profit remaining after certain deductions and a possible relief for tax losses. Surinamese Tax Law defines "profit" as "all the benefits derived from the carrying on of an enterprise, regardless of the name or form of the benefits". Profit includes income from all sources, domestic and foreign (such as profit derived from a foreign permanent establishment and dividends received from a foreign subsidiary).

Non-resident companies are taxable only on income derived from a permanent establishment (branch of a foreign company), income from immovable property located in Suriname and certain other types of Surinamese source income such as interest received on loans secured by a mortgage of real estate located in Suriname. The Suriname Tax Law also has stipulations with regard to deemed profit derived from a permanent establishment for instance for exploring and exploiting natural resources in Suriname.

Companies who are conducting business activities in Suriname are obligated to file annual provisional and final corporate income tax return for respectively the current tax year and the past tax year. Within 2.5 months of the pending tax year a provisional corporate

income tax return should be filed based on an estimate of the company's/branch' taxable profit of the current year.

The corporate income tax due on this estimated profit should be paid in 4 equal installments during the current year. A final corporate income tax return should be filed within 6 months after the end of the company's/branch' tax year accompanied with a balance sheet and profit & loss account.

The corporate income tax rate for resident companies and Surinamese branches of foreign companies consists of one flat rate of 36%.

If certain conditions are met, a Surinamese company or permanent establishment can request to report its annual tax accounts and results in another currency than the Surinamese Dollar.

### 8.2 Personal Income tax

Resident individual tax payers are taxed on their worldwide income while non-resident tax payers are taxed only on specific sources on income in Suriname (such as labour performed in Suriname and rental income derived from real estate in Suriname). No municipal or other local taxes are imposed on income. A non-resident tax payer is according to formal Suriname tax law as of day one liable for Surinamese individual income tax purposes.

Individual tax payers are also obligated to file annual provisional and final personal income tax return. The provisional income tax return must be filed within 2.5 month of the current tax year and the final income tax return within 4 months after the end of the tax year.

The tax rate for the individual tax payer is a progressive rate from 0 – 38% divided in the following brackets.

Taxable income in SRD		Tax rate
From	To	
0	2,646	0%
2,646	14,002.80	8%
14,002.80	21,919.80	18%
21,919.80	32,839.80	28%
Above	32,839.80	38%

In the calculation of the taxable income of a resident individual tax payer a tax free amount of SRD 2,646 applies. In addition there is a maximum deductible of SRD 125 per month (SRD 1,500 per year) applicable in calculating the income tax. A fixed deduction can be applied for general work expenses equal to 4% of the gross salary payments with a maximum of SRD 1,200 per year both for a resident and a non-resident tax payer. In case the employer can substantiate that the actual work expenses of the employee are higher than the fixed deduction, the actual work expenses can be de

ducted from the gross salary.

### 8.3 Wage Withholding tax

In general, personal income tax in respect of employment income is withheld from wages and salary payments. All employers in Suriname (including branches of foreign companies) should deduct wage tax from wages, salaries and other taxable remunerations paid to both resident and non-resident employees. The withheld wage tax must accordingly be remitted at the tax authorities on (normally) a monthly basis as determined by the employer. Therefore, a withholding, filing and payment liability exist for the employer with regard to wage withholding tax.

The wage withholding tax return should be filed ultimately on the 7th working day after the end of the month the wage period is ended. The payment of wage withholding tax should also take place ultimately on the same date.

The applicable wage withholding tax rates are equal to the personal income tax rates (0 - 38%) and the deductions also apply accordingly.

### 8.4 Dividend withholding tax

Dividends distributed by a Surinamese company to its (foreign) parent company are subject to 25% dividend withholding tax. This tax is like the wage withholding tax also an advanced levy to personal income tax. A withholding, filing and payment liability exist for the distributing company. Under tax treaties this rate is normally reduced to a lower level.

If certain conditions are met a participation exemption is applicable; dividends received by a Surinamese resident company from a resident company are then not subject to dividend withholding tax.

Interest, royalties, management fees, fees for technical assistance etc. paid by a Surinamese company to a company abroad are according to the current applicable laws not subject to withholding taxes.

No withholding tax is imposed on profit distributions by a branch in Suriname.

### 8.5 Net wealth tax

In addition to personal income tax, individuals resident in Suriname are subject to tax on the value of their net wealth as of January 1 of each year. Taxable wealth for this purpose is the total value of the tax payer's net assets except for certain items such as life insurance policies and cash value of pensions. Non-resident individuals are only subject to the net wealth on certain assets situated in Suriname such as immovable property. The rate of the net wealth on both residents and

non-residents is 3 promille of taxable wealth. There are certain exemptions for single persons and for married individuals.

### 8.6 Turnover Tax

Currently a turnover tax is applicable in Suriname. The turnover tax is levied on:

- Goods produced and delivered by entrepreneurs within the scope of their business;
- Specific listed taxable services (Schedule I of the Turnover Tax Act) rendered by entrepreneurs within the scope of their business;
- The importation of goods.

The turnover tax rates are as follows.

Note: Note: the deliveries of certain basic necessities are subject to a zero rate and the importation of certain luxury goods are subject to a raised rate of 25%.

If a foreign company performs taxable services in Suriname to a Surinamese company, the turnover tax is not due by the foreign company but by the Surinamese company (reversed charge mechanism).

Taxable performance	Tax rate
Delivery of goods	10%
Specific rendered taxable services	8%
Importation of goods	10%
Exportation of goods	0%

The turnover tax return must be filed and accordingly paid before the 15th following the tax month.

The current government has the intention to implement a Value Added Tax (VAT). At first the new VAT legislation was supposed to be introduced as of January 2018 but the implementation is postponed until further notice. The new VAT legislation is supposed to replace the current applicable turnover tax legislation.

### 8.7 Import, export and excise duties

Import duties are imposed on most imported goods and materials at rates varying from 5 to 45% of the cif value. Import duties on machinery, spare parts, raw materials etc. are in most cases 5% of the cif value.

Apart from the import duties, two special duties known as the "statistics" duty (0.5%) and the "consent" duty (1.5% on import and 0.1 on export) are imposed on import and export of goods and material.

An excise duty is charged on local distillates at varying rates. A turnover tax is imposed at varying rates on the sale of beer, soft drinks, tobacco, cigarettes and motor gasoline.

### **8.8 Stamp duty**

Among others, the transfer of movable goods by written documents and immovable goods are subject to stamp duty at varying rates.

### **8.9 Rental value tax**

A rental value tax is levied on the imputed rental value of buildings. The applicable rate is 6% of the imputed rental value. A tax exempt amount of SRD 50,000 applies. The rental value tax is payable by the owner of the building (the person who has the legal right of the property). Certain buildings such as school buildings and factories are tax exempt.

### **8.10 Various gambling taxes**

In Suriname various gambling taxes are being levied.

For generated income derived from casino activities a corporate income tax rate of 50% is applied.

Casino's are also subject to casino tax on the gambling tables and gambling machines in operation. There is also a lottery tax for lotteries held by holders of a lottery permit.

## **9. Investment Incentives**

The Investment Act 1960 provides special tax incentives for the following:

- Tax holiday for a number of years;
- Free and accelerated depreciation;
- Special facilities (reduced tax rate etc.) for holding, investment, shipping and air transport companies;
- Full and partial import duty exemption.

For every special tax incentive various qualifying conditions are applicable. The special tax incentives are granted by the competent authorities upon written application.

The Investment Act 1960 also has various non-tax incentives that can be applied (for instance the granting of working permits for expats) in case an investment incentive already has been granted.

## **10. Tax Treaties**

In the case of the taxation of foreign income this will normally result in double taxation. Surinamese tax law contains a provision for the granting of unilateral relief for foreign tax by the issue of a decree. Up to now such a decree has never been issued.

Suriname has a tax treaty with The Netherlands and Indonesia for the avoidance of double taxation. In the tax treaties the allocation of taxing rights has been determined and various reduced tax rates are applicable (for example for dividend, interest and royalties).

Suriname is also a member of the CARICOM. With the Treaty of Chaguaramas the idea of a common market CARICOM transformed into the CARICOM single market and economy. The CARICOM also concluded various (tax) treaties with other non-CARICOM countries. The agreement among the Governments of the CARICOM member states for the avoidance of double taxation has not yet been ratified by the Government of the Republic of Suriname.

# Oriental Republic of Uruguay

## 1. Identification of the contact firm

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## 2. Country profile

With a geographic area of 176,215 sq. km and a population of 3.4 million inhabitants, Uruguay is one of the smallest countries of South America.

Its economic annual growth is around 3.1%.

Uruguay has a legal system based on written laws approved by the Parliament and promulgated by the Executive branch. The country is politically organized as a presidential system divided into three independent branches: Executive, Judicial, and Legislative.

Uruguay is politically divided into 19 departments, each with its own Departmental Government which is composed of a Mayor and a Departmental Board, both elected by democratic vote.

### 2.1 Foreign investment

The Government promotes investments and has a specific policy to attract foreign investment.

