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Taxation

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TAXATION

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GENERAL*Tax Incentives in the
American Countries*

An excellent summary of the tax incentives offered by the American Republics was published in May, 1971 by the Executive Secretariat of the Inter-American Center of Tax Administrators, whose address is P.O. Box 215, Panama 1, Panama.

ARGENTINA*Revised Text of Tax Laws*

The revised text of the tax laws incorporating amendments enacted throughout 1970 has been released by the General Tax Bureau. Many of the 1970 amendments became effective January 1, 1971. The text may be found in the March 1971 Edition of the Tax Office Bulletin.

Tax Changes

Among the tax changes announced for 1971 is a reduction in corporate income taxes to the extent that businesses reinvest an increasing proportion of their profits.

*Withholding Taxes and Taxes
on Share Capital.*

In order to promote repatriation of Argentine capital located outside the country, dividends paid abroad will be exempt of the 12% withholding tax provided the shares are fully paid up. A tax of 20% has been estab-

lished on new share issues of closely-held corporations when the subscribers do not identify themselves before the Tax Office. Share dividends and paid-up shares are exempt from the 20% tax.

Export Credits

Commencing January, 1971, a manufacturer earns a double tax credit for the amount by which his exports during the tax year exceeded those of the previous tax year. Law No. 18893 of 12/29/70.

Compulsory Loans

A National Development Fund has been created pursuant Law No. 18909 of 12/31/70. All persons borrowing from financial institutions and the financial institutions themselves are required to make a contribution to such fund. The amount invested will be exempt from inheritance taxes and the interest paid on the loans will be exempt from income tax. The amounts and conditions of the loans are to be set forth in regulations to be issued.

Taxation of Interest Income

Effective Jan. 1, 1971, term deposits of up to 5,000 Argentine new pesos with qualified financial institutions are exempt from income tax. Law No. 18938 of 2/16/71. Additional regulations pertaining to the withholding tax on interest income have been issued in view of the foregoing exemption. General Resolution No. 1404 of 4/12/71.

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BOLIVIA*Tax Reform for 1971-1973*

A comprehensive plan of tax reform has been submitted by the government to be introduced in stages. During the first semester of 1971, the measures include the imposition of a 27% tax on capital earnings; taxing the income of consulting firms; reduced deductions for investment and re-investment of profits; elimination of certain tax exemptions; a tax on advertising; a tax amnesty; increased withholding taxes; and revisions to the system of inheritance taxes.

For the second semester of 1971, principal measures include amendments to the income taxes payable by professionals and self-employed workers, owners of rented property and public corporations.

For 1972-1973, the measures include controls on imported goods; reform of the customs tariff; and the adoption of a new over-all income tax system including taxes on net wealth and capital gains.

Withholding Taxes

Supreme Decree No. 09609 of 3/10/71, enacted a broadened system of withholding taxes applicable to payments made within Bolivia for fees, commissions, rents, interest and certain sales and services performed within the country. Those that must effect the withholding are all self-employed persons including professionals, all legal entities, independent governmental entities and state-owned enterprises. This measure became effective April 1, 1971 and provides for varying withholding rates in accordance with the type of income. Reportedly, the tax is to be computed in accordance with a form to be completed and filed by the payee. If so, this may turn out to be a complicated method of enforcing the tax. Most withholding taxes are collected by means of reports filed by the payor as the rate of tax is usually fixed and easy to compute.

Business Tax Returns

Income tax returns and financial statements are to be filed by businesses prior to July 31 and January 31 of each year. The returns are to cover the preceding semester except that the return for January 31 may consolidate the results of the entire calendar year. Supreme Decree No. 09685 of 4/21/71.

New Tax on Oil Service Companies

A new 11% tax on the total amount of compensation to be paid to foreign companies or branches of foreign companies engaged in the construction of oil extraction facilities in Bolivia has been enacted pursuant Supreme Decree No. 09667 of 4/19/71. This tax is reportedly in lieu of all income taxes.