The general regime is fully open and, from a fiscal tax point of view, it does not discriminate between foreign and local investors.

Foreign investors are entitled to the same incentives as local investors.

No authorizations are required for foreign investment in Uruguay.



The incentives available to foreign and local investors are focused on the creation of jobs, the establishment of high-tech industries and the increase in exports. Tax exemptions for certain investments are the most generic incentives.

### 2.2. The framework of the economic policy

There are no restrictions on the free entry and exit of foreign currency in Uruguay. Foreign currency can be freely exchanged and all foreign currencies are legal tender (this allows the awarding of contracts in any currency). Local and foreign investors are considered equal under the law.

### 2.3. International trade agreements

In 1991, Argentina, Brazil, Paraguay and Uruguay signed the MERCOSUR Treaty, which creates a single free trade market with a common external tariff which varies between 0% and 23%. The Treaty establishes free movement of goods, services, people and capital between member States, eliminating customs duties. Taxes within MERCOSUR countries are almost 0% for most products (there are exceptions) if products from those countries comply with origin requirements. Bolivia and Chile have partially subscribed to MERCOSUR and have preferences regarding international trade.

The countries that subscribed the MERCOSUR have also signed agreements with other parties such as Israel, India and the Andean Community. Uruguay also has a free trade agreement with Mexico that provides import and export tax benefits.

## 3. Commercial entities

Commercial companies are regulated by Law No. 16.060. According to regulations, companies may carry out activities under different legal forms, among which are corporations and branches of foreign companies.

### 3.1. Corporations

Corporations must be incorporated by at least two founders (national or foreign). The incorporation includes the approval of its bylaws by the Government; their inscription in the Public Trade Registry and publication in the Official Journal and another private newspaper.

After the incorporation process is complete, the share capital may be owned by a single shareholder and may be issued in registered or bearer shares. In this regard, under new legal obligations, those who choose to incorporate with bearer shares must communicate to the Uruguayan Central Bank (BCU) certain information relating to the Directors, the company capital and shareholders, along with other information relating to the corporate standing; failure to comply with this obligation would lead to sanctions.

The company has three corporate bodies: the Board, the Shareholders Meetings (ordinary – AGOA and extraordinary - AGEA) and the Fiscal Commission or the Trustee (optional in the case of "closed" corporations, which are the companies that do not offer their shares to the public).

The AGOA must take place at least once a year at the corporation's domicile, to approve the year-end financial statements, discuss the performance of the Board and appoint its members and the trustee of the company if it were the case.

The board may have one or more members, both individuals and/or legal persons, of any nationality and domicile or residence. Company shareholders may be appointed to the board and the meetings are not required to be carried out in the country.

Shareholders are forced to attend the meeting and to vote personally or represented by an attorney in fact.

With respect to the share capital, at least 25% of the contractual capital must be integrated at the time of incorporation, there not being a minimum or maximum capital requirement with regards to the contractual capital.

Corporations must additionally comply with obligations to carry company's books and prepare tax returns, as well as with the payment of the applicable taxes.

### 3.2 Limited liability Companies (SRL)

SRL's require a minimum of two capital quota holders (partners).

The obligations of the partners are limited to their capital contributions, except regarding IRAE and wage debts. Social capital shares are nominative.

SRL's are managed and represented by one or more individuals, partners or not, and appointed in the incorporation minutes. In general, resolutions from partner meetings are adopted by those who possess the majority of the social contributions of capital, in cases where there are less than 20 partners. If there are 20 partners or more, resolutions, in general, are adopted by simple majority of votes of the present partners, computed with a vote by contribution (in this case the system is identical to that of Corporations).

### 3.3 Branches of Foreign Companies

Branches of foreign companies may carry out business in Uruguay subject to the bylaws of their headquarters. They must be registered in the Public Trade Registry and its incorporation must be published in the Official Journal and another private newspaper. They must also be registered with the Tax Authority and the Social Welfare Bank.

### 3.4 Information of holders and final beneficiaries before the Central Bank of Uruguay (BCU).

Direct holders and final beneficiaries (those who hold 15% or more of direct or indirect participation in the company) must be registered before the BCU in the register created especially for these purposes in accordance with laws No. 18.930 (valid since year 2012) and 19.484 (valid since 2016). The consequence of non-compliance results in significant financial and operational sanctions. The access to the information provided will be restricted for certain State agencies: the DGI as regards inspections, the National Secretariat for the fight against asset laundering and financing of terrorism (SENACLAFT), the Financial Information and Analysis Unit (UIAF) of the BCU, among others.

Such provisions are applicable to Public Limited Companies, Limited Liability Companies and non-resident entities that operate in Uruguay through a Permanent Establishment, among other entities.

## 4. Taxation of legal persons

In general, different taxes are applied only on the activities carried out within the country, the tenure of property located within the country and the revenues generated by them.

### 4.1 Corporate Income Tax ("Impuesto a las Rentas de las Actividades Económicas – IRAE")

IRAE levies Uruguay an net income of economic activities of any nature (industrial, commercial, agricultural and services), obtained by national companies and foreign legal persons with permanent establishment in the country, at an annual rate of 25%.

Uruguayan sourced income is defined as all income generated in activities carried out, goods located or rights used economically in Uruguay, regardless of the

nationality, domicile or residence of those involved in the transactions, and the place of celebration of the legal business.

Likewise, among others, the following are considered Uruguayan sources:

- a) Income of insurance companies that originate from insurance or reinsurance operations that cover risks in the Uruguay;
- b) The income obtained from advertising services and technical services, provided from abroad, outside the dependency relationship, to IRAE taxpayers, as long as they are linked to the generation of income included in this tax.
- c) Income corresponding to the lease, use, assignment of use or alienation of federative image and similar rights of athletes registered in resident sports entities, as well as those originated in mediation activities related to them.
- d) Income derived from derivative financial instruments obtained by the taxpayers of this tax.
- e) Revenues corresponding to the transfer of shares and other equity interests of entities which are resident, domiciled, incorporated or located in countries or jurisdictions with low or no taxation or that benefit from a special regime of low or no taxation (BONT Jurisdictions, see Annex I), as well as the constitution or cession of the usufruct relative to those, in which more than 50% of its assets valued according to IRAE rules is made up, directly or indirectly, by assets located in the Republic.
- f) Other income considered to be of Uruguayan source taxed according to theoretical percentages: maritime, air or land transportation; production, distribution or intermediation of cinematographic films and 'tapes', as well as those for the direct transmission of television or other similar media; income obtained by non-resident entities that directly perform the provision of services through the Internet, technological platforms, computer applications, or similar, when the user is in the national territory; International news agencies, Transfer of use of containers for international trading operations; mediation and intermediation activities in the supply or demand of services, provided through the Internet, technological platforms, computer applications or similar.

The taxable amount is determined by the difference between gross income and the expenses required to obtain it, which are duly documented (income and expenses based on the accrual regime).

Furthermore, only those expenses which constitute for

the counterparty an income taxed by IRAE, IRPF, IRNR, or by an effective taxation on foreign income, may be deducted.

In the case of expenses which the counterparty considers taxed income at a rate lower than IRAE's, the deduction is limited by the difference in rates.

To recognize the result from exposure to inflation, our tax system sets a simplified global system that involves the application of the Consumer Price Index (IPC) on the equity of the taxpayer at the beginning of the financial period, duly adjusted according to the rules governing IRAE. This adjustment should be recognized only if inflation of the year exceeds 100%, which currently makes it inapplicable.

Tax losses may be deducted over a period of five years, updated by the IPPN.

The existing regime of transfer prices is in line with those of other countries in the region, except for Brazil, and is also in accordance with the guidelines of the OECD.

#### 4.1.1 Special Regimes

The sale of wood is exempted from Corporate Income Tax if:

- a) The forest was planted before July 2007 in forestry priority areas; or
- b) The forest was planted after July 2007. In this case the wood should accomplish certain standards of quality.

To be included in b), the forest must be subject to management systems with pruning and thinning that ensure the production of wood free of knots and with specific measures. The Forestry Department of the Agriculture Ministry must qualify the forest and issue a certificate exempting the sale of each forest from Corporate Income Tax.

#### Off shore international trading

Companies doing international trading of goods or services may determine Uruguayan source income taxed by IRAE as 3% of the difference between the sale and the purchase price of those goods or services.

This regime is applicable when goods have not origin or destination the national territory and the services are utilized exclusively abroad.

These companies could determine the taxable amount on a real basis or choose to pay by this fictitious regime. In that latest case, the only cost that

could be deducted is the cost of purchasing of goods and services. Any additional expenses associated to this activity cannot be deducted.

The application of this regime reduces the effective rate of corporate income tax to 0.75%.

#### **International trading through Uruguay customs areas**

Income derived from the purchase and sale of goods of foreign origin manifested in transit or stored at the Uruguayan customs area, port customs area, customs warehouses and free zones are exempt from IRAE.

The exemption applies when the referred goods not have as origin or destination the national territory and also are not destined to such territory. The exemption will also apply when the goods have as their destination the national territory, but such operations do not exceed in the year a 5% of total sale of goods in transit or stored at customs areas carried out in this period. In that case the importer shall apply the transfer pricing regime.

If this limit is exceeded, the exemption will only apply to transactions with goods not destined for national territory.

#### **4.2 Tax on Sale of Agricultural Property/Goods (“Impuesto a la Enajenación de Bienes Agropecuarios – IMEBA”)**

It is an indirect tax which levies the first sale of agricultural products, carried out by producers to buyers who pay IRAE, Public Entities and exporters.

All agricultural producers must pay IMEBA, but those who must mandatorily contribute IRAE, will compensate their IMEBA payments against their IRAE obligations. In the case of small producers, IMEBA takes the place of IRAE as final tax.

Agricultural producers who must pay IRAE as their final tax obligation (without option), are, among others, corporations and permanent branches of non-resident companies, as well as those taxpayers whose income exceeds an amount predetermined by the Executive Branch and those who obtain income from the sale of assets for agriculture but which are not included in IMEBA.

IMEBA rates range from 0.1% to 2.5% of sales or export prices, depending on the kind of product in question.

#### **4.3 Net Worth Tax (“Impuesto al Patrimonio – IPAT”)**

##### **4.3.1 Agricultural Net Worth Tax (Impuesto al Patrimonio agropecuario”)**

Annual tax that levies the agricultural net worth of local or foreign companies or individuals located in the country, adjusted according to tax regulations, on the closing date of the fiscal year.

In order to determine the Surcharge applicable rate or, eventually, an exemption of Agricultural IPAT, it will be exclusively considered the rural real estate seat of the business, the movables and livestock of same (Affected Assets).

For such purpose, real estate must be calculated by the value set by the Dirección de Catastro (Cadastral Value). The movable and livestock is estimated by applying 40% on the mentioned Cadastral Value and it should be considered both by owners of the rural properties –even though they do not manage the enterprise- as well as by those who manage the enterprise without being the owners.

##### **Taxpayer’s classification**

For IPAT and Surcharge purposes, taxpayers are classified in two groups.

From this classification depends the possibility of being exempted from IPAT and will also determine the applicable Surcharge rate.

Each group of taxpayers has particular valuations rules for assets and liabilities.

Group A) composed by:

- a) Foreign entities; and
- b) Uruguayan companies with capital expressed in bearer or nominative titles on behalf of legal persons.

Group B) composed by the remaining taxpayers:

- c) Individuals (residents and non-residents); and
- d) Uruguayan entities with capital expressed in nominative titles on behalf of natural persons.

##### **Exemption**

Only taxpayers of Group B) with an amount of Affected Assets lower than 12 million of Indexed Units at the closing date (approximately USD 1.560.000 at 05/31/2018), are exempted from IPAT.

To this end, the sum of the Affected Assets must be

made individually for each taxpayer or jointly with the rest of the members of the EAU, as appropriate.

### Affected Assets

The amount of Affected Assets is composed by rural real state destined to the agricultural activity plus the movable and livestock.

For such purpose, real estate must be calculated by the value set by the Dirección de Catastro (Cadastral Value) for the year 2012, and actualized by the Agricultural Index (IPGCS) to the closing date.

The movable and livestock is estimated by applying 40% on the mentioned Cadastral Value and it should be considered both by owners of the rural properties –even though they do not manage the enterprise- as well as by those who manage the enterprise without being the owners.

### Rates

The applicable rates are:

- 0.75% when Affected Assets are lower than 30 million of Indexed Units (approximately USD 3.900.000); and
- 1.5% when Affected Assets exceeds such amount

To determine the IPAT rate it must be considered the Affected Assets individually even when the taxpayer constitute an EAU with others taxpayers.

### Valuation rules

Group A) taxpayers must use IRAE valuation rules for assets and liabilities.

The only exception is the rural real state that must be valued by the highest value resulting from comparing the Cadastral Value at 2012 actualized by the IPAGCS with the value arising from the application of the regulations of the Corporate Income Tax (IRAE).

Group B) taxpayers must use individual's rules of valuation.

Personal companies included in Group A), under some circumstances, could use valuations rules of Group B).

Affected assets		Agricultural IPAT		Surcharge	
From (USD)	To (USD)	Group A	Group B	Group A	Group B
-	1.247.306	0,75%	Exempted	Exempted	Exempted
1.247.306	3.118.266	0,75%	0,75%	0,70%	Exempted
3.118.266	6.236.532	1,50%	1,50%	1%	1%
6.236.532	15.591.330	1,50%	1,50%	1,30%	1,30%
15.591.330	-	1,50%	1,50%	1,50%	1,50%

### Forestry activity

Planted areas in forestry priority zones as well as the land affected to them are exempt from IPAT.

### Economic Administrative Unit

Each taxpayer must determine the value of the Affected Assets individually, and together with other taxpayers if it is verified that they both integrate an Economic Administrative Unit (EAU).

The EAU is a group of entities that respond to a common interest with respect to agricultural activities. Common interest is verified when a company

has or is under control or significant influence of some owners on others or of the same owners. If the sum of the Affected Assets belonging to the EAU exceeds the limit mentioned above, all of its members shall apply the rate determined by the EAU to calculate their Tax.

### 4.3.2 Surcharge of Agricultural Net Worth Tax ("Sobretasa")

The Surcharge levies the agricultural net worth at the closing date of fiscal year.

The taxable amount is determined by the difference between assets and deductible liabilities.

Rural real state must be valued by the Cadastral

Value at 2012 actualized by the IPAGCS.

The applicable Surcharge rate depends of the taxpayer classification and the amount of Affected Assets (considered individually or jointly with all EAU's members).

#### Forestry activity

For Surcharge purposes, the forests value is considered as included in the rural real estate value.

The following table shows the applicable Agricultural IPAT and Surcharge rates depending of the amount of the affected assets involved and the taxpayer:

#### 4.3.3 Net Worth Tax for others, non-agricultural activities

It is an annual tax that levies the net worth of Uruguayan or foreign companies located in the country at the rate of 1.5%, adjusted according to tax regulations, on the closing date of the company's fiscal year.

Assets abroad and some local assets such as governments bond, negotiable debt securities and shares or capital of companies which are taxpayers of this tax are not included towards the liquidation of this tax.

The taxable amount of IPAT is basically determined by the difference between: assets located in Uruguay, which should be valued according to fiscal regulations, and deductible liabilities.

The followings constitute deductible liabilities for IPAT purposes: The amount of the average monthly debts loans with local banks, commercial debts with suppliers of goods and services of all kinds (except debts originates on imports and debts with Public Entities who are not contributors), debts from non-due taxes (except the debts for IPAT) and debts documented in bonds or debentures with stock exchange quotation if certain conditions are met.

When the company has assets abroad, assets exempted from IPAT or non-included assets for IPAT purposes ("Non-Liable Assets"), only the deduction of Deductibles Liabilities exceeding the value of Non-Liable Assets is admitted.

#### 4.4 Value Added Tax ("Impuesto al Valor Agregado – IVA")

VAT levies the domestic circulation of goods, the rendering of services within the national territory, the introduction of goods into the country and the value added originated in the construction of buildings.

It is a basic rate is 22% and is applicable to most of the taxed goods and services in national territory.

The minimum rate is 10% and is applied to some basic food, drugs, and some hotel services. It is also applicable to the first sale of real estate made by IRAE contributors. Included in this latter concept is the first sale of real estate with certain repairs.

The tax to be paid is determined by the difference between VAT invoiced and VAT purchase.

The latter is constituted by the VAT paid to local suppliers of goods and services and the VAT paid in opportunity of the introduction of goods into the country (imports).

Purchase VAT deduction is conditioned on the fact that the goods and services referred to are direct or indirectly linked to taxable transactions.

Exports of goods are not levied by this tribute. In relation to services, they are not levied by VAT only if they are qualified as an export of services strictly mentioned by the law.

The concept of export of services includes, among others, services provided in customs areas, provisioning of ships, as well as services provided from Uruguay to companies or people domiciled abroad to be used exclusively abroad.

The exporter of good or services retrieves the VAT included in the purchase of goods and services that constitutes a direct or indirect cost of the exported goods or services, through credit certificates issued by the Tax Authority.

There are certain transactions that the law has exempted from VAT, such as the movement of foreign currency and securities, transfer of credits, transactions related to fuel, books and educational materials, water supply; passenger transportation services, real estate rental and interests of public securities.

The agricultural products sold are not taxed by VAT.

Moreover, most of the supplies and materials these companies need for their production are not taxed by VAT.

However, when the goods and services purchased are taxed by VAT at the rate of 22%, such VAT paid to suppliers can be used by the company to pay its IRAE, IPAT or Surcharge.

If the amount of VAT paid to suppliers exceeds the amount of sales VAT, the difference can be recovered

through a special mechanism in which the Uruguayan fiscal authority issues certificates that can be used to pay other taxes, payroll taxes and VAT invoiced by the suppliers.