BRAZIL

Advance Payment of Corporate Taxes

Corporate entities are now required to estimate their taxes and pay in advance in 12 monthly installments. This measure will reportedly apply to all corporate entities which had an income tax liability for the 1970 base year exceeding approximately 22,000 *cruzeiros*.

Taxation of Nonresidents

Ruling No. 182 of 3/3/71 states that individuals residing abroad who are physically present in Brazil for less than 12 months are liable to payment of Brazilian income tax only on earnings received within Brazil. Such individuals' foreign income received during this period is not taxable. However, individuals who remain in Brazil for more than 12 months will be treated as residents and hence taxable on their world-wide income.

Tax Incentives

The sale of certain locally-manufactured capital goods will be exempt from income tax when declared to be in the national interest and where the sale is financed from abroad on a long-term basis with convertible foreign currency exchange. Decree Law No. 1165 of 4/1/71.

Foreign Government Exemption Construed

While interest on loans made by foreign governmental agencies are exempt from Brazilian income tax where such reciprocal treatment is

granted by the country of the payee, fees for technical assistance paid through the lending institution are not exempt. Rulings Nos. 40 of 1/29/71 and 75 of 2/9/71.

Deduction of Interest Remitted Abroad

Legal entities may *not* deduct interest remitted abroad when such interest is not taxable to the nonresident recipient under Brazilian law. Ruling No. 237 of 3/11/71.

Interest on Foreign Agency Loans

The Finance Ministry has ruled that remittances of interest on loans from foreign governmental agencies, such as the Export-Import Bank, are exempt from interest when they relate to the purchase of capital equipment. The ruling makes clear that this exemption is granted only where reciprocity exists and this was found to be the case with regard to the United States.

Export Incentives

Brazilian firms may not exclude from taxable income profits earned in the export of Brazilian manufactured goods. This incentive will be available during the period 1971-1974 on such locally manufactured products as are designated by the Ministry of Finance. Decree Law No. 1158 of 3/16/71.

Inter-Company Loans

Ruling No. 241 of March 11, 1971 discusses the taxability of an inter-corporate loan as a disguised dividend, and points out that such loans must comply with the rulings previously made pursuant Article 251 of the Income Tax Regulations.

Withholding Tax on Capital Gains

Ruling No. 99 of 2/12/71, holds that while capital gains earned by individuals on the sale of quotas of limited liability companies are not subject to income tax, where the recipient is a foreign resident the exemption applies only to the amount of foreign currencies previously registered by the recipient with the Central Bank as investments or reinvestments **in Brazil.**

Remuneration of Executives and Directors

Ruling No. 1 of 1/19/71 establishes regulations pertaining to the deduction of salaries, fees and other compensation paid to officers, directors, partners and administrators of commercial and civil enterprises, as well as to the heads of individual enterprise firms.

Brazil-Portugal Tax Treaty

Brazil and Portugal have signed a double taxation agreement which is reportedly favorable to Brazil and is expected to facilitate entry of Portuguese capital into Brazil and Brazilian capital into Portugal. It is also viewed as giving the Brazilian capital greater access to major European markets when and if Portugal should become a member of the European common market. Under the treaty there will be lower taxation on business profits, interest, royalties and technical assistance received by taxpayers of each country working in the other country.

CANADA

Tax Amendment

Canada's proposed Budget for 1971-1972 incorporates the following proposed changes: a) abolition of the 3% surtax on personal and corporate income taxes as of July 1, 1971; b) retroactive to January 1, 1971, exclusion of payments under the Guaranteed Income Supplement from the taxable income of recipients, and c) effective July 1, 1971, lower tax rates applicable to low income taxpayers. The Budget also proposed significant changes applicable to sales and excise taxes. Major changes for 1972 are outlined and will affect most aspects of personal and corporate income, capital gains, income of corporate shareholders, the mining and petroleum industries, business and property income, and income from foreign sources.