#### 4.5 Excise Tax ("Impuesto Específico Interno – IMESI")

This tax levies the first sale in the country and the importation of certain products (vehicles, beverages, tobacco and cigarettes, fuel and lubricants, etc.). Exports are not levied.

In most cases the taxable amount is equal to the public selling price of the levied assets. In other cases (drinks, cigarettes, lubricants, etc.), estimated prices on which tax rates are applied, are periodically set by the Executive Power.

Rates vary depending on the product concerned. The highest correspond to vehicles, cigarettes and alcoholic beverages.

#### 4.6 Corporations Control Tax ("Impuesto de Control de las Sociedades Anónimas – ICOSA")

Corporations must pay an annual tax that is calculated by applying a proportional 0.75% on a value set annually by the Executive Power. The tax to be paid for the business years ended in 2017 is approximately USD 540.

Payments made with respect to this tribute are charged as payment towards IPAT generated in the business year.

#### 4.7 Social Security Contributions ("Contribuciones Especiales a la Seguridad Social – CESS")

Companies must make social security contributions on all salary related wages paid to their employees based in Uruguay.

There are three kinds of CESS:

- (a) Pension Contribution;
- (b) Health Insurance; and
- (c) Labour Reconversion Fund.

The three kinds of contributions mentioned levy both, the employer and the employees and therefore are subdivided in contributions paid by the company (Employer Contributions) and contributions payable by employees (Personnel Contributions). Personnel Contributions are deducted from the wages of the employee and deposited by the company into the Social Security System.

In general, Employer Contributions are calculated on the nominal value of the wages paid to the employee, with the exception of agricultural activities, which contribute according to the managed hectares.

Contributions	Employer	Employee
Retirement	7,5% up to a max. of USD 370	15% up to a max. of USD 740
Health insurance	5%	from 3% to 8%
Labour reconversion	0,125%	0,125%

The Rates applicable on the different wage items are as follows:

Companies must also retain the corresponding Income Tax on Individuals (IRPF) from dependent employees according to the salary levels (progressive rates between 0% and 36%). The employer contribution rate on "Aguinaldo" (thirteenth monthly salary) is reduced by 5% since it is exempted from the employer's contribution on health insurance.

No contributions are made on the Vacation Salary (sum for the better enjoyment of holidays) and the sums paid as compensation for lay off are not taxed.

Directors and Trustees not receiving salaries and Directors residing abroad are exempt from contribution.

#### 4.8 Tax incentives for investments

The benefits are classified into three groups:

- (a) Benefits obtained automatically through the acquisition of certain assets;
- (b) Non-automatic benefits that depend on that a particular activity is declared of national interest by the Uruguayan Government; and
- (c) Benefits that can be obtained by submitting an investment project approved by the Uruguayan Government.

##### 4.8.1 Automatic Benefits

Exemption from IRAE: the law allows for deductions in the following cases:

- (a) 40% of the investment made in several assets, such as machinery, equipment for data processing and communications, hotel moveable assets, etc.; and
- (b) 20% of investments in the construction or expansion of buildings destined to industrial or hotel activity. Income exempted by these concepts cannot exceed 40% of net income of the financial year, once the exemptions for other provisions have been deducted.

This benefit can be applied only for taxpayers whose income in the immediately preceding year do not exceed approximately USD 1.300.000 and professional cargo transportation companies duly registered without limitation income.

Exemption of IPAT, VAT and IMESI: the most important investments that are exempt from (a) IPAT, (b) VAT and IMESI on imports and (c) VAT on

domestic purchases are: machinery and industrial installations, agricultural machinery and utility vehicles.

#### 4.8.2 Sector Activities Declared promoted by the Executive Branch

Within the framework of the sector promotion of the investment law, activities such as those developed by public works concessionaires, tourism projects and activities developed by Call Centers have been promoted under certain conditions.

In the case of public works concessionaires, benefits of auto channeling of savings, IPAT exemption for fixed and intangible assets and VAT exemption on imports or VAT credit on domestic purchases of machinery and equipment, have been granted.

Furthermore, tourism projects have been granted benefits of VAT exemption or VAT credit on domestic purchases, as well as the benefit of accelerated depreciation for goods and services destined to construction, improvement or expansion of projects and IPAT exemption for investments in infrastructure, civil works and fixed assets.

The Government has also promoted the activity of energy generation through non-traditional renewable sources such as wind, solar thermal energy, biomass, etc., and the domestic manufacturing of equipment intended for their production.

Such activities have significant exemptions with regards to IRAE, as well as in what concerns Net Worth Tax on certain fixed assets and a VAT exemption on the import of certain goods and services related with the civil work.

Additionally, the Government has promoted providing significant benefits regarding IRAE to the business of exploration and exploitation of hydrocarbons and the biotechnology industry for the generation of products, services and biotechnological process applicable to productive sector.

Finally, the Government has added to the list of promoted activities the introduction of natural gas in the energy matrix of Uruguay and Shared Services Center.

#### 4.8.3 Benefits of Projects approved by the Government

IRAE taxpayers can get the followings tax benefits by submitting an investment project to the Executive

Branch:

(a) IRAE exemption. The amount and term to have the benefit depend on the rating of the project based on the activity indicators;

(b) Exemption of IPAT on movable property and civil works;

(c) Exemption of rates and taxes on the importation of movable fixed assets which are not competitive with the national industry; and

(d) Return of VAT for the acquisition in the domestic market of materials and services for civil works.

The projects are evaluated by the Application Commission, dependent of the Ministry of Economy, based on the following activity indicators:

Employment generation; Geographical decentralization; Increase in exports; Use of clean technologies; Increase in Research and Development and Innovation (I+D+I) and Sector indicators

### 5. Taxation on Individuals

In this chapter we will present a brief description of:

- (a) Taxation applicable to natural persons not engaged in business activities in our country; and
- (b) Incomes and assets not affected to the business activity by natural persons who carry out business activity.

#### 5.1. Income Tax on Individuals ("Impuesto a las Rentas de las Personas Físicas – IRPF")

It is an annual tax that levies incomes obtained by persons with fiscal residence in Uruguay.

An individual is considered a fiscal resident when he stays for more than 183 days a year in national territory or when he places on national territory the core of his activities or vital economic interests.

It shall be presumed, unless there is evidence to the contrary, that the taxpayer has fiscal residence in Uruguay when the spouse and their underage children's usual place of residence are in our country.

Within the source of this tax are included:

- (a) Income from capital and the capital gains; and
- (b) Income from work in or out of the dependency relationship.

The Law classifies the mentioned income in two categories:

Category I: Capital Income. This category comprises income derived from capital, equity increases and in-

come of a similar nature.

Category II: Work Income. This category includes income derived from work within or outside a relationship of dependency, with the exception of those incomes levied by IRAE.

### 5.1.1 Category I Income (Income from capital)

This category includes:

- (a) Real estate capital income: leases, subleases, rights of use, etc. of Uruguayan source;
- (b) Interest and dividends from Uruguayan and foreign sources and income derived from derivative financial instruments; and
- (c) Income from equity increases of Uruguayan source.

The general tax rate is 12%, however, the following exceptions exist:

- 7% interest on deposits in local currency or indexed units in financial institutions, on a one-year term; interests of other investments (bonds, debentures, etc.) on a three-year term; income of participation certificates issued by financial trusts through IPO and listed on the Stock Exchange of national entities with more than three-year terms.
- 7% interest on deposits (local currency without adjustment index) in financial institutions, for the term of one year.
- 7% for dividends (real and theoretical) or profits paid by IRAE taxpayers (except dividends or profits paid by IRAE taxpayers to Uruguayan residents originating from interest or dividends obtained abroad which are taxed at 12%); income from author rights on literary, artistic or scientific Works. Theoretical dividends are those that have not been distributed with an antiquity of more than four fiscal years.

The following income, among others, are exempted: interest on Public Debt Titles; dividends and profits distributed by IRAE taxpayers derived from results exempted from the tax; profits distributed by personal companies earning less than a certain amount set by the Executive Power and the lenders of personal services outside the relationship of dependence that pay IRAE; increases in equity originating from rescues in the equity of entities contributing IRAE and IMEBA and entities exempted from such taxes in accordance with constitutional regulations; income from the sale of shares to the bearer, and other social participations represented in titles to the bearer, of IRAE contributing entities and entities exempted from such tax under constitutional regulations

### 5.1.2 Category II Income (Personal Work income)

This category includes income obtained from:

- a) Personal services in dependency relationship; and
- b) The provision of personal services outside the dependency relationship.

Rates are progressive between 10% and 36% as from a non-taxable minimum.

## 5.2 Net Worth Tax on Individuals ("Impuesto al Patrimonio de las Personas Físicas – IPPF")

Individuals and undivided estates pay this tribute when their assets calculated according to fiscal criteria, exceeds a non-taxable minimum (MNI), which currently amounts to approximately USD 130.000 and double this amount for family groups.

Individuals			Family groups		
Taxable amount		Rate	Taxable amount		Rate
From	To		From	To	
1	130.000	0,70%	1	260.000	0,70%
130.000	260.000	1.10%	260.000	520.000	1.10%
260.000	520.000	1.40%	520.000	1.040.000	1.40%
520.000		1,50%	1.040.000		1,50%
Individuals			Family groups		
Taxable amount		Rate	Taxable amount		Rate
From	To		From	To	
1	130.000	0.50%	1	260.000	0.50%
130.000		0.80%	260.000		0.80%

Rates vary from 0.5% to 1.5%, depending on the level of wealth as from the aforementioned MNI.

The first table shows the amount of assets and rates applicable to non-resident IPAT taxpayers who do not pay IRNR. The second table shows the amount of assets and rates for other taxpayers.

The taxable amount is determined by the fiscal value of the goods located in the country (with some exceptions), less certain liabilities. Some of these exceptions are:

- Real estate is valued by the Cadastral value;
- The value for motor vehicles is annually determined by the Executive Branch;
- The building to be used as dwelling is computed by 50% of its fiscal value;
- The household furnishings and furniture of the dwelling are estimated by applying a percentage of 10% or 20% on the value of the remaining assets.

Furthermore, only liability debts with local banks and

companies allowed to grant loans on a regular basis that exceed the value of the assets located abroad are admitted as deductible

## 6. Taxation on non-residents

### 6.1 Non-Residents Income Tax ("Impuesto a las Rentas de los No Residentes – IRNR")

It is a tax that levies Uruguayan sourced income of any nature obtained by non-resident persons. The tax legislation considers non-resident any person who is not established permanently in Uruguay.

In substance, there is a permanent establishment of a non-resident when his activity is carried out through a fixed place of business in Uruguay.

Income from activities carried out, property situated or rights used economically in Uruguay, regardless of the nationality, domicile or residence of those involved in the operations and legal business venue are considered Uruguayan source.

Also, income obtained for technical services and advertising services carried out from abroad to taxpayer's resident in Uruguay, whenever services are affected by whoever receives them to obtaining income included in IRAE, are considered Uruguayan source.

The legislation classifies income in the following categories:

- a) business income;
- b) work income;

- c) capital income; and
- d) capital increases.

In the case of revenues identified in paragraphs a) and b), the taxable amount is equivalent to all the proceeds from these concepts.

IRNR regulations apply to the other incomes. Positive and negative results cannot be offset between the incomes of the different paragraphs.

The general rate is 12% however, there are the following exceptions:

- 7% interest on deposits (local currency or indexed units) in financial institutions for a period of one year; Interests from other investments (bonds, obligations, etc.) for a period of three years; income from participation certificates issued by financial trusts through public offering and listing on the stock exchange in national institutions, with terms longer than three-year.
- 7% interest on deposits (local currency without adjustment index) in financial institutions for less than a year.
- 7% for dividends (real and theoretical) or profits paid by IRAE taxpayers to non-residents and profits derived from copyrights of literary, artistic or scientific work. Theoretical dividends, are those that have not been distributed with an antiquity of more than 4 fiscal years.
- 25% Income obtained by entities which are resident, domiciled, incorporated or located in countries or jurisdictions with low or no taxation (BONT jurisdictions), except as regards individuals.
- 30.25% Income obtained by countries or BONT jurisdictions that come from real estate located in national territory.
- 7.5% Income from other capital gains obtained by countries or BONT jurisdictions that come from other assets (except real estate) located in national territory.

### 6.2 Net Worth Tax on Non-Residents ("Impuesto al Patrimonio de los No Residentes – IPNR")

Non-resident natural persons pay Net Worth Tax on their assets located in the country the same as resident individuals.

Foreign legal persons that do not constitute a permanent establishment pay Net Worth Tax at the rate of 1.5% on their net worth based in our country, valued according to the rules applicable to resident entities.

In the case of legal entities from abroad that according to Uruguayan tax regulations are considered as domi-

ciled, incorporated or located entities in countries with low or no taxation, the rate of the tax on equity is 3%.

### 7. Free-Trade Zone Corporations (ZF)

Commercial companies who obtain the capacity of users of a Free-Trade Zone are exempted from all national taxes, with the exception of the CESS.

ZF companies may carry out commercial, industrial, services and financial activities and the entry and exit of goods to and from the ZF, all the while being exempted from any tribute.

ZF companies must employ at least 75% Uruguayan staff, although the Authorities have been known to grant certain exceptions to this obligation in particular cases where said exceptions are requested in a justified manner.

As to the CESS, expatriates under a dependency regime may choose to tribute IRNR and give up Uruguayan Social Security benefits, in which case social security contributions shall not be applicable to their salaries.

In this case, foreign personnel would pay IRNR at the rate of 12% instead of IRPF (progressive rates between 10% and 36%).

The payment of dividends by ZF companies is not subject to taxation.

### 8. Treaties for Avoiding Double Taxation

As part of the compliance with international standards and trying to improve investment conditions, our country has begun working on several agreements to avoid double taxation (CDI) and to exchange tax information:

Uruguay has subscribed CDI with the following countries: Germany, Argentina (there is a tax credit clause to avoid double taxation), Ecuador, Finland, Hungary, India, Republic of Korea, Liechtenstein, Luxembourg, Malta, Mexico, Portugal, Romania, Singapore, Spain, Switzerland, United Arab Emirates; United Kingdom and Vietnam.

Additionally, Uruguay has signed CDI with the following countries, which have not yet come into force: Belgium, Chile and Poland.

On the other hand, information exchange agreements have been signed with Argentina, Australia, Canada, Denmark, Faroe Islands, France, Greenland, Guernsey, Iceland, the Netherlands, Norway and Sweden.

Information Exchange Treaties that are not yet in force: Brazil, Chile, South Africa, United Kingdom.

### 9. Free trade and free competition preservation

The N° 18.159 law that promotes free trade, under the understanding that the preservation of free competition protects the welfare of present and future consumers, promoting economic efficiency and equal access of companies and products to the general market. This law forbids: (a) the abuse of dominant position, and (b) the promotion of practices, behavior or recommendations, either individual or concerted, that seek or whose purpose is to restrict, limit, obstruct, distort or inhibit present or future free competition in the relevant market.

### 10. Immigration

Any person who has entered the country legally may request a permanent or temporary residence permit. Both the "permanent" and "temporary" residents may carry out their work activity as dependent or on their own. Non-residents may not carry out any work other than that which is expressly authorized by the National Immigration Administration, usually granted when such activity does not exceed the period of six months.

### Annex I: BONT Jurisdictions

Entities which are resident, domiciled, incorporated or located in countries or jurisdictions with low or no taxation or that benefit from a low or no taxation regime:

Andorra, Angola, Anguilla, Antigua and Barbuda, Netherlands Antilles, Aruba, Ascension, Barbados, Belize, Bermuda, Brunei, Colony of Gibraltar, Commonwealth of Dominica, Bahamas Community, State of Bahrain, Federation of Saint Kitts and Nevis, Grenada, Guam, Guyana, Honduras, Hong Kong, Cocos Island (Keeling Island), Jersey Island, Isle of Man, Island of Montserrat, Christmas Island, Saint Helena Island, Guernsey Island, Norfolk Island, Pitcairn Island, Cayman Islands, Cook Islands, Pacific Islands, Fiji Islands, Maldive Islands, Falkland Islands / Malvinas Islands, Marshall Islands, Palau Islands, Solomon Islands, Turks and Caicos Islands, United States Virgin Islands, British Virgin Islands, Jamaica, Jordan, Kiribati, Labuán, Lebanon, Liberia, Macao, Monaco, Niue, French Polynesia, Puerto Rico, Kingdom of Tonga, Republic of Cyprus, Republic of Mauritius, Republic of Nauru, Republic of Seychelles, Republic of Vanuatu, Republic of Yemen, Samoa, San Pedro and Miquel Saint Vincent and the Grenadines, Saint Lucia, Serene Republic of San Marino, Sultanate of Oman, Svalbard, Swaziland, Tokelau, Tristán de Acuña, Tuvalu, Djibouti (Djibouti).

Panama, which was originally included in the list of BONT countries and jurisdictions, was recently excluded (May 2018).

## Bolivarian Republic of Venezuela

### 1. Identification of the firm to contact

Cifuentes, Lemus & Asociados, S.C.

#### 1.1 Office, address, telephone

Caracas: Av. La Salle con Calle Lima, Torre Phelps,  
Piso 26, Plaza Venezuela.

Caracas, Venezuela

**T** + 58 (212) 781.88.66, 793.88.98

**F** + 58 (212) 781.29.32

#### 1.2 Specialized Professionals

##### Lic. Maffalda Lemus

[mlemus@moorestephens.com.ve](mailto:mlemus@moorestephens.com.ve)

##### Lic. Zaidet Cotoret

[zcoret@moorestephens.com.ve](mailto:zcoret@moorestephens.com.ve)

### 2. Country's Profile

Venezuela has a population of 27,150,095 inhabitants, according to the last census performed in 2011. The official language is Spanish, but the aboriginal languages are of official use for ethnic groups. There is freedom of religion with predominance of the catholic religion. The legal time corresponds to the Greenwich Meridian, decreased by 4 hours. The legal measurement unit system is the International Unit System (SI), adopted by the General Conference of Weights and Measures. The currency is the Bolivar and for the year 2015, the last inflation rate published by the Central Bank of Venezuela (BCV) was 180.87%, according to the accumulated variation of the National Consumer Price Index.