CHILE

Tax Changes

Law 17,416 increases the additional tax on income received by non-residents from Chilean sources from 37.5% to 40%. It also increases the rate applicable to a foreigner's occasional income from Chilean sources from 12% to 20%. Commencing April 1, interest paid to private foreign banks will no longer be exempt from the additional tax. Other

changes include elimination of a deduction previously granted for net wealth taxes paid, and local firms with a capital exceeding 400,000 *escudos* will pay a surcharge of 15% of the income tax otherwise applicable for 1971.

Rules for the computation of the 15% surcharge have already been released. Large mining companies and other taxpayers who pay income tax under special arrangements are to compute the 15% surcharge as prescribed in the new rules. Revenue Ruling of 3/11/71.

Net Wealth Tax

Law 17,416 of 3/9/71 extended the net wealth or patrimony tax to Chilean corporations and to the agencies or branches of foreign corporations which have assets in the country. Previously the net wealth tax was applied only to a) resident individuals on all their assets, and b) to nonresident Chileans on their assets located in the country.

The rate of tax for corporate entities is $\frac{1}{2}$ of 1% of their net assets. Both the rates and certain exemptions applicable to individuals have been raised, with the lowest rate being 1.6% and the highest rate, 2.8%.

Royalties and Technical Assistance

Chile's Internal Revenue Service has ruled that local firms may no longer deduct the additional tax paid on the remittance of fees for royalties and technical assistance to nonresident persons or entities.

Royalties and Technical assistance fees relating to the printing, clothing and furniture manufacturing industries are now taxed at 50% and those relating to the production of cosmetics, wines and liquors are now taxed at 60%. Revenue Ruling of 2/15/71.

Interest Remitted Abroad/Deductibility

Revenue Ruling of 2/19/71 eliminates the deductibility of interest remitted abroad on account of foreign loans when the recipient is not taxable for such interest under Chilean law.

Tax Amnesty

Unreported income for 1970 and prior years may now be declared and paid without penalty provided all income taxes due are paid as recomputed based on a cost of living index, plus a surcharge which is

calculated in accordance with the taxpayer's capital and the amount of the unpaid tax. Law No. 17416 of 3/5/71.

COLOMBIA

Andean Agreement

Pursuant Decree 1299 of 6/30/71, Colombia ratified the Andean Agreement effective July 1, 1971. Some of the major provisions of the Agreement as applied in Colombia are as follows. Three classes of business firms are recognized. Foreign firms are those in which local citizens hold less than 51% of the outstanding stock or where, even if they do hold more than 51%, the administrative, financial or technical management of the company is in the hands of foreigners. Mixed companies are those in which local shareholders own between 51% and 80% of the stock and the company's management reflects the percentage of local interest. National companies are those in which local shareholders own in excess of 80% of the company's outstanding stock.

Foreign investments will not be permitted in fields already adequately handled by existing firms nor will they be permitted to purchase the shares or other ownership interests of local owners, except where necessary to avoid a local firm's economic collapse. All foreign investment is subject to prior approval and must be registered. No direct foreign investment will be permitted in the fields of insurance, banking and finance unless specifically and exceptionally authorized by the government.

In order to comply with the provisions concerning continued foreign investment in the country, firms in existence as of June 30, 1971 must enter into agreements with the government within 3 years of such date, pursuant which agreements the company will be converted into a national company or a mixed company. In any event, upon the expiration of the first three year period, local capital must own at least 15%. The complete transformation of the company must be accomplished within 15 years of June 30, 1971. At the end of the first 10 years local participation is expected to be no less than 45%.

Foreign-owned firms established subsequent to July 1, 1971 are expected to agree with the government to admit local ownership in accordance with a gradual but definite schedule of investments by local citizens. Upon commencing production such firms are expected to have at least 15% local ownership, 30% within 5 years and 45% within 10 years. Again the total transformation of the enterprise must be accomplished

within 15 years.

Other important provisions of the Andean agreement include a 14% annual ceiling on the remittance of profits from registered foreign capital; the disallowance of royalty payments to affiliated foreign companies; and new rules pertaining to the registration of trademarks and patents.

The wisdom of subjecting Colombian industrial development to these stringent conditions has been hotly debated in the press. However, it appears at this time that foreign investors in the Andean countries will have no choice but to comply. Anything less than full compliance with the spirit of the Agreement may prove disastrous.