It is a Social Democratic State of Law and Justice. The government is democratic, participatory, voted in elections, alternate, responsible, pluralistic and of revocable governing periods. National Public Power is divided into Legislative, Executive, Judicial, Citizen, and Electoral. The Constitution is the supreme law and the foundation for the national legal system.

### 3. Foreign Investment System

According to the Decree with Rank, Value and Force of Foreign Investment Law there is a system in place to record foreign investments, essential for the protection of such investments and for guaranteeing the subsequent repatriation of capital equity and dividends. It implies complying with a series of procedures before the SIEX (Superintendence of Foreign Investments).

The foreign investor who is a legal entity must apply for the Foreign Direct Investment Registry and, if he is a



natural person, he must apply for the Credential of Investor. In both cases, it is requested before SIEX and updated annually.

The companies incorporated in the country must request the Certificate of Company Qualification: National, when the foreign capital is less than 20%; Mixed, when foreign capital is between 20% and 49%; and Foreign, when it is higher than 49%.

The registration of contracts on technology importation and on the use and exploitation of trademarks and patents, which companies and / or legal entities, public and private in Venezuela, with companies and / or individuals or legal entities from abroad, is mandatory; as well as submit annual performance report.

Competence in the area of Copyright, Trademarks and Patents is exercised through the Autonomous Intellectual Property Service (SAPI).

International investments will be treated fairly and will not be the object of arbitrary measures that deprive their management, maintenance, use and enjoyment, expansion, sale and liquidation. The Law contemplates some guarantees for the protection of foreign investments.

### 4. Different Kinds of Companies

#### 4.1 General Partnership

Responsibility that is unlimited, joint and severally, for all the partners, having partners' names or some of the partners' names as the name of the company.

#### 4.2 Silent Partnership:

Three or more partners, in which at least one shall be the general partner (responsibility that is unlimited, joint and severally) and the rest shall be partners in commenda (responsibility that is limited to the amount of capital contributed).

#### 4.3 Limited Liability Company

The capital stock is divided into parts and the responsibility of the partners circumscribes exclusively to the capital contributed individually (it should not be exceeding Bs. 2,000).

#### 4.4 Stock Company

Participation in capital stock through bonds or shares that are distinctive due to their different nominal value or due to the different privileges associated to such bonds or shares. Responsibility is limited to the capital contributed.

#### 4.5 Personal Signature

It has only one participant, no other signature or commercial name can be used other than the participant's last name with or without a first name.

#### 4.6 Cooperative Associations

Groups of at least five partners, which operate for the equal benefit of all its members, without contributing yields to external investors. The Cooperative Association Law regulates these associations.

#### 4.7 Joint Ventures

Joint ventures are considered as consortiums formed by companies with the objective of carrying out a specific economic activity in a joint manner. In the cases of equity participation agreements, the associating member and the associates should calculate their corresponding parts in the periodic results of the operations relating to the equity account, within their respective annual economic periods.

### 5. Auditing and Accounting

Generally accepted accounting principles are constituted by International Financial Reporting Standards (IFRS) adopted: VEN-NIF GE (big companies) and VEN-NIF PYME (small and medium companies). Also adopted were International Auditing Standards (IAS), issued by the International Federation of Accountants (IFAC).

## 6. Labor System

### 6.1 Different Kinds of Employment Agreements and Terms

Employment agreements must be in writing. These can be for undetermined periods or for determined jobs. Unless there are causes justifying the termination of the work relationship, labor stability is guaranteed for:

- Workers contracted for undetermined periods, as of the first month in which service is rendered (first day after the second month in which uninterrupted services are rendered);
- Workers contracted for determined periods until expiration of employment agreement, and;
- Workers contracted for a particular job, until com-

pleting the tasks for which contracted.

Employees holding directive positions are the only ones excluded from the absolute stability system of employment.

There is labor immobility (job freeze) in certain cases set forth in the Organic Labor Law, The Workers, and other Special Law, among which the following can be highlighted:

- Pregnant workers (and their partners), from beginning of pregnancy up to 2 years after giving birth;
- Workers that adopt children under 3 years of age, for a term of 2 years as of adoption date;
- Workers with handicapped children or with illnesses that make them dependant of others;
- Workers during any suspension of the work relationship.

Work schedule has daily and weekly limits on the amount of hours, for day, night, or mixed shifts. Minimum salary is adjusted every year by mandate from the National Executive Government.

A 30% salary plus is added to the night shift, and for overtime 50% is applied having to notify the corresponding Work Inspection Office thereof; if not, these extra hours must be paid at a 100% salary plus.

In the case of employers who occupy 10 or more workers, foreign workers must not exceed 10% of the total number of employees and their salaries must not exceed 20% of the total remuneration paid.

### 6.2 Participation in employees' profit sharing

Employees' profit sharing is distributed at no less than 15% of the liquid incomes obtained at the closing of the economic year. Employees' profit sharing should have a minimum amount of 30 days up to a ceiling of 120 days of salary.

### 6.3 Vacations

At least 15 remunerated working days must be granted to workers (plus 1 additional day for every cumulative year of service, up to a ceiling of 15 days).

A vacation bonus is due that corresponds to at least, 15 days of salary (plus 1 day for every year of permanence on the job up to a maximum of 30 days).

### 6.4 Payment of Social Benefits

Upon termination of the work relationship, the worker shall receive for the concept of social benefits, the higher amount of that deposited for social benefit guarantee and the equivalent to the social benefits as computed at job withdrawal date.

#### 6.4.1 Guarantee of Social Benefits

This is related to a fund, the purpose of which is to guarantee payments of social benefits to the workers, which is calculated during the course of the work relationship, as follows:

- **Quarterly guarantee:** 15 days of salary for every quarter calculated based on the last salary earned in said quarter.
- **Additional days:** after the first year of service, 2 additional days per year are added, cumulative up to 30 days.

In both cases, the basis for calculation shall be the worker's whole salary.

#### 6.4.2 Severance Indemnities

When a work relationship is ended regardless of the cause, the social benefits shall be calculated at the rate of 30 days of whole salary per year or fraction of a year over 6 months.

If a work relationship is terminated due to causes beyond worker's will, or in such cases of unjustified dismissal, if the worker involved expresses his/her desire to not file the proceeding to request re-contracting, the employer must pay, in addition, an amount for indemnity that is equivalent to the amount corresponding to such worker for social benefits.

### 6.5 Social Security

The social security system includes a series of contributions that are calculated based on the workers' salaries:

Concept	Limits to amounts to be contributed for each worker	Employer's Contribution	Worker's Contribution
Social Security	5 Minimum Salaries	9%-10%-11%	4.00%
Employment Benefit System	10 Minimum Salaries	2%	0.50%
Compulsory Public Housing Savings Trust (FAOV)	No limit	2.00%	1.00%
INCES	No limit	2.00%	0.50%
Food Program	3 Minimum Salaries	Tickets or Food	Not applicable
Children's Day Care Program	5 Minimum Salaries	Up to 40% enrollment fee and school registration fees	Not applicable

#### 6.6 Other Labor Aspects of Interest

- **Maternity:** leave of 6 weeks prenatal and 20 weeks postnatal; job freeze during pregnancy and up to 2 years after giving birth.
- **Paternity:** License for 14 consecutive days as of birth. Job freeze up to 2 years after birth.
- **Special job freeze:** general system ordered by decree from the National Executive Government. Workers protected cannot be dismissed without a qualified justified cause by work authority.
- System for workplace safety, conditions, and environment related to health, hygiene, security, and wellbeing.

### 7. Exchange Control

There is an Exchange Control System for buying and selling currencies. Currently, the official exchange rate is called the Market Floating Supplementary Exchange Rate System (DICOM), which will respond to each auc-

tion carried out. The current exchange rate will be that of the last published auction. Legal entities that acquire foreign currency through the DICOM exchange rate will apply the exchange rate resulting from that auction as a basis for calculating their cost structure and so forth.

The exchange rate of the last auction convened on June 7, 2018 by the Central Bank of Venezuela (BCV) signed with the alphanumeric number CS-S-017-18 resulted in the following terms: Bs. 79,800.00 for the purchase and Bs. 80,000.00 for sale, which is updated weekly. The Law of the Exchange Regime and its Illicit, establishes the pecuniary and penal sanctions for breaches of this norm.

### 8. Tax System

#### 8.1 General

Tax Unit (U.T. due to its acronym in Spanish) is the measure of value created for tax purposes, and it is updated every year by the National Assembly. The current value is Bs. 1.200, 00. since July 26th, 2018.

## 8.2 Taxes on Incomes of Companies

### 8.2.1 Kind of System

World income system; taxation on annual incomes, net and available, obtained in money or kind, originating from economic activities performed in Venezuela or from properties located in the country. All residing individuals and domiciled companies must pay taxes on their incomes regardless of origin, and regardless of whether the cause of source of income is located in or outside the country.

### 8.2.2 Tax Period

The calendar year or the period of 12 months chosen. Once the period is chosen, it cannot be changed without the authorization from the Tax Administration Bureau. The final income tax return is presented within 3 months after closing the period.

### 8.2.3 Taxpayers

All companies are taxpayers, including irregular ones; associations, funds, corporations, and other juridical or economic entities; permanent establishments, centers or fixed bases located in the country. Companies of individuals, communities, and joint ventures are liable for taxes applicable to the partners, associate members, or joint ventures.

### 8.2.4 Rates

Rate No. 2	Segments	Rate 2	Reductions
From 0 U.T.	Up to 2,000 U.T.	15 %	- 0 -
From 2,001 U.T.	Up to 3.000 U.T.	22 %	140 U.T.
From 3.000	U.T. And over	34 %	500 U.T.

**Rate N° 3-A:** Royalties for exploitation of mines: 50%.

**Rate N° 3-B:** Exploitation of hydrocarbons, refining and transportation, or the purchase or sale of hydrocarbon and derivatives for exports: 60%.

### 8.2.5 Rents subject

The increases in equity that result after subtracting from the gross income, the costs and deductions allowed in this Act, more or less the effect of the adjustment for fiscal inflation.

### 8.2.6 Transfer of losses

- Net operating losses not compensated: Up to 3 years provided that said allocation does not exceed in each period twenty-five percent (25%) of the net enrichment obtained.
- The net losses due to inflation not compensated, can not be transferred to the following years.

### 8.2.7 Withholdings on local payments.

The payment of remuneration for different concepts is subject to a withholding at the source of ISLR of 5%, in the case of contracts of works and provision of services is 2%, and in the case of freight is 3%.



Concepts paid	Tax Base	Withholding	Concepts paid	Tax Base	Withholding
Professional service fees	90%	Rate 2	Technical assistance	30%	Rate 2
Commissions	100%	5%	Technological services	50%	Rate 2
Interest financial institutions	100%	4,95%	Premiums from insurance and re-assurance	30%	10%
Interest other non-domiciled companies	95%	Rate 2	Execution of project works/ service rendering in Venezuela	100%	Rate 2
Freights for transportation Venezuela-Abroad	5%	Rate 2	Leasing of movable property	100%	5%
Freights for transportation only in Venezuela.	10%	Rate 2	Publicity, propaganda and spaces	100%	5%
Exhibition of movies and similar items	25%	Rate 2	Purchase of shares of Venezuelan companies outside of stock market	100%	5%
Royalties and similar participations	90%	Rate 2			

**Rate 2 is always applied in a cumulative manner:** the amounts paid at previous dates are added to the amount paid at each date, within the same economic period; Rate 2 is applied; the total amount withheld at previous dates are subtracted from the resulting amount, within the same economic period.

### 8.3 Income taxes of individuals

#### 8.3.1 Tax Period

Calendar year. The final income tax return is presented within 3 months following the closing of the economic period.

#### 8.3.2 Liable for taxes:

The following are considered domiciled in the Bolivarian Republic of Venezuela for tax purposes:

- Individuals having stayed in the country for a period consecutive or interrupted of 183 days in one calendar year, or in the previous year.
- Individuals having their residence or place of abode in the country, unless having stayed in another country for a period consecutive or interrupted of more than 183 days, and they prove having acquired residence in that other country for tax purposes.
- Fixed bases in the country of individuals residing abroad by means of which freelance personal services are rendered (any place where independent personal services of a scientific, literary, artistic, pedagogical educational nature, among other, are rendered besides the independent professions).

#### 8.3.3 Rates

**Rate No. 1:** Only for residing individuals: from 6% to 34% (progressive rate, with deductions).

**Proportional tax:** Only for non-residing individuals: 34%.

#### 8.3.4 Incomes liable for taxes

The same rules set forth for companies apply.

#### 8.3.5 General Principles for Costs and Expenses

The same rules set forth for companies are applicable, except for the effect of adjustment for inflation. In the case of purchases of no monetary assets, special adjustment for inflation can be imputed. Individuals have the right to make deductions (being able to choose one sole amount without supporting document or one variable amount subject to restrictions and supporting documents).

#### 8.3.6 Withholdings on Local Payments

Payments of remunerations for different concepts are object of income tax withholdings at the source of 3%; in the case of agreements for project works and service rendering, 1%.

#### 8.3.7 Withholdings on Payments to Abroad

Payments of remunerations for different concepts are object of income tax withholding at the source of 34%; the same tax bases set forth for non-domiciled companies are applied. In the case of salaries and similar items, the tax basis is 100%.

### 8.4 Incentives

**8.4.1** The reductions for new investments in the following activities **were eliminated** in the last partial reform of the Income Tax Law published on December 30, 2015:

- Tax rebates for new investments to holders of enrichments derived from all those activities under the mention of industrialists.

- Tax reduction of new investments for the construction of hotels, lodgings, inns and the provision of tourist services.
- Reduction of new investments for taxpayers who carry out agricultural, livestock, fishing or fish farming activities.
- Reduction of additional tax on investments in assets, programs and activities aimed at conservation, defense and improvement of the environment.

## 8.5 Anti-evasion Rules

### 8.5.1 Transfer Pricing

All taxpayers carrying out operations with foreign related parties are required to present an informative declaration and to document a transfer pricing analysis. This system is based on the Arm's Length Principle.

### 8.5.2 Thin Capitalization

The deduction of interest paid directly or indirectly to related parties depends on whether the amount of debts held direct or indirectly with related parties, added to the amount of debts held with independent parties do not exceed the taxpayer's net equity. The amount of debts considered as excessive shall be treated as net equity. Two procedures are established: objective method with a fixed ratio of Debt/Capital 1:1 and a subjective method based on market conditions.

### 8.5.3 Tax Transparency

An electronic informative declaration is required of taxpayers related direct or indirectly with countries of low fiscal taxation carrying out activities or having any kind of investment in said territories, in which any such investments must be reported.

## 8.6 Equity Tax

Not applicable concerning taxes on income, however, there are state revenue stamps that tax capital stock upon incorporating companies or if subsequent capital increases are made.

## 8.7 Taxes on Capital Gains

- **Games:** Gains obtained from games are taxed at 34% and prizes from lotteries and from horse racing tracks: 16%.
- **Dividends in general:** 34% in proportion with the net book income exceeding net taxed fiscal income and not originating from exempted or exonerate incomes. For dividends originating from foreign companies 34% is applied.
- **Dividends originating from exploitation of**

**hydrocarbons and related activities:** 50%.

- **Dividends originated from royalties for exploitation of mines:** 60%.
- **Dividends in shares:** 1% advance (this can be credited to the tax when such shares are sold).
- **Presumed dividends:** there are suppositions for the case of branches of foreign companies and for withdrawals of stockholders.
- **Purchase of shares in domiciled Stock Market:** 1% of gross income.

## 8.8 Taxes on successions and donations

This tax is applied to gratuitous transmissions of rights, movable property, immovable property, or shares located in the country, caused by death or by acts between living individuals. The tax base is computed based on the market value of the property. Exemptions and exonerations are included. The rate varies from 25% (first degree of relationship) up to 50% (no relationship).

## 8.9 Value Added Tax

### 8.9.1 Taxed operations

Liable for this tax are the sale, importing, and exporting of movable property; also, the rendering and importing of services and it is managed over a system of tax debits and credits.

### 8.9.2 Rates

The general rate can vary from 8% to 16.5%. Currently, the general rate is 12%. There is a reduced rate of 8% for certain special operations. Besides, an additional between 15% and 20% rate is applied that is added to the general rate for goods classified as luxury items. Exports are taxed with 0%. The Law includes exempted goods and services and the National Executive Government may grant exonerations. There is a withholding system at the source for Value Added Tax (IVA due to its acronym in Spanish), of 75% or 100%.

## 8.10 State Taxes

The states are entitled to create taxes for the use of their property and services, as well as to collect fiscal revenues (official seal-printed paper, revenue stamps).

## 8.11 Municipal Taxes

The main tax applies to Economic Activities of Industry, Commerce, Services, or of a similar nature (where variable rates are applied according to the activity and municipality, on gross incomes received). Other taxes are Urban Real Estate Tax, Tax on Propaganda and Publicity, Tax on Public Shows and Tax on Vehicles.

### 8.12 Other National Taxes

Other national taxes are applied by sector, such as: on betting and gaming activities; on alcohol and alcoholic beverages; on cigarettes and manufacture of tobacco; on the industry and commerce of hydrocarbons; on the exploitation of mines; on telecommunications; on idle lands.

There are also rates for public acts; public recording, revenue stamps, court costs. There are also certain contributions, such as; for the broadcasting of images and sounds within the national territory; for the rendering of tourist services; on the agro-industrial producers; on the national cinematographic activities.