Export Credit Tax Certificates

These certificates, known as "CATS", are given by the Bank of the Republic to exporters in an amount equal to 15% of the total dollar value of the products exported by the firm, and have served as an important stimulus to export production. Colombian taxpayers may utilize these certificates to pay a corresponding amount of Colombian taxes or, alternatively, may negotiate the CATS to other taxpayers who are able to make better use of them. Notwithstanding the clear language in the original decrees and laws regulating the subject matter, Resolution No. 52 of 1970 stated that the CATS would be valued on the F.O.B. value of the merchandise rather than on the total dollar proceeds which include the costs of freight, handling and insurance. The Council of State recently resolved that the CATS would continue to be calculated on 15% of the total value of the foreign proceeds turned over to the Bank of the Republic rather than solely on the F.O.B. value.

Income Paid to Foreign Affiliates

Income paid by a Colombian company to its foreign parent or to a foreign company holding more than 50% of its capital is taxable to the foreign recipient notwithstanding that it may not be deductible for tax purposes by the payor company. Circular No. 022 of 2/11/71 of the National Tax Bureau.

Compare the Council of State's decision of January 22, 1970 holding that interest paid to a foreign parent company by a Colombian branch or subsidiary is deductible.

Tax Returns of Nonresident Aliens

The Council of State has reaffirmed that nonresident alien individuals are not required to file Colombian tax returns when the applicable with-

holding tax has been made with regard to remittances to such persons. Circular No. 001 of 1/12/71.

COSTA RICA

Economic Stabilization Tax

Costa Rica has approved the Protocol to the Treaty for Central American Economic Integration, creating the so-called "Economic Stabilization Tax". Tax will not be applied to local industrial enterprises which produce goods similar to those produced in other Central American countries which pay a lesser rate of tax. Executive Decree No. 1420 of 12/22/70.

Alimony

The deductibility of alimony payments is now governed by the provisions of Art. 1, Executive Decree No. 1518-H of 2/23/71.

Code of Tax Procedures

A new code of tax procedures has been enacted consisting of 170 paragraphs in addition to certain transitory provisions. The subject matters covered include tax liabilities, penalties, procedures before administrative tax agencies, lawsuits under administrative laws, judicial collections and provisions concerning administrative and criminal tax laws. The Code will apply to all taxes with the exception of those governed by the Central American Uniform Customs Code. Law No. 4755 published in the Official Gazette of 6/4/71.

DOMINICAN REPUBLIC

Industrial Incentives/Developments

Tax free re-investments under the Industrial Promotion Law and the Law for the Promotion of Farming and Cattle Raising may not exceed, in the aggregate, 50% of taxable income in each year to which the value of the investment is carried over. Decree No. 528 of 12/21/70.

The Law for the Promotion and Protection of Industry has been amended in certain respects. Tax-free reinvestments may be carried forward until the total amount re-invested has been absorbed, provided that in each year the exemption does not exceed 50% of taxable income. Stock dividends are exempt from this provision. Law No. 79 of 12/31/70.

Additional Income Tax

An additional income tax has been levied on the annual net income from local sources for individuals, legal entities, and estates. It is applied at a 1% rate on the income of resident and nonresident individuals and estates, and at a 2% rate on the income of domestic companies and branches of foreign companies. Law No. 48 of 11/6/70.

Taxpayers I.D. Number

A taxpayers' registry has been established for all taxpayers and will apply to all classes of tax. Each taxpayer will be assigned a number, which will be used on all tax returns and for all tax proceedings. Law No. 53 of 11/13/70.

Tax Controls

As a measure conducive to better tax enforcement, it is now required that taxpayers forward to the Tax Office copies of all contracts entered into with state-owned agencies or enterprises. Decree No. 435 of 12/8/70.

ECUADOR

Income Tax Regulations

Comprehensive regulations concerning personal income were enacted pursuant Order No. 54 of 2/19/71.