Special contributions stand out in the following matters:

- **Prevention of Drugs:** applicable to companies employing 50 or more workers (1%) or manufacturers of alcoholic beverages, tobacco and their blends (2%), calculated based on the profit in operations for the year.
- **Sports:** applicable to companies carrying out economic activities within the country (1%), calculated based on the net income in excess of 20,000 TU.
- **Science, Technology and Innovation (LOCTI due to its acronym in Spanish):** Applicable to companies incorporated or domiciled in the country, a percentage calculated based on the gross incomes for the previous year in excess of 120,000 T.U.: stake games sectors and gambling, alcohol beverages and tobacco (2%); Mining and hydrocarbons (1%); and big companies from other sectors producing goods and services (0.5%).

### 9. Other Laws or Regulations of High Impact on Business:

Presidential Decree with Rank, Value and Force of Organic Law of Fair Prices:

- Establishes the regulations and administration and control mechanisms necessary to maintain price stability and promote access to goods and services for all the population under equal conditions, within the framework of an economic and social model that privileges the interests of the population. The obliged subjects must submit to the Sole Registry of Persons Developing Economic Activities (RUPDAE) Profit margins by sectors are subject to government regulation.
- All goods necessary to develop the activities of production, manufacturing, import, stockpiling, transport, distribution and commercialization of goods and services are declared of public utility and social interest. The National Executive may initiate the expropriation of the assets and adopt measures of occupation, temporary operation and seizure while the expropriation proceeding lasts.



LATINO AMERICA	ARGENTINA	ELIZC	BOLIVIA	BRASIL	CHILE	COLOMBIA	COSTA RICA	ECUADOR	EL SALVADOR
Alemania	Alemania		Alemania		Alemania (***)	Alemania (***)	Alemania	Alemania	
Argentina			Argentina	Argentina	Argentina	Argentina(***)		Argentina (*)	
Australia	Australia				Australia				
Austria		Austria		Austria					
Bahréin									
Barbados									
Belarus								Belarus	
Bélgica	Bélgica		Bélgica	Bélgica	Bélgica			Bélgica	
Bolivia	Bolivia					Bolivia (****)		Bolivia	
Brasil	Brasil				Brasil	Brasil (***)		Brasil	
Canadá	Canadá			Canadá	Canadá	Canadá (****)		Canadá	
Caricom		Caricom							
Chile	Chile			Chile		Chile (***), (****)		Chile	
China			China	China	China			China	
Colombia			Colombia		Colombia			Colombia	
Corea				Corea	Corea	Corea (****)		Corea	
Croacia					Croacia				
Cuba									
Dinamarca	Dinamarca			Dinamarca	Dinamarca				
Ecuador				Ecuador	Ecuador	Ecuador(***), (****)			
Emiratos Árabes Unidos					Emiratos Árabes Unidos (***)				
España	España		España	España	España	España (****)	España	España	España
EEUU					EEUU (***)	EEUU *RIIF			
Francia	Francia		Francia	Francia	Francia			Francia	
Filipinas				Filipinas					
Finlandia	Finlandia			Finlandia					
Grecia									
Groenlandia									
Holanda									
Hungría				Hungría					
India				India		India (****)			
Indonesia									
Irán									
Islandia			Islandia *RIIF						
Islas Feroe									
Israel				Israel					
Irlanda			Irlanda (*)		Irlanda				
Italia	Italia		Italia	Italia		Italia (***)		Italia	
Japón				Japón	Japón				
Kuwait									
Luxemburgo			Luxemburgo	Luxemburgo					
Malasia					Malasia				
Malta									
México	México (*)			México	México	México (****)	México *RIIF	México	
Noruega	Noruega		Noruega *RIIF	Noruega	Noruega				
Nueva Zelandia					Nueva Zelandia				
Países Bajos	Países Bajos		Países Bajos	Países Bajos					
Panamá					Panamá (***)	Panamá (*)			
Paraguay					Paraguay				
Perú			Perú	Perú	Perú	Perú (****)		Perú	
Polonia					Polonia				
Portugal				Portugal	Portugal	Portugal (****)			
Principado de Liechtenstein									
Qatar								Qatar	
Rep. Dominicana									
Rep. Eslovaca				Rep. Eslovaca					
Reino Unido	Reino Unido	Reino Unido	Reino Unido		Reino Unido	Reino Unido (***)			
Rep. Checa				Rep. Checa	Rep. Checa	Rep. Checa (****)			
Rumania								Rumania	
Rusia	Rusia				Rusia				
Singapur					Singapur (***)			Singapur	
Sudáfrica				Sudáfrica	Sudáfrica				
Suecia	Suecia		Suecia	Suecia	Suecia				
Suiza	Suiza		Suiza		Suiza	Suiza (*), (****)		Suiza	
Tailandia					Tailandia				
Taiwán									
Trinidad y Tobago				Trinidad y Tobago					
Turquía				Turquía					
Venezuela			Venezuela	Venezuela	Venezuela (***)	Venezuela (*)			
Vietnam									
Ucrania				Ucrania					
Uruguay					Uruguay (***)			Uruguay	

\*RIIF: Tax Information Exchange Regime

\*To avoid double taxation in international transport matters

(\*\*) For tax criminal matters

(\*\*\*) Maritime and air companies

(\*\*\*\*) Double taxation agreement

(1) Colombia has an "agreement on mutual administrative assistance in Fiscal matters" with OECD member countries.

## Double Tax Treaties

LATINO AMERICA MUNDO	HONDURAS	MEXICO	PANAMA	PARAGUAY	PERU	REP. DOMINICANA	SURINAME	URUGUAY	VENEZUELA
Alemania		Alemania						Alemania	Alemania
Argentina								Argentina	Argentina (***)
Australia		Australia						Australia	
Austria		Austria							Austria
Bahrén		Bahrén							
Barbados		Barbados	Barbados						Barbados
Belarus									Belarus
Bélgica		Bélgica		Bélgica					Bélgica
Bolivia					Bolivia				
Brasil		Brasil			Brasil				Brasil
Canadá			Canadá **RIIF		Canadá	Canadá		Canadá	Canadá
Caricom							*Treaty of Chaguaramas		
Chile		Chile		Chile	Chile				Chile (***)
China		China		China					China
Colombia	Colombia RIIF				Colombia				
Corea		Corea	Corea		Corea del Sur (*)			Corea	Corea
Croacia									
Cuba									Cuba
Dinamarca		Dinamarca	Dinamarca **RIIF					Dinamarca	Dinamarca
Ecuador		Ecuador			Ecuador			Ecuador	
Emiratos Árabes Unidos			Emiratos Árabes Unidos					Emiratos Árabes Unidos	Emiratos Árabes Unidos
España		España	España			España		España	España
EEUU	EEUU *RIIF	EEUU	EEUU **RIIF			EEUU *RIIF			EEUU
Francia		Francia	Francia					Francia	Francia
Filipinas									
Finlandia		Finlandia	Finlandia **RIIF					Finlandia	
Grecia		Grecia							
Groenlandia								Groenlandia *RIIF	
Holanda							Holanda		
Hungría		Hungría						Hungría	
India		India						India	
Indonesia		Indonesia					Indonesia		Indonesia
Irán									Irán
Islandia		Islandia	Islandia **RIIF					Islandia	
Islas Feroe								Islas Feroe *RIIF	
Israel		Israel	Israel						
Irlanda		Irlanda	Irlanda						
Italia		Italia	Italia						Italia
Japón		Japón	Japón **RIIF						
Kuwait		Kuwait							Kuwait
Luxemburgo		Luxemburgo	Luxemburgo					Luxemburgo	
Malasia									Malasia
Malta								Malta	
México			México		México (*)			México	
Noruega		Noruega	Noruega **RIIF					Noruega	Noruega
Nueva Zelandia		Nueva Zelandia							
Países Bajos		Países Bajos	Países Bajos					Países Bajos	Países Bajos
Panamá		Panamá							
Paraguay									
Perú									
Polonia		Polonia							
Portugal		Portugal	Portugal	Portugal	Portugal (*)			Portugal	Portugal
Principado de Liechtenstein								Principado de Liechtenstein	
Qatar			Qatar						Qatar
Rep. Dominicana									
Rep. Eslovaca		Rep. Eslovaca							
Reino Unido		Reino Unido	Reino Unido					Reino Unido	Reino Unido
Rep. Checa		Rep. Checa	Rep. Checa						Rep. Checa
Rumania		Rumania						Rumania	
Rusia		Rusia							Rusia
Singapur		Singapur	Singapur					Singapur	
Sudáfrica		Sudáfrica							
Suecia		Suecia						Suecia	Suecia
Suiza		Suiza			Suiza (*)			Suiza	Suiza
Tailandia									
Taiwán	Taiwán *RIIF								
Trinidad y Tobago									Trinidad y Tobago
Turquía									
Venezuela		Venezuela							
Vietnam								Vietnam	Vietnam
Ucrania		Ucrania							
Uruguay		Uruguay							

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