Tax Incentives

Tax incentives for tourist industry pursuant the tourist promotion law now include exemption from stamp, working capital and transfer taxes, recording and registration fees and import duties on capital assets not manufactured in Ecuador. Supreme Decree No. 668 of 10/24/70.

Depreciation

New rules have been issued governing depreciation of fixed assets. Special authorization is required in order to adopt alternate depreciation methods now permitted such as accelerated depreciation, replacement cost or re-valuation due to currency depreciation. Ministry of Finance Order No. 61 of 2/25/71.

Taxation of Interest Remitted Abroad

A Decree Law passed late last year reinstated the exemption for interest on foreign loans financing the acquisition of machinery by businesses declared important to the country's development provided the interest charged does not exceed 7.5% per annum. When it does exceed 7.5% the excess interest will be taxed at 40%. Another condition for the exemption of interest up to 7.5% is that such loans mature no earlier than 2 years. The maturity requirement does not apply to loans made to local financial institutions. Supreme Decree 856 of 11/24/70.

EL SALVADOR

Export Incentives Law

Effective January 1971, a significant new export incentive law was enacted providing up to 100% tax and customs exemption for firms that export their entire production outside the Central American common market. Lesser incentives are available for firms that export part of their production outside the common market and for other export-oriented firms. The tax exemption afforded to the firms exporting their entire production will also apply to their shareholders, except in the case of foreign shareholders whose country of origin would tax the profit distributions to them.

It would not be surprising if this law did attract new industry to El Salvador in order to take advantage of local labor with its high quality and low cost. Other countries in the area might have to enact similar laws to offset the advantage this will give El Salvador in attracting that type of industry. Law No. 148 of 11/12/70.

Stamp Tax Regulations

Regulations under the recently enacted stamp tax law became effective April 1, 1971. Executive Decree No. 16 of 3/22/71.

GUATEMALA

Tax Changes

Several important changes to basic income tax law have been enacted that were not previously reported on. Effective December, 1970 fees paid

for personal services rendered abroad on behalf of Guatemalan residents will be taxable. Retirement pensions paid from abroad will not be taxable in Guatemala. New rules apply to capital gains from the sale of real estate and the carryover of net operating losses. The provisions relating to certain deductions applicable both to commercial entities and individuals have been substantially amended. Legislative Decree No. 96-70 of 12/16/70.

Exemption on Small Business Loans

Loans made to small businesses will be exempt from stamp tax and other taxes applicable to the loan capital and interest thereon. Legislative Decree No. 12-71 of 3/1/71.

Taxpayer I.D. Number

The establishment of a taxpayer master file and I. D. number has been reported. It apparently applies to all taxpayers and the number will have to be used on documents relating to all taxable transactions and on dealings with governmental agencies.

HONDURAS

Income Tax Manual

The Tax Bureau has published an important manual or study outlining the applicability of the income and patrimony tax, tax on capital gains and other important national taxes. The study was published in Boletín Informativo, Nos. 33/34 of 1969.

Promotion of Farming and Cattle Raising

Substantial new benefits are available to individuals and entities engaged in farming and cattle raising. Almost all imports may now be made free of all duties, surcharges and consular fees. Accelerated depreciation will be allowed for capital investments in certain equipment and improvements. New businesses qualifying under the law will be entitled to a five-year exemption from income, production and patrimony taxes. Legislative Decree No. 69 of 12/8/70.

JAMAICA

Jamaica-U. S. Tax Treaty

It has been reported that Jamaica and the United States will resume negotiations on proposed revisions to the income tax treaty between the two countries.

MEXICO

Tax Changes

Important modifications to federal taxes have been reported. Principal amongst them are new rules concerning depreciation of fixed assets, the treatment of advertising expenses and the tax-free reinvestment of profits. A special sales tax of 10% has been applied to sales of motor vehicles, jewelry and other luxury items.

The following tax measures became effective January 1, 1971:

— technical assistance fees received by nonresidents are no longer taxed at the fixed 20% rate; rather they will be taxed in accordance with the standard rate scale ranging from 5% to 42%.

— foreign leasing companies will pay the flat 20% tax on the gross rental of movable property;

— an undistributed profits tax is now levied on profits not reinvested in the year in which the profits are made or in the following year in the acquisition of tangible fixed assets, or in the payment of liabilities incurred for the acquisition of fixed assets; the rate ranges from 15% to 20%;

— other amendments relate to the taxability of capital gains derived from the sale or exchange of real estate, depreciation allowances, deductibility of advertising expenses, inclusion of rents from realty, and payment of estimated tax on income from personal services.

Export Incentives

Several incentives for exporters were recently enacted pursuant to Executive Order of 3/15/71. Exporters will receive a refund of up to 100% of the import duties levied on raw materials utilized in the manufacture of the exports. Up to 100% of federal indirect taxes on the

products manufactured by the exporter will also be refunded provided 50% of the cost of such products was incurred within Mexico.

NICARAGUA

Real Property Tax

Reportedly the tax authorities may now unilaterally include on the taxpayer's return such real estate as they deem is owned by taxpayer.

PANAMA

Tax Incentives/Developments

A 1950 law that granted income tax exemption to some 30 industrial firms has been annulled. The benefits were to expire in 1975, but will now expire January 1, 1972 when the former tax-free entities will be required to pay income tax at current rates. Currently the highest corporate rate is 45%. Although the action will yield approximately \$1.5 million to the Treasury, the government reportedly took the action in order to equalize the tax burden throughout the various industries concerned.

Decree No. 413 of 12/30/70 exempts export businesses from income tax and import and export duties. Businesses producing for the domestic market may qualify for exemption from import duty and from income tax on those earnings reinvested for the production of new goods or the acquisition of new equipment.

PERU

Income Tax Amendments

A new progressive scale of individual income tax rates has been introduced. The rates have been increased throughout with the new minimum rate being at 6% and the maximum rate at 55% on taxable income exceeding 5 million soles. The tax on dividends has a ceiling of 30%.

Tax Amnesty

Decree Law No. 18815 of 4/1/71 establishes an amnesty with regard to unpaid taxes due at or prior to the close of 1970 and provides for adjustment of balance sheets to incorporate assets and liabilities not

previously recorded and the obligatory revaluation of fixed assets. Taxpayers declaring overdue taxes before July 1, 1971 have the option of paying up immediately or repaying in equal monthly installments without interest prior to the end of 1972. Under these circumstances, no fines or surcharges would be imposed.

Jungle Area Incentives

Decree Law No. 18841 of 4/27/71 provides for exemption from income tax on dividends and other profit distributions received from enterprises located in the Amazonian jungle areas. The exemption does not apply to individuals and profits remitted abroad.

New Industrial Promotion Law Regulations

Peru's oft-amended Industrial Promotion Law has just received comprehensive regulations. Among the major provisions of Supreme Decree of 1/25/71 is a 15% tax on the capitalization of undistributed profits to parties to a corporate reorganization.

TRINIDAD AND TOBAGO

Trinidad-Tobago/Italy Tax Treaty

These governments have reportedly just concluded a tax treaty which provides amongst other things that Italian companies operating in Trinidad and Tobago will be exempt from Italian taxes on profits in those cases where such profits are not taxable in Trinidad and Tobago pursuant to pioneer industry laws.

URUGUAY

Delinquency Tax Surcharge

Commencing May, 1971, the surcharge for tax delinquency has been set at 4% per month. When a taxpayer is granted the right to pay his taxes in installments, the applicable interest rate is 3% monthly instead of the surcharge.

VENEZUELA

Proposed Investment Law

The government has appointed a commission to draft a Bill on "Incentives for Development and National and Foreign Investments." It will be interesting to see whether this Commission recommends positions as far reaching as those contained in the Andean Agreement or whether they will be more lenient with regard to the continued participation of foreign capital in local industrial development.

Tax Exemption for Interest on Agricultural Loans

Interest paid on loans made by domestic, foreign or international financing institutions to the Venezuelan government for agricultural development may be exempt from income tax and the principal may likewise be exempt from taxes on capital. Law of 4/6/71 published in the G.O. 29481 of 4/6/71.